

UNINCORPORATED BUSINESS ENTITIES

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lyle W. Hillyard

House Sponsor: _____

LONG TITLE

Committee Note:

The Business and Labor Interim Committee recommended this bill.

General Description:

This bill modifies Title 48, Partnership, to enact a new Unincorporated Business Entity Act, and modifies references to the partnership or unincorporated business entities provisions throughout the Utah Code.

Highlighted Provisions:

This bill:

- ▶ enacts provisions related to partnerships, including:
 - providing for general provisions;
 - addressing the nature of a partnership;
 - addressing relations of partners to persons dealing with partnerships;
 - addressing relations of partners to each other and to partnership;
 - addressing transferable interests and rights of transferees and creditors;
 - addressing dissociation;
 - addressing dissociation when business not wound up;
 - addressing dissolution and winding up;
 - addressing mergers, interest exchanges, conversion, and domestication;
 - providing for limited liability partnerships;
 - addressing foreign limited liability partnerships; and



- 28 • enacting miscellaneous provisions;
- 29 ▶ enacts provisions related to limited partnerships, including:
 - 30 • providing for general provisions;
 - 31 • addressing formation and the certificate of limited partnership and other filings;
 - 32 • addressing limited partners;
 - 33 • addressing general partners;
 - 34 • addressing contributions and distributions;
 - 35 • addressing dissociation;
 - 36 • addressing transferable interests and rights of transferees and creditors;
 - 37 • addressing dissolution and winding up;
 - 38 • addressing foreign limited partnerships;
 - 39 • addressing actions by partners;
 - 40 • addressing merger, interest exchange, conversion, and domestication;
 - 41 • enacting miscellaneous provisions;
- 42 ▶ enacts provisions related to limited liability companies, including:
 - 43 • providing for general provisions;
 - 44 • addressing formation, the certificate of organization, and other filings;
 - 45 • addressing relations of members and managers to persons dealing with limited
 - 46 liability company;
 - 47 • addressing relations of members to each other and to limited liability company;
 - 48 • addressing transferable interests and rights of transferees and creditors;
 - 49 • addressing dissociation;
 - 50 • addressing dissolution and winding up;
 - 51 • addressing foreign limited liability companies;
 - 52 • addressing actions by members;
 - 53 • addressing merger, interest exchange, conversion, and domestication;
 - 54 • addressing professional services companies, series, and low-profit limited
 - 55 liability companies; and
 - 56 • enacting miscellaneous provisions;
- 57 ▶ extends repeal date of existing Title 48, Partnership, to January 1, 2016;
- 58 ▶ repeals previous provisions modifying existing Title 48, Partnership;

- 59 ▶ modifies cross references;
- 60 ▶ makes technical and conforming amendments.

61 **Money Appropriated in this Bill:**

62 None

63 **Other Special Clauses:**

64 This bill provides an effective date.

65 **Utah Code Sections Affected:**

66 AMENDS:

67 **7-1-810 (Effective 07/01/13)**, as last amended by Laws of Utah 2011, Chapter 353

68 **7-3-10 (Effective 07/01/13)**, as last amended by Laws of Utah 2011, Chapter 353

69 **7-8-3 (Effective 07/01/13)**, as last amended by Laws of Utah 2011, Chapter 353

70 **13-34-114 (Effective 07/01/13)**, as last amended by Laws of Utah 2011, Chapter 353

71 **16-6a-1008.7 (Effective 07/01/13)**, as last amended by Laws of Utah 2011, Chapter

72 353

73 **16-10a-1008.7 (Effective 07/01/13)**, as last amended by Laws of Utah 2011, Chapter

74 353

75 **16-16-111 (Effective 07/01/13)**, as last amended by Laws of Utah 2011, Chapter 353

76 **16-17-102 (Effective 07/01/13)**, as last amended by Laws of Utah 2011, Chapter 353

77 **31A-37a-102 (Effective 07/01/13)**, as last amended by Laws of Utah 2011, Chapter

78 353

79 **46-4-503 (Effective 07/01/13)**, as last amended by Laws of Utah 2011, Chapter 353

80 **53C-1-201 (Effective 05/01/13) (Sup 07/01/13)**, as last amended by Laws of Utah

81 2012, Chapter 347

82 **61-2f-401 (Effective 07/01/13)**, as last amended by Laws of Utah 2011, Chapter 353

83 **61-2g-103 (Effective 07/01/13)**, as last amended by Laws of Utah 2011, Chapter 353

84 **75-7-1011 (Effective 07/01/13)**, as last amended by Laws of Utah 2011, Chapter 353

85 ENACTS:

86 **48-1-.5**, Utah Code Annotated 1953

87 **48-1c-101**, Utah Code Annotated 1953

88 **48-1d-101**, Utah Code Annotated 1953

89 **48-1d-102**, Utah Code Annotated 1953

90 **48-1d-103**, Utah Code Annotated 1953
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- 191 **48-1d-1107**, Utah Code Annotated 1953
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- 197 **48-1d-1204**, Utah Code Annotated 1953
- 198 **48-1d-1205**, Utah Code Annotated 1953
- 199 **48-1d-1206**, Utah Code Annotated 1953
- 200 **48-1d-1207**, Utah Code Annotated 1953
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- 202 **48-1d-1209**, Utah Code Annotated 1953
- 203 **48-1d-1210**, Utah Code Annotated 1953
- 204 **48-1d-1211**, Utah Code Annotated 1953
- 205 **48-1d-1212**, Utah Code Annotated 1953
- 206 **48-1d-1301**, Utah Code Annotated 1953
- 207 **48-1d-1302**, Utah Code Annotated 1953
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- 214 **48-1d-1309**, Utah Code Annotated 1953
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- 222 **48-2c-100**, Utah Code Annotated 1953
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- 322 **48-2e-1108**, Utah Code Annotated 1953
- 323 **48-2e-1121**, Utah Code Annotated 1953
- 324 **48-2e-1122**, Utah Code Annotated 1953
- 325 **48-2e-1123**, Utah Code Annotated 1953
- 326 **48-2e-1124**, Utah Code Annotated 1953
- 327 **48-2e-1125**, Utah Code Annotated 1953
- 328 **48-2e-1126**, Utah Code Annotated 1953
- 329 **48-2e-1131**, Utah Code Annotated 1953
- 330 **48-2e-1132**, Utah Code Annotated 1953
- 331 **48-2e-1133**, Utah Code Annotated 1953
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- 449 **48-3a-1036**, Utah Code Annotated 1953
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- 451 **48-3a-1042**, Utah Code Annotated 1953
- 452 **48-3a-1043**, Utah Code Annotated 1953
- 453 **48-3a-1044**, Utah Code Annotated 1953
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- 470 **48-3a-1109**, Utah Code Annotated 1953
- 471 **48-3a-1110**, Utah Code Annotated 1953
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- 473 **48-3a-1112**, Utah Code Annotated 1953
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749 **48-3-1009 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 353
750 **48-3-1010 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 353
751 **48-3-1011 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 353
752 **48-3-1012 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 353
753 **48-3-1013 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 353
754 **48-3-1014 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 353
755 **48-3-1015 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 353
756 **48-3-1101 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 353
757 **48-3-1102 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 353
758 **48-3-1103 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 353
759 **48-3-1104 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 353
760 **48-3-1105 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 353
761 **48-3-1106 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 353
762 **48-3-1107 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 353
763 **48-3-1108 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 353
764 **48-3-1109 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 353
765 **48-3-1110 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 353
766 **48-3-1111 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 353
767 **48-3-1112 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 353
768 **48-3-1201 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 353
769 **48-3-1202 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 353
770 **48-3-1203 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 353
771 **48-3-1204 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 353

- 772 **48-3-1205 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 353
- 773 **48-3-1206 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 353
- 774 **48-3-1207 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 353
- 775 **48-3-1208 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 353
- 776 **48-3-1209 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 353
- 777 **48-3-1210 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 353
- 778 **48-3-1301 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 353
- 779 **48-3-1302 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 353
- 780 **48-3-1303 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 353
- 781 **48-3-1304 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 353
- 782 **48-3-1401 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 353
- 783 **48-3-1402 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 353
- 784 **48-3-1403 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 353
- 785 **48-3-1404 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 353
- 786 **48-3-1405 (Effective 07/01/13)**, as last amended by Laws of Utah 2012, Chapter 244

Uncodified Material Affected:

REPEALS UNCODIFIED MATERIAL:

Uncodified Laws of Utah 2011, Chapter 353, Section 310

This uncodified section affects Title 48 in effect June 30, 2013.

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

Section 1. Section **7-1-810 (Effective 07/01/13)** is amended to read:

7-1-810 (Effective 07/01/13). Limited liability companies.

(1) Notwithstanding any other provision of this title and subject to Subsection (8), if the conditions of this section are met, the following may be organized as or convert to a limited liability company under Title 48, Chapter [3] 2c, Utah Revised [~~Uniform~~] Limited Liability Company Act, or Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Act, as appropriate pursuant to Section 48-3a-1405:

- (a) an industrial bank chartered under Chapter 8, Industrial Banks;
- (b) an industrial loan company as defined in Section 7-8-21; or
- (c) any of the following if the institution is an S Corporation, as defined in Section

803 1361, Internal Revenue Code, immediately before becoming a limited liability company:

804 (i) a bank chartered under Chapter 3, Banks;

805 (ii) a savings and loan association chartered under Chapter 7, Savings and Loan

806 Associations Act; or

807 (iii) a depository institution holding company.

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

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

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

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

818 (A) approve the request;

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

821 (C) disapprove the request.

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

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

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

826 (ii) has the following characteristics:

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

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

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

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

833 (III) possesses adequate independence and authority to supervise the operation of the

834 institution; and

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

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

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

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

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

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

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

853 (5) (a) All rights, privileges, powers, duties, and obligations of an institution described
854 in Subsection (1) that is organized as a limited liability company and its members and
855 managers shall be governed by Title 48, Chapter [3] 2c, Utah Revised [~~Uniform~~] Limited
856 Liability Company Act, or Title 48, Chapter 3a, Utah Revised Uniform Limited Liability
857 Company Act, as appropriate pursuant to Section 48-3a-1405 except:

858 (i) the following do not apply to an institution that is described in Subsection (3)(a):

859 [~~(A) Section 48-3-110;~~]

860 [~~(B) Section 48-3-112;~~]

861 [~~(C) Section 48-3-201;~~]

862 [~~(D) Section 48-3-401;~~]

863 [~~(E) Subsections 48-3-407(1) and (3)(d);~~]

864 [~~(F) Section 48-3-410;~~]

- 865 ~~[(G) Subsection 48-3-502(1)(c);]~~
866 ~~[(H) Title 48, Chapter 3, Part 6, Member's Dissociation;]~~
867 ~~[(I) Section 48-3-701; and]~~
868 ~~[(J) Title 48, Chapter 3, Part 8, Foreign Limited Liability Companies; and]~~
869 (A) Subsection 48-2c-402(2)(a)(ii);
870 (B) Section 48-2c-604;
871 (C) Section 48-2c-703;
872 (D) Section 48-2c-708;
873 (E) Subsection 48-2c-801(2);
874 (F) Section 48-2c-1102;
875 (G) Section 48-2c-1104; and
876 (H) Subsections 48-2c-1201(2) through (5);
877 (ii) the following do not apply to an institution that is described in Subsection (3)(a):
878 (A) Section 48-3a-111;
879 (B) Section 48-3a-113;
880 (C) Section 48-3a-201;
881 (D) Section 48-3a-401;
882 (E) Subsections 48-3a-407(1) and (3)(c);
883 (F) Section 48-3a-410;
884 (G) Subsection 48-3a-502(1)(c);
885 (H) Title 48, Chapter 3a, Part 6, Dissociation;
886 (I) Section 48-3a-701; and
887 (J) Title 48, Chapter 3a, Part 9, Foreign Limited Liability Companies; and
888 ~~[(i)]~~ (iii) as otherwise provided in this title.
889 (b) Notwithstanding Subsection (5)(a), for an institution that is described in Subsection
890 (3)(a):
891 (i) for purposes of transferring a member's interests in the institution, a member's
892 interest in the institution shall be treated like a share of stock in a corporation; and
893 (ii) if a member's interest in the institution is transferred voluntarily or involuntarily to
894 another person, the person who receives the member's interest shall obtain the member's entire
895 rights associated with the member's interest in the institution including:

896 (A) all economic rights; and

897 (B) all voting rights.

898 (c) An institution described in Subsection (3)(a) may not by agreement or otherwise
899 change the application of Subsection (5)(a) to the institution.

900 (6) Unless the context requires otherwise, for the purpose of applying this title to an
901 institution described in Subsection (1) that is organized as a limited liability company:

902 (a) a citation to Title 16, Chapter 10a, Utah Revised Business Corporation Act,
903 includes the equivalent citation to Title 48, Chapter ~~[3] 2c~~, Utah Revised ~~[Uniform]~~ Limited
904 Liability Company Act, or Utah Revised Uniform Limited Liability Company Act, as
905 appropriate pursuant to Section 48-3a-1405;

906 (b) "articles of incorporation" includes a limited liability company's certificate of
907 organization as that term is used in Section ~~[48-3-201]~~ 48-2c-403 or Section 48-3a-201, as
908 appropriate pursuant to Section 48-3a-1405;

909 (c) "board of directors" includes one or more persons who have, with respect to an
910 institution described in Subsection (1), authority substantially similar to that of a board of
911 directors of a corporation;

912 (d) "bylaws" includes a limited liability company's operating agreement as that term is
913 defined in Section ~~[48-3-102]~~ 48-2c-102 or Section 48-3a-201, as appropriate pursuant to
914 Section 48-3a-1405;

915 (e) "corporation" includes a limited liability company organized under Title 48,
916 Chapter ~~[3] 2c~~, Utah Revised ~~[Uniform]~~ Limited Liability Company Act, or Title 48, Chapter
917 3a, Utah Revised Limited Liability Act, as appropriate pursuant to Section 48-3a-1405;

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

919 (i) a manager;

920 (ii) a director; or

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

923 (g) "dividend" includes distributions made by a limited liability company under Title
924 48, Chapter 2c, Part 10, Distributions, or Title 48, Chapter [3] 3a, Part 4, Relations of Members
925 to Each Other and to Limited Liability Company, as appropriate pursuant to Section
926 48-3a-1405;

927 (h) "incorporator" includes an organizer of a limited liability company as provided in
 928 Title 48, Chapter 2c, Part 4, Formation, or Title 48, Chapter [3] 3a, Part 2, Formation --
 929 Certificate of Organization and Other Filings, as appropriate pursuant to Section 48-3a-1405;

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

931 (i) an officer; or

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

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

935 (i) a membership interest in a limited liability company as provided in Title 48,
 936 Chapter 2c, Part 7, Members, or Title 48, Chapter [3] 3a, Part 4, Relations of Members to Each
 937 Other and to Limited Liability Company, as appropriate pursuant to Section 48-3a-1405; and

938 (ii) a certificate or other evidence of an ownership interest in a limited liability
 939 company; and

940 (k) "stockholder" or "shareholder" includes an owner of an interest in an institution
 941 described in Subsection (1) including a member as provided in Title 48, Chapter 2c, Part 7,
 942 Members, or Title 48, Chapter [3] 3a, Part 4, Relations of Members to Each Other and to
 943 Limited Liability Company, as appropriate pursuant to Section 48-3a-1405.

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

947 (8) A depository institution organized under the laws of this state may not be organized
 948 as or converted to a series of transferable interests in a limited liability company as provided in
 949 Section 48-2c-606, or Title 48, Chapter [3] 3a, Part 12, Series Limited Liability Companies, as
 950 appropriate pursuant to Section 48-3a-1405.

951 Section 2. Section **7-3-10 (Effective 07/01/13)** is amended to read:

952 **7-3-10 (Effective 07/01/13). Organization -- Powers, rights, and privileges of**
 953 **banking corporation -- Other business activities.**

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

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

957 (b) subject to Section 7-1-810, including the requirement that the bank be an S

958 Corporation immediately before becoming a limited liability company, a limited liability
 959 company created under Title 48, Chapter 2c, Utah Revised Limited Liability Company Act, or
 960 Title 48, Chapter [3] 3a, Utah Revised Uniform Limited Liability Company Act, as appropriate
 961 pursuant to Section 48-3a-1405.

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

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

966 (b) subject to Section 7-1-810, if the bank is a limited liability company, under Title
 967 48, Chapter 2c, Utah Revised Limited Liability Company Act, or Title 48, Chapter [3] 3a, Utah
 968 Revised Uniform Limited Liability Company Act, as appropriate pursuant to Section
 969 48-3a-1405.

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

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

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

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

979 Section 3. Section **7-8-3 (Effective 07/01/13)** is amended to read:

980 **7-8-3 (Effective 07/01/13). Organization -- Authorization to conduct business --**
 981 **Deposit insurance.**

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

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

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

987 (ii) in accordance with Section 7-1-810, Title 48, Chapter 2c, Utah Revised Limited
 988 Liability Company Act, or Title 48, Chapter [3] 3a, Utah Revised Uniform Limited Liability

989 Company Act, as appropriate pursuant to Section 48-3a-1405.

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

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

997 (b) All rights, privileges, powers, duties, and obligations of a limited liability company
998 authorized to conduct business as an industrial bank and its members and managers shall be
999 governed by Title 48, Chapter 2c, Utah Revised Limited Liability Company Act, or Title 48,
1000 Chapter [3] 3a, Utah Revised Uniform Limited Liability Company Act, as appropriate pursuant
1001 to Section 48-3a-1405, except as otherwise provided in this title.

1002 (4) (a) An industrial bank is authorized to receive and hold deposits.

1003 (b) An industrial bank may not conduct business under this chapter as an industrial
1004 bank unless the industrial bank obtains insurance from the Federal Deposit Insurance
1005 Corporation or a successor federal deposit insurance entity for any deposits received or held by
1006 the industrial bank.

1007 Section 4. Section **13-34-114 (Effective 07/01/13)** is amended to read:

1008 **13-34-114 (Effective 07/01/13). Consent to use of educational terms in business**
1009 **names.**

1010 (1) For purposes of this section:

1011 (a) "Business name" means a name filed with the Division of Corporations and
1012 Commercial Code under:

1013 (i) Section 16-6a-401;

1014 (ii) Section 16-10a-401;

1015 (iii) Section 16-11-16;

1016 (iv) Section 42-2-6.6;

1017 (v) Section [~~48-2d-108~~] 48-2a-102 or Section 48-2e-108, as appropriate pursuant to
1018 Section 48-3a-1405; or

1019 (vi) Section [~~48-3-108~~] 48-2c-106 or Section 48-3a-108, as appropriate pursuant to

1020 Section 48-3a-1405.

1021 (b) "Educational term" means the term:

1022 (i) "university";

1023 (ii) "college"; or

1024 (iii) "institute" or "institution."

1025 (2) If a statute listed in Subsection (1)(a) requires the written consent of the division to
1026 file a business name with the Division of Corporations and Commercial Code that includes an
1027 educational term, the division may consent to the use of an educational term in accordance with
1028 this statute.

1029 (3) The division shall consent to the use of an educational term in a business name if
1030 the person seeking to file the name:

1031 (a) is registered under this chapter;

1032 (b) is exempt from the chapter under Section 13-34-105; or

1033 (c) (i) is not engaged in educational activities; and

1034 (ii) does not represent that it is engaged in educational activities.

1035 (4) The division may withhold consent to use of an educational term in a business
1036 name if the person seeking to file the name:

1037 (a) offers, sells, or awards a degree or any other type of educational credential; and

1038 (b) fails to provide bona fide instruction through student-faculty interaction according
1039 to the standards and criteria established by the division under Subsection 13-34-104(5).

1040 Section 5. Section **16-6a-1008.7 (Effective 07/01/13)** is amended to read:

1041 **16-6a-1008.7 (Effective 07/01/13). Conversion to or from a domestic limited**
1042 **liability company.**

1043 (1) (a) A domestic nonprofit corporation may convert to a domestic limited liability
1044 company subject to Title 48, Chapter 2c, Utah Revised Limited Liability Company Act, or Title
1045 48, Chapter [3] 3a, Utah Revised Uniform Limited Liability Company Act, as appropriate
1046 pursuant to Section 48-3a-1405, by complying with:

1047 (i) this Subsection (1); and

1048 (ii) Section [~~48-3-1006~~] 48-2c-1401 or Section 48-3a-1041.

1049 (b) If a domestic nonprofit corporation converts to a domestic limited liability company
1050 in accordance with this Subsection (1), the articles of conversion or statement of conversion, as

1051 applicable, shall:

1052 (i) comply with Section [~~48-3-1008~~] 48-2c-1402 or Sections 48-3a-1042 and
1053 48-3a-1045; and

1054 (ii) if the corporation has any members, provide for:

1055 (A) the cancellation of any membership; or

1056 (B) the conversion of any membership in the domestic nonprofit corporation to a
1057 membership interest in the domestic limited liability company.

1058 (c) Before articles of conversion or statement of conversion may be filed with the
1059 division, the conversion shall be approved:

1060 (i) in the manner provided for the articles of incorporation or bylaws of the domestic
1061 nonprofit corporation; or

1062 (ii) if the articles of incorporation or bylaws of the domestic nonprofit corporation do
1063 not provide the method for approval:

1064 (A) if the domestic nonprofit corporation has voting members, by all of the members of
1065 the domestic nonprofit corporation regardless of limitations or restrictions on the voting rights
1066 of the members; or

1067 (B) if the nonprofit domestic corporation does not have voting members, by a majority
1068 of:

1069 (I) the directors in office at the time the conversion is approved by the board of
1070 directors; or

1071 (II) if directors have not been appointed or elected, the incorporators.

1072 (2) A domestic limited liability company may convert to a domestic nonprofit
1073 corporation subject to this chapter by:

1074 (a) filing articles of incorporation in accordance with this chapter; and

1075 (b) complying with Section [~~48-3-1006~~] 48-2c-1406 or Section 48-3a-1041, as
1076 appropriate pursuant to Section 48-3a-1405.

1077 (3) Any conversion under this section may not result in a violation, directly or
1078 indirectly, of:

1079 (a) Section 16-6a-1301; or

1080 (b) any other provision of this chapter.

1081 Section 6. Section **16-10a-1008.7 (Effective 07/01/13)** is amended to read:

1082 **16-10a-1008.7 (Effective 07/01/13). Conversion to or from a domestic limited**
1083 **liability company.**

1084 (1) (a) A corporation may convert to a domestic limited liability company subject to
1085 Title 48, Chapter 2c, Utah Revised Limited Liability Company Act, or Title 48, Chapter [3] 3a,
1086 Utah Revised Uniform Limited Liability Company Act, as appropriate pursuant to Section
1087 48-3a-1405 by complying with:

1088 (i) this Subsection (1); and

1089 (ii) Section [~~48-3-1006~~] 48-2c-1401 or Section 48-3a-1041.

1090 (b) If a corporation converts to a domestic limited liability company in accordance with
1091 this Subsection (1), the articles of conversion shall:

1092 (i) comply with Section [~~48-3-1008~~] 48-2c-1402 or Sections 48-3a-1045 and
1093 48-3a-1046; and

1094 (ii) if the corporation has issued shares, provide for:

1095 (A) the cancellation of any issued share; or

1096 (B) the conversion of any issued share to a membership interest in the domestic limited
1097 liability company.

1098 (c) Before articles of conversion [~~may be filed with the division~~], in accordance with
1099 Section 48-2c-1404, or a statement of conversion, in accordance with Section 48-3a-1045, may
1100 be filed with the division, the conversion shall be approved:

1101 (i) in the manner provided for the articles of incorporation or bylaws of the
1102 corporation; or

1103 (ii) if the articles of incorporation or bylaws of the corporation do not provide the
1104 method for approval:

1105 (A) if the corporation has issued shares, by all of the outstanding shares of all classes
1106 of shares of the corporation regardless of limitations or restrictions on the voting rights of the
1107 shares; or

1108 (B) if the corporation has not issued shares, by a majority of:

1109 (I) the directors in office at the time that the conversion is approved by the board of
1110 directors; or

1111 (II) if directors have not been appointed or elected, the incorporators.

1112 (2) A domestic limited liability company may convert to a corporation subject to this

1113 chapter by:

1114 (a) filing articles of incorporation in accordance with this chapter; and

1115 (b) complying with Section ~~[48-3-1006]~~ 48-2c-1401 or Section 48-3a-1041, as
1116 appropriate pursuant to Section 48-3a-1405.

1117 Section 7. Section **16-16-111 (Effective 07/01/13)** is amended to read:

1118 **16-16-111 (Effective 07/01/13). Name.**

1119 (1) Use of the term "cooperative" or its abbreviation under this chapter is not a
1120 violation of the provisions restricting the use of the term under any other law of this state.

1121 (2) (a) Notwithstanding Section ~~[48-2d-108]~~ 48-2a-102 or Section 48-2e-108, as
1122 appropriate pursuant to Section 48-2e-1205, the name of a limited cooperative association shall
1123 contain:

1124 (i) the words "limited cooperative association" or "limited cooperative"; or

1125 (ii) the abbreviation "L.C.A." or "LCA".

1126 (b) "Cooperative" may be abbreviated as "Co-op" or "Coop".

1127 (c) "Association" may be abbreviated as "Assoc." or "Assn."[-]

1128 (d) "Limited" may be abbreviated as "Ltd."

1129 ~~[(d)]~~ (e) (i) Use of the term "cooperative" or its abbreviation as permitted by this

1130 chapter is not a violation of the provisions restricting the use of the term under any other law of
1131 this state.

1132 (ii) A limited cooperative association or a member may enforce the restrictions on the
1133 use of the term "cooperative" under this chapter and any other law of this state.

1134 (iii) A limited cooperative association or a member may enforce the restrictions on the
1135 use of the term "cooperative" under any other law of this state.

1136 (3) Except as otherwise provided in Subsection (4), a limited cooperative association
1137 may use only a name that is available. A name is available if it is distinguishable in the records
1138 of the division from:

1139 (a) the name of any entity organized or authorized to transact business in this state;

1140 (b) a name reserved under Section 16-16-112; and

1141 (c) an alternative name approved for a foreign cooperative authorized to transact
1142 business in this state.

1143 (4) A limited cooperative association may apply to the division for authorization to use

1144 a name that is not available. The division shall authorize use of the name if:

1145 (a) the person with ownership rights to use the name consents in a record to the use and
1146 applies in a form satisfactory to the division to change the name used or reserved to a name that
1147 is distinguishable upon the records of the division from the name applied for; or

1148 (b) the applicant delivers to the division a certified copy of the final judgment of a
1149 court establishing the applicant's right to use the name in this state.

1150 Section 8. Section **16-17-102 (Effective 07/01/13)** is amended to read:

1151 **16-17-102 (Effective 07/01/13). Definitions.**

1152 In this chapter:

1153 (1) "Appointment of agent" means a statement appointing an agent for service of
1154 process filed by:

1155 (a) a domestic or foreign unincorporated nonprofit association under Section
1156 16-17-204; or

1157 (b) a domestic entity that is not a filing entity or a nonqualified foreign entity under
1158 Section 16-17-210.

1159 (2) "Commercial registered agent" means an individual or a domestic or foreign entity
1160 listed under Section 16-17-204.

1161 (3) "Division" means the Division of Corporations and Commercial Code.

1162 (4) "Domestic entity" means an entity whose internal affairs are governed by the law of
1163 this state.

1164 (5) "Entity" means a person that has a separate legal existence or has the power to
1165 acquire an interest in real property in its own name other than:

1166 (a) an individual;

1167 (b) a testamentary, inter vivos, or charitable trust, with the exception of a business
1168 trust, statutory trust, or similar trust;

1169 (c) an association or relationship that is not a partnership by reason of Section 202(c)
1170 of the Uniform Partnership Act (1997), or Subsection [~~48-1a-303(3)~~] 48-1d-202(3), as
1171 appropriate pursuant to Section 48-1d-1405, or a similar provision of the law of any other
1172 jurisdiction;

1173 (d) a decedent's estate; or

1174 (e) a public corporation, government or governmental subdivision, agency, or

1175 instrumentality, or quasi-governmental instrumentality.

1176 (6) "Filing entity" means an entity that is created by the filing of a public organic
1177 document.

1178 (7) "Foreign entity" means an entity other than a domestic entity.

1179 (8) "Foreign qualification document" means an application for a certificate of authority
1180 or other foreign qualification filing with the division by a foreign entity.

1181 (9) "Governance interest" means the right under the organic law or organic rules of an
1182 entity, other than as a governor, agent, assignee, or proxy, to:

1183 (a) receive or demand access to information concerning, or the books and records of,
1184 the entity;

1185 (b) vote for the election of the governors of the entity; or

1186 (c) receive notice of or vote on any or all issues involving the internal affairs of the
1187 entity.

1188 (10) "Governor" means a person by or under whose authority the powers of an entity
1189 are exercised and under whose direction the business and affairs of the entity are managed
1190 pursuant to the organic law and organic rules of the entity.

1191 (11) "Interest" means:

1192 (a) a governance interest in an unincorporated entity;

1193 (b) a transferable interest in an unincorporated entity; or

1194 (c) a share or membership in a corporation.

1195 (12) "Interest holder" means a direct holder of an interest.

1196 (13) "Jurisdiction of organization," with respect to an entity, means the jurisdiction
1197 whose law includes the organic law of the entity.

1198 (14) "Noncommercial registered agent" means a person that is not listed as a
1199 commercial registered agent under Section 16-17-204 and that is:

1200 (a) an individual or a domestic or foreign entity that serves in this state as the agent for
1201 service of process of an entity; or

1202 (b) the individual who holds the office or other position in an entity that is designated
1203 as the agent for service of process pursuant to Subsection 16-17-203(1)(b)(ii).

1204 (15) "Nonqualified foreign entity" means a foreign entity that is not authorized to
1205 transact business in this state pursuant to a filing with the division.

- 1206 (16) "Nonresident LLP statement" means:
- 1207 (a) a statement of qualification of a domestic limited liability partnership that does not
- 1208 have an office in this state; or
- 1209 (b) a statement of foreign qualification of a foreign limited liability partnership that
- 1210 does not have an office in this state.
- 1211 (17) "Organic law" means the statutes, if any, other than this chapter, governing the
- 1212 internal affairs of an entity.
- 1213 (18) "Organic rules" means the public organic document and private organic rules of an
- 1214 entity.
- 1215 (19) "Person" means an individual, corporation, estate, trust, partnership, limited
- 1216 liability company, business or similar trust, association, joint venture, public corporation,
- 1217 government or governmental subdivision, agency, or instrumentality, or any other legal or
- 1218 commercial entity.
- 1219 (20) "Private organic rules" mean the rules, whether or not in a record, that govern the
- 1220 internal affairs of an entity, are binding on all of its interest holders, and are not part of its
- 1221 public organic document, if any.
- 1222 (21) "Public organic document" means the public record the filing of which creates an
- 1223 entity, and any amendment to or restatement of that record.
- 1224 (22) "Qualified foreign entity" means a foreign entity that is authorized to transact
- 1225 business in this state pursuant to a filing with the division.
- 1226 (23) "Record" means information that is inscribed on a tangible medium or that is
- 1227 stored in an electronic or other medium and is retrievable in perceivable form.
- 1228 (24) "Registered agent" means a commercial registered agent or a noncommercial
- 1229 registered agent.
- 1230 (25) "Registered agent filing" means:
- 1231 (a) the public organic document of a domestic filing entity;
- 1232 (b) a nonresident LLP statement;
- 1233 (c) a foreign qualification document; or
- 1234 (d) an appointment of agent.
- 1235 (26) "Represented entity" means:
- 1236 (a) a domestic filing entity;

1237 (b) a domestic or qualified foreign limited liability partnership that does not have an
1238 office in this state;

1239 (c) a qualified foreign entity;

1240 (d) a domestic or foreign unincorporated nonprofit association for which an
1241 appointment of agent has been filed;

1242 (e) a domestic entity that is not a filing entity for which an appointment of agent has
1243 been filed; or

1244 (f) a nonqualified foreign entity for which an appointment of agent has been filed.

1245 (27) "Sign" means, with present intent to authenticate or adopt a record:

1246 (a) to execute or adopt a tangible symbol; or

1247 (b) to attach to or logically associate with the record an electronic sound, symbol, or
1248 process.

1249 (28) "Transferable interest" means the right under an entity's organic law to receive
1250 distributions from the entity.

1251 (29) "Type," with respect to an entity, means a generic form of entity:

1252 (a) recognized at common law; or

1253 (b) organized under an organic law, whether or not some entities organized under that
1254 organic law are subject to provisions of that law that create different categories of the form of
1255 entity.

1256 Section 9. Section **31A-37a-102 (Effective 07/01/13)** is amended to read:

1257 **31A-37a-102 (Effective 07/01/13). Definitions.**

1258 (1) For purposes of this chapter:

1259 (a) "Ceding insurer" means an insurer that:

1260 (i) is approved by the commissioner;

1261 (ii) is licensed or otherwise authorized to transact the business of insurance or
1262 reinsurance in the insurer's state or country of domicile; and

1263 (iii) cedes risk to a special purpose financial captive insurance company pursuant to a
1264 reinsurance contract.

1265 (b) Notwithstanding Section 31A-27a-102, "insolvency" or "insolvent" for purposes of
1266 applying Chapter 27a, Insurer Receivership Act, to a special purpose financial captive
1267 insurance company, means that a special purpose financial captive insurance company:

1268 (i) is unable to pay an obligation when the obligation is due, unless the obligation is the
1269 subject of a bona fide dispute; or

1270 (ii) fails to meet the criteria and conditions for solvency of the special purpose financial
1271 captive insurance company established by the commissioner by rule or order.

1272 (c) (i) "Insurance securitization" means a transaction or a group of related transactions:

1273 (A) that may include a capital market offering;

1274 (B) that is effected through one or more related risk transfer instruments and
1275 facilitating administrative agreements;

1276 (C) where all or part of the result of the transaction or group of related transactions is
1277 used to fund the special purpose financial captive insurance company's obligations under a
1278 reinsurance contract with a ceding insurer;

1279 (D) by which:

1280 (I) proceeds are obtained by a special purpose financial captive insurance company,
1281 directly or indirectly, through the issuance of one or more securities by the special purpose
1282 financial captive insurance company or another person; or

1283 (II) a person provides one or more letters of credit or other assets for the benefit of the
1284 special purpose financial captive insurance company if the commissioner authorizes the special
1285 purpose financial captive insurance company to treat the letter of credit or asset as an admitted
1286 asset for purposes of the special purpose financial captive insurance company's annual report;
1287 and

1288 (E) if all or a part of the proceeds, a letter of credit, or asset described in this
1289 Subsection (1)(c) is used to fund the special purpose financial captive insurance company's
1290 obligations under a reinsurance contract with a ceding insurer.

1291 (ii) "Insurance securitization" does not include the issuance of a letter of credit for the
1292 benefit of the commissioner to satisfy all or part of the special purpose financial captive
1293 insurance company's capital and surplus requirements under Section 31A-37a-302.

1294 (d) "Management" means:

1295 (i) a board of directors of a special purpose financial captive insurance company;

1296 (ii) a managing board of a special purpose financial captive insurance company; or

1297 (iii) one or more individuals with the overall responsibility for the management of the
1298 affairs of the special purpose financial captive insurance company, including:

- 1299 (A) an officer elected or appointed to act on behalf of the special purpose financial
1300 captive insurance company; or
- 1301 (B) an agent elected or appointed to act on behalf of the special purpose financial
1302 captive insurance company.
- 1303 (e) "Organizational document" means:
- 1304 (i) in the case of a special purpose financial captive insurance company formed as a
1305 stock corporation, the special purpose financial captive insurance company's:
- 1306 (A) articles of incorporation; and
1307 (B) bylaws; and
- 1308 (ii) in the case of a special purpose financial captive insurance company formed as a
1309 limited liability company, the special purpose financial captive insurance company's:
- 1310 (A) articles of organization or certificate of organization; and
1311 (B) operating agreement.
- 1312 (f) "Reinsurance contract" means a contract between a special purpose financial captive
1313 insurance company and a ceding insurer pursuant to which the special purpose financial captive
1314 insurance company agrees to provide reinsurance to the ceding insurer for risks associated with
1315 the ceding insurer's insurance or reinsurance business.
- 1316 (g) "Security" means:
- 1317 (i) a security as defined in Section 31A-1-301; or
1318 (ii) one or more of the following that the commissioner designates, by rule or order, as
1319 a "security" for purposes of this chapter:
- 1320 (A) a debt obligation;
1321 (B) equity;
1322 (C) a surplus certificate;
1323 (D) a surplus note;
1324 (E) a funding agreement;
1325 (F) a derivative; or
1326 (G) another financial instrument.
- 1327 (h) "Special purpose financial captive insurance company" means a captive insurance
1328 company has a certificate of authority under this chapter from the commissioner to operate as a
1329 special purpose financial captive insurance company pursuant to this chapter.

1330 (i) "Special purpose financial captive insurance company security" means:
1331 (i) a security issued by a special purpose financial captive insurance company; or
1332 (ii) a security issued by a third party, the proceeds of which are obtained directly or
1333 indirectly by a special purpose financial captive insurance company.

1334 (j) "Surplus note" means an unsecured subordinated debt obligation that has one or
1335 more characteristics that are consistent with paragraph 3 of the National Association of
1336 Insurance Commissioners Statement of Statutory Accounting Principals No. 41, as amended
1337 from time to time and as modified or supplemented by rule or order of the commissioner.

1338 (2) The terms defined in Section 31A-37-102 shall have the same meaning for
1339 purposes of this chapter.

1340 Section 10. Section **46-4-503 (Effective 07/01/13)** is amended to read:

1341 **46-4-503 (Effective 07/01/13). Government products and services provided**
1342 **electronically.**

1343 (1) Notwithstanding Section 46-4-501, a state governmental agency that administers
1344 one or more of the following transactions shall allow those transactions to be conducted
1345 electronically:

1346 (a) an application for or renewal of a professional or occupational license issued under
1347 Title 58, Occupations and Professions;

1348 (b) the renewal of a drivers license;

1349 (c) an application for a hunting or fishing license;

1350 (d) the filing of:

1351 (i) a return under Title 59, Chapter 10, Individual Income Tax Act or 12, Sales and Use
1352 Tax Act;

1353 (ii) a court document, as defined by the Judicial Council; or

1354 (iii) a document under Title 70A, Uniform Commercial Code;

1355 (e) a registration for:

1356 (i) a product; or

1357 (ii) a brand;

1358 (f) a renewal of a registration of a motor vehicle;

1359 (g) a registration under:

1360 (i) Title 16, Corporations;

- 1361 (ii) Title 42, Names; or
- 1362 (iii) on or before June 30, 2014, Title 48, Partnership, and on and after July 1, 2014,
- 1363 Title 48, Unincorporated Business [~~Entities~~] Entity Act; or
- 1364 (h) submission of an application for benefits:
- 1365 (i) under Title 35A, Chapter 3, Employment Support Act;
- 1366 (ii) under Title 35A, Chapter 4, Employment Security Act; or
- 1367 (iii) related to accident and health insurance.
- 1368 (2) The state system of public education, in coordination with the Utah Education
- 1369 Network, shall make reasonable progress toward making the following services available
- 1370 electronically:
- 1371 (a) secure access by parents and students to student grades and progress reports;
- 1372 (b) email communications with:
- 1373 (i) teachers;
- 1374 (ii) parent-teacher associations; and
- 1375 (iii) school administrators;
- 1376 (c) access to school calendars and schedules; and
- 1377 (d) teaching resources that may include:
- 1378 (i) teaching plans;
- 1379 (ii) curriculum guides; and
- 1380 (iii) media resources.
- 1381 (3) A state governmental agency shall:
- 1382 (a) in carrying out the requirements of this section, take reasonable steps to ensure the
- 1383 security and privacy of records that are private or controlled as defined by Title 63G, Chapter 2,
- 1384 Government Records Access and Management Act;
- 1385 (b) in addition to those transactions listed in Subsections (1) and (2), determine any
- 1386 additional services that may be made available to the public through electronic means; and
- 1387 (c) as part of the agency's information technology plan required by Section 63F-1-204,
- 1388 report on the progress of compliance with Subsections (1) through (3).
- 1389 (4) Notwithstanding the other provisions of this part, a state governmental agency is
- 1390 not required by this part to conduct a transaction electronically if:
- 1391 (a) conducting the transaction electronically is not required by federal law; and

1392 (b) conducting the transaction electronically is:

1393 (i) impractical;

1394 (ii) unreasonable; or

1395 (iii) not permitted by laws pertaining to privacy or security.

1396 (5) (a) For purposes of this Subsection (5), "one-stop shop" means the consolidation of
1397 access to diverse services and agencies at one location including virtual colocation.

1398 (b) State agencies that provide services or offer direct assistance to the business
1399 community shall participate in the establishment, maintenance, and enhancement of an
1400 integrated Utah business web portal known as Business.utah.gov. The purpose of the business
1401 web portal is to provide "one-stop shop" assistance to businesses.

1402 (c) State agencies shall partner with other governmental and nonprofit agencies whose
1403 primary mission is to provide services or offer direct assistance to the business community in
1404 Utah in fulfilling the requirements of this section.

1405 (d) The following state entities shall comply with the provisions of this Subsection (5):

1406 (i) Governor's Office of Economic Development, which shall serve as the managing
1407 partner for the website;

1408 (ii) Department of Workforce Services;

1409 (iii) Department of Commerce;

1410 (iv) Tax Commission;

1411 (v) Department of Administrative Services - Division of Purchasing and General
1412 Services, including other state agencies operating under a grant of authority from the division
1413 to procure goods and services in excess of \$5,000;

1414 (vi) Department of Agriculture;

1415 (vii) Department of Natural Resources; and

1416 (viii) other state agencies that provide services or offer direct assistance to the business
1417 sector.

1418 (e) The business services available on the business web portal may include:

1419 (i) business life cycle information;

1420 (ii) business searches;

1421 (iii) employment needs and opportunities;

1422 (iv) motor vehicle registration;

- 1423 (v) permit applications and renewal;
- 1424 (vi) tax information;
- 1425 (vii) government procurement bid notifications;
- 1426 (viii) general business information;
- 1427 (ix) business directories; and
- 1428 (x) business news.

1429 Section 11. Section **48-1-5** is enacted to read:

1430 **48-1-5. Scope of chapter.**

1431 Until this chapter is repealed January 1, 2016, this chapter applies only to a partnership
1432 formed on or before June 30, 2014, that has not elected to be governed by Chapter 1d, Utah
1433 Uniform Partnership Act, as provided in Section 48-1d-1405.

1434 Section 12. Section **48-1c-101** is enacted to read:

1435 **CHAPTER 1c. GENERAL PROVISIONS**

1436 **48-1c-101. Title.**

1437 (1) This title is known as the "Unincorporated Business Entity Act."

1438 (2) This chapter is known as "General Provisions."

1439 Section 13. Section **48-1d-101** is enacted to read:

1440 **CHAPTER 1d. UTAH UNIFORM PARTNERSHIP ACT**

1441 **Part 1. General Provisions**

1442 **48-1d-101. Title.**

1443 This chapter may be cited as the "Utah Uniform Partnership Act."

1444 Section 14. Section **48-1d-102** is enacted to read:

1445 **48-1d-102. Definitions.**

1446 As used in this chapter:

1447 (1) "Business" includes every trade, occupation, and profession.

1448 (2) "Contribution," except in the phrase "right of contribution," means property or a
1449 benefit described in Section 48-1d-501 which is provided by a person to a partnership to
1450 become a partner or in the person's capacity as a partner.

1451 (3) "Debtor in bankruptcy" means a person that is the subject of:

1452 (a) an order for relief under Title 11 of the United States Code or a comparable order
1453 under a successor statute of general application; or

1454 (b) a comparable order under federal, state, or foreign law governing insolvency.

1455 (4) "Distribution" means a transfer of money or other property from a partnership to a
1456 person on account of a transferable interest or in a person's capacity as a partner. The term:

1457 (a) includes:

1458 (i) a redemption or other purchase by a partnership of a transferable interest; and

1459 (ii) a transfer to a partner in return for the partner's relinquishment of any right to
1460 participate as a partner in the management or conduct of the partnership's activities and affairs
1461 or have access to records or other information concerning the partnership's activities and
1462 affairs; and

1463 (b) does not include amounts constituting reasonable compensation for present or past
1464 service or payments made in the ordinary course of business under a bona fide retirement plan
1465 or other bona fide benefits program.

1466 (5) "Division" means the Division of Corporations and Commercial Code.

1467 (6) "Foreign limited liability partnership" means a foreign partnership whose partners
1468 have limited liability for the debts, obligations, or other liabilities of the foreign partnership
1469 under a provision similar to Subsection 48-1d-306(3).

1470 (7) "Foreign partnership" means an unincorporated entity formed under the law of a
1471 jurisdiction other than this state which would be a partnership if formed under the law of this
1472 state. The term includes a foreign limited liability partnership.

1473 (8) "Jurisdiction," used to refer to a political entity, means the United States, a state, a
1474 foreign country, or a political subdivision of a foreign country.

1475 (9) "Jurisdiction of formation" means, with respect to an entity, the jurisdiction:

1476 (a) under whose law the entity is formed; or

1477 (b) in the case of a limited liability partnership or foreign limited liability partnership,
1478 in which the partnership's statement of qualification is filed.

1479 (10) "Limited liability partnership," except in the phrase "foreign limited liability
1480 partnership," means a partnership that has filed a statement of qualification under Section
1481 48-1d-1101 and does not have a similar statement in effect in any other jurisdiction.

1482 (11) "Partner" means a person that:

1483 (a) has become a partner in a partnership under Section 48-1d-401 or was a partner in a
1484 partnership when the partnership became subject to this chapter under Section 48-1d-1405; and

1485 (b) has not dissociated as a partner under Section 48-1d-701.

1486 (12) "Partnership" means an association of two or more persons to carry on as
1487 co-owners a business for profit formed under this chapter or that becomes subject to this
1488 chapter under Part 10, Merger, Interest Exchange, Conversion, and Domestication, or Section
1489 48-1d-1405. The term includes a limited liability partnership.

1490 (13) "Partnership agreement" means the agreement, whether or not referred to as a
1491 partnership agreement, and whether oral, implied, in a record, or in any combination thereof, of
1492 all the partners of a partnership concerning the matters described in Subsection 48-1d-106(1).
1493 The term includes the agreement as amended or restated.

1494 (14) "Partnership at will" means a partnership in which the partners have not agreed to
1495 remain partners until the expiration of a definite term or the completion of a particular
1496 undertaking.

1497 (15) "Person" means an individual, business corporation, nonprofit corporation,
1498 partnership, limited partnership, limited liability company, limited cooperative association,
1499 unincorporated nonprofit association, statutory trust, business trust, common-law business
1500 trust, estate, trust, association, joint venture, public corporation, government or governmental
1501 subdivision, agency, or instrumentality, or any other legal or commercial entity.

1502 (16) "Principal office" means the principal executive office of a partnership or a
1503 foreign limited liability partnership, whether or not the office is located in this state.

1504 (17) "Professional services" means a personal service provided by:

1505 (a) a public accountant holding a license under Title 58, Chapter 26a, Certified Public
1506 Accountant Licensing Act, or a subsequent law regulating the practice of public accounting;

1507 (b) an architect holding a license under Title 58, Chapter 3a, Architects Licensing Act,
1508 or a subsequent law regulating the practice of architecture;

1509 (c) an attorney granted the authority to practice law by the:

1510 (i) Utah Supreme Court; or

1511 (ii) one or more of the following that licenses or regulates the authority to practice law
1512 in a state or territory of the United States other than Utah:

1513 (A) a supreme court;

1514 (B) a court other than a supreme court;

1515 (C) an agency;

- 1516 (D) an instrumentality; or
- 1517 (E) a regulating board;
- 1518 (d) a chiropractor holding a license under Title 58, Chapter 73, Chiropractic Physician
- 1519 Practice Act, or a subsequent law regulating the practice of chiropractics;
- 1520 (e) a doctor of dentistry holding a license under Title 58, Chapter 69, Dentist and
- 1521 Dental Hygienist Practice Act, or a subsequent law regulating the practice of dentistry;
- 1522 (f) a professional engineer registered under Title 58, Chapter 22, Professional
- 1523 Engineers and Professional Land Surveyors Licensing Act, or a subsequent law regulating the
- 1524 practice of engineers or land surveyors;
- 1525 (g) a naturopath holding a license under Title 58, Chapter 71, Naturopathic Physician
- 1526 Practice Act, or a subsequent law regulating the practice of naturopathy;
- 1527 (h) a nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, or Chapter 44a,
- 1528 Nurse Midwife Practice Act, or a subsequent law regulating the practice of nursing;
- 1529 (i) an optometrist holding a license under Title 58, Chapter 16a, Utah Optometry
- 1530 Practice Act, or a subsequent law regulating the practice of optometry;
- 1531 (j) an osteopathic physician or surgeon holding a license under Title 58, Chapter 68,
- 1532 Utah Osteopathic Medical Practice Act, or a subsequent law regulating the practice of
- 1533 osteopathy;
- 1534 (k) a pharmacist holding a license under Title 58, Chapter 17b, Pharmacy Practice Act,
- 1535 or a subsequent law regulating the practice of pharmacy;
- 1536 (l) a physician, surgeon, or doctor of medicine holding a license under Title 58,
- 1537 Chapter 67, Utah Medical Practice Act, or a subsequent law regulating the practice of
- 1538 medicine;
- 1539 (m) a physical therapist holding a license under Title 58, Chapter 24b, Physical
- 1540 Therapy Practice Act, or a subsequent law regulating the practice of physical therapy;
- 1541 (n) a podiatric physician holding a license under Title 58, Chapter 5a, Podiatric
- 1542 Physician Licensing Act, or a subsequent law regulating the practice of podiatry;
- 1543 (o) a psychologist holding a license under Title 58, Chapter 61, Psychologist Licensing
- 1544 Act, or a subsequent law regulating the practice of psychology;
- 1545 (p) a principal broker, associate broker, or sales agent holding a license under Title 61,
- 1546 Chapter 2f, Real Estate Licensing and Practices Act, or a subsequent law regulating the sale,

1547 exchange, purchase, rental, or leasing of real estate:

1548 (q) a clinical or certified social worker holding a license under Title 58, Chapter 60,
1549 Part 2, Social Worker Licensing Act, or a subsequent law regulating the practice of social
1550 work;

1551 (r) a mental health therapist holding a license under Title 58, Chapter 60, Mental
1552 Health Professional Practice Act, or a subsequent law regulating the practice of mental health
1553 therapy;

1554 (s) a veterinarian holding a license under Title 58, Chapter 28, Veterinary Practice Act,
1555 or a subsequent law regulating the practice of veterinary medicine; or

1556 (t) an individual licensed, certified, or registered under Title 61, Chapter 2g, Real
1557 Estate Appraiser Licensing and Certification Act, or a subsequent law regulating the practice of
1558 appraising real estate.

1559 (18) "Property" means all property, whether real, personal, or mixed, or tangible or
1560 intangible, or any right or interest therein.

1561 (19) "Record," used as a noun, means information that is inscribed on a tangible
1562 medium or that is stored in an electronic or other medium and is retrievable in perceivable
1563 form.

1564 (20) "Registered agent" means an agent of a limited liability partnership or foreign
1565 limited liability partnership which is authorized to receive service of any process, notice, or
1566 demand required or permitted by law to be served on the partnership.

1567 (21) "Registered foreign limited liability partnership" means a foreign limited liability
1568 partnership that is registered to do business in this state pursuant to a statement of registration
1569 filed by the division.

1570 (22) "Sign" means, with present intent to authenticate or adopt a record:

1571 (a) to execute or adopt a tangible symbol; or

1572 (b) to attach to or logically associate with the record an electronic symbol, sound, or
1573 process.

1574 (23) "State" means a state of the United States, the District of Columbia, Puerto Rico,
1575 the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction
1576 of the United States.

1577 (24) "Transfer" includes:

- 1578 (a) an assignment;
1579 (b) a conveyance;
1580 (c) a sale;
1581 (d) a lease;
1582 (e) an encumbrance, including a mortgage or security interest;
1583 (f) a gift; and
1584 (g) a transfer by operation of law.
- 1585 (25) "Transferable interest" means the right, as initially owned by a person in the
1586 person's capacity as a partner, to receive distributions from a partnership in accordance with the
1587 partnership agreement, whether or not the person remains a partner or continues to own any
1588 part of the right. The term applies to any fraction of the interest, by whomever owned.
- 1589 (26) "Transferee" means a person to which all or part of a transferable interest has been
1590 transferred, whether or not the transferor is a partner.
- 1591 (27) "Tribal partnership" means a partnership:
1592 (a) formed under the law of a tribe; and
1593 (b) that is at least 51% owned or controlled by the tribe under whose law the
1594 partnership is formed.
- 1595 (28) "Tribe" means a tribe, band, nation, pueblo, or other organized group or
1596 community of Indians, including an Alaska Native village, that is legally recognized as eligible
1597 for and is consistent with a special program, service, or entitlement provided by the United
1598 States to Indians because of their status as Indians.
- 1599 Section 15. Section **48-1d-103** is enacted to read:
- 1600 **48-1d-103. Knowledge -- Notice.**
- 1601 (1) A person knows a fact if the person:
1602 (a) has actual knowledge of it; or
1603 (b) is deemed to know it under Subsection (4)(a) or law other than this chapter.
- 1604 (2) A person has notice of a fact if the person:
1605 (a) has reason to know the fact from all the facts known to the person at the time in
1606 question; or
1607 (b) is deemed to have notice of the fact under Subsection (4)(b).
- 1608 (3) Subject to Subsection 48-1d-116(6), a person notifies another person of a fact by

1609 taking steps reasonably required to inform the other person in ordinary course, whether or not
1610 those steps cause the other person to know the fact.

1611 (4) A person not a partner is deemed:

1612 (a) to know of a limitation on authority to transfer real property as provided in

1613 Subsection 48-1d-303(7); and

1614 (b) to have notice of:

1615 (i) a partner's dissociation 90 days after a statement of dissociation under Section

1616 48-1d-804 becomes effective; and

1617 (ii) a partnership's:

1618 (A) dissolution 90 days after a statement of dissolution under Subsection

1619 48-1d-902(2)(b)(i) becomes effective;

1620 (B) termination 90 days after a statement of termination under Subsection

1621 48-1d-902(2)(b)(vi) becomes effective;

1622 (C) participation in a merger, interest exchange, conversion, or domestication 90 days

1623 after a statement of merger, interest exchange, conversion, or domestication under Part 10,

1624 Merger, Interest Exchange, Conversion, and Domestication, becomes effective; and

1625 (D) abandonment of a merger, interest exchange, conversion, or domestication 90 days

1626 after a statement of abandonment of merger, interest exchange, conversion, or domestication

1627 under Part 10, Merger, Interest Exchange, Conversion, and Domestication, becomes effective.

1628 (5) A partner's knowledge or notice of a fact relating to the partnership is effective

1629 immediately as knowledge of or notice to the partnership, except in the case of a fraud on the

1630 partnership committed by or with the consent of that partner.

1631 Section 16. Section **48-1d-104** is enacted to read:

1632 **48-1d-104. Governing law.**

1633 The internal affairs of a partnership and the liability of a partner as a partner for the

1634 debts, obligations, or other liabilities of the partnership are governed by:

1635 (1) in the case of a limited liability partnership, the law of this state; and

1636 (2) in the case of a partnership that is not a limited liability partnership, the law of the

1637 state of the jurisdiction in which the partnership has its principal office.

1638 Section 17. Section **48-1d-105** is enacted to read:

1639 **48-1d-105. Supplemental principles of law.**

1640 Unless displaced by particular provisions of this chapter, the principles of law and
1641 equity supplement this chapter.

1642 Section 18. Section **48-1d-106** is enacted to read:

1643 **48-1d-106. Partnership agreement -- Scope, function, and limitations.**

1644 (1) Except as otherwise provided in Subsections (3) and (4), the partnership agreement
1645 governs:

1646 (a) relations among the partners as partners and between the partners and the
1647 partnership;

1648 (b) the activities and affairs of the partnership and the conduct of those activities and
1649 affairs; and

1650 (c) the means and conditions for amending the partnership agreement.

1651 (2) To the extent the partnership agreement does not provide for a matter described in
1652 Subsection (1), this chapter governs the matter.

1653 (3) A partnership agreement may not:

1654 (a) vary the law applicable under Section 48-1d-104;

1655 (b) vary the provisions of Section 48-1d-111;

1656 (c) vary the provisions of Section 48-1d-307;

1657 (d) unreasonably restrict the duties and rights under Section 48-1d-403, but the

1658 partnership agreement may impose reasonable restrictions on the availability and use of

1659 information obtained under that section and may define appropriate remedies, including

1660 liquidated damages, for a breach of any reasonable restriction on use;

1661 (e) eliminate the duty of loyalty or the duty of care, except as otherwise provided in

1662 Subsection (4);

1663 (f) eliminate the contractual obligation of good faith and fair dealing under Subsection

1664 48-1d-405(4), but the partnership agreement may prescribe the standards, if not unconscionable

1665 or against public policy, by which the performance of the obligation is to be measured;

1666 (g) relieve or exonerate a person from liability for conduct involving bad faith, willful

1667 misconduct, or recklessness;

1668 (h) vary the power to dissociate as a partner under Subsection 48-1d-702(1), except to

1669 require the notice under Subsection 48-1d-701(1) to be in a record;

1670 (i) vary the right of a court to expel a partner in the events specified in Subsection

1671 48-1d-701(5);
1672 (j) vary the causes of dissolution specified in Subsection 48-1d-901(4), (5), or (6);
1673 (k) vary the requirement to wind up the partnership's activities and affairs as specified
1674 in Subsections 48-1d-902(1), (2)(a), and (4);
1675 (l) vary the right of a partner to approve a merger, interest exchange, conversion, or
1676 domestication under Subsection 48-1d-1023(1)(b), 48-1d-1033(1)(b), 48-1d-1043(1)(b), or
1677 48-1d-1053(1)(b);
1678 (m) vary any requirement, procedure, or other provision of this chapter pertaining to:
1679 (i) registered agents; or
1680 (ii) the division, including provisions pertaining to records authorized or required to be
1681 delivered to the division for filing under this chapter; or
1682 (n) except as otherwise provided in Section 48-1d-107 and Subsection 48-1d-108(2),
1683 restrict the rights under this chapter of a person other than a partner.
1684 (4) Subject to Subsection (3)(g), without limiting other terms that may be included in a
1685 partnership agreement, the following rules apply:
1686 (a) The partnership agreement may specify the method by which a specific act or
1687 transaction that would otherwise violate the duty of loyalty may be authorized or ratified by one
1688 or more disinterested and independent persons after full disclosure of all material facts.
1689 (b) If not unconscionable or against public policy, the partnership agreement may:
1690 (i) alter or eliminate the aspects of the duty of loyalty stated in Subsection
1691 48-1d-405(2);
1692 (ii) identify specific types or categories of activities that do not violate the duty of
1693 loyalty;
1694 (iii) alter the duty of care, except to authorize intentional misconduct or knowing
1695 violation of law; and
1696 (iv) alter or eliminate any other fiduciary duty.
1697 (5) The court shall decide as a matter of law whether a term of a partnership agreement
1698 is unconscionable or against public policy under Subsection (3)(f) or (4)(b). The court:
1699 (a) shall make its determination as of the time the challenged term became part of the
1700 partnership agreement and by considering only circumstances existing at that time; and
1701 (b) may invalidate the term only if, in light of the purposes and business of the

1702 partnership, it is readily apparent that:

1703 (i) the objective of the term is unconscionable or against public policy; or

1704 (ii) the means to achieve the term's objective is unconscionable or against public
1705 policy.

1706 Section 19. Section **48-1d-107** is enacted to read:

1707 **48-1d-107. Partnership agreement -- Effect on partnership and person becoming**
1708 **partner -- Preformation agreement.**

1709 (1) A partnership is bound by and may enforce the partnership agreement, whether or
1710 not the partnership has itself manifested assent to the partnership agreement.

1711 (2) A person that becomes a partner of a partnership is deemed to assent to the
1712 partnership agreement.

1713 (3) Two or more persons intending to become the initial partners of a partnership may
1714 make an agreement providing that upon the formation of the partnership the agreement will
1715 become the partnership agreement.

1716 Section 20. Section **48-1d-108** is enacted to read:

1717 **48-1d-108. Partnership agreement -- Effect on third parties and relationship to**
1718 **records effective on behalf of partnership.**

1719 (1) A partnership agreement may specify that its amendment requires the approval of a
1720 person that is not a party to the partnership agreement or the satisfaction of a condition. An
1721 amendment is ineffective if its adoption does not include the required approval or satisfy the
1722 specified condition.

1723 (2) The obligations of a partnership and its partners to a person in the person's capacity
1724 as a transferee or person dissociated as a partner are governed by the partnership agreement.
1725 Subject only to a court order issued under Subsection 48-1d-604(2)(b) to effectuate a charging
1726 order, an amendment to the partnership agreement made after a person becomes a transferee or
1727 is dissociated as a partner:

1728 (a) is effective with regard to any debt, obligation, or other liability of the partnership
1729 or its partners to the person in the person's capacity as a transferee or person dissociated as a
1730 partner; and

1731 (b) is not effective to the extent the amendment:

1732 (i) imposes a new debt, obligation, or other liability on the transferee or person

1733 dissociated as a partner; or

1734 (ii) prejudices the rights under Section 48-1d-801 of a person that dissociated as a
1735 partner before the amendment was made.

1736 (3) If a record delivered by a partnership to the division for filing becomes effective
1737 under this chapter and contains a provision that would be ineffective under Subsection
1738 48-1d-106(3) or (4)(b) if contained in the partnership agreement, the provision is ineffective in
1739 the record.

1740 (4) Subject to Subsection (3), if a record delivered by a partnership to the division for
1741 filing becomes effective under this chapter and conflicts with a provision of the partnership
1742 agreement:

1743 (a) the partnership agreement prevails as to partners, persons dissociated as partners,
1744 and transferees; and

1745 (b) the record prevails as to other persons to the extent they reasonably rely on the
1746 record.

1747 Section 21. Section **48-1d-109** is enacted to read:

1748 **48-1d-109. Delivery of record.**

1749 (1) Except as otherwise provided in this chapter, permissible means of delivery of a
1750 record include delivery by hand, the United States Postal Service, commercial delivery service,
1751 and electronic transmission.

1752 (2) Delivery to the division is effective only when a record is received by the division.

1753 Section 22. Section **48-1d-110** is enacted to read:

1754 **48-1d-110. Signing of records to be delivered for filing to division.**

1755 (1) A record delivered to the division for filing pursuant to this chapter must be signed
1756 as follows:

1757 (a) Except as otherwise provided in Subsections (1)(b) and (c), a record signed by a
1758 partnership must be signed by a person authorized by the partnership.

1759 (b) A record filed on behalf of a dissolved partnership that has no partner must be
1760 signed by the person winding up the partnership's activities and affairs under Subsection
1761 48-1d-902(3) or a person appointed under Subsection 48-1d-902(4) to wind up the business.

1762 (c) A statement of denial by a person under Section 48-1d-304 must be signed by that
1763 person.

1764 (d) Any other record delivered on behalf of a person to the division for filing must be
1765 signed by that person.

1766 (2) Any record filed under this chapter may be signed by an agent. Whenever this
1767 chapter requires a particular individual to sign a record and the individual is deceased or
1768 incompetent, the record may be signed by a legal representative of the individual.

1769 (3) A person that signs a record as an agent or legal representative thereby affirms as a
1770 fact that the person is authorized to sign the record.

1771 Section 23. Section **48-1d-111** is enacted to read:

1772 **48-1d-111. Signing and filing pursuant to judicial order.**

1773 (1) If a person required by this chapter to sign a record or deliver a record to the
1774 division for filing under this chapter does not do so, any other person that is aggrieved may
1775 petition the district court to order:

1776 (a) the person to sign the record;

1777 (b) the person to deliver the record to the division for filing; or

1778 (c) the division to file the record unsigned.

1779 (2) If a petitioner under Subsection (1) is not the partnership or foreign limited liability
1780 partnership to which the record pertains, the petitioner shall make the partnership or foreign
1781 limited liability partnership a party to the action.

1782 (3) A record filed under Subsection (1)(c) is effective without being signed.

1783 Section 24. Section **48-1d-112** is enacted to read:

1784 **48-1d-112. Filing requirements.**

1785 (1) To be filed by the division pursuant to this chapter, a record must be received by
1786 the division, comply with this chapter, and satisfy the following:

1787 (a) The filing of the record must be required or permitted by this chapter.

1788 (b) The record must be physically delivered in written form unless and to the extent the
1789 division permits electronic delivery of records.

1790 (c) The words in the record must be in English, and numbers must be in Arabic or
1791 Roman numerals, but the name of an entity need not be in English if written in English letters
1792 or Arabic or Roman numerals.

1793 (d) The record must be signed by a person authorized or required under this chapter to
1794 sign the record.

1795 (e) The record must state the name and capacity, if any, of each individual who signed
1796 it, either on behalf of the individual or the person authorized or required to sign the record, but
1797 need not contain a seal, attestation, acknowledgment, or verification.

1798 (2) If law other than this chapter prohibits the disclosure by the division of information
1799 contained in a record delivered to the division for filing, the division shall accept the record if
1800 the record otherwise complies with this chapter but the division may redact the information.

1801 (3) When a record is delivered to the division for filing, any fee required under this
1802 chapter and any fee, tax, interest, or penalty required to be paid under this chapter or law other
1803 than this chapter must be paid in a manner permitted by the division or by that law.

1804 (4) The division may require that a record delivered in written form be accompanied by
1805 an identical or conformed copy.

1806 Section 25. Section **48-1d-113** is enacted to read:

1807 **48-1d-113. Effective time and date.**

1808 Except as otherwise provided in Section 48-1d-114 and subject to Subsection

1809 48-1d-115(3), a record filed under this chapter is effective:

1810 (1) on the date and at the time of its filing by the division, as provided in Section
1811 48-1d-116;

1812 (2) on the date of filing and at the time specified in the record as its effective time, if
1813 later than the time under Subsection (1);

1814 (3) at a specified delayed effective time and date, which may not be more than 90 days
1815 after the date of filing; or

1816 (4) if a delayed effective date is specified, but no time is specified, at 12:01 a.m. on the
1817 date specified, which may not be more than 90 days after the date of filing.

1818 Section 26. Section **48-1d-114** is enacted to read:

1819 **48-1d-114. Withdrawal of filed record before effectiveness.**

1820 (1) Except as otherwise provided in Sections 48-1d-1024, 48-1d-1034, 48-1d-1044,
1821 and 48-1d-1054, a record delivered to the division for filing may be withdrawn before it takes
1822 effect by delivering to the division for filing a statement of withdrawal.

1823 (2) A statement of withdrawal must:

1824 (a) be signed by each person that signed the record being withdrawn, except as
1825 otherwise agreed by those persons;

1826 (b) identify the record to be withdrawn; and
1827 (c) if signed by fewer than all the persons that signed the record being withdrawn, state
1828 that the record is withdrawn in accordance with the agreement of all the persons that signed the
1829 record.

1830 (3) On filing by the division of a statement of withdrawal, the action or transaction
1831 evidenced by the original record does not take effect.

1832 Section 27. Section **48-1d-115** is enacted to read:

1833 **48-1d-115. Correcting filed record.**

1834 (1) A person on whose behalf a filed record was delivered to the division for filing may
1835 correct the record if:

1836 (a) the record at the time of filing was inaccurate;

1837 (b) the record was defectively signed; or

1838 (c) the electronic transmission of the record to the division was defective.

1839 (2) To correct a filed record, a person on whose behalf the record was delivered to the
1840 division must deliver to the division for filing a statement of correction.

1841 (3) A statement of correction:

1842 (a) may not state a delayed effective date;

1843 (b) must be signed by the person correcting the filed record;

1844 (c) must identify the filed record to be corrected;

1845 (d) must specify the inaccuracy or defect to be corrected; and

1846 (e) must correct the inaccuracy or defect.

1847 (4) A statement of correction is effective as of the effective date of the filed record that
1848 it corrects except for purposes of Subsection 48-1d-103(4) and as to persons relying on the
1849 uncorrected filed record and adversely affected by the correction. For those purposes and as to
1850 those persons, the statement of correction is effective when filed.

1851 Section 28. Section **48-1d-116** is enacted to read:

1852 **48-1d-116. Duty of division to file -- Review of refusal to file -- Transmission of**
1853 **information by division.**

1854 (1) The division shall file a record delivered to the division for filing which satisfies
1855 this chapter. The duty of the division under this section is ministerial.

1856 (2) When the division files a record, the division shall record it as filed on the date and

1857 at the time of its delivery. After filing a record, the division shall deliver to the person that
1858 submitted the record a copy of the record with an acknowledgment of the date and time of
1859 filing and, in the case of a statement of denial, also to the partnership to which the statement
1860 pertains.

1861 (3) If the division refuses to file a record, the division, not later than 15 business days
1862 after the record is delivered, shall:

1863 (a) return the record or notify the person that submitted the record of the refusal; and

1864 (b) provide a brief explanation in a record of the reason for the refusal.

1865 (4) If the division refuses to file a record, the person that submitted the record may
1866 petition the district court to compel filing of the record. The record and the explanation of the
1867 division of the refusal to file must be attached to the petition. The court may decide the matter
1868 in a summary proceeding.

1869 (5) The filing of or refusal to file a record does not create a presumption that the
1870 information contained in the record is correct or incorrect.

1871 (6) Except as otherwise provided by Section 16-17-301 or by law other than this
1872 chapter, the division may deliver any record to a person by delivering it:

1873 (a) in person to the person that submitted it;

1874 (b) to the address of the person's registered agent;

1875 (c) to the principal office of the person; or

1876 (d) to another address the person provides to the division for delivery.

1877 Section 29. Section **48-1d-117** is enacted to read:

1878 **48-1d-117. Liability for inaccurate information in filed record.**

1879 (1) If a record delivered to the division for filing under this chapter and filed by the
1880 division contains inaccurate information, a person that suffers loss by reliance on the
1881 information may recover damages for the loss from:

1882 (a) a person that signed the record, or caused another to sign it on the person's behalf,
1883 and knew the information to be inaccurate at the time the record was signed; and

1884 (b) a partner, if:

1885 (i) the record was delivered for filing on behalf of the partnership; and

1886 (ii) the partner had notice of the inaccuracy for a reasonably sufficient time before the
1887 information was relied upon so that, before the reliance, the partner reasonably could have:

1888 (A) effected an amendment under Subsection 48-1d-1101(6);
1889 (B) filed a petition under Section 48-1d-111; or
1890 (C) delivered to the division for filing a statement of change under Section 16-17-206
1891 or a statement of correction under Section 48-1d-115.

1892 (2) An individual who signs a record authorized or required to be filed under this
1893 chapter affirms under penalty of perjury that the information stated in the record is accurate.

1894 Section 30. Section **48-1d-118** is enacted to read:

1895 **48-1d-118. Reservation of power to amend or repeal.**

1896 The Legislature of this state has power to amend or repeal all or part of this chapter at
1897 any time, and all domestic and foreign limited liability partnerships subject to this chapter are
1898 governed by the amendment or repeal.

1899 Section 31. Section **48-1d-201** is enacted to read:

1900 **Part 2. Nature of Partnership**

1901 **48-1d-201. Partnership as entity.**

1902 (1) A partnership is an entity distinct from its partners.

1903 (2) A partnership is the same entity regardless of whether the partnership has a
1904 statement of qualification in effect under Section 48-1d-1101.

1905 Section 32. Section **48-1d-202** is enacted to read:

1906 **48-1d-202. Formation of partnership.**

1907 (1) Except as otherwise provided in Subsection (2), the association of two or more
1908 persons to carry on as co-owners a business for profit forms a partnership, whether or not the
1909 persons intend to form a partnership.

1910 (2) An association formed under a statute other than this chapter, a predecessor statute,
1911 or a comparable statute of another jurisdiction is not a partnership under this chapter.

1912 (3) In determining whether a partnership is formed, the following rules apply:

1913 (a) Joint tenancy, tenancy in common, tenancy by the entireties, joint property,
1914 common property, or part ownership does not by itself establish a partnership, even if the
1915 co-owners share profits made by the use of the property.

1916 (b) The sharing of gross returns does not by itself establish a partnership, even if the
1917 persons sharing them have a joint or common right or interest in property from which the
1918 returns are derived.

1919 (c) A person who receives a share of the profits of a business is presumed to be a
1920 partner in the business, unless the profits were received in payment:
1921 (i) of a debt by installments or otherwise;
1922 (ii) for services as an independent contractor or of wages or other compensation to an
1923 employee;
1924 (iii) of rent;
1925 (iv) of an annuity or other retirement or health benefit to a deceased or retired partner
1926 or a beneficiary, representative, or designee of a deceased or retired partner;
1927 (v) of interest or other charge on a loan, even if the amount of payment varies with the
1928 profits of the business, including a direct or indirect present or future ownership of the
1929 collateral, or rights to income, proceeds, or increase in value derived from the collateral; or
1930 (vi) for the sale of the goodwill of a business or other property by installments or
1931 otherwise.

1932 Section 33. Section **48-1d-203** is enacted to read:

1933 **48-1d-203. Partnership property.**

1934 Property acquired by a partnership is property of the partnership and not of the partners
1935 individually.

1936 Section 34. Section **48-1d-204** is enacted to read:

1937 **48-1d-204. When property is partnership property.**

1938 (1) Property is partnership property if acquired in the name of:
1939 (a) the partnership; or
1940 (b) one or more partners with an indication in the instrument transferring title to the
1941 property of the person's capacity as a partner or of the existence of a partnership but without an
1942 indication of the name of the partnership.

1943 (2) Property is acquired in the name of the partnership by a transfer to:
1944 (a) the partnership in its name; or
1945 (b) one or more partners in their capacity as partners in the partnership, if the name of
1946 the partnership is indicated in the instrument transferring title to the property.

1947 (3) Property is presumed to be partnership property if purchased with partnership
1948 assets, even if not acquired in the name of the partnership or of one or more partners with an
1949 indication in the instrument transferring title to the property of the person's capacity as a

1950 partner or of the existence of a partnership.

1951 (4) Property acquired in the name of one or more of the partners, without an indication
1952 in the instrument transferring title to the property of the person's capacity as a partner or of the
1953 existence of a partnership and without use of partnership assets, is presumed to be separate
1954 property, even if used for partnership purposes.

1955 Section 35. Section **48-1d-301** is enacted to read:

1956 **Part 3. Relations of Partners to Persons Dealing with Partnership**

1957 **48-1d-301. Partner agent of partnership.**

1958 Subject to the effect of a statement of partnership authority under Section 48-1d-303,
1959 the following rules apply:

1960 (1) Each partner is an agent of the partnership for the purpose of its activities and
1961 affairs. An act of a partner, including the signing of an instrument in the partnership name, for
1962 apparently carrying on in the ordinary course the partnership's activities and affairs or activities
1963 and affairs of the kind carried on by the partnership binds the partnership, unless the partner did
1964 not have authority to act for the partnership in the particular matter and the person with which
1965 the partner was dealing knew, or had notice, that the partner lacked authority.

1966 (2) An act of a partner, which is not apparently for carrying on in the ordinary course
1967 the partnership's activities and affairs or activities and affairs of the kind carried on by the
1968 partnership, binds the partnership only if the act was actually authorized by all the other
1969 partners.

1970 Section 36. Section **48-1d-302** is enacted to read:

1971 **48-1d-302. Transfer of partnership property.**

1972 (1) Partnership property may be transferred as follows:

1973 (a) Subject to the effect of a statement of partnership authority under Section
1974 48-1d-303, partnership property held in the name of the partnership may be transferred by an
1975 instrument of transfer executed by a partner in the partnership name.

1976 (b) Partnership property held in the name of one or more partners with an indication in
1977 the instrument transferring the property to them of their capacity as partners or of the existence
1978 of a partnership, but without an indication of the name of the partnership, may be transferred by
1979 an instrument of transfer executed by the persons in whose name the property is held.

1980 (c) Partnership property held in the name of one or more persons other than the

1981 partnership, without an indication in the instrument transferring the property to them of their
1982 capacity as partners or of the existence of a partnership, may be transferred by an instrument of
1983 transfer executed by the persons in whose name the property is held.

1984 (2) A partnership may recover partnership property from a transferee only if it proves
1985 that execution of the instrument of initial transfer did not bind the partnership under Section
1986 48-1d-301 and:

1987 (a) as to a subsequent transferee who gave value for property transferred under
1988 Subsection (1)(a) or (1)(b), proves that the subsequent transferee knew or had received a
1989 notification that the person who executed the instrument of initial transfer lacked authority to
1990 bind the partnership; or

1991 (b) as to a transferee who gave value for property transferred under Subsection (1)(c),
1992 proves that the transferee knew or had received a notification that the property was partnership
1993 property and that the person who executed the instrument of initial transfer lacked authority to
1994 bind the partnership.

1995 (3) A partnership may not recover partnership property from a subsequent transferee if
1996 the partnership would not have been entitled to recover the property, under Subsection (2),
1997 from any earlier transferee of the property.

1998 (4) If a person holds all the partners' interests in the partnership, all the partnership
1999 property vests in that person. The person may execute a document in the name of the
2000 partnership to evidence vesting of the property in that person and may file or record the
2001 document.

2002 Section 37. Section **48-1d-303** is enacted to read:

2003 **48-1d-303. Statement of partnership authority.**

2004 (1) A partnership may deliver to the division for filing a statement of partnership
2005 authority. The statement:

2006 (a) must include:

2007 (i) the name of the partnership; and

2008 (ii) if the partnership is not a limited liability partnership, the street and mailing
2009 addresses of its principal office;

2010 (b) with respect to any position that exists in or with respect to the partnership, may
2011 state the authority, or limitations on the authority, of all persons holding the position to:

2012 (i) execute an instrument transferring real property held in the name of the partnership;

2013 or

2014 (ii) enter into other transactions on behalf of, or otherwise act for or bind, the

2015 partnership; and

2016 (c) may state the authority, or limitations on the authority, of a specific person to:

2017 (i) execute an instrument transferring real property held in the name of the partnership;

2018 or

2019 (ii) enter into other transactions on behalf of, or otherwise act for or bind, the

2020 partnership.

2021 (2) To amend or cancel a statement of authority filed by the division, a partnership

2022 must deliver to the division for filing an amendment or cancellation stating:

2023 (a) the name of the partnership;

2024 (b) the street and mailing addresses of the partnership's principal office;

2025 (c) the date the statement of authority being affected became effective; and

2026 (d) the contents of the amendment or a declaration that the statement of authority is

2027 canceled.

2028 (3) A statement of authority affects only the power of a person to bind a partnership to

2029 persons that are not partners.

2030 (4) Subject to Subsection (3) and Subsection 48-1d-103(4)(a), and except as otherwise

2031 provided in Subsections (6), (7), and (8), a limitation on the authority of a person or a position

2032 contained in an effective statement of authority is not by itself evidence of any person's

2033 knowledge or notice of the limitation.

2034 (5) Subject to Subsection (3), a grant of authority not pertaining to transfers of real

2035 property and contained in an effective statement of authority is conclusive in favor of a person

2036 that gives value in reliance on the grant, except to the extent that if the person gives value:

2037 (a) the person has knowledge to the contrary;

2038 (b) the statement of authority has been canceled or restrictively amended under

2039 Subsection (2); or

2040 (c) a limitation on the grant is contained in another statement of authority that became

2041 effective after the statement of authority containing the grant became effective.

2042 (6) Subject to Subsection (3), an effective statement of authority that grants authority to

2043 transfer real property held in the name of the partnership and a certified copy of which is
2044 recorded in the office for recording transfers of the real property is conclusive in favor of a
2045 person that gives value in reliance on the grant without knowledge to the contrary, except to the
2046 extent that when the person gives value:

2047 (a) the statement of authority has been canceled or restrictively amended under
2048 Subsection (2), and a certified copy of the cancellation or restrictive amendment has been
2049 recorded in the office for recording transfers of the real property; or

2050 (b) a limitation on the grant is contained in another statement of authority that became
2051 effective after the statement of authority containing the grant became effective, and a certified
2052 copy of the later-effective statement of authority is recorded in the office for recording transfers
2053 of the real property.

2054 (7) Subject to Subsection (3), if a certified copy of an effective statement of authority
2055 containing a limitation on the authority to transfer real property held in the name of a
2056 partnership is recorded in the office for recording transfers of that real property, all persons are
2057 deemed to know of the limitation.

2058 (8) Subject to Subsection (9), an effective statement of dissolution is a cancellation of
2059 any filed statement of authority for the purposes of Subsection (6) and is a limitation on
2060 authority for purposes of Subsection (7).

2061 (9) After a statement of dissolution becomes effective, a partnership may deliver to the
2062 division for filing and, if appropriate, may record a statement of authority that is designated as
2063 a postdissolution statement of authority. The postdissolution statement of authority operates as
2064 provided in Subsections (6) and (7).

2065 (10) Unless canceled earlier, an effective statement of authority is canceled by
2066 operation of law five years after the date on which the statement of authority, or its most recent
2067 amendment, becomes effective. Cancellation is effective without recording under Subsection
2068 (6) or (7).

2069 (11) An effective statement of denial operates as a restrictive amendment under this
2070 section and may be recorded by certified copy for purposes of Subsection (6)(a).

2071 Section 38. Section **48-1d-304** is enacted to read:

2072 **48-1d-304. Statement of denial.**

2073 A person named in a filed statement of authority granting that person authority may

2074 deliver to the division for filing a statement of denial that:

2075 (1) provides the name of the partnership and the caption of the statement of authority to
2076 which the statement of denial pertains; and

2077 (2) denies the grant of authority.

2078 Section 39. Section **48-1d-305** is enacted to read:

2079 **48-1d-305. Partnership liable for partner's actionable conduct.**

2080 (1) A partnership is liable for loss or injury caused to a person, or for a penalty
2081 incurred, as a result of a wrongful act or omission, or other actionable conduct, of a partner
2082 acting in the ordinary course of activities and affairs of the partnership or with the actual or
2083 apparent authority of the partnership.

2084 (2) If, in the course of the partnership's activities and affairs or while acting with actual
2085 or apparent authority of the partnership, a partner receives or causes the partnership to receive
2086 money or property of a person not a partner, and the money or property is misapplied by a
2087 partner, the partnership is liable for the loss.

2088 Section 40. Section **48-1d-306** is enacted to read:

2089 **48-1d-306. Partner's liability.**

2090 (1) Except as otherwise provided in Subsections (2) and (3), all partners are liable
2091 jointly and severally for all debts, obligations, and other liabilities of the partnership unless
2092 otherwise agreed to by the claimant or provided by law.

2093 (2) A person that becomes a partner is not personally liable for a debt, obligation, or
2094 other liability of the partnership incurred before the person became a partner.

2095 (3) A debt, obligation, or other liability of a partnership incurred while the partnership
2096 is a limited liability partnership is solely the debt, obligation, or other liability of the limited
2097 liability partnership. A partner is not personally liable, directly or indirectly, by way of
2098 contribution or otherwise, for a debt, obligation, or other liability of the limited liability
2099 partnership solely by reason of being or acting as a partner. This Subsection (3) applies:

2100 (a) despite anything inconsistent in the partnership agreement that existed immediately
2101 before the vote or consent required to become a limited liability partnership under Subsection
2102 48-1d-1101(2); and

2103 (b) regardless of the dissolution of the limited liability partnership.

2104 (4) The failure of a limited liability partnership to observe any formalities relating to

2105 the exercise of its powers or management of its activities and affairs is not a ground for
2106 imposing liability on any partner of the limited liability partnership for a debt, obligation, or
2107 other liability of the limited liability partnership.

2108 (5) The cancellation or administrative revocation of a limited liability partnership's
2109 statement of qualification does not affect the limitation under this section on the liability of a
2110 partner for a debt, obligation, or other liability of the partnership incurred while the statement
2111 was in effect.

2112 (6) Subsection (3) and Part 11, Limited Liability Partnerships, do not alter any law
2113 applicable to the relationship between a person providing a professional service and a person
2114 receiving the professional service, including liability arising out of those professional services.
2115 A person providing a professional service remains personally liable for a result of that person's
2116 act or omission.

2117 Section 41. Section **48-1d-307** is enacted to read:

2118 **48-1d-307. Actions by and against partnership and partners.**

2119 (1) A partnership may sue and be sued in the name of the partnership.

2120 (2) To the extent not inconsistent with Section 48-1d-306, a partner may be joined in
2121 an action against the partnership or named in a separate action.

2122 (3) A judgment against a partnership is not by itself a judgment against a partner. A
2123 judgment against a partnership may not be satisfied from a partner's assets unless there is also a
2124 judgment against the partner.

2125 (4) A judgment creditor of a partner may not levy execution against the assets of the
2126 partner to satisfy a judgment based on a claim against the partnership unless the partner is
2127 personally liable for the claim under Section 48-1d-306, and:

2128 (a) a judgment based on the same claim has been obtained against the partnership and a
2129 writ of execution on the judgment has been returned unsatisfied in whole or in part;

2130 (b) the partnership is a debtor in bankruptcy;

2131 (c) the partner has agreed that the creditor need not exhaust partnership assets;

2132 (d) a court grants permission to the judgment creditor to levy execution against the
2133 assets of a partner based on a finding that partnership assets subject to execution are clearly
2134 insufficient to satisfy the judgment, that exhaustion of partnership assets is excessively
2135 burdensome, or that the grant of permission is an appropriate exercise of the court's equitable

2136 powers; or

2137 (e) liability is imposed on the partner by law or contract independent of the existence of
2138 the partnership.

2139 (5) This section applies to any partnership liability or obligation resulting from a
2140 representation by a partner or purported partner under Section 48-1d-308.

2141 Section 42. Section **48-1d-308** is enacted to read:

2142 **48-1d-308. Liability of purported partner.**

2143 (1) If a person, by words or conduct, purports to be a partner, or consents to being
2144 represented by another as a partner, in a partnership or with one or more persons not partners,
2145 the purported partner is liable to a person to whom the representation is made, if that person,
2146 relying on the representation, enters into a transaction with the actual or purported partnership.
2147 If the representation, either by the purported partner or by a person with the purported partner's
2148 consent, is made in a public manner, the purported partner is liable to a person who relies upon
2149 the purported partnership even if the purported partner is not aware of being held out as a
2150 partner to the claimant. If partnership liability results, the purported partner is liable with
2151 respect to that liability as if the purported partner were a partner. If no partnership liability
2152 results, the purported partner is liable with respect to that liability jointly and severally with any
2153 other person consenting to the representation.

2154 (2) If a person is thus represented to be a partner in an existing partnership, or with one
2155 or more persons not partners, the purported partner is an agent of persons consenting to the
2156 representation to bind them to the same extent and in the same manner as if the purported
2157 partner were a partner, with respect to persons who enter into transactions in reliance upon the
2158 representation. If all the partners of the existing partnership consent to the representation, a
2159 partnership act or obligation results. If fewer than all the partners of the existing partnership
2160 consent to the representation, the person acting and the partners consenting to the
2161 representation are jointly and severally liable.

2162 (3) A person is not liable as a partner merely because the person is named by another in
2163 a statement of partnership authority.

2164 (4) A person does not continue to be liable as a partner merely because of a failure to
2165 file a statement of dissociation or to amend a statement of partnership authority to indicate the
2166 partner's dissociation from the partnership.

2167 (5) Except as otherwise provided in Subsections (1) and (2), persons who are not
2168 partners as to each other are not liable as partners to other persons.

2169 Section 43. Section **48-1d-401** is enacted to read:

2170 **Part 4. Relations of Partners to Each Other and to Partnership**

2171 **48-1d-401. Becoming partner.**

2172 (1) Upon formation of a partnership, a person becomes a partner under Subsection
2173 48-1d-202(1).

2174 (2) After formation of a partnership, a person becomes a partner:

2175 (a) as provided in the partnership agreement;

2176 (b) as a result of a transaction effective under Part 10, Merger, Interest Exchange,

2177 Conversion, and Domestication; or

2178 (c) with the consent of all the partners.

2179 (3) A person may become a partner without either:

2180 (a) acquiring a transferable interest; or

2181 (b) making or being obligated to make a contribution to the partnership.

2182 Section 44. Section **48-1d-402** is enacted to read:

2183 **48-1d-402. Management rights of partners.**

2184 (1) Each partner has equal rights in the management and conduct of the partnership's
2185 activities and affairs.

2186 (2) A partner may use or possess partnership property only on behalf of the partnership.

2187 (3) A partner is not entitled to remuneration for services performed for the partnership,

2188 except for reasonable compensation for services rendered in winding up the activities and

2189 affairs of the partnership.

2190 (4) A difference arising among partners as to a matter in the ordinary course of the

2191 activities of the partnership shall be decided by a majority of the partners.

2192 (5) An act outside the ordinary course of the activities and affairs of the partnership

2193 may be undertaken only with the consent of all partners. An act outside the ordinary course of

2194 business of a partnership, an amendment to the partnership agreement, and the approval of a

2195 transaction under Part 10, Merger, Interest Exchange, Conversion, and Domestication, may be

2196 undertaken only with the affirmative vote or consent of all of the partners.

2197 Section 45. Section **48-1d-403** is enacted to read:

2198 **48-1d-403. Rights of partners and person dissociated as partner to information.**

2199 (1) A partnership shall keep its books and records, if any, at its principal office.

2200 (2) On reasonable notice, a partner may inspect and copy during regular business
2201 hours, at a reasonable location specified by the partnership, any record maintained by the
2202 partnership regarding the partnership's activities, affairs, financial condition, and other
2203 circumstances, to the extent the information is material to the partner's rights and duties under
2204 the partnership agreement or this chapter.

2205 (3) The partnership shall furnish to each partner:

2206 (a) without demand, any information concerning the partnership's activities, affairs,
2207 financial condition, and other circumstances which the partnership knows and is material to the
2208 proper exercise of the partner's rights and duties under the partnership agreement or this
2209 chapter, except to the extent the partnership can establish that it reasonably believes the partner
2210 already knows the information; and

2211 (b) on demand, any other information concerning the partnership's activities, affairs,
2212 financial condition, and other circumstances, except to the extent the demand or information
2213 demand is unreasonable or otherwise improper under the circumstances.

2214 (4) The duty to furnish information under Subsection (3) also applies to each partner to
2215 the extent the partner knows any of the information described in Subsection (3).

2216 (5) Subject to Subsection (8), on 10 days' demand made in a record received by a
2217 partnership, a person dissociated as a partner may have access to information to which the
2218 person was entitled while a partner if:

2219 (a) the information pertains to the period during which the person was a partner;

2220 (b) the person seeks the information in good faith; and

2221 (c) the person satisfies the requirements imposed on a partner by Subsection (2).

2222 (6) Not later than 10 days after receiving a demand under Subsection (5), the
2223 partnership in a record shall inform the person that made the demand of:

2224 (a) the information that the partnership will provide in response to the demand and
2225 when and where the partnership will provide the information; and

2226 (b) the partnership's reasons for declining, if the partnership declines to provide any
2227 demand information.

2228 (7) A partnership may charge a person that makes a demand under this section the

2229 reasonable costs of copying, limited to the costs of labor and material.

2230 (8) A partner or person dissociated as a partner may exercise rights under this section
2231 through an agent or, in the case of an individual under legal disability, a legal representative.

2232 Any restriction or condition imposed by the partnership agreement or under Subsection (11)
2233 applies both to the agent or legal representative and the partner or person dissociated as a
2234 partner.

2235 (9) The rights under this section do not extend to a person as transferee.

2236 (10) If a partner dies, Section 48-1d-605 applies.

2237 (11) In addition to any restriction or condition stated in the partnership agreement, a
2238 partnership, as a matter within the ordinary course of its business, may impose reasonable
2239 restrictions and conditions on access to and use of information to be furnished under this
2240 section, including designating information confidential and imposing nondisclosure and
2241 safeguarding obligations on the recipient. In a dispute concerning the reasonableness of a
2242 restriction under this subsection, the partnership has the burden of proving reasonableness.

2243 Section 46. Section **48-1d-404** is enacted to read:

2244 **48-1d-404. Reimbursement, indemnification, advancement, and insurance.**

2245 (1) A partnership shall reimburse a partner for any payment made by the partner in the
2246 course of the partner's activities on behalf of the partnership, if the partner complied with
2247 Sections 48-1d-402 and 48-1d-405 in making the payment.

2248 (2) A partnership shall indemnify and hold harmless a person with respect to any claim
2249 or demand against the person and any debt, obligation, or other liability incurred by the person
2250 by reason of the person's former or present capacity as a partner, if the claim, demand, debt,
2251 obligation, or other liability does not arise from the person's breach of Section 48-1d-402,
2252 48-1d-405, or 48-1d-504.

2253 (3) In the ordinary course of its activities and affairs, a partnership may advance
2254 reasonable expenses, including attorney's fees and costs, incurred by a person in connection
2255 with a claim or demand against the person by reason of the person's former or present capacity
2256 as a partner, if the person promises to repay the partnership if the person ultimately is
2257 determined not to be entitled to be indemnified under Subsection (2).

2258 (4) A partnership may purchase and maintain insurance on behalf of a partner against
2259 liability asserted against or incurred by the partner in that capacity or arising from that status

2260 even if, under Subsection 48-1d-106(3)(g), the partnership agreement could not eliminate or
2261 limit the person's liability to the partnership for the conduct giving rise to the liability.

2262 (5) A partnership shall reimburse a partner for an advance to the partnership beyond
2263 the amount of capital the partner agreed to contribute.

2264 (6) A payment or advance made by a partner which gives rise to a partnership
2265 obligation under Subsection (1) or (5) constitutes a loan to the partnership which accrues
2266 interest from the date of the payment or advance.

2267 Section 47. Section **48-1d-405** is enacted to read:

2268 **48-1d-405. Standards of conduct for partners.**

2269 (1) A partner owes to the partnership and the other partners the duties of loyalty and
2270 care stated in Subsections (2) and (3).

2271 (2) The duty of loyalty of a partner includes the duties:

2272 (a) to account to the partnership and hold as trustee for it any property, profit, or
2273 benefit derived by the partner:

2274 (i) in the conduct or winding up of the partnership's activities and affairs;

2275 (ii) from a use by the partner of the partnership's property; or

2276 (iii) from the appropriation of a partnership opportunity;

2277 (b) to refrain from dealing with the partnership in the conduct or winding up of the
2278 partnership's activities and affairs as or on behalf of a person having an interest adverse to the
2279 partnership; and

2280 (c) to refrain from competing with the partnership in the conduct of the partnership's
2281 activities and affairs before the dissolution of the partnership.

2282 (3) The duty of care of a partner in the conduct or winding up of the partnership's
2283 activities and affairs is to refrain from engaging in grossly negligent or reckless conduct,
2284 intentional misconduct, or a knowing violation of law.

2285 (4) A partner shall discharge the duties and obligations under this chapter or under the
2286 partnership agreement and exercise any rights consistently with the contractual obligation of
2287 good faith and fair dealing.

2288 (5) A partner does not violate a duty or obligation under this chapter or under the
2289 partnership agreement solely because the partner's conduct furthers the partner's own interest.

2290 (6) All the partners may authorize or ratify, after full disclosure of all material facts, a

2291 specific act or transaction that otherwise would violate the duty of loyalty.

2292 (7) It is a defense to a claim under Subsection (2)(b) and any comparable claim in
2293 equity or at common law that the transaction was fair to the partnership.

2294 (8) If, as permitted by Subsection (6) or the partnership agreement, a partner enters into
2295 a transaction with the partnership which otherwise would be prohibited by Subsection (2)(b),
2296 the partner's rights and obligations arising from the transaction are the same as those of a
2297 person that is not a partner.

2298 Section 48. Section **48-1d-406** is enacted to read:

2299 **48-1d-406. Actions by partnership and partners.**

2300 (1) A partnership may maintain an action against a partner for a breach of the
2301 partnership agreement, or for the violation of a duty to the partnership, causing harm to the
2302 partnership.

2303 (2) A partner may maintain an action against the partnership or another partner for
2304 legal or equitable relief, with or without an accounting as to the partnership's activities and
2305 affairs, to:

2306 (a) enforce the partner's rights under the partnership agreement;

2307 (b) enforce the partner's rights under this chapter; or

2308 (c) enforce the rights and otherwise protect the interests of the partner, including rights
2309 and interests arising independently of the partnership relationship.

2310 (3) The accrual of, and any time limitation on, a right of action for a remedy under this
2311 section is governed by other law. A right to an accounting upon a dissolution and winding up
2312 does not revive a claim barred by law.

2313 Section 49. Section **48-1d-407** is enacted to read:

2314 **48-1d-407. Continuation of partnership beyond definite term or particular**
2315 **undertaking.**

2316 (1) If a partnership for a definite term or particular undertaking is continued, without
2317 an express agreement, after the expiration of the term or completion of the undertaking, the
2318 rights and duties of the partners remain the same as they were at the expiration or completion,
2319 so far as is consistent with a partnership at will.

2320 (2) If the partners, or those of them who habitually acted in the business during the
2321 term or undertaking, continue the business without any settlement or liquidation of the

2322 partnership, they are presumed to have agreed that the partnership will continue.

2323 Section 50. Section **48-1d-501** is enacted to read:

2324 **Part 5. Contributions and Distributions**

2325 **48-1d-501. Form of contribution.**

2326 A contribution may consist of property transferred to, services performed for, or other
2327 benefit provided to the partnership or an agreement to transfer property to, perform services
2328 for, or provide another benefit to the partnership.

2329 Section 51. Section **48-1d-502** is enacted to read:

2330 **48-1d-502. Liability for contribution.**

2331 (1) A person's obligation to make a contribution to a partnership is not excused by the
2332 person's death, disability, dissolution, or other inability to perform personally.

2333 (2) If a person does not fulfill an obligation to make a contribution other than money,
2334 the person is obligated at the option of the partnership to contribute money equal to the value of
2335 the part of the contribution which has not been made.

2336 (3) The obligation of a person to make a contribution may be compromised only by
2337 consent of all partners. If a creditor of a limited liability partnership extends credit or
2338 otherwise acts in reliance on an obligation described in Subsection (1), without notice of a
2339 compromise under this Subsection (3), the creditor may enforce the obligation.

2340 Section 52. Section **48-1d-503** is enacted to read:

2341 **48-1d-503. Sharing of and right to distributions before dissolution.**

2342 (1) Any distributions made by a partnership before its dissolution and winding up must
2343 be in equal shares among partners, except to the extent necessary to comply with a transfer
2344 effective under Section 48-1d-603 or charging order in effect under Section 48-1d-604.

2345 (2) A person has a right to a distribution before the dissolution and winding up of a
2346 partnership only if the partnership decides to make an interim distribution.

2347 (3) A person does not have a right to demand or receive a distribution from a
2348 partnership in any form other than money. Except as otherwise provided in Section 48-1d-906,
2349 a partnership may distribute an asset in kind only if each part of the asset is fungible with each
2350 other part and each person receives a percentage of the asset equal in value to the person's share
2351 of distributions.

2352 (4) If a partner or transferee becomes entitled to receive a distribution, the partner or

2353 transferee has the status of, and is entitled to all remedies available to, a creditor of the
2354 partnership with respect to the distribution. However, the partnership's obligation to make a
2355 distribution is subject to offset for any amount owed to the partnership by the partner or a
2356 person dissociated as partner on whose account the distribution is made.

2357 Section 53. Section **48-1d-504** is enacted to read:

2358 **48-1d-504. Limitation on distributions by limited liability partnership.**

2359 (1) A limited liability partnership may not make a distribution, including a distribution
2360 under Section 48-1d-906, if after the distribution:

2361 (a) the limited liability partnership would not be able to pay its debts as they become
2362 due in the ordinary course of the partnership's activities and affairs; or

2363 (b) the limited liability partnership's total assets would be less than the sum of its total
2364 liabilities plus, unless the partnership agreement permits otherwise, the amount that would be
2365 needed, if the partnership were to be dissolved and wound up at the time of the distribution, to
2366 satisfy the preferential rights upon dissolution and winding up of partners and transferees
2367 whose preferential rights are superior to the right to receive distributions of the persons
2368 receiving the distribution.

2369 (2) A limited liability partnership may base a determination that a distribution is not
2370 prohibited under Subsection (1) on:

2371 (a) financial statements prepared on the basis of accounting practices and principles
2372 that are reasonable in the circumstances; or

2373 (b) a fair valuation or other method that is reasonable under the circumstances.

2374 (3) Except as otherwise provided in Subsection (5), the effect of a distribution under
2375 Subsection (1) is measured:

2376 (a) in the case of a distribution as defined in Subsection 48-1d-102(4)(a), as of the
2377 earlier of the date:

2378 (i) money or other property is transferred or debt is incurred by the limited liability
2379 partnership; or

2380 (ii) the person entitled to the distribution ceases to own the interest or rights being
2381 acquired by the limited liability partnership in return for the distribution;

2382 (b) in the case of any other distribution of indebtedness, as of the date the indebtedness
2383 is distributed; and

2384 (c) in all other cases, as of the date:

2385 (i) the distribution is authorized, if the payment occurs not later than 120 days after that
2386 date; or

2387 (ii) the payment is made, if the payment occurs more than 120 days after the
2388 distribution is authorized.

2389 (4) A limited liability partnership's indebtedness to a partner or transferee incurred by
2390 reason of a distribution made in accordance with this section is at parity with the limited
2391 liability partnership's indebtedness to its general, unsecured creditors, except to the extent
2392 subordinated by agreement.

2393 (5) A limited liability partnership's indebtedness, including indebtedness issued as a
2394 distribution, is not a liability for purposes of Subsection (1) if the terms of the indebtedness
2395 provide that payment of principal and interest is made only if and to the extent that a payment
2396 of a distribution could then be made under this section. If the indebtedness is issued as a
2397 distribution, each payment of principal or interest is treated as a distribution, the effect of
2398 which is measured on the date the payment is made.

2399 (6) In measuring the effect of a distribution under Section 48-1d-906, the liabilities of a
2400 dissolved limited liability partnership do not include any claim that has been disposed of under
2401 Sections 48-1d-907, 48-1d-908, and 48-1d-909.

2402 Section 54. Section **48-1d-505** is enacted to read:

2403 **48-1d-505. Liability for improper distributions by a limited liability partnership.**

2404 (1) If a partner of a limited liability partnership consents to a distribution made in
2405 violation of Section 48-1d-504 and in consenting to the distribution fails to comply with
2406 Section 48-1d-405, the partner is personally liable to the limited liability partnership for the
2407 amount of the distribution which exceeds the amount that could have been distributed without
2408 the violation of Section 48-1d-504.

2409 (2) A person that receives a distribution knowing that the distribution violated Section
2410 48-1d-504 is personally liable to the limited liability partnership but only to the extent that the
2411 distribution received by the person exceeded the amount that could have been properly paid
2412 under Section 48-1d-504.

2413 (3) A person against which an action is commenced because the person is liable under
2414 Subsection (1) may:

2415 (a) implead any other person that is liable under Subsection (1) and seek to enforce a
2416 right of contribution from the person; and

2417 (b) implead any person that received a distribution in violation of Subsection (2) and
2418 seek to enforce a right of contribution from the person in the amount the person received in
2419 violation of Subsection (2).

2420 (4) An action under this section is barred unless commenced not later than two years
2421 after the distribution.

2422 Section 55. Section **48-1d-601** is enacted to read:

2423 **Part 6. Transferable Interests and Rights of Transferees and Creditors**

2424 **48-1d-601. Partner not co-owner of partnership property.**

2425 A partner is not a co-owner of partnership property and has no interest in partnership
2426 property which can be transferred, either voluntarily or involuntarily.

2427 Section 56. Section **48-1d-602** is enacted to read:

2428 **48-1d-602. Nature of transferable interest.**

2429 A transferable interest is personal property.

2430 Section 57. Section **48-1d-603** is enacted to read:

2431 **48-1d-603. Transfer of transferable interest.**

2432 (1) A transfer, in whole or in part, of a transferable interest:

2433 (a) is permissible;

2434 (b) does not by itself cause a person's dissociation or a dissolution and winding up of
2435 the partnership's activities and affairs; and

2436 (c) subject to Section 48-1d-605, does not entitle the transferee to:

2437 (i) participate in the management or conduct of the partnership's activities and affairs;

2438 or

2439 (ii) except as otherwise provided in Subsection (3), have access to records or other
2440 information concerning the partnership's activities and affairs.

2441 (2) A transferee has the right to:

2442 (a) receive, in accordance with the transfer, distributions to which the transferor would
2443 otherwise be entitled; and

2444 (b) seek under Subsection 48-1d-901(5) a judicial determination that it is equitable to
2445 wind up the partnership's activities and affairs.

2446 (3) In a dissolution and winding up of a partnership, a transferee is entitled to an
2447 account of the partnership's transactions only from the date of the last account agreed to by the
2448 partners.

2449 (4) A partnership need not give effect to a transferee's rights under this section until the
2450 partnership knows or has notice of the transfer.

2451 (5) A transfer of a transferable interest in violation of a restriction on transfer contained
2452 in the partnership agreement is ineffective as to a person having knowledge or notice of the
2453 restriction at the time of transfer.

2454 (6) Except as otherwise provided in Subsection 48-1d-701(4)(b), if a partner transfers a
2455 transferable interest, the transferor retains the rights of a partner other than the transferable
2456 interest transferred and retains all duties and obligations of a partner.

2457 (7) If a partner transfers a transferable interest to a person that becomes a partner with
2458 respect to the transferred interest, the transferee is liable for the transferor's obligations under
2459 Sections 48-1d-502 and 48-1d-505 known to the transferee when the transferee becomes a
2460 partner.

2461 Section 58. Section **48-1d-604** is enacted to read:

2462 **48-1d-604. Charging order.**

2463 (1) On application by a judgment creditor of a partner or transferee, a court may enter a
2464 charging order against the transferable interest of the judgment debtor for the unsatisfied
2465 amount of the judgment. A charging order constitutes a lien on a judgment debtor's
2466 transferable interest and, after the partnership has been served with the charging order, requires
2467 the partnership to pay over to the person to which the charging order was issued any
2468 distribution that otherwise would be paid to the judgment debtor.

2469 (2) To the extent necessary to effectuate the collection of distributions pursuant to a
2470 charging order in effect under Subsection (1), the court may:

2471 (a) appoint a receiver of the distributions subject to the charging order, with the power
2472 to make all inquiries the judgment debtor might have made; and

2473 (b) make all other orders necessary to give effect to the charging order.

2474 (3) Upon a showing that distributions under a charging order will not pay the judgment
2475 debt within a reasonable time, the court may foreclose the lien and order the sale of the
2476 transferable interest. The purchaser at the foreclosure sale obtains only the transferable

2477 interest, does not thereby become a partner, and is subject to Section 48-1d-603.

2478 (4) At any time before foreclosure under Subsection (3), the partner or transferee
2479 whose transferable interest is subject to a charging order under Subsection (1) may extinguish
2480 the charging order by satisfying the judgment and filing a certified copy of the satisfaction with
2481 the court that issued the charging order.

2482 (5) At any time before foreclosure under Subsection (3), a partnership or one or more
2483 partners whose transferable interests are not subject to the charging order may pay to the
2484 judgment creditor the full amount due under the judgment and thereby succeed to the rights of
2485 the judgment creditor, including the charging order.

2486 (6) This chapter does not deprive any partner or transferee of the benefit of any
2487 exemption law applicable to the transferable interest of the partner or transferee.

2488 (7) This section provides the exclusive remedy by which a person seeking to enforce a
2489 judgment against a partner or transferee, in the capacity of judgment creditor, may satisfy the
2490 judgment from the judgment debtor's transferable interest.

2491 Section 59. Section **48-1d-605** is enacted to read:

2492 **48-1d-605. Power of legal representative of deceased partner.**

2493 If a partner dies, the deceased partner's legal representative may exercise:

2494 (1) the rights of a transferee provided in Subsection 48-1d-603(3); and

2495 (2) for purposes of settling the estate, the rights the deceased partner had under Section
2496 48-1d-403.

2497 Section 60. Section **48-1d-701** is enacted to read:

2498 **Part 7. Dissociation**

2499 **48-1d-701. Events causing dissociation.**

2500 A person is dissociated as a partner when:

2501 (1) the partnership has notice of the person's express will to withdraw as a partner, but,
2502 if the person specified a withdrawal date later than the date the partnership had notice, on that
2503 later date;

2504 (2) an event stated in the partnership agreement as causing the person's dissociation
2505 occurs;

2506 (3) the person is expelled as a partner pursuant to the partnership agreement;

2507 (4) the person is expelled as a partner by the unanimous vote or consent of the other

2508 partners if:

2509 (a) it is unlawful to carry on the partnership's activities and affairs with the person as a
2510 partner;

2511 (b) there has been a transfer of all of the person's transferable interest in the
2512 partnership, other than:

2513 (i) a transfer for security purposes; or

2514 (ii) a charging order in effect under Section 48-1d-604, which has not been foreclosed;

2515 (c) the person is a corporation and:

2516 (i) the partnership notifies the person that it will be expelled as a partner because the
2517 person has filed a statement of dissolution or the equivalent, its charter has been revoked, or its
2518 right to conduct business has been suspended by the jurisdiction of its incorporation; and

2519 (ii) not later than 90 days after the notification, the statement of dissolution or the
2520 equivalent has not been revoked or the charter or right to conduct business has not been
2521 reinstated; or

2522 (d) the person is an unincorporated entity that has been dissolved and whose business
2523 is being wound up;

2524 (5) on application by the partnership or another partner, the person is expelled as a
2525 partner by judicial order because the person:

2526 (a) has engaged or is engaging in wrongful conduct that has affected adversely and
2527 materially, or will affect adversely and materially, the partnership's activities and affairs;

2528 (b) has committed willfully or persistently, or is committing willfully or persistently, a
2529 material breach of the partnership agreement or a duty or obligation under Section 48-1d-405;

2530 or

2531 (c) engaged or is engaging in conduct relating to the partnership's activities and affairs
2532 which makes it not reasonably practicable to carry on the partnership's activities and affairs
2533 with the person as a partner;

2534 (6) in the case of an individual:

2535 (a) the individual dies;

2536 (b) a guardian or general conservator for the individual is appointed; or

2537 (c) a court orders that the individual has otherwise become incapable of performing the
2538 individual's duties as a partner under this chapter or the partnership agreement;

- 2539 (7) the person:
2540 (a) becomes a debtor in bankruptcy;
2541 (b) executes an assignment for the benefit of creditors; or
2542 (c) seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or
2543 liquidator of the person or of all, or substantially all, of the person's property;
2544 (8) in the case of a person that is a testamentary or inter vivos trust or is acting as a
2545 partner by virtue of being a trustee of such a trust, the trust's entire transferable interest in the
2546 partnership is distributed;
2547 (9) in the case of a person that is an estate or is acting as a partner by virtue of being a
2548 personal representative of an estate, the estate's entire transferable interest in the partnership is
2549 distributed, but not merely by reason of the substitution of a successor personal representative;
2550 (10) in the case of a person that is not an individual, corporation, unincorporated entity,
2551 trust, or estate, the existence of the person terminates;
2552 (11) the partnership participates in a merger under Part 10, Merger, Interest Exchange,
2553 Conversion, and Domestication, and:
2554 (a) the partnership is not the surviving entity; or
2555 (b) otherwise as a result of the merger, the person ceases to be a partner;
2556 (12) the partnership participates in an interest exchange under Part 10, Merger, Interest
2557 Exchange, Conversion, and Domestication, and, as a result of the interest exchange, the person
2558 ceases to be a partner;
2559 (13) the partnership participates in a conversion under Part 10, Merger, Interest
2560 Exchange, Conversion, and Domestication;
2561 (14) the partnership participates in a domestication under Part 10, Merger, Interest
2562 Exchange, Conversion, and Domestication, and, as a result of the domestication, the person
2563 ceases to be a partner; or
2564 (15) the partnership dissolves and completes winding up.
- 2565 Section 61. Section **48-1d-702** is enacted to read:
2566 **48-1d-702. Power to dissociate as partner -- Wrongful dissociation.**
2567 (1) A person has the power to dissociate as a partner at any time, rightfully or
2568 wrongfully, by withdrawing as a partner by express will under Subsection 48-1d-701(1).
2569 (2) A person's dissociation as a partner is wrongful only if the dissociation:

2570 (a) is in breach of an express provision of the partnership agreement; or
2571 (b) in the case of a partnership for a definite term or particular undertaking, occurs
2572 before the expiration of the term or the completion of the undertaking and:
2573 (i) the person withdraws by express will, unless the withdrawal follows not later than
2574 90 days after another person's dissociation by death or otherwise under Subsections
2575 48-1d-701(6) through (10) or wrongful dissociation under this subsection;
2576 (ii) the person is expelled by judicial order under Subsection 48-1d-701(5);
2577 (iii) the person is dissociated under Subsection 48-1d-701(7); or
2578 (iv) in the case of a person that is not a trust other than a business trust, an estate, an
2579 individual, or a trust other than a business trust, the person is expelled or otherwise dissociated
2580 because it willfully dissolved or terminated.
2581 (3) A person that wrongfully dissociates is liable to the partnership and to the other
2582 partners for damages caused by the dissociation. The liability is in addition to any debt,
2583 obligation, or other liability of the partner to the partnership or the other partners.
2584 Section 62. Section **48-1d-703** is enacted to read:
2585 **48-1d-703. Effect of dissociation.**
2586 (1) If a person's dissociation results in a dissolution and winding up of the partnership's
2587 activities and affairs, Part 9, Dissolution and Winding Up, applies, otherwise, Part 8, Partner's
2588 Dissociation When Business Not Wound Up, applies.
2589 (2) If a person is dissociated as a partner:
2590 (a) the person's right to participate in the management and conduct of the partnership's
2591 activities and affairs terminates, except as otherwise provided in Subsection 48-1d-902(3); and
2592 (b) the person's duties and obligations under Section 48-1d-405:
2593 (i) end with regard to matters arising and events occurring after the person's
2594 dissociation; and
2595 (ii) continue only with regard to matters arising and events occurring before the
2596 person's dissociation, unless the partner participates in winding up the partnership's activities
2597 and affairs pursuant to Section 48-1d-902.
2598 (3) A person's dissociation does not of itself discharge the person from a debt,
2599 obligation, or other liability to the partnership or the other partners which the person incurred
2600 while a partner.

2601 Section 63. Section **48-1d-801** is enacted to read:

2602 **Part 8. Partner's Dissociation When Business Not Wound Up**

2603 **48-1d-801. Purchase of interest of person dissociated as partner.**

2604 (1) If a person is dissociated as a partner without the dissociation resulting in a
2605 dissolution and winding up of the partnership's activities and affairs under Section 48-1d-901,
2606 the partnership shall cause the person's interest in the partnership to be purchased for a buyout
2607 price determined pursuant to Subsection (2).

2608 (2) The buyout price of the interest of a person dissociated as a partner is the amount
2609 that would have been distributable to the person under Subsection 48-1d-906(2) if, on the date
2610 of dissociation, the assets of the partnership were sold and the partnership were wound up, with
2611 the sale price equal to the greater of:

2612 (a) the liquidation value; or

2613 (b) the value based on a sale of the entire business as a going concern without the
2614 person.

2615 (3) Interest accrues on the buyout price from the date of dissociation to the date of
2616 payment, but damages for wrongful dissociation under Subsection 48-1d-702(2), and all other
2617 amounts owing, whether or not presently due, from the person dissociated as a partner to the
2618 partnership, must be offset against the buyout price.

2619 (4) A partnership shall defend, indemnify, and hold harmless a person dissociated as a
2620 partner whose interest is being purchased against all partnership liabilities, whether incurred
2621 before or after the dissociation, except liabilities incurred by an act of the person dissociated as
2622 a partner under Section 48-1d-802.

2623 (5) If no agreement for the purchase of the interest of a person dissociated as a partner
2624 is reached not later than 120 days after a written demand for payment, the partnership shall pay,
2625 or cause to be paid, in money to the person the amount the partnership estimates to be the
2626 buyout price and accrued interest, reduced by any offsets and accrued interest under Subsection
2627 (3).

2628 (6) If a deferred payment is authorized under Subsection (8), the partnership may
2629 tender a written offer to pay the amount it estimates to be the buyout price and accrued interest,
2630 reduced by any offsets under Subsection (3), stating the time of payment, the amount and type
2631 of security for payment, and the other terms and conditions of the obligation.

2632 (7) The payment or tender required by Subsection (5) or (6) must be accompanied by
2633 the following:

2634 (a) a statement of partnership assets and liabilities as of the date of dissociation;

2635 (b) the latest available partnership balance sheet and income statement, if any;

2636 (c) an explanation of how the estimated amount of the payment was calculated; and

2637 (d) written notice that the payment is in full satisfaction of the obligation to purchase
2638 unless, not later than 120 days after the written notice, the person dissociated as a partner
2639 commences an action to determine the buyout price, any offsets under Subsection (3), or other
2640 terms of the obligation to purchase.

2641 (8) A person that wrongfully dissociates as a partner before the expiration of a definite
2642 term or the completion of a particular undertaking is not entitled to payment of any part of the
2643 buyout price until the expiration of the term or completion of the undertaking, unless the
2644 person establishes to the satisfaction of the court that earlier payment will not cause undue
2645 hardship to the business of the partnership. A deferred payment must be adequately secured
2646 and bear interest.

2647 (9) A person dissociated as a partner may maintain an action against the partnership,
2648 pursuant to Subsection 48-1d-406(2), to determine the buyout price of that person's interest,
2649 any offsets under Subsection (3), or other terms of the obligation to purchase. The action must
2650 be commenced not later than 120 days after the partnership has tendered payment or an offer to
2651 pay or within one year after written demand for payment if no payment or offer to pay is
2652 tendered. The court shall determine the buyout price of the person's interest, any offset due
2653 under Subsection (3), and accrued interest, and enter judgment for any additional payment or
2654 refund. If deferred payment is authorized under Subsection (8), the court shall also determine
2655 the security for payment and other terms of the obligation to purchase. The court may assess
2656 reasonable attorney's fees and the fees and expenses of appraisers or other experts for a party to
2657 the action, in amounts the court finds equitable, against a party that the court finds acted
2658 arbitrarily, vexatiously, or not in good faith. The finding may be based on the partnership's
2659 failure to tender payment or an offer to pay or to comply with Subsection (7).

2660 Section 64. Section **48-1d-802** is enacted to read:

2661 **48-1d-802. Power to bind and liability of person dissociated as partner.**

2662 (1) After a person is dissociated as a partner without the dissociation resulting in a

2663 dissolution and winding up of the partnership's activities and affairs and before the partnership
2664 is merged out of existence, converted, or domesticated under Part 10, Merger, Interest
2665 Exchange, Conversion, and Domestication, or dissolved, the partnership is bound by an act of
2666 the person only if:

2667 (a) the act would have bound the partnership under Section 48-1d-301 before
2668 dissociation; and

2669 (b) at the time the other party enters into the transaction:

2670 (i) less than two years has passed since the dissociation; and

2671 (ii) the other party does not know or have notice of the dissociation and reasonably
2672 believes that the person is a partner.

2673 (2) If a partnership is bound under Subsection (1), the person dissociated as a partner
2674 which caused the partnership to be bound is liable:

2675 (a) to the partnership for any damage caused to the partnership arising from the
2676 obligation incurred under Subsection (1); and

2677 (b) if a partner or another person dissociated as a partner is liable for the obligation, to
2678 the partner or other person for any damage caused to the partner or other person arising from
2679 the liability.

2680 Section 65. Section **48-1d-803** is enacted to read:

2681 **48-1d-803. Liability of person dissociated as partner to other persons.**

2682 (1) A person's dissociation as a partner does not of itself discharge the person's liability
2683 as a partner for a debt, obligation, or other liability of the partnership incurred before
2684 dissociation. Except as otherwise provided in Subsection (2), the person is not liable for a
2685 partnership obligation incurred after dissociation.

2686 (2) A person that has dissociated as a partner without the dissociation resulting in a
2687 dissolution and winding up of the partnership's activities and affairs is liable on a transaction
2688 entered into by the partnership after the dissociation only if:

2689 (a) a partner would be liable on the transaction; and

2690 (b) at the time the other party enters into the transaction:

2691 (i) less than two years has passed since the dissociation; and

2692 (ii) the other party does not have knowledge or notice of the dissociation and
2693 reasonably believes that the person is a partner.

2694 (3) By agreement with a creditor of a partnership and the partnership, a person
2695 dissociated as a partner may be released from liability for an obligation of the partnership.

2696 (4) A person dissociated as a partner is released from liability for an obligation of the
2697 partnership if the partnership's creditor, with knowledge or notice of the person's dissociation
2698 but without the person's consent, agrees to a material alteration in the nature or time of payment
2699 of the obligation.

2700 Section 66. Section **48-1d-804** is enacted to read:

2701 **48-1d-804. Statement of dissociation.**

2702 (1) A person dissociated as a partner or the partnership may file a statement of
2703 dissociation stating the name of the partnership and that the partner is dissociated from the
2704 partnership.

2705 (2) A statement of dissociation is a limitation on the authority of a person dissociated
2706 as a partner for the purposes of Subsections 48-1d-303(4) and (5).

2707 Section 67. Section **48-1d-805** is enacted to read:

2708 **48-1d-805. Continued use of partnership name.**

2709 Continued use of a partnership name, or name of a person dissociated as a partner as
2710 part of the partnership name, by partners continuing the business does not of itself make the
2711 person dissociated as a partner liable for an obligation of the partners or the partnership
2712 continuing the business.

2713 Section 68. Section **48-1d-901** is enacted to read:

2714 **Part 9. Dissolution and Winding Up**

2715 **48-1d-901. Events causing dissolution.**

2716 A partnership is dissolved, and its activities and affairs must be wound up, upon the
2717 occurrence of any of the following:

2718 (1) in a partnership at will, the partnership has notice of a person's express will to
2719 withdraw as a partner, other than a partner that has dissociated under Subsections 48-1d-701(2)
2720 through (10), but, if the person specifies a withdrawal date later than the date the partnership
2721 had notice, on the later date;

2722 (2) in a partnership for a definite term or particular undertaking:

2723 (a) within 90 days after a person's dissociation by death or otherwise under Subsections
2724 48-1d-701(6) through (10) or wrongful dissociation under Subsection 48-1d-702(2), the

2725 affirmative vote or consent of at least half of the remaining partners to wind up the
2726 partnership's activities and affairs, for which purpose a person's rightful dissociation pursuant
2727 to Subsection 48-1d-702(2)(b)(i) constitutes the expression of that partner's consent to wind up
2728 the partnership's activities and affairs;

2729 (b) the express consent of all the partners to wind up the partnership's activities and
2730 affairs; or

2731 (c) the expiration of the term or the completion of the undertaking;

2732 (3) an event or circumstance that the partnership agreement states causes dissolution;

2733 (4) on application by a partner, the entry by the district court of an order dissolving the
2734 partnership on the ground that:

2735 (a) the conduct of all or substantially all the partnership's activities and affairs is
2736 unlawful;

2737 (b) the economic purpose of the partnership is likely to be unreasonably frustrated;

2738 (c) another partner has engaged in conduct relating to the partnership's activities and
2739 affairs which makes it not reasonably practicable to carry on the business in partnership with
2740 that partner; or

2741 (d) it is not otherwise reasonably practicable to carry on the partnership's activities and
2742 affairs in conformity with the partnership agreement;

2743 (5) on application by a transferee, the entry by the district court of an order dissolving
2744 the partnership on the ground that it is equitable to wind up the partnership's activities and
2745 affairs;

2746 (a) after the expiration of the term or completion of the undertaking, if the partnership
2747 was for a definite term or particular undertaking at the time of the transfer or entry of the
2748 charging order that gave rise to the transfer; or

2749 (b) at any time, if the partnership was a partnership at will at the time of the transfer or
2750 entry of the charging order that gave rise to the transfer; or

2751 (6) the passage of 90 consecutive days during which the partnership does not have at
2752 least two partners.

2753 Section 69. Section **48-1d-902** is enacted to read:

2754 **48-1d-902. Winding up.**

2755 (1) A dissolved partnership shall wind up its activities and affairs and, except as

2756 otherwise provided in Section 48-1d-903, the partnership continues after dissolution only for
2757 the purpose of winding up.

2758 (2) In winding up its activities and affairs, the partnership:

2759 (a) shall discharge the partnership's debts, obligations, and other liabilities, settle and
2760 close the partnership's activities and affairs, and marshal and distribute the assets of the
2761 partnership; and

2762 (b) may:

2763 (i) deliver to the division for filing a statement of dissolution stating the name of the
2764 partnership and that the partnership is dissolved;

2765 (ii) preserve the partnership's activities and affairs and property as a going concern for
2766 a reasonable time;

2767 (iii) prosecute and defend actions and proceedings, whether civil, criminal, or
2768 administrative;

2769 (iv) transfer the partnership's property;

2770 (v) settle disputes by mediation or arbitration;

2771 (vi) deliver to the division for filing a statement of termination stating the name of the
2772 partnership and that the partnership is terminated; and

2773 (vii) perform other acts necessary or appropriate to the winding up.

2774 (3) A person whose dissociation as a partner resulted in dissolution may participate in
2775 winding up as if still a partner, unless the dissociation was wrongful.

2776 (4) If a dissolved partnership does not have a partner and no person has the right to
2777 participate in winding up under Subsection (3), the personal or legal representative of the last
2778 person to have been a partner may wind up the partnership's activities and affairs. If the
2779 representative does not exercise that right, a person to wind up the partnership's activities and
2780 affairs may be appointed by the consent of transferees owning a majority of the rights to
2781 receive distributions at the time the consent is to be effective. A person appointed under this
2782 Subsection (4) has the powers of a partner under Section 48-1d-904 but is not liable for the
2783 debts, obligations, and other liabilities of the partnership solely by reason of having or
2784 exercising those powers or otherwise acting to wind up the partnership's activities and affairs.

2785 (5) On the application of any partner or person entitled under Subsection (3) to
2786 participate in winding up, the district court may order judicial supervision of the winding up of

2787 a dissolved partnership, including the appointment of a person to wind up the partnership's
2788 activities and affairs, if:

2789 (a) the partnership does not have a partner, and within a reasonable time following the
2790 dissolution no person has been appointed under Subsection (3); or

2791 (b) the applicant establishes other good cause.

2792 Section 70. Section **48-1d-903** is enacted to read:

2793 **48-1d-903. Rescinding dissolution.**

2794 (1) A partnership may rescind its dissolution, unless a statement of termination
2795 applicable to the partnership is effective or the district court has entered an order under
2796 Subsection 48-1d-901(4) or (5) dissolving the partnership.

2797 (2) Rescinding dissolution under this section requires:

2798 (a) the affirmative vote or consent of each partner;

2799 (b) if a statement of dissolution applicable to the partnership has been filed by the
2800 division but has not become effective, delivery to the division for filing of a statement of
2801 withdrawal under Section 48-1d-114 applicable to the statement of dissolution; and

2802 (c) if a statement of dissolution applicable to the partnership is effective, the delivery to
2803 the division for filing of a statement of correction under Section 48-1d-115 stating that
2804 dissolution has been rescinded under this section.

2805 (3) If a partnership rescinds its dissolution:

2806 (a) the partnership resumes carrying on its activities and affairs as if dissolution had
2807 never occurred;

2808 (b) subject to Subsection (3)(c), any liability incurred by the partnership after the
2809 dissolution and before the rescission is effective is determined as if dissolution had never
2810 occurred; and

2811 (c) the rights of a third party arising out of conduct in reliance on the dissolution before
2812 the third party knew or had notice of the rescission may not be adversely affected.

2813 Section 71. Section **48-1d-904** is enacted to read:

2814 **48-1d-904. Power to bind partnership after dissolution.**

2815 (1) A partnership is bound by a partner's act after dissolution which:

2816 (a) is appropriate for winding up the partnership's activities and affairs; or

2817 (b) would have bound the partnership under Section 48-1d-301 before dissolution, if, at

2818 the time the other party enters into the transaction, the other party does not know or have notice
2819 of the dissolution.

2820 (2) A person dissociated as a partner binds a partnership through an act occurring after
2821 dissolution if at the time the other party enters into the transaction:

2822 (a) less than two years has passed since the dissociation;

2823 (b) the other party does not have notice of the dissociation and reasonably believes that
2824 the person is a partner; and

2825 (c) the act:

2826 (i) is appropriate for winding up the partnership's activities and affairs; or

2827 (ii) would have bound the partnership under Section 48-1d-301 before dissolution, and
2828 at the time the other party enters into the transaction the other party does not know or have
2829 notice of the dissolution.

2830 Section 72. Section **48-1d-905** is enacted to read:

2831 **48-1d-905. Liability after dissolution.**

2832 (1) If a partner having knowledge of the dissolution causes a partnership to incur an
2833 obligation under Subsection 48-1d-904(1) by an act that is not appropriate for winding up the
2834 partnership's activities and affairs, the partner is liable:

2835 (a) to the partnership for any damage caused to the partnership arising from the
2836 obligation; and

2837 (b) if another partner or person dissociated as a partner is liable for the obligation, to
2838 that other partner or person for any damage caused to that other partner or person arising from
2839 the liability.

2840 (2) If a person dissociated as a partner causes a partnership to incur an obligation under
2841 Subsection 48-1d-904(2), the person is liable:

2842 (a) to the partnership for any damage caused to the partnership arising from the
2843 obligation; and

2844 (b) if a partner or another person dissociated as a partner is liable for the obligation, to
2845 the partner or other person for any damage caused to the partner or other person arising from
2846 the obligation.

2847 Section 73. Section **48-1d-906** is enacted to read:

2848 **48-1d-906. Disposition of assets in winding up -- When contributions required.**

2849 (1) In winding up its activities and affairs, a partnership shall apply its assets, including
2850 the contributions required by this section, to discharge the partnership's obligations to creditors,
2851 including partners that are creditors.

2852 (2) After a partnership complies with Subsection (1), any surplus must be distributed in
2853 the following order, subject to any charging order in effect under Section 48-1d-604:

2854 (a) to each person owning a transferable interest that reflects contributions made and
2855 not previously returned, an amount equal to the value of the unreturned contributions; and

2856 (b) among partners in proportion to their respective rights to share in distributions
2857 immediately before the dissolution of the partnership, except to the extent necessary to comply
2858 with any transfer effective under Section 48-1d-603.

2859 (3) If a partnership's assets are insufficient to satisfy all its obligations under
2860 Subsection (1), with respect to each unsatisfied obligation incurred when the partnership was
2861 not a limited liability partnership, the following rules apply:

2862 (a) Each person that was a partner when the obligation was incurred and that has not
2863 been released from the obligation under Subsections 48-1d-803(3) and (4) shall contribute to
2864 the partnership to enable the partnership to satisfy the obligation. The contribution due from
2865 each of those persons is in proportion to the right to receive distributions in the capacity of
2866 partner in effect for each of those persons when the obligation was incurred.

2867 (b) If a person does not contribute the full amount required under Subsection (3)(a)
2868 with respect to an unsatisfied obligation of the partnership, the other persons required to
2869 contribute by Subsection (3)(a) on account of the obligation shall contribute the additional
2870 amount necessary to discharge the obligation. The additional contribution due from each of
2871 those other persons is in proportion to the right to receive distributions in the capacity of
2872 partner in effect for each of those other persons when the obligation was incurred.

2873 (c) If a person does not make the additional contribution required by Subsection(3)(b),
2874 further additional contributions are determined and due in the same manner as provided in that
2875 subsection.

2876 (d) A person that makes an additional contribution under Subsection (3)(b) or (3)(c)
2877 may recover from any person whose failure to contribute under Subsection (3)(a) or (3)(b)
2878 necessitated the additional contribution. A person may not recover under this Subsection (3)
2879 more than the amount additionally contributed. A person's liability under this Subsection (3)

2880 may not exceed the amount the person failed to contribute.

2881 (4) If a partnership does not have sufficient surplus to comply with Subsection (2)(a),
2882 any surplus must be distributed among the owners of transferable interests in proportion to the
2883 value of the respective unreturned contributions.

2884 (5) All distributions made under Subsections (2) and (4) must be paid in money.

2885 Section 74. Section **48-1d-907** is enacted to read:

2886 **48-1d-907. Known claims against dissolved limited liability partnership.**

2887 (1) Except as otherwise provided in Subsection (4), a dissolved limited liability
2888 partnership may give notice of a known claim under Subsection (2), which has the effect
2889 provided in Subsection (3).

2890 (2) A dissolved limited liability partnership may in a record notify its known claimants
2891 of the dissolution. The notice must:

2892 (a) specify the information required to be included in a claim;

2893 (b) state that the claim must be in writing and provide a mailing address to which the
2894 claim is to be sent;

2895 (c) state the deadline for receipt of a claim, which may not be less than 120 days after
2896 the date of the notice is received by the claimant;

2897 (d) state that the claim will be barred if not received by the deadline; and

2898 (e) unless the partnership has been throughout its existence a limited liability
2899 partnership, state that the barring of a claim against the partnership will also bar any
2900 corresponding claim against any partner or person dissociated as a partner which is based on
2901 Section 48-1d-305.

2902 (3) A claim against a dissolved limited liability partnership is barred if the
2903 requirements of Subsection (2) are met and:

2904 (a) the claim is not received by the specified deadline; or

2905 (b) if the claim is timely received but rejected by the limited liability partnership:

2906 (i) the partnership causes the claimant to receive a notice in a record stating that the
2907 claim is rejected and will be barred unless the claimant commences an action against the
2908 partnership to enforce the claim not later than 90 days after the claimant receives the notice;
2909 and

2910 (ii) the claimant does not commence the required action not later than 90 days after the

2911 claimant receives the notice.

2912 (4) This section does not apply to a claim based on an event occurring after the
2913 effective date of dissolution or a liability that on that date is contingent.

2914 Section 75. Section **48-1d-908** is enacted to read:

2915 **48-1d-908. Other claims against dissolved limited liability partnership.**

2916 (1) A dissolved limited liability partnership may publish notice of its dissolution and
2917 request persons having claims against the dissolved limited liability partnership to present them
2918 in accordance with the notice.

2919 (2) A notice under Subsection (1) must:

2920 (a) be published at least once in a newspaper of general circulation in the county in this
2921 state in which the dissolved limited liability partnership's principal office is located or, if the
2922 principal office is not located in this state, in the county in which the office of the dissolved
2923 limited liability partnership's registered agent is or was last located and in accordance with
2924 Section 45-1-101;

2925 (b) describe the information required to be contained in a claim, state that the claim
2926 must be in writing, and provide a mailing address to which the claim is to be sent;

2927 (c) state that a claim against the dissolved limited liability partnership is barred unless
2928 an action to enforce the claim is commenced not later than three years after publication of the
2929 notice; and

2930 (d) unless the dissolved limited liability partnership has been throughout its existence a
2931 limited liability partnership, state that the barring of a claim against the dissolved limited
2932 liability partnership will also bar any corresponding claim against any partner or person
2933 dissociated as a partner which is based on Section 48-1d-306.

2934 (3) If a dissolved limited liability partnership publishes a notice in accordance with
2935 Subsection (2), the claim of each of the following claimants is barred unless the claimant
2936 commences an action to enforce the claim against the dissolved limited liability partnership not
2937 later than three years after the publication date of the notice:

2938 (a) a claimant that did not receive notice in a record under Section 48-1d-907;

2939 (b) a claimant whose claim was timely sent to the partnership but not acted on; and

2940 (c) a claimant whose claim is contingent at, or based on an event occurring after, the
2941 effective date of dissolution.

2942 (4) A claim not barred under this section or Section 48-1d-907 may be enforced:

2943 (a) against a dissolved limited liability partnership, to the extent of its undistributed
2944 assets;

2945 (b) except as otherwise provided in Section 48-1d-909, if assets of the dissolved
2946 limited liability partnership have been distributed after dissolution, against a partner or
2947 transferee to the extent of that person's proportionate share of the claim or of the dissolved
2948 limited liability partnership's assets distributed to the partner or transferee after dissolution,
2949 whichever is less, but a person's total liability for all claims under this subsection may not
2950 exceed the total amount of assets distributed to the person after dissolution; and

2951 (c) against any person liable on the claim under Sections 48-1d-306, 48-1d-803, and
2952 48-1d-905.

2953 Section 76. Section **48-1d-909** is enacted to read:

2954 **48-1d-909. Court proceedings.**

2955 (1) A dissolved limited liability partnership that has published a notice under Section
2956 48-1d-908 may file an application with the district court in the county where the dissolved
2957 limited liability partnership's principal office is located or, if the principal office is not located
2958 in this state, where the office of its registered agent is located, for a determination of the
2959 amount and form of security to be provided for payment of claims that are contingent, have not
2960 been made known to the dissolved limited liability partnership, or are based on an event
2961 occurring after the effective date of dissolution but which, based on the facts known to the
2962 dissolved limited liability partnership, are reasonably expected to arise after the effective date
2963 of dissolution. Security is not required for any claim that is or is reasonably anticipated to be
2964 barred under Subsection 48-1d-907(3).

2965 (2) Not later than 10 days after the filing of an application under Subsection (1), the
2966 dissolved limited liability partnership shall give notice of the proceeding to each claimant
2967 holding a contingent claim known to the dissolved limited liability partnership.

2968 (3) In any proceeding under this section, the district court may appoint a guardian ad
2969 litem to represent all claimants whose identities are unknown. The reasonable fees and
2970 expenses of the guardian, including all reasonable expert witness fees, must be paid by the
2971 dissolved limited liability partnership.

2972 (4) A dissolved limited liability partnership that provides security in the amount and

2973 form ordered by the district court under Subsection (1) satisfies the dissolved limited liability
2974 partnership's obligations with respect to claims that are contingent, have not been made known
2975 to the dissolved limited liability partnership, or are based on an event occurring after the
2976 effective date of dissolution, and the claims may not be enforced against a partner or transferee
2977 who receives assets in liquidation.

2978 (5) This section applies only to a debt, obligation, or other liability incurred while a
2979 partnership was a limited liability partnership.

2980 Section 77. Section **48-1d-910** is enacted to read:

2981 **48-1d-910. Liability of partner and person dissociation as partner when claim**
2982 **against limited liability partnership is barred.**

2983 If a claim against a dissolved limited liability partnership is barred under Section
2984 48-1d-907, 48-1d-908, or 48-1d-909, any corresponding claim under Section 48-1d-306,
2985 48-1d-803, or 48-1d-905 is also barred.

2986 Section 78. Section **48-1d-1001** is enacted to read:

2987 **Part 10. Merger, Interest Exchange, Conversion, and Domestication.**

2988 **48-1d-1001. Definitions.**

2989 In this part:

2990 (1) "Acquired entity" means the entity, all of one or more classes or series of interests
2991 in which are acquired in an interest exchange.

2992 (2) "Acquiring entity" means the entity that acquires all of one or more classes or series
2993 of interests of the acquired entity in an interest exchange.

2994 (3) "Conversion" means a transaction authorized by Sections 48-1d-1041 through
2995 48-1d-1046.

2996 (4) "Converted entity" means the converting entity as it continues in existence after a
2997 conversion.

2998 (5) "Converting entity" means the domestic entity that approves a plan of conversion
2999 pursuant to Section 48-1d-1043 or the foreign entity that approves a conversion pursuant to the
3000 law of its jurisdiction of formation.

3001 (6) "Distributional interest" means the right under an unincorporated entity's organic
3002 law and organic rules to receive distributions from the entity.

3003 (7) "Domestic," with respect to an entity, means governed as to its internal affairs by

3004 the law of this state.

3005 (8) "Domesticated limited liability partnership" means a domesticating limited liability
3006 partnership as it continues in existence after a domestication.

3007 (9) "Domesticating limited liability partnership" means a domestic limited liability
3008 partnership that approves a plan of domestication pursuant to Section 48-1d-1053 or foreign
3009 limited liability partnership that approves a domestication pursuant to the law of its jurisdiction
3010 of formation.

3011 (10) "Domestication" means a transaction authorized by Sections 48-1d-1051 through
3012 48-1d-1056.

3013 (11) "Entity":

3014 (a) means:

3015 (i) a business corporation;

3016 (ii) a nonprofit corporation;

3017 (iii) a general partnership, including a limited liability partnership;

3018 (iv) a limited partnership, including a limited liability limited partnership;

3019 (v) a limited liability company;

3020 (vi) a limited cooperative association;

3021 (vii) an unincorporated nonprofit association;

3022 (viii) a statutory trust, business trust, or common-law business trust; or

3023 (ix) any other person that has:

3024 (A) a legal existence separate from any interest holder of that person; or

3025 (B) the power to acquire an interest in real property in its own name; and

3026 (b) does not include:

3027 (i) an individual;

3028 (ii) a trust with a predominantly donative purpose, or a charitable trust;

3029 (iii) an association or relationship that is not a partnership solely by reason of

3030 Subsection 48-1d-202(3) or a similar provision of the law of another jurisdiction;

3031 (iv) a decedent's estate; or

3032 (v) a government or a governmental subdivision, agency, or instrumentality.

3033 (12) "Filing entity" means an entity whose formation requires the filing of a public
3034 organic record.

3035 (13) "Foreign," with respect to an entity, means an entity governed as to its internal
3036 affairs by the law of a jurisdiction other than this state.

3037 (14) "Governance interest" means a right under the organic law or organic rules of an
3038 unincorporated entity, other than as a governor, agent, assignee, or proxy, to:

3039 (a) receive or demand access to information concerning, or the books and records of,
3040 the entity;

3041 (b) vote for or consent to the election of the governors of the entity; or

3042 (c) receive notice of or vote on or consent to an issue involving the internal affairs of
3043 the entity.

3044 (15) "Governor" means:

3045 (a) a director of a business corporation;

3046 (b) a director or trustee of a nonprofit corporation;

3047 (c) a general partner of a general partnership;

3048 (d) a general partner of a limited partnership;

3049 (e) a manager of a manager-managed limited liability company;

3050 (f) a member of a member-managed limited liability company;

3051 (g) a director of a limited cooperative association;

3052 (h) a manager of an unincorporated nonprofit association;

3053 (i) a trustee of a statutory trust, business trust, or common-law business trust; or

3054 (j) any other person under whose authority the powers of an entity are exercised and

3055 under whose direction the activities and affairs of the entity are managed pursuant to the
3056 organic law and organic rules of the entity.

3057 (16) "Interest" means:

3058 (a) a share in a business corporation;

3059 (b) a membership in a nonprofit corporation;

3060 (c) a partnership interest in a general partnership;

3061 (d) a partnership interest in a limited partnership;

3062 (e) a membership interest in a limited liability company;

3063 (f) a member's interest in a limited cooperative association;

3064 (g) a membership in an unincorporated nonprofit association;

3065 (h) a beneficial interest in a statutory trust, business trust, or common-law business

3066 trust; or
3067 (i) a governance interest or distributional interest in any other type of unincorporated
3068 entity.
3069 (17) "Interest exchange" means a transaction authorized by Sections 48-1d-1031
3070 through 48-1d-1036.
3071 (18) "Interest holder" means:
3072 (a) a shareholder of a business corporation;
3073 (b) a member of a nonprofit corporation;
3074 (c) a general partner of a general partnership;
3075 (d) a general partner of a limited partnership;
3076 (e) a limited partner of a limited partnership;
3077 (f) a member of a limited liability company;
3078 (g) a member of a limited cooperative association;
3079 (h) a member of an unincorporated nonprofit association;
3080 (i) a beneficiary or beneficial owner of a statutory trust, business trust, or common-law
3081 business trust; or
3082 (j) any other direct holder of an interest.
3083 (19) "Interest holder liability" means:
3084 (a) personal liability for a liability of an entity which is imposed on a person:
3085 (i) solely by reason of the status of the person as an interest holder; or
3086 (ii) by the organic rules of the entity which make one or more specified interest holders
3087 or categories of interest holders liable in their capacity as interest holders for all or specified
3088 liabilities of the entity; or
3089 (b) an obligation of an interest holder under the organic rules of an entity to contribute
3090 to the entity.
3091 (20) "Jurisdiction of formation" means the jurisdiction whose law includes the organic
3092 law of an entity.
3093 (21) "Merger" means a transaction authorized by Sections 48-1d-1021 through
3094 48-1d-1026.
3095 (22) "Merging entity" means an entity that is a party to a merger and exists
3096 immediately before the merger becomes effective.

3097 (23) "Organic law" means the law of an entity's jurisdiction of formation governing the
3098 internal affairs of the entity.

3099 (24) "Organic rules" means the public organic record and private organic rules of an
3100 entity.

3101 (25) "Plan" means a plan of merger, plan of interest exchange, plan of conversion, or
3102 plan of domestication.

3103 (26) "Plan of conversion" means a plan under Section 48-1d-1042.

3104 (27) "Plan of domestication" means a plan under Section 48-1d-1052.

3105 (28) "Plan of interest exchange" means a plan under Section 48-1d-1032.

3106 (29) "Plan of merger" means a plan under Section 48-1d-1022.

3107 (30) "Private organic rules" means the rules, whether or not in a record, that govern the
3108 internal affairs of an entity, are binding on all its interest holders, and are not part of its public
3109 organic record, if any. The term includes:

3110 (a) the bylaws of a business corporation;

3111 (b) the bylaws of a nonprofit corporation;

3112 (c) the partnership agreement of a general partnership;

3113 (d) the partnership agreement of a limited partnership;

3114 (e) the operating agreement of a limited liability company;

3115 (f) the bylaws of a limited cooperative association;

3116 (g) the governing principles of an unincorporated nonprofit association; and

3117 (h) the trust instrument of a statutory trust or similar rules of a business trust or
3118 common-law business trust.

3119 (31) "Protected agreement" means:

3120 (a) a record evidencing indebtedness and any related agreement in effect on July 1,
3121 2014;

3122 (b) an agreement that is binding on an entity on July 1, 2014;

3123 (c) the organic rules of an entity in effect on July 1, 2014; or

3124 (d) an agreement that is binding on any of the governors or interest holders of an entity
3125 on July 1, 2014.

3126 (32) "Public organic record" means the record the filing of which by the division is
3127 required to form an entity and any amendment to or restatement of that record. The term

3128 includes:

3129 (a) the articles of incorporation of a business corporation;

3130 (b) the articles of incorporation of a nonprofit corporation;

3131 (c) the certificate of limited partnership of a limited partnership;

3132 (d) the certificate of organization of a limited liability company;

3133 (e) the articles of organization of a limited cooperative association; and

3134 (f) the certificate of trust of a statutory trust or similar record of a business trust.

3135 (33) "Registered foreign entity" means a foreign entity that is registered to do business

3136 in this state pursuant to a record filed by the division.

3137 (34) "Statement of conversion" means a statement under Section 48-1d-1045.

3138 (35) "Statement of domestication" means a statement under Section 48-1d-1055.

3139 (36) "Statement of interest exchange" means a statement under Section 48-1d-1035.

3140 (37) "Statement of merger" means a statement under Section 48-1d-1025.

3141 (38) "Surviving entity" means an entity that continues in existence after or is created by

3142 a merger.

3143 (39) "Type of entity" means a generic form of entity:

3144 (a) recognized at common law; or

3145 (b) formed under an organic law, whether or not some entities formed under that

3146 organic law are subject to provisions of that law that create different categories of the form of

3147 entity.

3148 Section 79. Section **48-1d-1002** is enacted to read:

3149 **48-1d-1002. Relationship of part to other laws.**

3150 This part does not authorize an act prohibited by, and does not affect the application or

3151 requirements of, law other than this part.

3152 Section 80. Section **48-1d-1003** is enacted to read:

3153 **48-1d-1003. Required notice or approval.**

3154 (1) A domestic or foreign entity that is required to give notice to, or obtain the approval

3155 of, a governmental agency or officer of this state to be a party to a merger must give the notice

3156 or obtain the approval to be a party to an interest exchange, conversion, or domestication.

3157 (2) Property held for a charitable purpose under the law of this state by a domestic or

3158 foreign entity immediately before a transaction under this part becomes effective may not, as a

3159 result of the transaction, be diverted from the objects for which it was donated, granted,
3160 devised, or otherwise transferred unless, to the extent required by or pursuant to the law of this
3161 state concerning cy pres or other law dealing with nondiversion of charitable assets, the entity
3162 obtains an appropriate order of the district court specifying the disposition of the property.

3163 (3) A bequest, devise, gift, grant, or promise contained in a will or other instrument of
3164 donation, subscription, or conveyance that is made to a merging entity that is not the surviving
3165 entity and that takes effect or remains payable after the merger inures to the surviving entity. A
3166 trust obligation that would govern property if transferred to the nonsurviving entity applies to
3167 property that is transferred to the surviving entity under this section.

3168 Section 81. Section **48-1d-1004** is enacted to read:

3169 **48-1d-1004. Status of filings.**

3170 A filing under this part signed by a domestic entity becomes part of the public organic
3171 record of the entity if the entity's organic law provides that similar filings under that law
3172 become part of the public organic record of the entity.

3173 Section 82. Section **48-1d-1005** is enacted to read:

3174 **48-1d-1005. Nonexclusivity.**

3175 The fact that a transaction under this part produces a certain result does not preclude the
3176 same result from being accomplished in any other manner permitted by law other than this part.

3177 Section 83. Section **48-1d-1006** is enacted to read:

3178 **48-1d-1006. Reference to external facts.**

3179 A plan may refer to facts ascertainable outside the plan if the manner in which the facts
3180 will operate upon the plan is specified in the plan. The facts may include the occurrence of an
3181 event or a determination or action by a person, whether or not the event, determination, or
3182 action is within the control of a party to the transaction.

3183 Section 84. Section **48-1d-1007** is enacted to read:

3184 **48-1d-1007. Alternative means of approval of transactions.**

3185 Except as otherwise provided in the organic law or organic rules of a domestic entity,
3186 approval of a transaction under this part by the unanimous vote or consent of its interest
3187 holders satisfies the requirements of this part for approval of the transaction.

3188 Section 85. Section **48-1d-1008** is enacted to read:

3189 **48-1d-1008. Appraisal rights.**

3190 (1) An interest holder of a domestic merging, acquired, converting, or domesticating
3191 entity is entitled to appraisal rights in connection with the transaction if the interest holder
3192 would have been entitled to appraisal rights under the entity's organic law in connection with a
3193 merger in which the interest of the interest holder was changed, converted, or exchanged
3194 unless:

3195 (a) the organic law permits the organic rules to limit the availability of appraisal rights;
3196 and
3197 (b) the organic rules provide such a limit.

3198 (2) An interest holder of a domestic merging, acquired, converting, or domesticating
3199 entity is entitled to contractual appraisal rights in connection with a transaction under this part
3200 to the extent provided in:

3201 (a) the entity's organic rules; or
3202 (b) the plan.

3203 Section 86. Section **48-1d-1021** is enacted to read:

3204 **48-1d-1021. Merger authorized.**

3205 (1) By complying with Sections 48-1d-1021 through 48-1d-1026:

3206 (a) one or more domestic partnerships may merge with one or more domestic or
3207 foreign entities into a domestic or foreign surviving entity; and

3208 (b) two or more foreign entities may merge into a domestic partnership.

3209 (2) By complying with the provisions of Sections 48-1d-1021 through 48-1d-1026
3210 applicable to foreign entities, a foreign entity may be a party to a merger under Sections
3211 48-1d-1021 through 48-1d-1026 or may be the surviving entity in such a merger if the merger
3212 is authorized by the law of the foreign entity's jurisdiction of formation.

3213 Section 87. Section **48-1d-1022** is enacted to read:

3214 **48-1d-1022. Plan of merger.**

3215 (1) A domestic partnership may become a party to a merger under Sections 48-1d-1021
3216 through 48-1d-1026 by approving a plan of merger. The plan must be in a record and contain:

3217 (a) as to each merging entity, its name, jurisdiction of formation, and type of entity;

3218 (b) if the surviving entity is to be created in the merger, a statement to that effect and
3219 the entity's name, jurisdiction of formation, and type of entity;

3220 (c) the manner of converting the interests in each party to the merger into interests,

3221 securities, obligations, money, other property, rights to acquire interests or securities, or any
3222 combination of the foregoing;

3223 (d) if the surviving entity exists before the merger, any proposed amendments to its
3224 public organic record, if any, or to its private organic rules that are, or are proposed to be, in a
3225 record;

3226 (e) if the surviving entity is to be created in the merger, its proposed public organic
3227 record, if any, and the full text of its private organic rules that are proposed to be in a record;

3228 (f) the other terms and conditions of the merger; and

3229 (g) any other provision required by the law of a merging entity's jurisdiction of
3230 formation or the organic rules of a merging entity.

3231 (2) In addition to the requirements of Subsection (1), a plan of merger may contain any
3232 other provision not prohibited by law.

3233 Section 88. Section **48-1d-1023** is enacted to read:

3234 **48-1d-1023. Approval of merger.**

3235 (1) A plan of merger is not effective unless it has been approved:

3236 (a) by a domestic merging partnership, by all the partners of the partnership entitled to
3237 vote on or consent to any matter; and

3238 (b) in a record, by each partner of a domestic merging partnership that will have
3239 interest holder liability for debts, obligations, and other liabilities that arise after the merger
3240 becomes effective, unless:

3241 (i) the partnership agreement of the partnership provides in a record for the approval of
3242 a merger in which some or all of its partners become subject to interest holder liability by the
3243 vote or consent of fewer than all the partners; and

3244 (ii) the partner consented in a record to or voted for that provision of the partnership
3245 agreement or became a partner after the adoption of that provision.

3246 (2) A merger involving a domestic merging entity that is not a partnership is not
3247 effective unless the merger is approved by that entity in accordance with its organic law.

3248 (3) A merger involving a foreign merging entity is not effective unless the merger is
3249 approved by the foreign entity in accordance with the law of the foreign entity's jurisdiction of
3250 formation.

3251 Section 89. Section **48-1d-1024** is enacted to read:

3252 **48-1d-1024. Amendment or abandonment of plan of merger.**

3253 (1) A plan of merger may be amended only with the consent of each party to the plan,
3254 except as otherwise provided in the plan.

3255 (2) A domestic merging partnership may approve an amendment of a plan of merger:

3256 (a) in the same manner as the plan was approved, if the plan does not provide for the
3257 manner in which it may be amended; or

3258 (b) by the partners in the manner provided in the plan, but a partner that was entitled to
3259 vote on or consent to approval of the merger is entitled to vote on or consent to any amendment
3260 of the plan that will change:

3261 (i) the amount or kind of interests, securities, obligations, money, other property, rights
3262 to acquire interests or securities, or any combination of the foregoing, to be received by the
3263 interest holders of any party to the plan;

3264 (ii) the public organic record, if any, or private organic rules of the surviving entity that
3265 will be in effect immediately after the merger becomes effective, except for changes that do not
3266 require approval of the interest holders of the surviving entity under its organic law or organic
3267 rules; or

3268 (iii) any other terms or conditions of the plan, if the change would adversely affect the
3269 partner in any material respect.

3270 (3) After a plan of merger has been approved and before a statement of merger
3271 becomes effective, the plan may be abandoned as provided in the plan. Unless prohibited by
3272 the plan, a domestic merging partnership may abandon the plan in the same manner as the plan
3273 was approved.

3274 (4) If a plan of merger is abandoned after a statement of merger has been delivered to
3275 the division for filing and before the statement of merger becomes effective, a statement of
3276 abandonment, signed by a party to the plan, must be delivered to the division for filing before
3277 the statement of merger becomes effective. The statement of abandonment takes effect on
3278 filing, and the merger is abandoned and does not become effective. The statement of
3279 abandonment must contain:

3280 (a) the name of each party to the plan of merger;

3281 (b) the date on which the statement of merger was delivered to the division for filing;

3282 and

3283 (c) a statement that the merger has been abandoned in accordance with this section.

3284 Section 90. Section **48-1d-1025** is enacted to read:

3285 **48-1d-1025. Statement of merger.**

3286 (1) A statement of merger must be signed by each merging entity and delivered to the
3287 division for filing.

3288 (2) A statement of merger must contain:

3289 (a) the name, jurisdiction of formation, and type of entity of each merging entity that is
3290 not the surviving entity;

3291 (b) the name, jurisdiction of formation, and type of entity of the surviving entity;

3292 (c) a statement that the merger was approved by each domestic merging entity, if any,
3293 in accordance with Sections 48-1d-1021 through 48-1d-1026 and by each foreign merging
3294 entity, if any, in accordance with the law of its jurisdiction of formation;

3295 (d) if the surviving entity exists before the merger and is a domestic filing entity, any
3296 amendment to its public organic record approved as part of the plan of merger;

3297 (e) if the surviving entity is created by the merger and is a domestic filing entity, its
3298 public organic record, as an attachment;

3299 (f) if the surviving entity is created by the merger and is a domestic limited liability
3300 partnership, its statement of qualification, as an attachment; and

3301 (g) if the surviving entity is a foreign entity that is not a registered foreign entity, a
3302 mailing address to which the division may send any process served on the division pursuant to
3303 Subsection 48-1d-1026(5).

3304 (3) In addition to the requirements of Subsection (2), a statement of merger may
3305 contain any other provision not prohibited by law.

3306 (4) If the surviving entity is a domestic entity, its public organic record, if any, must
3307 satisfy the requirements of the law of this state, except that the public organic record does not
3308 need to be signed.

3309 (5) A plan of merger that is signed by all the merging entities and meets all the
3310 requirements of Subsection (2) may be delivered to the division for filing instead of a statement
3311 of merger and on filing has the same effect. If a plan of merger is filed as provided in this
3312 Subsection (5), references in this part to a statement of merger refer to the plan of merger filed
3313 under this Subsection (5).

3314 Section 91. Section **48-1d-1026** is enacted to read:

3315 **48-1d-1026. Effect of merger.**

3316 (1) When a merger becomes effective:

3317 (a) the surviving entity continues or comes into existence;

3318 (b) each merging entity that is not the surviving entity ceases to exist;

3319 (c) all property of each merging entity vests in the surviving entity without transfer,
3320 reversion, or impairment;

3321 (d) all debts, obligations, and other liabilities of each merging entity are debts,
3322 obligations, and liabilities of the surviving entity;

3323 (e) except as otherwise provided by law or the plan of merger, all the rights, privileges,
3324 immunities, powers, and purposes of each merging entity vest in the surviving entity;

3325 (f) if the surviving entity exists before the merger:

3326 (i) all its property continues to be vested in it without transfer, reversion, or
3327 impairment;

3328 (ii) it remains subject to all its debts, obligations, and other liabilities; and

3329 (iii) all its rights, privileges, immunities, powers, and purposes continue to be vested in
3330 it;

3331 (g) the name of the surviving entity may be substituted for the name of any merging
3332 entity that is a party to any pending action or proceeding;

3333 (h) if the surviving entity exists before the merger:

3334 (i) its public organic record, if any, is amended as provided in the statement of merger;
3335 and

3336 (ii) its private organic rules that are to be in a record, if any, are amended to the extent
3337 provided in the plan of merger;

3338 (i) if the surviving entity is created by the merger:

3339 (i) its public organic record, if any, is effective; and

3340 (ii) its private organic rules are effective; and

3341 (j) the interests in each merging entity which are to be converted in the merger are
3342 converted, and the interest holders of those interests are entitled only to the rights provided to
3343 them under the plan of merger and to any appraisal rights they have under Section 48-1d-1008
3344 and the merging entity's organic law.

3345 (2) Except as otherwise provided in the organic law or organic rules of a merging
3346 entity, the merger does not give rise to any rights that an interest holder, governor, or third
3347 party would have upon a dissolution, liquidation, or winding up of the merging entity.

3348 (3) When a merger becomes effective, a person that did not have interest holder
3349 liability with respect to any of the merging entities and becomes subject to interest holder
3350 liability with respect to a domestic entity as a result of the merger has interest holder liability
3351 only to the extent provided by the organic law of that entity and only for those debts,
3352 obligations, and other liabilities that arise after the merger becomes effective.

3353 (4) When a merger becomes effective, the interest holder liability of a person that
3354 ceases to hold an interest in a domestic merging entity with respect to which the person had
3355 interest holder liability is as follows:

3356 (a) The merger does not discharge any interest holder liability under the organic law of
3357 the domestic merging entity to the extent the interest holder liability arose before the merger
3358 became effective.

3359 (b) The person does not have interest holder liability under the organic law of the
3360 domestic merging entity for any debt, obligation, or other liability that arises after the merger
3361 becomes effective.

3362 (c) The organic law of the domestic merging entity continues to apply to the release,
3363 collection, or discharge of any interest holder liability preserved under Subsection (4)(a) as if
3364 the merger had not occurred and the surviving entity were the domestic merging entity.

3365 (d) The person has whatever rights of contribution from any other person as are
3366 provided by law other than this chapter, this chapter, or the organic rules of the domestic
3367 merging entity with respect to any interest holder liability preserved under Subsection (4)(a) as
3368 if the merger had not occurred.

3369 (5) When a merger becomes effective, a foreign entity that is the surviving entity may
3370 be served with process in this state for the collection and enforcement of any debts, obligations,
3371 or other liabilities of a domestic merging entity as provided in Section 16-17-301.

3372 (6) When a merger becomes effective, the registration to do business in this state of
3373 any foreign merging entity that is not the surviving entity is canceled.

3374 Section 92. Section **48-1d-1031** is enacted to read:

3375 **48-1d-1031. Interest exchange authorized.**

3376 (1) By complying with Sections 48-1d-1031 through 48-1d-1036:

3377 (a) a domestic partnership may acquire all of one or more classes or series of interests
3378 of another domestic or foreign entity in exchange for interests, securities, obligations, money,
3379 other property, rights to acquire interests or securities, or any combination of the foregoing; or

3380 (b) all of one or more classes or series of interests of a domestic partnership may be
3381 acquired by another domestic or foreign entity in exchange for interests, securities, obligations,
3382 money, other property, rights to acquire interests or securities, or any combination of the
3383 foregoing.

3384 (2) By complying with the provisions of Sections 48-1d-1031 through 48-1d-1036
3385 applicable to foreign entities, a foreign entity may be the acquiring or acquired entity in an
3386 interest exchange under Sections 48-1d-1031 through 48-1d-1036 if the interest exchange is
3387 authorized by the law of the foreign entity's jurisdiction of formation.

3388 (3) If a protected agreement contains a provision that applies to a merger of a domestic
3389 partnership but does not refer to an interest exchange, the provision applies to an interest
3390 exchange in which the domestic partnership is the acquired entity as if the interest exchange
3391 were a merger until the provision is amended after July 1, 2014.

3392 Section 93. Section **48-1d-1032** is enacted to read:

3393 **48-1d-1032. Plan of interest exchange.**

3394 (1) A domestic partnership may be the acquired entity in an interest exchange under
3395 Sections 48-1d-1031 through 48-1d-1036 by approving a plan of interest exchange. The plan
3396 must be in a record and contain:

3397 (a) the name of the acquired entity;

3398 (b) the name, jurisdiction of formation, and type of entity of the acquiring entity;

3399 (c) the manner of converting the interests in the acquired entity into interests,
3400 securities, obligations, money, other property, rights to acquire interests or securities, or any
3401 combination of the foregoing;

3402 (d) any proposed amendments to the partnership agreement that are, or are proposed to
3403 be, in a record of the acquired entity;

3404 (e) the other terms and conditions of the interest exchange; and

3405 (f) any other provision required by the law of this state or the partnership agreement of
3406 the acquired entity.

3407 (2) In addition to the requirements of Subsection (1), a plan of interest exchange may
3408 contain any other provision not prohibited by law.

3409 Section 94. Section **48-1d-1033** is enacted to read:

3410 **48-1d-1033. Approval of interest exchange.**

3411 (1) A plan of interest exchange is not effective unless it has been approved:

3412 (a) by all the partners of a domestic acquired partnership entitled to vote on or consent
3413 to any matter; and

3414 (b) in a record, by each partner of the domestic acquired partnership that will have
3415 interest holder liability for debts, obligations, and other liabilities that arise after the interest
3416 exchange becomes effective, unless:

3417 (i) the partnership agreement of the partnership provides in a record for the approval of
3418 an interest exchange or a merger in which some or all its partners become subject to interest
3419 holder liability by the vote or consent of fewer than all the partners; and

3420 (ii) the partner consented in a record to or voted for that provision of the partnership
3421 agreement or became a partner after the adoption of that provision.

3422 (2) An interest exchange involving a domestic acquired entity that is not a partnership
3423 is not effective unless it is approved by the domestic entity in accordance with its organic law.

3424 (3) An interest exchange involving a foreign acquired entity is not effective unless it is
3425 approved by the foreign entity in accordance with the law of the foreign entity's jurisdiction of
3426 formation.

3427 (4) Except as otherwise provided in its organic law or organic rules, the interest holders
3428 of the acquiring entity are not required to approve the interest exchange.

3429 Section 95. Section **48-1d-1034** is enacted to read:

3430 **48-1d-1034. Amendment or abandonment of plan of interest exchange.**

3431 (1) A plan of interest exchange may be amended only with the consent of each party to
3432 the plan, except as otherwise provided in the plan.

3433 (2) A domestic acquired partnership may approve an amendment of a plan of interest
3434 exchange:

3435 (a) in the same manner as the plan was approved, if the plan does not provide for the
3436 manner in which it may be amended; or

3437 (b) by the partners of the acquired partnership in the manner provided in the plan, but a

3438 partner that was entitled to vote on or consent to approval of the interest exchange is entitled to
3439 vote on or consent to any amendment of the plan that will change:

3440 (i) the amount or kind of interests, securities, obligations, money, other property, rights
3441 to acquire interests or securities, or any combination of the foregoing, to be received by any of
3442 the partners of the acquired partnership under the plan;

3443 (ii) the partnership agreement of the acquired partnership that will be in effect
3444 immediately after the interest exchange becomes effective, except for changes that do not
3445 require approval of the partners of the acquired partnership under this chapter or the
3446 partnership agreement; or

3447 (iii) any other terms or conditions of the plan, if the change would adversely affect the
3448 partner in any material respect.

3449 (3) After a plan of interest exchange has been approved and before a statement of
3450 interest exchange becomes effective, the plan may be abandoned as provided in the plan.
3451 Unless prohibited by the plan, a domestic acquired partnership may abandon the plan in the
3452 same manner as the plan was approved.

3453 (4) If a plan of interest exchange is abandoned after a statement of interest exchange
3454 has been delivered to the division for filing and before the statement becomes effective, a
3455 statement of abandonment, signed by the acquired partnership, must be delivered to the
3456 division for filing before the statement of interest exchange becomes effective. The statement
3457 of abandonment takes effect on filing, and the interest exchange is abandoned and does not
3458 become effective. The statement of abandonment must contain:

3459 (a) the name of the acquired partnership;

3460 (b) the date on which the statement of interest exchange was delivered to the division
3461 for filing; and

3462 (c) a statement that the interest exchange has been abandoned in accordance with this
3463 section.

3464 Section 96. Section **48-1d-1035** is enacted to read:

3465 **48-1d-1035. Statement of interest exchange.**

3466 (1) A statement of interest exchange must be signed by a domestic acquired partnership
3467 and delivered to the division for filing.

3468 (2) A statement of interest exchange must contain:

3469 (a) the name of the acquired partnership;
3470 (b) the name, jurisdiction of formation, and type of entity of the acquiring entity; and
3471 (c) a statement that the plan of interest exchange was approved by the acquired entity
3472 in accordance with Sections 48-1d-1031 through 48-1d-1036.

3473 (3) In addition to the requirements of Subsection (2), a statement of interest exchange
3474 may contain any other provision not prohibited by law.

3475 (4) A plan of interest exchange that is signed by a domestic acquired partnership and
3476 meets all the requirements of Subsection (2) may be delivered to the division for filing instead
3477 of a statement of interest exchange and on filing has the same effect. If a plan of interest
3478 exchange is filed as provided in this subsection, references in this part to a statement of interest
3479 exchange refer to the plan of interest exchange filed under this Subsection (4).

3480 Section 97. Section **48-1d-1036** is enacted to read:

3481 **48-1d-1036. Effect of interest exchange.**

3482 (1) When an interest exchange in which the acquired entity is a domestic partnership
3483 becomes effective:

3484 (a) the interests in the domestic acquired partnership that are the subject of the interest
3485 exchange cease to exist or are converted or exchanged, and the partners holding those interests
3486 are entitled only to the rights provided to them under the plan of interest exchange and to any
3487 appraisal rights they have under Section 48-1d-1008;

3488 (b) the acquiring entity becomes the interest holder of the interests in the acquired
3489 partnership stated in the plan of interest exchange to be acquired by the acquiring entity; and

3490 (c) the provisions of the partnership agreement of the acquired partnership that are to
3491 be in a record, if any, are amended to the extent provided in the plan of interest exchange.

3492 (2) Except as otherwise provided in the partnership agreement of a domestic acquired
3493 partnership, the interest exchange does not give rise to any rights that a partner or third party
3494 would have upon a dissolution, liquidation, or winding up of the acquired partnership.

3495 (3) When an interest exchange becomes effective, a person that did not have interest
3496 holder liability with respect to a domestic acquired partnership and becomes subject to interest
3497 holder liability with respect to a domestic entity as a result of the interest exchange has interest
3498 holder liability only to the extent provided by the organic law of the entity and only for those
3499 debts, obligations, and other liabilities that arise after the interest exchange becomes effective.

3500 (4) When an interest exchange becomes effective, the interest holder liability of a
3501 person that ceases to hold an interest in a domestic acquired partnership with respect to which
3502 the person had interest holder liability is as follows:

3503 (a) The interest exchange does not discharge any interest holder liability to the extent
3504 the interest holder liability arose before the interest exchange became effective.

3505 (b) The person does not have interest holder liability for any debt, obligation, or other
3506 liability that arises after the interest exchange becomes effective.

3507 (c) The person has whatever rights of contribution from any other person as are
3508 provided by law other than this chapter, this chapter, or the partnership agreement of the
3509 acquired entity with respect to any interest holder liability preserved under Subsection (4)(a) as
3510 if the interest exchange had not occurred.

3511 Section 98. Section **48-1d-1041** is enacted to read:

3512 **48-1d-1041. Conversion authorized.**

3513 (1) By complying with Sections 48-1d-1041 through 48-1d-1046, a domestic
3514 partnership may become:

3515 (a) a domestic entity that is a different type of entity; or

3516 (b) a foreign entity that is a different type of entity, if the conversion is authorized by
3517 the law of the foreign jurisdiction.

3518 (2) By complying with the provisions of Sections 48-1d-1041 through 48-1d-1046
3519 applicable to foreign entities, a foreign entity that is not a foreign partnership may become a
3520 domestic partnership if the conversion is authorized by the law of the foreign entity's
3521 jurisdiction of formation.

3522 (3) If a protected agreement contains a provision that applies to a merger of a domestic
3523 partnership but does not refer to a conversion, the provision applies to a conversion of the
3524 entity as if the conversion were a merger until the provision is amended after July 1, 2014.

3525 Section 99. Section **48-1d-1042** is enacted to read:

3526 **48-1d-1042. Plan of conversion.**

3527 (1) A domestic partnership may convert to a different type of entity under Sections
3528 48-1d-1041 through 48-1d-1046 by approving a plan of conversion. The plan must be in a
3529 record and contain:

3530 (a) the name of the converting partnership;

- 3531 (b) the name, jurisdiction of formation, and type of entity of the converted entity;
3532 (c) the manner of converting the interests in the converting partnership into interests,
3533 securities, obligations, money, other property, rights to acquire interests or securities, or any
3534 combination of the foregoing;
3535 (d) the proposed public organic record of the converted entity if it will be a filing
3536 entity;
3537 (e) the full text of the private organic rules of the converted entity that are proposed to
3538 be in a record;
3539 (f) the other terms and conditions of the conversion; and
3540 (g) any other provision required by the law of this state or the partnership agreement of
3541 the converting partnership.
3542 (2) In addition to the requirements of Subsection (1), a plan of conversion may contain
3543 any other provision not prohibited by law.
3544 Section 100. Section **48-1d-1043** is enacted to read:
3545 **48-1d-1043. Approval of conversion.**
3546 (1) A plan of conversion is not effective unless it has been approved:
3547 (a) by a domestic converting partnership by all the partners of the partnership entitled
3548 to vote on or consent to any matter; and
3549 (b) in a record, by each partner of a domestic converting partnership that will have
3550 interest holder liability for debts, obligations, and other liabilities that arise after the conversion
3551 becomes effective:
3552 (i) the partnership agreement provides in a record for the approval of a conversion or a
3553 merger in which some or all of its partners become subject to interest holder liability by the
3554 vote or consent of fewer than all the interest holders; and
3555 (ii) the partner voted for or consented in a record to that provision of the partnership
3556 agreement or became a partner after the adoption of that provision.
3557 (2) A conversion involving a domestic converting entity that is not a partnership is not
3558 effective unless it is approved by the domestic converting entity in accordance with its organic
3559 law.
3560 (3) A conversion of a foreign converting entity is not effective unless it is approved by
3561 the foreign entity in accordance with the law of the foreign entity's jurisdiction of formation.

3562 Section 101. Section **48-1d-1044** is enacted to read:

3563 **48-1d-1044. Amendment or abandonment of plan of conversion.**

3564 (1) A plan of conversion of a domestic converting partnership may be amended:

3565 (a) in the same manner as the plan was approved, if the plan does not provide for the
3566 manner in which it may be amended; or

3567 (b) by the partners of the entity in the manner provided in the plan, but a partner that
3568 was entitled to vote on or consent to approval of the conversion is entitled to vote on or consent
3569 to any amendment of the plan that will change:

3570 (i) the amount or kind of interests, securities, obligations, money, other property, rights
3571 to acquire interests or securities, or any combination of the foregoing, to be received by any of
3572 the partners of the converting entity under the plan;

3573 (ii) the public organic record or private organic rules of the converted entity that will be
3574 in effect immediately after the conversion becomes effective, except for changes that do not
3575 require approval of the interest holders of the converted entity under its organic law or organic
3576 rules; or

3577 (iii) any other terms or conditions of the plan, if the change would adversely affect the
3578 partner in any material respect.

3579 (2) After a plan of conversion has been approved by a domestic converting partnership
3580 and before a statement of conversion becomes effective, the plan may be abandoned as
3581 provided in the plan. Unless prohibited by the plan, a domestic converting partnership may
3582 abandon the plan in the same manner as the plan was approved.

3583 (3) If a plan of conversion is abandoned after a statement of conversion has been
3584 delivered to the division for filing and before the statement of conversion becomes effective, a
3585 statement of abandonment, signed by the converting entity, must be delivered to the division
3586 for filing before the time the statement of conversion becomes effective. The statement of
3587 abandonment takes effect on filing, and the conversion is abandoned and does not become
3588 effective. The statement of abandonment must contain:

3589 (a) the name of the converting partnership;

3590 (b) the date on which the statement of conversion was delivered to the division for
3591 filing; and

3592 (c) a statement that the conversion has been abandoned in accordance with this section.

3593 Section 102. Section **48-1d-1045** is enacted to read:

3594 **48-1d-1045. Statement of conversion.**

3595 (1) A statement of conversion must be signed by the converting entity and delivered to
3596 the division for filing.

3597 (2) A statement of conversion must contain:

3598 (a) the name, jurisdiction of formation, and type of entity of the converting entity;

3599 (b) the name, jurisdiction of formation, and type of entity of the converted entity;

3600 (c) if the converting entity is a domestic entity, a statement that the plan of conversion
3601 was approved in accordance with Sections 48-1d-1041 through 48-1d-1046 or, if the
3602 converting entity is a foreign entity, a statement that the conversion was approved by the
3603 foreign converting entity in accordance with the law of its jurisdiction of formation;

3604 (d) if the converted entity is a domestic filing entity, the text of its public organic
3605 record, as an attachment;

3606 (e) if the converted entity is a domestic limited liability partnership, the text of its
3607 statement of qualification, as an attachment; and

3608 (f) if the converted entity is a foreign entity that is not a registered foreign entity, a
3609 mailing address to which the division may send any process served on the division pursuant to
3610 Subsection 48-1d-1046(5).

3611 (3) In addition to the requirements of Subsection (2), a statement of conversion may
3612 contain any other provision not prohibited by law.

3613 (4) If the converted entity is a domestic entity, its public organic record, if any, must
3614 satisfy the requirements of the law of this state, except that the public organic record does not
3615 need to be signed.

3616 (5) A plan of conversion that is signed by a domestic converting entity and meets all
3617 the requirements of Subsection (2) may be delivered to the division for filing instead of a
3618 statement of conversion and on filing has the same effect. If a plan of conversion is filed as
3619 provided in this subsection, references in this part to a statement of conversion refer to the plan
3620 of conversion filed under this Subsection (5).

3621 Section 103. Section **48-1d-1046** is enacted to read:

3622 **48-1d-1046. Effect of conversion.**

3623 (1) When a conversion in which the converted entity is a domestic partnership becomes

3624 effective:

3625 (a) the converted entity is:

3626 (i) organized under and subject to this chapter; and

3627 (ii) the same entity without interruption as the converting entity;

3628 (b) all property of the converting entity continues to be vested in the converted entity
3629 without transfer, reversion, or impairment;

3630 (c) all debts, obligations, and other liabilities of the converting entity continue as debts,
3631 obligations, and other liabilities of the converted entity;

3632 (d) except as otherwise provided by law or the plan of conversion, all the rights,
3633 privileges, immunities, powers, and purposes of the converting entity remain in the converted
3634 entity;

3635 (e) the name of the converted entity may be substituted for the name of the converting
3636 entity in any pending action or proceeding;

3637 (f) if the converted entity is a limited liability partnership, its statement of qualification
3638 is effective simultaneously;

3639 (g) the provisions of the partnership agreement of the converted entity that are to be in
3640 a record, if any, approved as part of the plan of conversion are effective; and

3641 (h) the interests in the converting entity are converted, and the interest holders of the
3642 converting entity are entitled only to the rights provided to them under the plan of conversion
3643 and to any appraisal rights they have under Section 48-1d-1008 and the converting entity's
3644 organic law.

3645 (2) Except as otherwise provided in the partnership agreement of a domestic converting
3646 partnership, the conversion does not give rise to any rights that a partner or third party would
3647 otherwise have upon a dissolution, liquidation, or winding up of the converting entity.

3648 (3) When a conversion becomes effective, a person that did not have interest holder
3649 liability with respect to the converting entity and becomes subject to interest holder liability
3650 with respect to a domestic entity as a result of the conversion has interest holder liability only
3651 to the extent provided by the organic law of the entity and only for those debts, obligations, and
3652 other liabilities that arise after the conversion becomes effective.

3653 (4) When a conversion becomes effective, the interest holder liability of a person that
3654 ceases to hold an interest in a domestic partnership with respect to which the person had

3655 interest holder liability is as follows:

3656 (a) The conversion does not discharge any interest holder liability to the extent the
3657 interest holder liability arose before the conversion became effective.

3658 (b) The person does not have interest holder liability for any debt, obligation, or other
3659 liability that arises after the conversion becomes effective.

3660 (c) The person has whatever rights of contribution from any other person as are
3661 provided by law other than this chapter, this chapter, or the partnership agreement of the
3662 converting entity with respect to any interest holder liability preserved under Subsection (4)(a)
3663 as if the conversion had not occurred.

3664 (5) When a conversion becomes effective, a foreign entity that is the converted entity
3665 may be served with process in this state for the collection and enforcement of any of its debts,
3666 obligations, and other liabilities as provided in Section 16-17-301.

3667 (6) If the converting entity is a registered foreign entity, its registration to do business
3668 in this state is canceled when the conversion becomes effective.

3669 (7) A conversion does not require the entity to wind up its affairs and does not
3670 constitute or cause the dissolution of the entity.

3671 Section 104. Section **48-1d-1051** is enacted to read:

3672 **48-1d-1051. Domestication authorized.**

3673 (1) By complying with Sections 48-1d-1051 through 48-1d-1056, a domestic limited
3674 liability partnership may become a foreign limited liability partnership if the domestication is
3675 authorized by the law of the foreign jurisdiction.

3676 (2) By complying with the provisions of Sections 48-1d-1051 through 48-1d-1056
3677 applicable to foreign limited liability partnerships, a foreign limited liability partnership may
3678 become a domestic limited liability partnership if the domestication is authorized by the law of
3679 the foreign limited liability partnership's jurisdiction of formation.

3680 (3) If a protected agreement contains a provision that applies to a merger of a domestic
3681 limited liability partnership but does not refer to a domestication, the provision applies to a
3682 domestication of the limited liability partnership as if the domestication were a merger until the
3683 provision is amended after July 1, 2014.

3684 Section 105. Section **48-1d-1052** is enacted to read:

3685 **48-1d-1052. Plan of domestication.**

3686 (1) A domestic limited liability partnership may become a foreign limited liability
3687 partnership in a domestication by approving a plan of domestication. The plan must be in a
3688 record and contain:

3689 (a) the name of the domesticating limited liability partnership;

3690 (b) the name and jurisdiction of formation of the domesticated limited liability
3691 partnership;

3692 (c) the manner of converting the interests in the domesticating limited liability
3693 partnership into interests, securities, obligations, money, other property, rights to acquire
3694 interests or securities, or any combination of the foregoing;

3695 (d) the proposed statement of qualification of the domesticated limited liability
3696 partnership;

3697 (e) the full text of the partnership agreement of the domesticated limited liability
3698 partnership that are proposed to be in a record;

3699 (f) the other terms and conditions of the domestication; and

3700 (g) any other provision required by the law of this state or the partnership agreement of
3701 the domesticating limited liability partnership.

3702 (2) In addition to the requirements of Subsection (1), a plan of domestication may
3703 contain any other provision not prohibited by law.

3704 Section 106. Section **48-1d-1053** is enacted to read:

3705 **48-1d-1053. Approval of domestication.**

3706 (1) A plan of domestication of a domestic domesticating limited liability partnership is
3707 not effective unless it has been approved:

3708 (a) by all the partners entitled to vote on or consent to any matter; and

3709 (b) in a record, by each partner that will have interest holder liability for debts,
3710 obligations, and other liabilities that arise after the domestication becomes effective, unless:

3711 (i) the partnership agreement of the entity provides in a record for the approval of a
3712 domestication or merger in which some or all of its partners become subject to interest holder
3713 liability by the vote or consent of fewer than all the partners; and

3714 (ii) the partner voted for or consented in a record to that provision of the partnership
3715 agreement or became a partner after the adoption of that provision.

3716 (2) A domestication of a foreign domesticating limited liability partnership is not

3717 effective unless it is approved in accordance with the law of the foreign limited liability
3718 partnership's jurisdiction of formation.

3719 Section 107. Section **48-1d-1054** is enacted to read:

3720 **48-1d-1054. Amendment or abandonment of plan of domestication.**

3721 (1) A plan of domestication of a domestic domesticating limited liability partnership
3722 may be amended:

3723 (a) in the same manner as the plan was approved, if the plan does not provide for the
3724 manner in which it may be amended; or

3725 (b) by the partners of the limited liability partnership in the manner provided in the
3726 plan, but a partner that was entitled to vote on or consent to approval of the domestication is
3727 entitled to vote on or consent to any amendment of the plan that will change:

3728 (i) the amount or kind of interests, securities, obligations, money, other property, rights
3729 to acquire interests or securities, or any combination of the foregoing, to be received by any of
3730 the partners of the domesticating limited liability partnership under the plan;

3731 (ii) the partnership agreement of the domesticated limited liability partnership that will
3732 be in effect immediately after the domestication becomes effective, except for changes that do
3733 not require approval of the partners of the domesticated limited liability partnership under its
3734 organic law or partnership agreement; or

3735 (iii) any other terms or conditions of the plan, if the change would adversely affect the
3736 partner in any material respect.

3737 (2) After a plan of domestication has been approved by a domestic domesticating
3738 limited liability partnership and before a statement of domestication becomes effective, the
3739 plan may be abandoned as provided in the plan. Unless prohibited by the plan, a domestic
3740 domesticating limited liability partnership may abandon the plan in the same manner as the
3741 plan was approved.

3742 (3) If a plan of domestication is abandoned after a statement of domestication has been
3743 delivered to the division for filing and before the statement of domestication becomes effective,
3744 a statement of abandonment, signed by the limited liability partnership, must be delivered to
3745 the division for filing before the time the statement of domestication becomes effective. The
3746 statement of abandonment takes effect on filing, and the domestication is abandoned and does
3747 not become effective. The statement of abandonment must contain:

- 3748 (a) the name of the domesticating limited liability partnership;
3749 (b) the date on which the statement of domestication was delivered to the division for
3750 filing; and
3751 (c) a statement that the domestication has been abandoned in accordance with this
3752 section.
- 3753 Section 108. Section **48-1d-1055** is enacted to read:
3754 **48-1d-1055. Statement of domestication.**
- 3755 (1) A statement of domestication must be signed by the domesticating limited liability
3756 partnership and delivered to the division for filing.
- 3757 (2) A statement of domestication must contain:
- 3758 (a) the name of the domesticating limited liability partnership and the name of the
3759 jurisdiction whose law governs the domesticating limited liability partnership's internal affairs;
3760 (b) the name of the domesticated limited liability partnership and the name of the
3761 jurisdiction whose law governs the domesticating limited liability partnership's internal affairs;
3762 (c) if the domesticating limited liability partnership is a domestic limited liability
3763 partnership, a statement that the plan of domestication was approved in accordance with
3764 Sections 48-1d-1051 through 48-1d-1056 or, if the domesticating limited liability partnership is
3765 a foreign limited liability partnership, a statement that the domestication was approved in
3766 accordance with the law of the jurisdiction whose law governs the internal affairs of the foreign
3767 limited liability partnership;
3768 (d) the statement of qualification of the domesticated limited liability partnership, as an
3769 attachment; and
- 3770 (e) if the domesticated foreign limited liability partnership is not a registered foreign
3771 limited liability partnership, a mailing address to which the division may send any process
3772 served on the division pursuant to Subsection 48-1d-1056(5).
- 3773 (3) In addition to the requirements of Subsection (2), a statement of domestication may
3774 contain any other provision not prohibited by law.
- 3775 (4) The statement of qualification of a domesticated domestic limited liability
3776 partnership must satisfy the requirements of the law of this state, but the statement does not
3777 need to be signed.
- 3778 (5) A plan of domestication that is signed by a domesticating domestic limited liability

3779 partnership and meets all the requirements of Subsection (2) may be delivered to the division
3780 for filing instead of a statement of domestication and on filing has the same effect. If a plan of
3781 domestication is filed as provided in this subsection, references in this part to a statement of
3782 domestication refer to the plan of domestication filed under this Subsection (5).

3783 Section 109. Section **48-1d-1056** is enacted to read:

3784 **48-1d-1056. Effect of domestication.**

3785 (1) When a domestication becomes effective:

3786 (a) the domesticated limited liability partnership is:

3787 (i) organized under and subject to the organic law of the domesticated limited liability
3788 partnership; and

3789 (ii) the same entity without interruption as the domesticating limited liability
3790 partnership;

3791 (b) all property of the domesticating limited liability partnership continues to be vested
3792 in the domesticated entity without transfer, reversion, or impairment;

3793 (c) all debts, obligations, and other liabilities of the domesticating limited liability
3794 partnership continue as debts, obligations, and other liabilities of the domesticated limited
3795 liability partnership;

3796 (d) except as otherwise provided by law or the plan of domestication, all the rights,
3797 privileges, immunities, powers, and purposes of the domesticating limited liability partnership
3798 remain in the domesticated limited liability partnership;

3799 (e) the name of the domesticated limited liability partnership may be substituted for the
3800 name of the domesticating limited liability partnership in any pending action or proceeding;

3801 (f) the statement of qualification of the domestic limited liability partnership is
3802 effective;

3803 (g) the provisions of the partnership agreement of the domesticated limited liability
3804 partnership that are to be in a record, if any, approved as part of the plan of domestication are
3805 effective; and

3806 (h) the interests in the domesticating limited liability partnership are converted to the
3807 extent and as approved in connection with the domestication, and the partners of the
3808 domesticating limited liability partnership are entitled only to the rights provided to them under
3809 the plan of domestication and to any appraisal rights they have under Section 48-1d-1008.

3810 (2) Except as otherwise provided in the organic law or partnership agreement of the
3811 domesticating limited liability partnership, the domestication does not give rise to any rights
3812 that a partner or third party would have upon a dissolution, liquidation, or winding up of the
3813 domesticating limited liability partnership.

3814 (3) When a domestication becomes effective, a person that did not have interest holder
3815 liability with respect to the domesticating limited liability partnership and becomes subject to
3816 interest holder liability with respect to a domestic limited liability partnership as a result of the
3817 domestication has interest holder liability only to the extent provided by the organic law of the
3818 domestic limited liability partnership and only for those debts, obligations, and other liabilities
3819 that arise after the domestication becomes effective.

3820 (4) When a domestication becomes effective:

3821 (a) The domestication does not discharge any interest holder liability under this part to
3822 the extent the interest holder liability arose before the domestication became effective.

3823 (b) A person does not have interest holder liability under this chapter for any debt,
3824 obligation, or other liability that arise after the domestication becomes effective.

3825 (c) A person has whatever rights of contribution from any other person as are provided
3826 by law other than this chapter, or this chapter, or the partnership agreement of a domestic
3827 domesticating limited liability partnership with respect to any interest holder liability preserved
3828 under Subsection (4)(a) as if the domestication had not occurred.

3829 (5) When a domestication becomes effective, a foreign limited liability partnership that
3830 is the domesticated limited liability partnership may be served with process in this state for the
3831 collection and enforcement of any of its debts, obligations, and other liabilities as provided in
3832 Section 16-17-301.

3833 (6) If the domesticating limited liability partnership is a registered foreign limited
3834 liability partnership, the registration of the foreign limited liability partnership is canceled
3835 when the domestication becomes effective.

3836 (7) A domestication does not require the limited liability partnership to wind up its
3837 business and does not constitute or cause the dissolution of the limited liability partnership.

3838 Section 110. Section **48-1d-1101** is enacted to read:

3839 **Part 11. Limited Liability Partnerships**

3840 **48-1d-1101. Statement of qualification.**

3841 (1) A partnership may become a limited liability partnership pursuant to this section.

3842 (2) The terms and conditions on which a partnership becomes a limited liability
3843 partnership must be approved by the vote or consent necessary to amend the partnership
3844 agreement except, in the case of a partnership agreement that expressly addresses obligations to
3845 contribute to the partnership, the vote or consent necessary to amend those provisions.

3846 (3) After the approval required by Subsection (2), a partnership may become a limited
3847 liability partnership by delivering to the division for filing a statement of qualification. The
3848 statement of qualification must contain:

3849 (a) the name of the limited liability partnership;

3850 (b) the street address of the limited liability partnership's principal office and, if
3851 different, the street address of an office in this state, if any;

3852 (c) the information required by Subsection 16-17-203(1); and

3853 (d) a statement that the partnership elects to become a limited liability partnership.

3854 (4) A partnership's status as a limited liability partnership remains effective, regardless
3855 of changes in the limited liability partnership, until it is canceled pursuant to Subsection (6) or
3856 administratively revoked pursuant to Section 48-1d-1102.

3857 (5) The status of a partnership as a limited liability partnership and the liability of its
3858 partners for the debts, obligations, or other liabilities of the partnership while it is a limited
3859 liability partnership is not affected by errors or later changes in the information required to be
3860 contained in the statement of qualification.

3861 (6) A limited liability partnership may amend or cancel its statement of qualification by
3862 delivering to the division for filing a statement of amendment or cancellation. The statement
3863 must be consented to by all partners and state the name of the limited liability partnership and
3864 in the case of:

3865 (a) an amendment, state the amendment; and

3866 (b) a cancellation, state that the statement of qualification is canceled.

3867 Section 111. Section **48-1d-1102** is enacted to read:

3868 **48-1d-1102. Administrative revocation of statement of qualification.**

3869 (1) The division may commence a proceeding under Subsections (2) and (3) to revoke
3870 the statement of qualification of a limited liability partnership administratively if the limited
3871 liability partnership does not:

3872 (a) pay any fee, tax, or penalty required to be paid to the division not later than 60 days
3873 after it is due;

3874 (b) deliver an annual report to the division not later than 60 days after it is due; or

3875 (c) have a registered agent in this state for 60 consecutive days.

3876 (2) If the division determines that one or more grounds exist for administratively
3877 revoking a statement of qualification, the division shall serve the limited liability partnership
3878 with notice in a record of the division's determination.

3879 (3) If a limited liability partnership, not later than 60 days after service of the notice is
3880 effected under Subsection (2), does not cure each ground for revocation or demonstrate to the
3881 satisfaction of the division that each ground determined by the division does not exist, the
3882 division shall administratively revoke the statement of qualification by signing a statement of
3883 administrative revocation that recites the grounds for revocation and the effective date of the
3884 revocation. The division shall file the statement and serve a copy on the limited liability
3885 partnership pursuant to Section 48-1d-116.

3886 (4) An administrative revocation under Subsection (3) affects only a partnership's
3887 status as a limited liability partnership and is not an event causing dissolution of the
3888 partnership.

3889 (5) The administrative revocation of a statement of qualification of a limited liability
3890 partnership does not terminate the authority of its registered agent.

3891 Section 112. Section **48-1d-1103** is enacted to read:

3892 **48-1d-1103. Reinstatement.**

3893 (1) A limited liability partnership whose statement of qualification has been revoked
3894 administratively under Section 48-1d-1102 may apply to the division for reinstatement of the
3895 statement of qualification not later than two years after the effective date of the revocation.

3896 The application must state:

3897 (a) the name of the partnership at the time of the administrative revocation of its
3898 statement of qualification and, if needed, a different name that satisfies Section 48-1d-1105;

3899 (b) the address of the principal office of the partnership and information required under
3900 Subsection 16-17-203(1);

3901 (c) the effective date of administrative revocation of the partnership's statement of
3902 qualification; and

3903 (d) that the grounds for revocation did not exist or have been cured.

3904 (2) To have its statement of qualification reinstated, a partnership whose statement of
3905 qualification has been revoked administratively must pay all fees, taxes, and penalties that were
3906 due to the division at the time of the administrative revocation and all fees, taxes, and penalties
3907 that would have been due to the division while the partnership's statement of qualification was
3908 revoked administratively.

3909 (3) If the division determines that the application contains the information required by
3910 Subsection (1), is satisfied that the information is correct, and determines that all payments
3911 required to be made to the division by Subsection (2) have been made, the division shall:

3912 (a) cancel the statement of revocation and prepare a statement of reinstatement that
3913 states the division's determination and the effective date of reinstatement;

3914 (b) file the statement of revocation; and

3915 (c) serve a copy of the statement of revocation on the limited liability partnership.

3916 (4) When reinstatement under this section is effective, the following rules apply:

3917 (a) the reinstatement relates back to and takes effect as of the effective date of the
3918 administrative revocation; and

3919 (b) the partnership's status as a limited liability partnership continues as if the
3920 revocation had not occurred, except for the rights of a person arising out of an act or omission
3921 in reliance on the revocation before the person knew or had notice of the reinstatement are not
3922 affected.

3923 Section 113. Section **48-1d-1104** is enacted to read:

3924 **48-1d-1104. Judicial review of denial of reinstatement.**

3925 (1) If the division denies a limited liability partnership's application for reinstatement
3926 following administrative revocation of the limited liability partnership's statement of
3927 qualification, the division shall serve the limited liability company partnership with notice in a
3928 record that explains the reasons for the denial.

3929 (2) A limited liability partnership may seek judicial review of denial of reinstatement
3930 in the district court not later than 30 days after service of the notice of denial.

3931 Section 114. Section **48-1d-1105** is enacted to read:

3932 **48-1d-1105. Permitted names.**

3933 (1) The name of a partnership that is not a limited liability partnership may not contain

3934 the phrase "Registered Limited Liability Partnership" or "Limited Liability Partnership" or the
3935 abbreviation "R.L.L.P.", "L.L.P.", "RLLP", or "LLP".

3936 (2) The name of a limited liability partnership must contain the words "Registered
3937 Limited Liability Partnership", "Limited Liability Partnership", "R.L.L.P.", "L.L.P.", "RLLP",
3938 or "LLP".

3939 (3) Except as otherwise provided in Subsection (6), the name of a limited liability
3940 partnership and the name under which a foreign limited liability partnership may register to do
3941 business in this state must be distinguishable on the records of the division from any:

3942 (a) name of an existing person whose formation required the filing of a record by the
3943 division;

3944 (b) name of a limited liability partnership;

3945 (c) name of a person that is registered to do business in this state by the filing of a
3946 record by the division;

3947 (d) name reserved under Section 48-1d-1106 or other law of this state providing for the
3948 reservation of a name by the filing of a record by the division;

3949 (e) name registered under Section 48-1d-1107 or other law of this state providing for
3950 the registration of a name by the filing of a record by the division; or

3951 (f) assumed name registered under Title 42, Chapter 2, Conducting Business Under
3952 Assumed Name.

3953 (4) If a person consents in a record to the use of its name and submits an undertaking in
3954 a form satisfactory to the division to change its name to a name that is distinguishable on the
3955 records of the division from any name in any category of names in Subsection (3), the name of
3956 the consenting person may be used by the person to which the consent was given.

3957 (5) Except as otherwise provided in Subsection (6), in determining whether a name is
3958 the same as or not distinguishable on the records of the division from the name of another
3959 entity, words, phrases, or abbreviations indicating the type of entity, such as "corporation",
3960 "corp.", "incorporated", "Inc.", "professional corporation", "PC", "P.C.", "professional
3961 association", "PA", "P.A.", "limited", "Ltd.", "limited partnership", "LP", "L.P.", "limited
3962 liability partnership", "LLP", "L.L.P.", "registered limited liability partnership", "RLLP",
3963 "R.L.L.P.", "limited liability limited partnership", "LLLLP", "L.L.L.P.", "registered limited
3964 liability limited partnership", "RLLLLP", "R.L.L.L.P.", "limited liability company", or "LLC",

3965 "L.L.C.", "professional limited liability company", "PLLC", or "P.L.L.C.", may not be taken
3966 into account.

3967 (6) A person may consent in a record to the use of a name that is not distinguishable on
3968 the records of the division from its name except for the addition of a word, phrase, or
3969 abbreviation indicating the type of person as provided in Subsection (5). In such a case, the
3970 person need not change its name pursuant to Subsection (4).

3971 (7) The division may not approve for filing a name that implies that a limited liability
3972 partnership is an agency of this state or any of its political subdivisions, if it is not actually such
3973 a legally established agency or subdivision.

3974 (8) The authorization to file a certificate under or to reserve or register a limited
3975 liability partnership name as granted by the division does not:

3976 (a) abrogate or limit the law governing unfair competition or unfair trade practices;

3977 (b) derogate from the common law, the principles of equity, or the statutes of this state
3978 or of the United States with respect to the right to acquire and protect names and trademarks; or

3979 (c) create an exclusive right in geographic or generic terms contained within a name.

3980 (9) The name of a limited liability partnership or foreign limited liability partnership
3981 may not contain:

3982 (a) the words:

3983 (i) "association";

3984 (ii) "corporation";

3985 (iii) "incorporated";

3986 (iv) "limited liability company";

3987 (v) "limited company";

3988 (vi) "limited partnership"; or

3989 (vii) "Ltd.";

3990 (b) any word or abbreviation that is of like import to the words listed in Subsection

3991 (9)(a);

3992 (c) without the written consent of the United States Olympic Committee, the words:

3993 (i) "Olympic";

3994 (ii) "Olympiad"; or

3995 (iii) "Citius Altius Fortius"; and

3996 (d) without the written consent of the Division of Consumer Protection issued in
3997 accordance with Section 13-34-114 the words:

3998 (i) "university";

3999 (ii) "college"; or

4000 (iii) "institute" or "institution."

4001 Section 115. Section **48-1d-1106** is enacted to read:

4002 **48-1d-1106. Reservation of name.**

4003 (1) A person may reserve the exclusive use of a name that complies with Section
4004 48-1d-1105 by delivering an application to the division for filing. The application must state
4005 the name and address of the applicant and the name to be reserved. If the division finds that
4006 the name is available, the division shall reserve the name for the applicant's exclusive use for a
4007 period of 120 days.

4008 (2) The owner of a reserved name may transfer the reservation to another person by
4009 delivering to the division a signed notice in a record of the transfer, which states the name and
4010 address of the transferee.

4011 Section 116. Section **48-1d-1107** is enacted to read:

4012 **48-1d-1107. Registration of name.**

4013 (1) A foreign limited liability partnership not registered to do business in this state
4014 under Part 12, Foreign Limited Liability Partnerships, may register its name, or an alternate
4015 name adopted pursuant to Section 48-1d-1206, if the name is distinguishable on the records of
4016 the division from the names that are not available under Section 48-1d-1105.

4017 (2) To register its name or an alternate name adopted pursuant to Section 48-1d-1206, a
4018 foreign limited liability partnership must deliver to the division for filing an application stating
4019 the foreign limited liability partnership's name, the jurisdiction and date of its formation, and
4020 any alternate name adopted pursuant to Section 48-1d-1206. If the division finds that the name
4021 applied for is available, the division shall register the name for the applicant's exclusive use.

4022 (3) The registration of a name under this section is effective for one year after the date
4023 of registration.

4024 (4) A foreign limited liability partnership whose name registration is effective may
4025 renew the registration for successive one-year periods by delivering, not earlier than three
4026 months before the expiration of the registration, to the division for filing a renewal application

4027 that complies with this section. When filed, the renewal application renews the registration for
4028 a succeeding one-year period.

4029 (5) A foreign limited liability partnership whose name registration is effective may
4030 register as a foreign limited liability company under the registered name or consent in a signed
4031 record to the use of that name by another person that is not an individual.

4032 Section 117. Section **48-1d-1108** is enacted to read:

4033 **48-1d-1108. Registered agent.**

4034 (1) Each limited liability partnership and each registered foreign limited liability
4035 partnership shall designate in accordance with Subsection 16-17-203(1) and maintain a
4036 registered agent in this state.

4037 (2) A limited liability partnership or registered foreign limited liability partnership may
4038 change its registered agent or the address of its registered agent by filing with the division a
4039 statement of change in accordance with Section 16-17-206.

4040 Section 118. Section **48-1d-1109** is enacted to read:

4041 **48-1d-1109. Annual report for division.**

4042 (1) Each limited liability partnership and registered foreign limited liability partnership
4043 shall deliver to the division for filing an annual report that states:

4044 (a) the name of the limited liability partnership or foreign limited liability partnership;

4045 (b) the information required under Subsection 16-17-203(1);

4046 (c) the street and mailing addresses of its principal office;

4047 (d) the name of at least one partner; and

4048 (e) in the case of a foreign limited liability partnership, its jurisdiction of formation and
4049 any alternate name adopted under Subsection 48-1d-1206(1).

4050 (2) Information in an annual report must be current as of the date the report is signed
4051 by the limited liability partnership or registered foreign limited liability partnership.

4052 (3) A report must be delivered to the division for each year following the calendar year
4053 in which the limited liability partnership's statement of qualification became effective or the
4054 registered foreign limited liability partnership registered to do business in this state:

4055 (a) in the case of a limited liability partnership, the annual report must be delivered to
4056 the division during the month in which is the anniversary date on which the limited liability
4057 partnership statement of qualification became effective; and

4058 (b) in the case of a registered foreign limited liability partnership, the annual report
4059 must be delivered to the division during the month in which is the anniversary date on which
4060 the registered foreign limited liability partnership registered to do business in this state.

4061 (4) If an annual report does not contain the information required by this section, the
4062 division promptly shall notify the reporting limited liability partnership or registered foreign
4063 limited liability partnership in a record and return the report for correction.

4064 (5) If an annual report contains the name or address of a registered agent which differs
4065 from the information shown in the records of the division immediately before the annual report
4066 becomes effective, the differing information in the annual report is considered a statement of
4067 change under Section 16-17-206.

4068 Section 119. Section **48-1d-1201** is enacted to read:

4069 **Part 12. Foreign Limited Liability Partnerships**

4070 **48-1d-1201. Governing law.**

4071 (1) The law of the jurisdiction in which the statement of qualification or equivalent
4072 filing of a foreign limited liability partnership is filed governs:

4073 (a) the internal affairs of the foreign limited liability partnership; and

4074 (b) the liability of a partner as partner for a debt, obligation, or other liability of the
4075 foreign limited liability partnership.

4076 (2) A foreign limited liability partnership is not precluded from registering to do
4077 business in this state because of any difference between the law of this state and the jurisdiction
4078 under which the foreign limited liability partnership's statement of qualification or equivalent
4079 filing is filed.

4080 (3) Registration of a foreign limited liability partnership to do business in this state
4081 does not authorize the foreign limited liability partnership to engage in any business or exercise
4082 any power that a domestic limited liability partnership may not engage in or exercise in this
4083 state as a limited liability partnership.

4084 (4) (a) The division may permit a tribal limited liability partnership to apply for
4085 authority to transact business in the state in the same manner as a foreign limited liability
4086 partnership formed in another state.

4087 (b) If a tribal limited liability partnership elects to apply for authority to transact
4088 business in the state, for purposes of this chapter, the tribal limited liability partnership shall be

4089 treated in the same manner as a foreign limited liability partnership formed under the laws of
4090 another state.

4091 Section 120. Section **48-1d-1202** is enacted to read:

4092 **48-1d-1202. Registration to do business in this state.**

4093 (1) A foreign limited liability partnership may not do business in this state until it
4094 registers with the division under this part.

4095 (2) A foreign limited liability partnership doing business in this state may not maintain
4096 an action or proceeding in this state unless it has registered to do business in this state.

4097 (3) The failure of a foreign limited liability partnership to register to do business in this
4098 state does not impair the validity of a contract or act of the foreign limited liability partnership
4099 or preclude it from defending an action or proceeding in this state.

4100 (4) A limitation on the liability of a partner of a foreign limited liability partnership is
4101 not waived solely because the foreign limited liability partnership does business in this state
4102 without registering to do business in this state.

4103 (5) Subsections 48-1d-1201(1) and (2) apply even if a foreign limited liability
4104 partnership fails to register under this part.

4105 Section 121. Section **48-1d-1203** is enacted to read:

4106 **48-1d-1203. Foreign registration statement.**

4107 To register to do business in this state, a foreign limited liability partnership must
4108 deliver a foreign registration statement to the division for filing. The statement must state:

4109 (1) the name of the foreign limited liability partnership and, if the name does not
4110 comply with Section 48-1d-1105, an alternate name adopted pursuant to Subsection
4111 48-1d-1206(1);

4112 (2) that the limited liability partnership is a foreign limited liability partnership;

4113 (3) the jurisdiction in which the foreign limited liability partnership's statement of
4114 qualification or equivalent filing is filed;

4115 (4) the street and mailing addresses of the foreign limited liability partnership's
4116 principal office and, if the law of the jurisdiction in which the foreign limited liability
4117 partnership's statement of qualification or equivalent filing is filed requires the foreign limited
4118 liability partnership to maintain an office in that jurisdiction, the street and mailing addresses
4119 of the required office; and

4120 (5) the information required by Subsection 16-17-203(1).

4121 Section 122. Section **48-1d-1204** is enacted to read:

4122 **48-1d-1204. Amendment of foreign registration statement.**

4123 A registered foreign limited liability partnership shall deliver to the division for filing

4124 an amendment to its foreign registration statement if there is a change in:

4125 (1) the name of the foreign limited liability partnership;

4126 (2) the jurisdiction in which the foreign limited liability partnership's statement of
4127 qualification or equivalent filing is filed;

4128 (3) an address required by Subsection 48-1d-1203(4); or

4129 (4) the information required by Subsection 48-1d-1203(5).

4130 Section 123. Section **48-1d-1205** is enacted to read:

4131 **48-1d-1205. Activities not constituting doing business.**

4132 (1) Activities of a foreign limited liability partnership which do not constitute doing
4133 business in this state under this part include:

4134 (a) maintaining, defending, mediating, arbitrating, and settling an action or proceeding;

4135 (b) carrying on any activity concerning its internal affairs, including meetings of its
4136 partners;

4137 (c) maintaining accounts in financial institutions;

4138 (d) maintaining offices or agencies for the transfer, exchange, and registration of

4139 securities of the foreign limited liability partnership or maintaining trustees or depositories with
4140 respect to those securities;

4141 (e) selling through independent contractors;

4142 (f) soliciting or obtaining orders by any means if the orders require acceptance outside
4143 this state before they become contracts;

4144 (g) creating or acquiring indebtedness, mortgages, or security interests in property;

4145 (h) securing or collecting debts or enforcing mortgages or security interests in property
4146 securing the debts, and holding, protecting, or maintaining property;

4147 (i) conducting an isolated transaction that is not in the course of similar transactions;

4148 (j) owning, without more, property; and

4149 (k) doing business in interstate commerce.

4150 (2) A person does not do business in this state solely by being a partner of a foreign

4151 limited liability partnership that does business in this state.

4152 (3) This section does not apply in determining the contacts or activities that may
4153 subject a foreign limited liability partnership to service of process, taxation, or regulation under
4154 law of this state other than this chapter.

4155 Section 124. Section **48-1d-1206** is enacted to read:

4156 **48-1d-1206. Noncomplying name of foreign limited liability partnership.**

4157 (1) A foreign limited liability partnership whose name does not comply with Section
4158 48-1d-1105 may not register to do business in this state until it adopts, for the purpose of doing
4159 business in this state, an alternate name that complies with Section 48-1d-1105. A registered
4160 foreign limited liability partnership that registers under an alternate name under this subsection
4161 need not comply with Title 42, Chapter 2, Conducting Business Under Assumed Name. After
4162 registering to do business in this state with an alternate name, a registered foreign partnership
4163 shall do business in this state under:

4164 (a) the alternate name;

4165 (b) the foreign limited liability partnership's name, with the addition of its jurisdiction
4166 in which the foreign limited liability partnership's statement of qualification or equivalent filing
4167 is filed; or

4168 (c) an assumed or fictitious name the foreign limited liability partnership is authorized
4169 to use under Title 42, Chapter 2, Conducting Business Under Assumed Name.

4170 (2) If a registered foreign limited liability partnership changes its name to one that does
4171 not comply with Section 48-1d-1105, it may not do business in this state until it complies with
4172 Subsection (1) by amending its registration to adopt an alternate name that complies with
4173 Section 48-1d-1105.

4174 Section 125. Section **48-1d-1207** is enacted to read:

4175 **48-1d-1207. Withdrawal deemed on conversion to domestic filing entity or**
4176 **domestic limited liability partnership.**

4177 A registered foreign limited liability partnership that converts to a domestic limited
4178 liability partnership or to a domestic entity that is organized, incorporated, or otherwise formed
4179 through the delivery of a record to the division for filing is deemed to have withdrawn its
4180 registration on the effective date of the conversion.

4181 Section 126. Section **48-1d-1208** is enacted to read:

4182 **48-1d-1208. Withdrawal on dissolution or conversion to nonfiling entity other**
4183 **than limited liability partnership.**

4184 (1) A registered foreign limited liability partnership that has dissolved and completed
4185 winding up or has converted to a domestic or foreign entity that is not organized, incorporated,
4186 or otherwise formed through the public filing of a record, other than a limited liability
4187 partnership, shall deliver a statement of withdrawal to the division for filing. The statement
4188 must state:

4189 (a) in the case of a foreign limited liability partnership that has completed winding up:

4190 (i) its name and the jurisdiction in which the foreign limited liability partnership's
4191 statement of qualification is filed; and

4192 (ii) that the foreign limited liability partnership surrenders its registration to do
4193 business in this state; and

4194 (b) in the case of a foreign limited liability partnership that has converted:

4195 (i) the name of the converting foreign limited liability partnership and the jurisdiction
4196 in which its statement of qualification is filed;

4197 (ii) the type of entity to which the foreign limited liability partnership has converted
4198 and its jurisdiction of formation;

4199 (iii) that the converted entity surrenders the converting foreign limited liability
4200 partnership's registration to do business and revokes the authority of the converting foreign
4201 limited liability partnership's registered agent to act as registered agent in this state on behalf of
4202 the foreign limited liability partnership or the converted entity; and

4203 (iv) a mailing address to which service of process may be made under Subsection (2).

4204 (2) After a withdrawal under this section of a foreign limited liability partnership that
4205 has converted to another type of entity is effective, service of process in any action or
4206 proceeding based on a cause of action arising during the time the foreign limited liability
4207 partnership was registered to do business in this state may be made pursuant to Subsection
4208 16-17-301(2).

4209 Section 127. Section **48-1d-1209** is enacted to read:

4210 **48-1d-1209. Transfer of registration.**

4211 (1) When a registered foreign limited liability partnership has merged into a foreign
4212 entity that is not registered to do business in this state or has converted to a foreign entity

4213 required to register with the division to do business in this state, the foreign entity shall deliver
4214 to the division for filing an application for transfer of registration. The application must state:

4215 (a) the name of the registered foreign limited liability partnership before the merger or
4216 conversion;

4217 (b) that before the merger or conversion the registration pertained to a foreign limited
4218 liability partnership;

4219 (c) the name of the applicant foreign entity into which the foreign limited liability
4220 partnership has merged or to which it has been converted, and, if the name does not comply
4221 with Section 48-1d-1105, an alternate name adopted pursuant to Subsection 48-1d-1206(1) or
4222 similar provision of law of this state governing a foreign entity registered to do business in this
4223 state of the same type as the applicable foreign entity;

4224 (d) the type of entity of the applicant foreign entity and its jurisdiction of formation;

4225 (e) the street and mailing addresses of the principal office of the applicant foreign
4226 entity and, if the law of that entity's jurisdiction of formation requires the entity to maintain an
4227 office in that jurisdiction, the street and mailing addresses of that office; and

4228 (f) the information required under Subsection 16-17-203(1).

4229 (2) When an application for transfer of registration takes effect, the registration of the
4230 foreign limited liability partnership to do business in this state is transferred without
4231 interruption to the foreign entity into which the foreign limited liability partnership has merged
4232 or to which it has been converted.

4233 Section 128. Section **48-1d-1210** is enacted to read:

4234 **48-1d-1210. Termination of registration.**

4235 (1) The division may terminate the registration of a registered foreign limited liability
4236 partnership in the manner provided in Subsections (2) and (3) if the foreign limited liability
4237 partnership does not:

4238 (a) pay, not later than 60 days after the due date, any fee, tax, interest, or penalty
4239 required to be paid to the division under this chapter or law other than this chapter;

4240 (b) deliver to the division for filing, not later than 60 days after the due date, the annual
4241 report required under Section 48-1d-1109;

4242 (c) have a registered agent as required by Section 48-1d-1108; or

4243 (d) deliver to the division for filing a statement of a change under Section 16-17-206

4244 not later than 30 days after a change has occurred in the name or address of the registered
4245 agent.

4246 (2) The division may terminate the registration of a registered foreign limited liability
4247 partnership by:

4248 (a) filing a notice of termination or noting the termination in the records of the
4249 division; and

4250 (b) delivering a copy of the notice or the information in the notation to the foreign
4251 limited liability partnership's registered agent, or if the foreign limited liability partnership does
4252 not have a registered agent, to the foreign limited liability partnership's principal office.

4253 (3) A notice or information in a notation under Subsection (2) must include:

4254 (a) the effective date of the termination, which must be at least 60 days after the date
4255 the division delivers the copy; and

4256 (b) the grounds for termination under Subsection (1).

4257 (4) The authority of a registered foreign limited liability partnership to do business in
4258 this state ceases on the effective date of the notice of termination or notation under Subsection
4259 (2), unless before that date the foreign limited liability partnership cures each ground for
4260 termination stated in the notice or notation. If the foreign limited liability partnership cures
4261 each ground, the division shall file a record so stating.

4262 Section 129. Section **48-1d-1211** is enacted to read:

4263 **48-1d-1211. Withdrawal of registration of registered foreign limited liability**
4264 **partnership.**

4265 (1) A registered foreign limited liability partnership may withdraw its registration by
4266 delivering a statement of withdrawal to the division for filing. The statement of withdrawal
4267 must state:

4268 (a) the name of the foreign limited liability partnership and the jurisdiction in which
4269 the foreign limited liability partnership's statement of qualification or equivalent filing is filed;

4270 (b) that the foreign limited liability partnership is not doing business in this state and
4271 that it withdraws its registration to do business in this state;

4272 (c) that the foreign limited liability partnership revokes the authority of its registered
4273 agent to accept service on its behalf in this state; and

4274 (d) an address to which service of process may be made under Subsection (2).

4275 (2) After the withdrawal of the registration of a foreign limited liability partnership,
4276 service of process in any action or proceeding based on a cause of action arising during the
4277 time the foreign limited liability partnership was registered to do business in this state may be
4278 made pursuant to Subsection 16-17-301(2).

4279 Section 130. Section **48-1d-1212** is enacted to read:

4280 **48-1d-1212. Action by attorney general.**

4281 The attorney general may maintain an action to enjoin a foreign limited liability
4282 partnership from doing business in this state in violation of this part.

4283 Section 131. Section **48-1d-1301** is enacted to read:

4284 **Part 13. Professional Services Limited Liability Partnerships**

4285 **48-1d-1301. Definitions.**

4286 As used in this part:

4287 (1) "Professional services partnership" means a limited liability partnership organized
4288 in accordance with this part to provide professional services.

4289 (2) "Regulating board" means the entity organized pursuant to state law that licenses
4290 and regulates the practice of the profession that a limited liability partnership is organized to
4291 provide.

4292 Section 132. Section **48-1d-1302** is enacted to read:

4293 **48-1d-1302. Application of this part.**

4294 If a conflict arises between this part and another provision of this chapter, this part
4295 controls.

4296 Section 133. Section **48-1d-1303** is enacted to read:

4297 **48-1d-1303. Name limitations.**

4298 (1) The name of a domestic professional services partnership and of a foreign
4299 professional services partnership authorized to transact business in this state, in addition to
4300 complying with Sections 48-1d-1105 and 48-1d-1206:

4301 (a) may not contain language stating or implying that it is formed for a purpose other
4302 than that authorized by Section 48-1d-1304; and

4303 (b) must conform with any rule made by the regulating board having jurisdiction over a
4304 professional service to be rendered by the professional service partnership.

4305 (2) Sections 48-1d-1105 and 48-1d-1206 do not prevent the use of a name otherwise

4306 prohibited by those sections if the name is:

4307 (a) the personal name of an individual partner or individual former partner of the
4308 professional services partnership; or

4309 (b) the name of an individual who was associated with a predecessor of the
4310 professional services partnership.

4311 Section 134. Section **48-1d-1304** is enacted to read:

4312 **48-1d-1304. Providing a professional service.**

4313 (1) Subject to Section 48-1d-1305, a professional services partnership may provide a
4314 professional service in this state only through an individual licensed or otherwise authorized in
4315 this state to provide the professional service.

4316 (2) Subsection (1) does not:

4317 (a) require an individual employed by a professional services partnership to be licensed
4318 to perform a service for the professional services company if a license is not otherwise
4319 required;

4320 (b) prohibit a licensed individual from providing a professional service in the
4321 individual's professional capacity although the individual is a partner, employee, or agent of a
4322 professional services partnership; or

4323 (c) prohibit an individual licensed in another state from providing a professional
4324 service for a professional services partnership in this state if not prohibited by the regulating
4325 board.

4326 Section 135. Section **48-1d-1305** is enacted to read:

4327 **48-1d-1305. Limit of one profession.**

4328 (1) A professional services partnership organized to provide a professional service
4329 under this part may provide only:

4330 (a) one specific type of professional service; and

4331 (b) services ancillary to the professional service described in Subsection (1)(a).

4332 (2) A professional services partnership organized to provide a professional service
4333 under this part may not engage in a business other than to provide:

4334 (a) the professional service that it was organized to provide; and

4335 (b) services ancillary to the professional service described in Subsection (2)(a).

4336 (3) Notwithstanding Subsections (1) and (2), a professional services partnership may:

4337 (a) own real and personal property necessary or appropriate for providing the type of
4338 professional service it was organized to provide; and

4339 (b) invest the professional services partnership's money in one or more of the
4340 following:

4341 (i) real estate;

4342 (ii) mortgages;

4343 (iii) stocks;

4344 (vi) bonds; or

4345 (v) another type of investment.

4346 Section 136. Section **48-1d-1306** is enacted to read:

4347 **48-1d-1306. Activity limitations.**

4348 A professional services partnership may not do anything that an individual licensed to
4349 practice the profession that the professional services partnership is organized to provide is
4350 prohibited from doing.

4351 Section 137. Section **48-1d-1307** is enacted to read:

4352 **48-1d-1307. This part does not limit regulating board.**

4353 This part does not restrict the authority or duty of a regulating board to license an
4354 individual providing a professional service or the practice of the profession that is within the
4355 jurisdiction of the regulating board, notwithstanding that the individual:

4356 (1) is a partner or employee of a professional services partnership; or

4357 (2) provides the professional service or engages in the practice of the profession
4358 through a professional services partnership.

4359 Section 138. Section **48-1d-1308** is enacted to read:

4360 **48-1d-1308. Partner of a professional services partnership.**

4361 A professional services partnership organized to provide a professional service:

4362 (1) may include a partner or employee who is authorized under the laws of the
4363 jurisdiction where the partner or employee resides to provide a similar professional service;

4364 (2) may include a partner who is not licensed or registered by the state to provide the
4365 professional service to the extent allowed by the applicable licensing or registration act relating
4366 to the professional service; and

4367 (3) may render a professional service in this state only through a partner or employee

4368 who is licensed or registered by this state to render the professional service.

4369 Section 139. Section **48-1d-1309** is enacted to read:

4370 **48-1d-1309. Restriction on transfer by partner.**

4371 (1) Except as provided in Subsections (2) and (3), a partner of a professional services
4372 partnership may sell or transfer the partner's interest in the professional services partnership
4373 only to:

4374 (a) the professional services partnership; or

4375 (b) an individual who is licensed or registered by this state to provide the same type of
4376 professional service as the professional service for which the professional services partnership
4377 is organized, or who otherwise satisfies the requirements of Subsection 48-1d-1308(1) or (2).

4378 (2) Upon the death or incapacity of a partner of a professional services partnership, the
4379 partner's interest in the professional services partnership may be transferred to the personal
4380 representative or estate of the deceased or incapacitated partner.

4381 (3) The person to whom an interest is transferred under Subsection (2) may continue to
4382 hold the interest for a reasonable period, but may not participate in a decision concerning the
4383 providing of a professional service.

4384 Section 140. Section **48-1d-1310** is enacted to read:

4385 **48-1d-1310. Purchase of interest upon death, incapacity, or disqualification of**
4386 **member.**

4387 (1) Subject to this part, one or more of the following may provide for the purchase of a
4388 partner's interest in a professional services partnership upon the death, incapacity, or
4389 disqualification of the partner:

4390 (a) the partnership agreement; or

4391 (b) a private agreement.

4392 (2) In the absence of a provision described in Subsection (1), a professional services
4393 partnership shall purchase the interest of a partner who is deceased, incapacitated, or no longer
4394 qualified to own an interest in the professional services partnership within 90 days after the day
4395 on which the professional services partnership is notified of the death, incapacity, or
4396 disqualification.

4397 (3) If a professional services partnership purchases a partner's interest under Subsection
4398 (2), the professional services company shall purchase the interest at a price that is the

4399 reasonable fair market value as of the date of death, incapacity, or disqualification.

4400 (4) If a professional services partnership fails to purchase a partner's interest as
4401 required by Subsection (2) at the end of the 90-day period described in Subsection (2), one of
4402 the following may bring an action in the district court of the county in which the principal
4403 office or place of practice of the professional services partnership is located to enforce
4404 Subsection (2):

4405 (a) the personal representative of a deceased partner;

4406 (b) the guardian or conservator of an incapacitated partner; or

4407 (c) the disqualified partner.

4408 (5) A court in which an action is brought under Subsection (4) may:

4409 (a) award the person bringing the action the reasonable fair market value of the
4410 interest; or

4411 (b) within its jurisdiction, order the liquidation of the professional services partnership.

4412 (6) If a person described in Subsections (4)(a) through (c) is successful in an action
4413 under Subsection (4), the court shall award the person reasonable attorney's fees and costs.

4414 Section 141. Section **48-1d-1401** is enacted to read:

4415 **Part 14. Miscellaneous Provisions**

4416 **48-1d-1401. Uniformity of application and construction.**

4417 In applying and construing this chapter, consideration must be given to the need to
4418 promote uniformity of the law with respect to its subject matter among states that enact the
4419 uniform act upon which this chapter is based.

4420 Section 142. Section **48-1d-1402** is enacted to read:

4421 **48-1d-1402. Severability clause.**

4422 If any provision of this chapter or its application to any person or circumstance is held
4423 invalid, the invalidity does not affect other provisions or applications of this chapter which can
4424 be given effect without the invalid provision or application, and to this end the provisions of
4425 this chapter are severable.

4426 Section 143. Section **48-1d-1403** is enacted to read:

4427 **48-1d-1403. Relation to Electronic Signatures in Global and National Commerce**
4428 **Act.**

4429 This chapter modifies, limits, and supersedes the Electronic Signatures in Global and

4430 National Commerce Act, 15 U.S.C. Sec. 7001 et seq., but this chapter does not modify, limit,
4431 or supersede Sec. 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of
4432 any of the notices described in Sec. 103(b) of that act, 15 U.S.C. Sec. 7003(b).

4433 Section 144. Section **48-1d-1404** is enacted to read:

4434 **48-1d-1404. Savings clause.**

4435 This chapter does not affect an action commenced, proceeding brought, or right accrued
4436 before this chapter takes effect.

4437 Section 145. Section **48-1d-1405** is enacted to read:

4438 **48-1d-1405. Application to existing relationships.**

4439 (1) Before January 1, 2016, this chapter governs only:

4440 (a) a partnership formed on or after July 1, 2014; and

4441 (b) except as otherwise provided in Subsection (3), a partnership formed before July 1,
4442 2014, which elects, in the manner provided in its partnership agreement or by law for amending
4443 the partnership agreement, to be subject to this chapter.

4444 (2) Except as otherwise provided in Subsection (3), on and after January 1, 2016, this
4445 chapter governs all partnerships.

4446 (3) With respect to a partnership that elects pursuant to Subsection (1)(b) to be subject
4447 to this chapter, after the election takes effect the provisions of this chapter relating to the
4448 liability of the partnership's partners to third parties apply:

4449 (a) before January 1, 2016, to:

4450 (i) a third party that had not done business with the partnership in the year before the
4451 election took effect; and

4452 (ii) a third party that had done business with the partnership in the year before the
4453 election took effect only if the third party knows or has received a notification of the election;

4454 and

4455 (b) on and after January 1, 2016, to all third parties, but those provisions remain
4456 inapplicable to any obligation incurred while those provisions were inapplicable under
4457 Subsection (3)(a)(ii).

4458 Section 146. Section **48-2a-100** is enacted to read:

4459 **48-2a-100. Scope of chapter.**

4460 Until this chapter is repealed January 1, 2016, this chapter applies only to a limited

4461 partnership formed on or before June 30, 2014, that has not elected to be governed by Chapter
4462 2e, Utah Uniform Limited Partnership Act, as provided in Section 48-2e-1205.

4463 Section 147. Section **48-2c-100** is enacted to read:

4464 **48-2c-100. Scope of chapter.**

4465 Until this chapter is repealed January 1, 2016, this chapter applies only to a limited
4466 liability company formed on or before June 30, 2014, that has not elected to be governed by
4467 Chapter 3a, Utah Revised Uniform Limited Liability Company Act, as provided in Section
4468 48-3a-1405.

4469 Section 148. Section **48-2e-101** is enacted to read:

4470 **CHAPTER 2e. UTAH UNIFORM LIMITED PARTNERSHIP ACT**

4471 **Part 1. General Provisions**

4472 **48-2e-101. Title.**

4473 This chapter is known as the "Utah Uniform Limited Partnership Act."

4474 Section 149. Section **48-2e-102** is enacted to read:

4475 **48-2e-102. Definitions.**

4476 As used in this chapter:

4477 (1) "Certificate of limited partnership" means the certificate required by Section
4478 48-2e-201. The term includes the certificate as amended or restated.

4479 (2) "Contribution," except in the phrase "right of contribution," means property or a
4480 benefit described in Section 48-2e-501 which is provided by a person to a limited partnership
4481 to become a partner or in the person's capacity as a partner.

4482 (3) "Debtor in bankruptcy" means a person that is the subject of:

4483 (a) an order for relief under Title 11 of the United States Code or a comparable order
4484 under a successor statute of general application; or

4485 (b) a comparable order under federal, state, or foreign law governing insolvency.

4486 (4) "Distribution" means a transfer of money or other property from a limited
4487 partnership to a person on account of a transferable interest or in the person's capacity as a
4488 partner. The term:

4489 (a) includes:

4490 (i) a redemption or other purchase by a limited partnership of a transferable interest;

4491 and

4492 (ii) a transfer to a partner in return for the partner's relinquishment of any right to
4493 participate as a partner in the management or conduct of the limited partnership's activities and
4494 affairs or to have access to records or other information concerning the limited partnership's
4495 activities and affairs; and

4496 (b) does not include amounts constituting reasonable compensation for present or past
4497 service or payments made in the ordinary course of business under a bona fide retirement plan
4498 or other bona fide benefits program.

4499 (5) "Division" means the Division of Corporations and Commercial Code.

4500 (6) "Foreign limited liability limited partnership" means a foreign limited partnership
4501 whose general partners have limited liability for the debts, obligations, or other liabilities of the
4502 foreign limited partnership under a provision similar to Subsection 48-2e-404(3).

4503 (7) "Foreign limited partnership" means an unincorporated entity formed under the law
4504 of a jurisdiction other than this state which would be a limited partnership if formed under the
4505 law of this state. The term includes a foreign limited liability limited partnership.

4506 (8) "General partner" means a person that:

4507 (a) has become a general partner under Section 48-2e-401 or was a general partner in a
4508 limited partnership when the limited partnership became subject to this chapter under Section
4509 48-2e-1205; and

4510 (b) has not dissociated as a general partner under Section 48-2e-603.

4511 (9) "Jurisdiction," used to refer to a political entity, means the United States, a state, a
4512 foreign country, or a political subdivision of a foreign country.

4513 (10) "Jurisdiction of formation" means, with respect to an entity, the jurisdiction:

4514 (a) under whose law the entity is formed; or

4515 (b) in the case of a limited liability partnership or foreign limited liability partnership,
4516 in which the partnership's statement of qualification is filed.

4517 (11) "Limited liability limited partnership," except in the phrase "foreign limited
4518 liability limited partnership," means a limited partnership whose certificate of limited
4519 partnership states that the partnership is a limited liability limited partnership.

4520 (12) "Limited partner" means a person that:

4521 (a) has become a limited partner under Section 48-2e-301 or was a limited partner in a
4522 limited partnership when the limited partnership became subject to this chapter under Section

4523 48-2e-1205; and

4524 (b) has not dissociated under Section 48-2e-601.

4525 (13) "Limited partnership" means an entity formed under this chapter or which
4526 becomes subject to this chapter under Part 11, Merger, Interest Exchange, Conversion, and
4527 Domestication, or Section 48-2e-1205. The term includes a limited liability limited
4528 partnership.

4529 (14) "Partner" means a limited partner or general partner.

4530 (15) "Partnership agreement" means the agreement, whether or not referred to as a
4531 partnership agreement, and whether oral, implied, in a record, or in any combination thereof, of
4532 all the partners of a limited partnership concerning the matters described in Subsection
4533 48-2e-112(1). The term includes the agreement as amended or restated.

4534 (16) "Person" means an individual, business corporation, nonprofit corporation,
4535 partnership, limited partnership, limited liability company, limited cooperative association,
4536 unincorporated nonprofit association, statutory trust, business trust, common-law business
4537 trust, estate, trust, association, joint venture, public corporation, government or governmental
4538 subdivision, agency, or instrumentality, or any other legal or commercial entity.

4539 (17) "Principal office" means the principal executive office of a limited partnership or
4540 foreign limited partnership, whether or not the office is located in this state.

4541 (18) "Property" means all property, whether real, personal, or mixed or tangible or
4542 intangible, or any right or interest therein.

4543 (19) "Record," used as a noun, means information that is inscribed on a tangible
4544 medium or that is stored in an electronic or other medium and is retrievable in perceivable
4545 form.

4546 (20) "Registered agent" means an agent of a limited partnership or foreign limited
4547 partnership which is authorized to receive service of any process, notice, or demand required or
4548 permitted by law to be served on the limited partnership.

4549 (21) "Registered foreign limited partnership" means a foreign limited partnership that
4550 is registered to do business in this state pursuant to a statement of registration filed by the
4551 division.

4552 (22) "Required information" means the information that a limited partnership is
4553 required to maintain under Section 48-2e-115.

4554 (23) "Sign" means, with present intent to authenticate or adopt a record:

4555 (a) to execute or adopt a tangible symbol; or

4556 (b) to attach to or logically associate with the record an electronic symbol, sound, or
4557 process.

4558 (24) "State" means a state of the United States, the District of Columbia, Puerto Rico,
4559 the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction
4560 of the United States.

4561 (25) "Transfer" includes:

4562 (a) an assignment;

4563 (b) a conveyance;

4564 (c) a sale;

4565 (d) a lease;

4566 (e) an encumbrance, including a mortgage or security interest;

4567 (f) a gift; and

4568 (g) a transfer by operation of law.

4569 (26) "Transferable interest" means the right, as initially owned by a person in the
4570 person's capacity as a partner, to receive distributions from a limited partnership in accordance
4571 with the partnership agreement, whether or not the person remains a partner or continues to
4572 own any part of the right. The term applies to any fraction of the interest, by whomever owned.

4573 (27) "Transferee" means a person to which all or part of a transferable interest has been
4574 transferred, whether or not the transferor is a partner. The term includes a person that owns a
4575 transferable interest under Subsection 48-2e-602(1)(c) or 48-2e-605(1)(d).

4576 (28) "Tribal limited partnership" means a limited partnership:

4577 (a) formed under the law of a tribe; and

4578 (b) that is at least 51% owned or controlled by the tribe under whose law the limited
4579 partnership is formed.

4580 (29) "Tribe" means a tribe, band, nation, pueblo, or other organized group or
4581 community of Indians, including an Alaska Native village, that is legally recognized as eligible
4582 for and is consistent with a special program, service, or entitlement provided by the United
4583 States to Indians because of their status as Indians.

4584 Section 150. Section **48-2e-103** is enacted to read:

4585 **48-2e-103. Knowledge -- Notice.**4586 (1) A person knows a fact if the person:4587 (a) has actual knowledge of it; or4588 (b) is deemed to know it under law other than this chapter.4589 (2) A person has notice of a fact if the person:4590 (a) has reason to know the fact from all of the facts known to the person at the time in
4591 question; or4592 (b) is deemed to have notice of the fact under Subsection (3) or (4).4593 (3) A certificate of limited partnership on file in the office of the division is notice that
4594 the partnership is a limited partnership and the persons designated in the certificate as general
4595 partners are general partners. Except as otherwise provided in Subsection (4), the certificate is
4596 not notice of any other fact.4597 (4) A person not a partner is deemed to have notice of:4598 (a) another person's dissociation as a general partner 90 days after the effective date of
4599 an amendment to the certificate of limited partnership which states that the other person has
4600 dissociated or 90 days after the effective date of a statement of dissociation pertaining to the
4601 other person, whichever occurs first;4602 (b) a limited partnership's:4603 (i) dissolution 90 days after an amendment to the certificate of limited partnership
4604 stating that the limited partnership becomes effective;4605 (ii) termination 90 days after a statement of termination under Subsection
4606 48-2e-802(2)(b)(vi) becomes effective;4607 (iii) participation in a merger, interest exchange, conversion, or domestication 90 days
4608 after a statement of merger, interest exchange, conversion, or domestication under Part 11,
4609 Merger, Interest Exchange, Conversion, and Domestication, becomes effective; and4610 (iv) abandonment of a merger, interest exchange, conversion, or domestication 90 days
4611 after a statement of abandonment of merger, interest exchange, conversion, or domestication
4612 under Part 11, Merger, Interest Exchange, Conversion, and Domestication, becomes effective.4613 (5) Subject to Subsection 48-2e-209(6), a person notifies another person of a fact by
4614 taking steps reasonably required to inform the other person in ordinary course, whether or not
4615 those steps cause the other person to know the fact.

4616 (6) A general partner's knowledge or notice of a fact relating to the limited partnership
4617 is effective immediately as knowledge of or notice to the limited partnership, except in the case
4618 of a fraud on the limited partnership committed by or with the consent of the general partner.
4619 A limited partner's knowledge or notice of a fact relating to the limited partnership is not
4620 effective as knowledge of or notice to the limited partnership.

4621 Section 151. Section **48-2e-104** is enacted to read:

4622 **48-2e-104. Nature, purpose, and duration of limited partnership.**

4623 (1) A limited partnership is an entity distinct from its partners. A limited partnership is
4624 the same entity regardless of whether its certificate states that the limited partnership is a
4625 limited liability limited partnership.

4626 (2) A limited partnership may have any lawful purpose, regardless of whether for
4627 profit.

4628 (3) A limited partnership has perpetual duration.

4629 Section 152. Section **48-2e-105** is enacted to read:

4630 **48-2e-105. Powers.**

4631 A limited partnership has the capacity to sue and be sued in its own name and the power
4632 to do all things necessary or convenient to carry on its activities and affairs.

4633 Section 153. Section **48-2e-106** is enacted to read:

4634 **48-2e-106. Governing law.**

4635 The law of this state governs:

4636 (1) the internal affairs of a limited partnership; and

4637 (2) the liability of a partner as partner for the debts, obligations, or other liabilities of a
4638 limited partnership.

4639 Section 154. Section **48-2e-107** is enacted to read:

4640 **48-2e-107. Supplemental principles of law.**

4641 Unless displaced by particular provisions of this chapter, the principles of law and
4642 equity supplement this chapter.

4643 Section 155. Section **48-2e-108** is enacted to read:

4644 **48-2e-108. Permitted names.**

4645 (1) The name of a limited partnership may contain the name of any partner.

4646 (2) The name of a limited partnership that is not a limited liability limited partnership

4647 must contain the words "limited partnership" or the abbreviation "L.P." or "LP" and may not
4648 contain the words "limited liability limited partnership" or the abbreviation "L.L.L.P." or
4649 "LLLP".

4650 (3) The name of a limited liability limited partnership must contain the words "limited
4651 liability limited partnership" or the abbreviation "LLLP" or "L.L.L.P." and must not contain the
4652 abbreviation "L.P." or "LP".

4653 (4) Except as otherwise provided in Subsection (7), the name of a limited partnership,
4654 and the name under which a foreign limited partnership may register to do business in this
4655 state, must be distinguishable on the records of the division from:

4656 (a) the name of an existing person whose formation required the filing of a record by
4657 the division;

4658 (b) the name of a limited liability partnership;

4659 (c) the name of a person that is registered to do business in this state by the filing of a
4660 record by the division;

4661 (d) each name reserved under Section 48-2e-109 or other law of this state providing for
4662 the reservation of a name by the filing of a record by the division;

4663 (e) each name registered under Section 48-2e-110 or other law of this state providing
4664 for the registration of a name by the filing of a record by the division; or

4665 (f) an assumed name registered under Title 42, Chapter 2, Conducting Business Under
4666 Assumed Name.

4667 (5) If a person consents in a record to the use of its name and submits an undertaking in
4668 a form satisfactory to the division to change its name to a name that is distinguishable on the
4669 records of the division from any name in any category of names in Subsection (4), the name of
4670 the consenting person may be used by the person to which the consent was given.

4671 (6) Except as otherwise provided in Subsection (7), in determining whether a name is
4672 the same as or not distinguishable on the records of the division from the name of another
4673 entity, words, phrases, or abbreviations indicating the type of entity, such as "corporation",
4674 "corp.", "incorporated", "Inc.", "professional corporation", "PC", "P.C.", "professional
4675 association", "PA", "P.A.", "Limited", "Ltd.", "limited partnership", "LP", "L.P.", "limited
4676 liability partnership", "LLP", "L.L.P.", "registered limited liability partnership", "RLLP",
4677 "R.L.L.P.", "limited liability limited partnership", "LLLP", "L.L.L.P.", "registered limited

4678 liability limited partnership", "RLLLP", "R.L.L.L.P.", "limited liability company", "LLC",
4679 "L.L.C.", "professional limited liability company", "PLLC", or "P.L.L.C.", may not be taken
4680 into account.

4681 (7) A person may consent in a record to the use of a name that is not distinguishable on
4682 the records of the division from its name except for the addition of a word, phrase, or
4683 abbreviation indicating the type of person as provided in Subsection (6). In such a case, the
4684 person need not change its name pursuant to Subsection (5).

4685 (8) The division may not approve for filing a name that implies that a limited
4686 partnership is an agency of this state or any of its political subdivisions, if it is not actually such
4687 a legally established agency or subdivision.

4688 (9) The authorization to file a certificate under or to reserve or register a limited
4689 partnership name as granted by the division does not:

4690 (a) abrogate or limit the law governing unfair competition or unfair trade practices;

4691 (b) derogate from the common law, the principles of equity, or the statutes of this state
4692 or of the United States with respect to the right to acquire and protect names and trademarks; or

4693 (c) create an exclusive right in geographic or generic terms contained within a name.

4694 (10) The name of a limited partnership or foreign limited partnership may not contain:

4695 (a) the words:

4696 (i) "association";

4697 (ii) "corporation";

4698 (iii) "incorporated";

4699 (iv) "limited liability company"; or

4700 (v) "limited company";

4701 (b) any word or abbreviation that is of like import to the words listed in Subsection

4702 (10)(a);

4703 (c) without the written consent of the United States Olympic Committee, the words:

4704 (i) "Olympic";

4705 (ii) "Olympiad"; or

4706 (iii) "Citius Altius Fortius"; and

4707 (d) without the written consent of the Division of Consumer Protection issued in

4708 accordance with Section 13-34-114 the words:

4709 (i) "university";

4710 (ii) "college"; or

4711 (iii) "institute" or "institution."

4712 Section 156. Section **48-2e-109** is enacted to read:

4713 **48-2e-109. Reservation of name.**

4714 (1) A person may reserve the exclusive use of a name that complies with Section
4715 48-2e-108 by delivering an application to the division for filing. The application must state the
4716 name and address of the applicant and the name to be reserved. If the division finds that the
4717 name is available, the division shall reserve the name for the applicant's exclusive use for 120
4718 days.

4719 (2) The owner of a reserved name may transfer the reservation to another person by
4720 delivering to the division a signed notice in a record of the transfer which states the name and
4721 address of the transferee.

4722 Section 157. Section **48-2e-110** is enacted to read:

4723 **48-2e-110. Registration of name.**

4724 (1) A foreign limited partnership not registered to do business in this state under Part 9,
4725 Foreign Limited Partnerships, may register its name, or an alternate name adopted pursuant to
4726 Section 48-2e-906, if the name is distinguishable on the records of the division from the names
4727 that are not available under Section 48-2e-108.

4728 (2) To register its name or an alternate name adopted pursuant to Section 48-2e-906, a
4729 foreign limited partnership must deliver to the division for filing an application stating the
4730 foreign limited partnership's name, the jurisdiction and date of its formation, and any alternate
4731 name adopted pursuant to Section 48-2e-906. If the division finds that the name applied for is
4732 available, the division shall register the name for the applicant's exclusive use.

4733 (3) The registration of a name under this section is effective for one year after the date
4734 of registration.

4735 (4) A foreign limited partnership whose name registration is effective may renew the
4736 registration for successive one-year periods by delivering, not earlier than three months before
4737 the expiration of the registration, to the division for filing a renewal application that complies
4738 with this section. When filed, the renewal application renews the registration for a succeeding
4739 one-year period.

4740 (5) A foreign limited partnership whose name registration is effective may register as a
4741 foreign limited partnership under the registered name or consent in a signed record to the use of
4742 that name by another person that is not an individual.

4743 Section 158. Section **48-2e-111** is enacted to read:

4744 **48-2e-111. Registered agent.**

4745 (1) Each limited partnership and each registered foreign limited partnership shall
4746 designate in accordance with Section 16-17-203(1) and maintain a registered agent in this state.

4747 (2) A limited partnership or registered foreign limited partnership may change its
4748 registered agent or the address of its registered agent by filing with the division a statement of
4749 change in accordance with Section 16-17-206.

4750 Section 159. Section **48-2e-112** is enacted to read:

4751 **48-2e-112. Partnership agreement -- Scope, function, and limitations.**

4752 (1) Except as otherwise provided in Subsections (3) and (4), the partnership agreement
4753 governs:

4754 (a) relations among the partners as partners and between the partners and the limited
4755 partnership;

4756 (b) the activities and affairs of the limited partnership and the conduct of those
4757 activities and affairs; and

4758 (c) the means and conditions for amending the partnership agreement.

4759 (2) To the extent the partnership agreement does not provide for a matter described in
4760 Subsection (1), this chapter governs the matter.

4761 (3) A partnership agreement may not:

4762 (a) vary a limited partnership's capacity under Section 48-2e-105 to sue and be sued in
4763 its own name;

4764 (b) vary the law applicable under Section 48-2e-106;

4765 (c) vary any requirement, procedure, or other provision of this chapter pertaining to:

4766 (i) registered agents; or

4767 (ii) the division, including provisions pertaining to records authorized or required to be
4768 delivered to the division for filing under this chapter;

4769 (d) vary the provisions of Section 48-2e-204;

4770 (e) vary the right of a general partner under Subsection 48-2e-406(2)(b) to vote on or

4771 consent to an amendment to the certificate of limited partnership which deletes a statement that
4772 the limited partnership is a limited liability limited partnership;

4773 (f) eliminate the duty of loyalty or the duty of care except as otherwise provided in
4774 Subsection (4);

4775 (g) eliminate the contractual obligation of good faith and fair dealing under
4776 Subsections 48-2e-305(1) and 48-2e-409(4), but the partnership agreement may prescribe the
4777 standards, if not unconscionable or against public policy, by which the performance of the
4778 obligation is to be measured;

4779 (h) relieve or exonerate a person from liability for conduct involving bad faith, willful
4780 misconduct, or recklessness;

4781 (i) vary the information required under Section 48-2e-115 or unreasonably restrict the
4782 duties and rights under Section 48-2e-304 or 48-2e-407, but the partnership agreement may
4783 impose reasonable restrictions on the availability and use of information obtained under those
4784 sections and may define appropriate remedies, including liquidated damages, for a breach of
4785 any reasonable restriction on use;

4786 (j) vary the power of a person to dissociate as a general partner under Subsection
4787 48-2e-604(1) except to require that the notice under Subsection 48-2e-603(1) be in a record;

4788 (k) vary the causes of dissolution specified in Subsection 48-2e-801(1)(f);

4789 (l) vary the requirement to wind up the limited partnership's activities and affairs as
4790 specified in Subsections 48-2e-802(1), (2)(a), and (4);

4791 (m) unreasonably restrict the right of a partner to maintain an action under Part 10,
4792 Actions by Partners;

4793 (n) vary the provisions of Section 48-2e-1005, but the partnership agreement may
4794 provide that the limited partnership may not have a special litigation committee;

4795 (o) vary the right of a partner to approve a merger, interest exchange, conversion, or
4796 domestication under Subsection 48-2e-1123(1)(b), 48-2e-1133(1)(b), 48-2e-1143(1)(b), or
4797 48-2e-1153(1)(b); or

4798 (p) except as otherwise provided in Section 48-2e-113 and Subsection 48-2e-114(2),
4799 restrict the rights under this chapter of a person other than a partner.

4800 (4) Subject to Subsection (3)(h), without limiting other terms that may be included in a
4801 partnership agreement, the following rules apply:

4802 (a) The partnership agreement may specify the method by which a specific act or
4803 transaction that would otherwise violate the duty of loyalty may be authorized or ratified by one
4804 or more disinterested and independent persons after full disclosure of all material facts.

4805 (b) If not unconscionable or against public policy, the partnership agreement may:

4806 (i) alter or eliminate the aspects of the duty of loyalty stated in Subsection
4807 48-2e-409(2);

4808 (ii) identify specific types or categories of activities that do not violate the duty of
4809 loyalty;

4810 (iii) alter the duty of care, but may not authorize intentional misconduct or knowing
4811 violation of law; and

4812 (iv) alter or eliminate any other fiduciary duty.

4813 (5) The court shall decide as a matter of law whether a term of a partnership agreement
4814 is unconscionable or against public policy under Subsection (3)(g) or (4)(b). The court:

4815 (a) shall make its determination as of the time the challenged term became part of the
4816 partnership agreement and by considering only circumstances existing at that time; and

4817 (b) may invalidate the term only if, in light of the purposes, activities, and affairs of the
4818 limited partnership, it is readily apparent that:

4819 (i) the objective of the term is unconscionable or against public policy; or

4820 (ii) the means to achieve the term's objective is unconscionable or against public
4821 policy.

4822 Section 160. Section **48-2e-113** is enacted to read:

4823 **48-2e-113. Partnership agreement -- Effect on limited partnership and person**
4824 **becoming partner -- Preformation agreement.**

4825 (1) A limited partnership is bound by and may enforce the partnership agreement,
4826 whether or not the limited partnership has itself manifested assent to the partnership agreement.

4827 (2) A person that becomes a partner of a limited partnership is deemed to assent to the
4828 partnership agreement.

4829 (3) Two or more persons intending to become the initial partners of a limited
4830 partnership may make an agreement providing that upon the formation of the limited
4831 partnership the agreement will become the limited partnership agreement.

4832 Section 161. Section **48-2e-114** is enacted to read:

4833 **48-2e-114. Partnership agreement -- Effect on third parties and relationship to**
4834 **records effective on behalf of limited partnership.**

4835 (1) A partnership agreement may specify that its amendment requires the approval of a
4836 person that is not a party to the partnership agreement or the satisfaction of a condition. An
4837 amendment is ineffective if its adoption does not include the required approval or satisfy the
4838 specified condition.

4839 (2) The obligations of a limited partnership and its partners to a person in the person's
4840 capacity as a transferee or person dissociated as a partner are governed by the partnership
4841 agreement. Subject only to a court order issued under Subsection 48-2e-703(2)(b) to effectuate
4842 a charging order, an amendment to the partnership agreement made after a person becomes a
4843 transferee or is dissociated as a partner:

4844 (a) is effective with regard to any debt, obligation, or other liability of the limited
4845 partnership or its partners to the person in the person's capacity as a transferee or person
4846 dissociated as a partner; and

4847 (b) is not effective to the extent the amendment imposes a new debt, obligation, or
4848 other liability on the transferee or person dissociated as a partner.

4849 (3) If a record delivered by a limited partnership to the division for filing becomes
4850 effective and contains a provision that would be ineffective under Subsection 48-2e-112(3) or
4851 (4)(b) if contained in the partnership agreement, the provision is ineffective in the record.

4852 (4) Subject to Subsection (3), if a record delivered by a limited partnership to the
4853 division for filing becomes effective and conflicts with a provision of the partnership
4854 agreement:

4855 (a) the partnership agreement prevails as to partners, persons dissociated as partners,
4856 and transferees; and

4857 (b) the record prevails as to other persons to the extent they reasonably rely on the
4858 record.

4859 Section 162. Section **48-2e-115** is enacted to read:

4860 **48-2e-115. Required information.**

4861 A limited partnership shall maintain at its principal office the following information:

4862 (1) a current list showing the full name and last known street and mailing address of
4863 each partner, separately identifying the general partners, in alphabetical order, and the limited

4864 partners, in alphabetical order;

4865 (2) a copy of the initial certificate of limited partnership and all amendments to and
4866 restatements of the certificate, together with signed copies of any powers of attorney under
4867 which any certificate, amendment, or restatement has been signed;

4868 (3) a copy of any filed statement of merger, interest exchange, conversion, or
4869 domestication;

4870 (4) a copy of the limited partnership's federal, state, and local income tax returns and
4871 reports, if any, for the three most recent years;

4872 (5) a copy of any partnership agreement made in a record and any amendment made in
4873 a record to any partnership agreement;

4874 (6) a copy of any financial statement of the limited partnership for the three most recent
4875 years;

4876 (7) a copy of the three most recent annual reports delivered by the limited partnership
4877 to the division pursuant to Section 48-2e-212;

4878 (8) a copy of any record made by the limited partnership during the past three years of
4879 any consent given by or vote taken of any partner pursuant to this chapter or the partnership
4880 agreement; and

4881 (9) unless contained in a partnership agreement made in a record, a record stating:

4882 (a) a description and statement of the agreed value of contributions other than money
4883 made and agreed to be made by each partner;

4884 (b) the times at which, or events on the happening of which, any additional
4885 contributions agreed to be made by each partner are to be made;

4886 (c) for any person that is both a general partner and a limited partner, a specification of
4887 what transferable interest the person owns in each capacity; and

4888 (d) any events upon the happening of which the limited partnership is to be dissolved
4889 and its activities and affairs wound up.

4890 Section 163. Section **48-2e-116** is enacted to read:

4891 **48-2e-116. Dual capacity.**

4892 A person may be both a general partner and a limited partner. A person that is both a
4893 general and limited partner has the rights, powers, duties, and obligations provided by this
4894 chapter and the partnership agreement in each of those capacities. When the person acts as a

4895 general partner, the person is subject to the obligations, duties, and restrictions under this
4896 chapter and the partnership agreement for general partners. When the person acts as a limited
4897 partner, the person is subject to the obligations, duties, and restrictions under this chapter and
4898 the partnership agreement for limited partners.

4899 Section 164. Section **48-2e-117** is enacted to read:

4900 **48-2e-117. Delivery of record.**

4901 (1) Except as otherwise provided in this chapter, permissible means of delivery of a
4902 record include delivery by hand, the United States Postal Service, a commercial delivery
4903 service, and electronic transmission.

4904 (2) Delivery to the division is effective only when a record is received by the division.

4905 Section 165. Section **48-2e-118** is enacted to read:

4906 **48-2e-118. Reservation of power to amend or repeal.**

4907 The Legislature of this state has power to amend or repeal all or part of this chapter at
4908 any time, and all domestic and foreign limited partnerships subject to this chapter are governed
4909 by the amendment or repeal.

4910 Section 166. Section **48-2e-201** is enacted to read:

4911 **Part 2. Formation -- Certificate of Limited Partnership and Other Filings**

4912 **48-2e-201. Formation of limited partnership -- Certificate of limited partnership.**

4913 (1) To form a limited partnership, a person must deliver a certificate of limited
4914 partnership to the division for filing.

4915 (2) The certificate of limited partnership must state:

4916 (a) the name of the limited partnership, which must comply with Section 48-2e-108;

4917 (b) the street and mailing address of the limited partnership's principal office;

4918 (c) the information required by Subsection 16-17-203(1);

4919 (d) the name and the street and mailing addresses of each general partner; and

4920 (e) whether the limited partnership is a limited liability limited partnership.

4921 (3) A certificate of limited partnership may contain statements as to matters other than
4922 those required by Subsection (2), but may not vary or otherwise affect the provisions specified
4923 in Subsection 48-2e-112(3) in a manner inconsistent with that Subsection (2).

4924 (4) A limited partnership is formed when:

4925 (a) the certificate of limited partnership has become effective;

4926 (b) at least two persons have become partners;

4927 (c) at least one person has become a general partner; and

4928 (d) at least one person has become a limited partner.

4929 Section 167. Section **48-2e-202** is enacted to read:

4930 **48-2e-202. Amendment of restatement of certificate of limited partnership.**

4931 (1) A certificate of limited partnership may be amended or restated at any time.

4932 (2) To amend its certificate of limited partnership, a limited partnership must deliver to
4933 the division for filing an amendment stating:

4934 (a) the name of the limited partnership;

4935 (b) the date of filing of its initial certificate of limited partnership; and

4936 (c) the changes the amendment makes to the certificate of limited partnership as most
4937 recently amended or restated.

4938 (3) To restate its certificate of limited partnership, a limited partnership must deliver to
4939 the division for filing a restatement designated as such in its heading.

4940 (4) A limited partnership shall promptly deliver to the division for filing an amendment
4941 to a certificate of limited partnership to reflect:

4942 (a) the admission of a new general partner;

4943 (b) the dissociation of a person as a general partner; or

4944 (c) the appointment of a person to wind up the limited partnership's activities and
4945 affairs under Subsection 48-2e-802(3) or (4).

4946 (5) If a general partner knows that any information in a filed certificate of limited
4947 partnership was inaccurate when the certificate of limited partnership was filed or has become
4948 inaccurate due to changed circumstances, the general partner shall promptly:

4949 (a) cause the certificate of limited partnership to be amended; or

4950 (b) if appropriate, deliver to the division for filing a statement of change under Section
4951 16-17-206 or a statement of correction under Section 48-2e-208.

4952 Section 168. Section **48-2e-203** is enacted to read:

4953 **48-2e-203. Signing of records to be delivered for filing to division.**

4954 (1) A record delivered to the division for filing pursuant to this chapter must be signed
4955 as follows:

4956 (a) An initial certificate of limited partnership must be signed by all general partners

4957 listed in the certificate of limited partnership.

4958 (b) An amendment to the certificate of limited partnership adding or deleting a
4959 statement that the limited partnership is a limited liability limited partnership must be signed by
4960 all general partners listed in the certificate of limited partnership.

4961 (c) An amendment to the certificate of limited partnership designating as general
4962 partner a person admitted under Subsection 48-2e-801(1)(c)(ii) following the dissociation of a
4963 limited partnership's last general partner must be signed by that person.

4964 (d) An amendment to the certificate of limited partnership required by Subsection
4965 48-2e-802(3) following the appointment of a person to wind up the dissolved limited
4966 partnership's activities and affairs must be signed by that person.

4967 (e) Any other amendment to the certificate of limited partnership must be signed by:

4968 (i) at least one general partner listed in the certificate of limited partnership;

4969 (ii) each other person designated in the amendment as a new general partner; and

4970 (iii) each person that the amendment indicates has dissociated as a general partner.

4971 unless:

4972 (A) the person is deceased or a guardian or general conservator has been appointed for
4973 the person and the amendment so states; or

4974 (B) the person has previously delivered to the division for filing a statement of
4975 dissociation.

4976 (f) A restated certificate of limited partnership must be signed by at least one general
4977 partner listed in the certificate of limited partnership, and, to the extent the restated certificate
4978 of limited partnership effects a change under any other subsection of this section, the certificate
4979 of limited partnership must be signed in a manner that satisfies that subsection.

4980 (g) A statement of termination must be signed by all general partners listed in the
4981 certificate of limited partnership or, if the certificate of a dissolved limited partnership lists no
4982 general partners, by the person appointed pursuant to Subsection 48-2e-802(3) or (4) to wind
4983 up the dissolved limited partnership's activities and affairs.

4984 (h) Any other record delivered by a limited partnership to the division for filing must
4985 be signed by at least one general partner listed in the certificate of limited partnership.

4986 (i) A statement by a person pursuant to Subsection 48-2e-605(1)(c) stating that the
4987 person has dissociated as a general partner must be signed by that person.

4988 (j) A statement of negation by a person pursuant to Subsection 48-2e-306(1)(b) must
4989 be signed by that person.

4990 (k) A record delivered on behalf of a foreign limited partnership to the division for
4991 filing must be signed by at least one general partner of the foreign limited partnership.

4992 (1) Any other record delivered on behalf of any person to the division for filing must be
4993 signed by that person.

4994 (2) Any record filed under this chapter may be signed by an agent. Whenever this
4995 chapter requires a particular individual to sign a record and the individual is deceased or
4996 incompetent, the record may be signed by a legal representative of the individual.

4997 (3) A person that signs a record as an agent or legal representative thereby affirms as a
4998 fact that the person is authorized to sign the record.

4999 Section 169. Section **48-2e-204** is enacted to read:

5000 **48-2e-204. Signing and filing pursuant to judicial order.**

5001 (1) If a person required by this chapter to sign a record or deliver a record to the
5002 division for filing under this chapter does not do so, any other person that is aggrieved may
5003 petition the district court to order:

5004 (a) the person to sign the record;

5005 (b) the person to deliver the record to the division for filing; or

5006 (c) the division to file the record unsigned.

5007 (2) If the petitioner under Subsection (1) is not the limited partnership or foreign
5008 limited partnership to which the record pertains, the petitioner shall make the limited
5009 partnership or foreign limited partnership a party to the action.

5010 (3) A record filed under Subsection (1)(c) is effective without being signed.

5011 Section 170. Section **48-2e-205** is enacted to read:

5012 **48-2e-205. Filing requirements.**

5013 (1) To be filed by the division pursuant to this chapter, a record must be received by
5014 the division, comply with this chapter, and satisfy the following:

5015 (a) The filing of the record must be required or permitted by this chapter.

5016 (b) The record must be physically delivered in written form unless and to the extent the
5017 division permits electronic delivery of records.

5018 (c) The words in the record must be in English, and numbers must be in Arabic or

5019 Roman numerals, but the name of an entity need not be in English if written in English letters
5020 or Arabic or Roman numerals.

5021 (d) The record must be signed by a person authorized under this chapter to sign the
5022 record.

5023 (e) The record must state the name and capacity, if any, of each individual who signed
5024 it, either on behalf of the individual or the person authorized or required to sign the record, but
5025 need not contain a seal, attestation, acknowledgment, or verification.

5026 (2) If law other than this chapter prohibits the disclosure by the division of information
5027 contained in a record delivered to the division for filing, the division shall accept the record if
5028 the record otherwise complies with this chapter but the division may redact the information.

5029 (3) When a record is delivered to the division for filing, any fee required under this
5030 chapter and any fee, tax, interest, or penalty required to be paid under this chapter, or law other
5031 than this chapter, must be paid in a manner permitted by the division or by that law.

5032 (4) The division may require that a record delivered in written form be accompanied by
5033 an identical or conformed copy.

5034 Section 171. Section **48-2e-206** is enacted to read:

5035 **48-2e-206. Effective time and date.**

5036 Except as otherwise provided in Section 48-2e-207 and subject to Subsection
5037 48-2e-208(4), a record filed under this chapter is effective:

5038 (1) on the date and at the time of its filing by the division, as provided in Section
5039 48-2e-209;

5040 (2) on the date of filing and at the time specified in the record as its effective time, if
5041 later than the time under Subsection (1);

5042 (3) at a specified delayed effective time and date, which may not be more than 90 days
5043 after the date of filing; or

5044 (4) if a delayed effective date is specified, but no time is specified, at 12:01 a.m. on the
5045 date specified, which may not be more than 90 days after the date of filing.

5046 Section 172. Section **48-2e-207** is enacted to read:

5047 **48-2e-207. Withdrawal of filed record before effectiveness.**

5048 (1) Except as otherwise provided in Sections 48-2e-1124, 48-2e-1134, 48-2e-1144, and
5049 48-2e-1154, a record delivered to the division for filing may be withdrawn before it takes effect

5050 by delivering to the division for filing a statement of withdrawal.

5051 (2) A statement of withdrawal must:

5052 (a) be signed by each person that signed the record being withdrawn, except as
5053 otherwise agreed by those persons;

5054 (b) identify the record to be withdrawn; and

5055 (c) if signed by fewer than all the persons that signed the record being withdrawn, state
5056 that the record is withdrawn in accordance with the agreement of all the persons that signed the
5057 record.

5058 (3) On filing by the division of a statement of withdrawal, the action or transaction
5059 evidenced by the original record does not take effect.

5060 Section 173. Section **48-2e-208** is enacted to read:

5061 **48-2e-208. Correcting filed record.**

5062 (1) A person on whose behalf a filed record was delivered to the division for filing may
5063 correct the record if:

5064 (a) the record at the time of filing was inaccurate;

5065 (b) the record was defectively signed; or

5066 (c) the electronic transmission of the record to the division was defective.

5067 (2) To correct a filed record, a person on whose behalf the record was delivered to the
5068 division must deliver to the division for filing a statement of correction.

5069 (3) A statement of correction:

5070 (a) may not state a delayed effective date;

5071 (b) must be signed by the person correcting the filed record;

5072 (c) must identify the filed record to be corrected;

5073 (d) must specify the inaccuracy or defect to be corrected; and

5074 (e) must correct the inaccuracy or defect.

5075 (4) A statement of correction is effective as of the effective date of the filed record that
5076 it corrects except for purposes of Subsection 48-2e-103(4) and as to persons relying on the
5077 uncorrected filed record and adversely affected by the correction. For those purposes and as to
5078 those persons, the statement of correction is effective when filed.

5079 Section 174. Section **48-2e-209** is enacted to read:

5080 **48-2e-209. Duty of division to file -- Review of refusal to file -- Transmission of**

5081 **information by the division.**

5082 (1) The division shall file a record delivered to the division for filing which satisfies
5083 this chapter. The duty of the division under this section is ministerial.

5084 (2) When the division files a record, the division shall record it as filed on the date and
5085 at the time of its delivery. After filing a record, the division shall deliver to the person that
5086 submitted the record a copy of the record with an acknowledgment of the date and time of
5087 filing.

5088 (3) If the division refuses to file a record, the division, not later than 15 business days
5089 after the record is delivered, shall:

5090 (a) return the record or notify the person that submitted the record of the refusal; and

5091 (b) provide a brief explanation in a record of the reason for the refusal.

5092 (4) If the division refuses to file a record, the person that submitted the record may
5093 petition the district court to compel filing of the record. The record and the explanation of the
5094 division of the refusal to file must be attached to the petition. The court may decide the matter
5095 in a summary proceeding.

5096 (5) The filing of or refusal to file a record does not create a presumption that the
5097 information contained in the filing is correct or incorrect.

5098 (6) Except as otherwise provided by Section 16-17-301 or by law other than this
5099 chapter, the division may deliver any record to a person by delivering it:

5100 (a) in person to the person that submitted it;

5101 (b) to the address of the person's registered agent;

5102 (c) to the principal office of the person; or

5103 (d) to another address the person provides to the division for delivery.

5104 Section 175. Section **48-2e-210** is enacted to read:

5105 **48-2e-210. Liability for inaccurate information in filed record.**

5106 (1) If a record delivered to the division for filing under this chapter and filed by the
5107 division contains inaccurate information, a person that suffers loss by reliance on the
5108 information may recover damages for the loss from:

5109 (a) a person that signed the record, or caused another to sign it on the person's behalf,
5110 and knew the information to be inaccurate at the time the record was signed; and

5111 (b) a general partner if:

- 5112 (i) the record was delivered for filing on behalf of the limited partnership; and
5113 (ii) the general partner had notice of the inaccuracy for a reasonably sufficient time
5114 before the information was relied upon so that, before the reliance, the general partner
5115 reasonably could have:
- 5116 (A) effected an amendment under Section 48-2e-202;
5117 (B) filed a petition under Section 48-2e-204; or
5118 (C) delivered to the division for filing a statement of change under Section 16-17-206
5119 or a statement of correction under Section 48-2e-208.
- 5120 (2) An individual who signs a record authorized or required to be filed under this
5121 chapter affirms under penalty of perjury that the information stated in the record is accurate.
5122 Section 176. Section **48-2e-211** is enacted to read:
- 5123 **48-2e-211. Certificate of good standing or registration.**
- 5124 (1) On request of any person, the division shall issue a certificate of good standing for a
5125 limited partnership or a certificate of registration for a registered foreign limited partnership.
- 5126 (2) A certificate under Subsection (1) must state:
- 5127 (a) the limited partnership's name or the registered foreign limited partnership's name
5128 used in this state;
- 5129 (b) in the case of a limited partnership:
- 5130 (i) that a certificate of limited partnership has been filed and has taken effect;
5131 (ii) the date the certificate of limited partnership became effective;
5132 (iii) the period of the limited partnership's duration if the records of the division reflect
5133 that its period of duration is less than perpetual; and
- 5134 (iv) that:
- 5135 (A) no statement of dissolution, statement of administrative dissolution, or statement of
5136 termination has been filed;
- 5137 (B) the records of the division do not otherwise reflect that the limited partnership has
5138 been dissolved or terminated; and
- 5139 (C) a proceeding is not pending under Section 48-2e-810;
- 5140 (c) in the case of a registered foreign limited partnership, that it is registered to do
5141 business in this state;
- 5142 (d) that all fees, taxes, interest, and penalties owed to this state by the limited

5143 partnership or the registered foreign limited partnership and collected through the division have
5144 been paid, if:

5145 (i) payment is reflected in the records of the division; and

5146 (ii) nonpayment affects the good standing or registration of the limited partnership or
5147 registered foreign limited partnership;

5148 (e) that the most recent annual report required by Section 48-2e-212 has been delivered
5149 to the division for filing; and

5150 (f) other facts reflected in the records of the division pertaining to the limited
5151 partnership or foreign limited partnership which the person requesting the certificate
5152 reasonably requests.

5153 (3) Subject to any qualification stated in the certificate, a certificate issued by the
5154 division under Subsection (1) may be relied upon as conclusive evidence of the facts stated in
5155 the certificate.

5156 Section 177. Section **48-2e-212** is enacted to read:

5157 **48-2e-212. Annual report for division.**

5158 (1) A limited partnership or a registered foreign limited partnership shall deliver to the
5159 division for filing an annual report that states:

5160 (a) the name of the limited partnership or foreign limited partnership;

5161 (b) the information required by Subsection 16-17-203(1);

5162 (c) the street and mailing addresses of its principal office;

5163 (d) the name of at least one general partner; and

5164 (e) in the case of a foreign limited partnership, the jurisdiction whose law governs the
5165 foreign limited partnership's internal affairs and any alternate name adopted under Subsection
5166 48-2e-906(1).

5167 (2) Information in the annual report must be current as of the date the report is signed
5168 by the limited partnership or registered foreign limited partnership.

5169 (3) A report must be delivered to the division for each year following the calendar year
5170 in which the limited partnership's certificate of limited partnership became effective or the
5171 registered foreign limited partnership registered to do business in this state:

5172 (a) in the case of a limited partnership, the annual report must be delivered to the
5173 division during the month in which is the anniversary date on which the limited partnership

5174 certificate of limited partnership became effective; and

5175 (b) in the case of a registered foreign limited partnership, the annual report must be
5176 delivered to the division during the month in which is the anniversary date on which the
5177 registered foreign limited partnership registered to do business in this state.

5178 (4) If an annual report does not contain the information required by this section, the
5179 division promptly shall notify the reporting limited partnership or registered foreign limited
5180 partnership in a record and return the report for correction.

5181 (5) If an annual report contains the name or address of a registered agent which differs
5182 from the information shown in the records of the division immediately before the annual report
5183 becomes effective, the differing information in the annual report is considered a statement of
5184 change under Section 16-17-206.

5185 Section 178. Section **48-2e-301** is enacted to read:

5186 **Part 3. Limited Partners**

5187 **48-2e-301. Becoming limited partners.**

5188 (1) Upon formation of a limited partnership, a person becomes a limited partner as
5189 agreed among the persons that are to be the initial partners.

5190 (2) After formation, a person becomes a limited partner:

5191 (a) as provided in the partnership agreement;

5192 (b) as the result of a transaction effective under Part 11, Merger, Interest Exchange,
5193 Conversion, and Domestication;

5194 (c) with the affirmative vote or consent of all the partners; or

5195 (d) as provided in Subsection 48-2e-801(1)(d) or (1)(e).

5196 (3) A person may become a partner without:

5197 (a) acquiring a transferable interest; or

5198 (b) making or being obligated to make a contribution to the limited partnership.

5199 Section 179. Section **48-2e-302** is enacted to read:

5200 **48-2e-302. No agency power of limited partner as limited partner.**

5201 (1) A limited partner is not an agent of a limited partnership solely by reason of being a
5202 limited partner.

5203 (2) A person's status as a limited partner does not prevent or restrict law other than this
5204 chapter from imposing liability on a limited partnership because of the person's conduct.

5205 Section 180. Section **48-2e-303** is enacted to read:

5206 **48-2e-303. No liability as limited partner for limited partnership obligations.**

5207 (1) A debt, obligation, or other liability of a limited partnership is not the debt,
5208 obligation, or other liability of a limited partner. A limited partner is not personally liable,
5209 directly or indirectly, by way of contribution or otherwise, for a debt, obligation, or other
5210 liability of the limited partnership solely by reason of being or acting as a limited partner, even
5211 if the limited partner participates in the management and control of the limited partnership.

5212 (2) The failure of a limited partnership to observe formalities relating to the exercise of
5213 its powers or management of its activities and affairs is not a ground for imposing liability on a
5214 limited partner for a debt, obligation, or other liability of the limited partnership.

5215 Section 181. Section **48-2e-304** is enacted to read:

5216 **48-2e-304. Rights to information of limited partner and person dissociated as**
5217 **limited partner.**

5218 (1) On 10 days' demand, made in a record received by the limited partnership, a limited
5219 partner may inspect and copy required information during regular business hours in the limited
5220 partnership's principal office. The limited partner need not have any particular purpose for
5221 seeking the information.

5222 (2) During regular business hours and at a reasonable location specified by the limited
5223 partnership, a limited partner may inspect and copy information regarding the activities, affairs,
5224 financial condition, and other circumstances of the limited partnership as is just and reasonable
5225 if:

5226 (a) the limited partner seeks the information for a purpose reasonably related to the
5227 partner's interest as a limited partner;

5228 (b) the limited partner makes a demand in a record received by the limited partnership,
5229 describing with reasonable particularity the information sought and the purpose for seeking the
5230 information; and

5231 (c) the information sought is directly connected to the limited partner's purpose.

5232 (3) Not later than 10 days after receiving a demand pursuant to Subsection (2), the
5233 limited partnership in a record shall inform the limited partner that made the demand of:

5234 (a) the information the limited partnership will provide in response to the demand and
5235 when and where the limited partnership will provide the information; and

5236 (b) the limited partnership's reasons for declining, if the limited partnership declines to
5237 provide any demanded information.

5238 (4) Whenever this chapter or a partnership agreement provides for a limited partner to
5239 vote on or give or withhold consent to a matter, before the vote is cast or consent is given or
5240 withheld, the limited partnership shall, without demand, provide the limited partner with all
5241 information that is known to the limited partnership and is material to the limited partner's
5242 decision.

5243 (5) Subject to Subsection (10), on 10 days' demand made in a record received by a
5244 limited partnership, a person dissociated as a limited partner may have access to information to
5245 which the person was entitled while a limited partner if:

5246 (a) the information pertains to the period during which the person was a limited
5247 partner;

5248 (b) the person seeks the information in good faith; and

5249 (c) the person satisfies the requirements imposed on a limited partner by Subsection
5250 (2).

5251 (6) The limited partnership shall respond to a demand made pursuant to Subsection (5)
5252 in the manner provided in Subsection (3).

5253 (7) A limited partnership may charge a person that makes a demand under this section
5254 reasonable costs of copying, limited to the costs of labor and material.

5255 (8) A limited partner or person dissociated as a limited partner may exercise the rights
5256 under this section through an agent or, in the case of an individual under legal disability, a legal
5257 representative. Any restriction or condition imposed by the partnership agreement or under
5258 Subsection (11) applies both to the agent or legal representative and to the limited partner or
5259 person dissociated as a limited partner.

5260 (9) Subject to Subsection (10), the rights under this section do not extend to a person as
5261 transferee.

5262 (10) If a limited partner dies, Section 48-2e-704 applies.

5263 (11) In addition to any restriction or condition stated in its partnership agreement, a
5264 limited partnership, as a matter within the ordinary course of its activities and affairs, may
5265 impose reasonable restrictions and conditions on access to and use of information to be
5266 furnished under this section, including designating information confidential and imposing

5267 nondisclosure and safeguarding obligations on the recipient. In a dispute concerning the
5268 reasonableness of a restriction under this subsection, the limited partnership has the burden of
5269 proving reasonableness.

5270 Section 182. Section **48-2e-305** is enacted to read:

5271 **48-2e-305. Limited duties of limited partners.**

5272 (1) A limited partner shall discharge any duties to the limited partnership and the other
5273 partners under the partnership agreement and exercise any rights under this chapter or the
5274 partnership agreement consistently with the contractual obligation of good faith and fair
5275 dealing.

5276 (2) Except as otherwise provided in Subsection (1), a limited partner does not have any
5277 duty to the limited partnership or to any other partner solely by reason of acting as a limited
5278 partner.

5279 (3) If a limited partner enters into a transaction with a limited partnership, the limited
5280 partner's rights and obligations arising from the transaction are the same as those of a person
5281 that is not a partner.

5282 Section 183. Section **48-2e-306** is enacted to read:

5283 **48-2e-306. Person erroneously believing self to be limited partner.**

5284 (1) Except as otherwise provided in Subsection (2), a person that makes an investment
5285 in a business enterprise and erroneously but in good faith believes that the person has become a
5286 limited partner in the enterprise is not liable for the enterprise's obligations by reason of making
5287 the investment, receiving distributions from the enterprise, or exercising any rights of or
5288 appropriate to a limited partner, if, on ascertaining the mistake, the person:

5289 (a) causes an appropriate certificate of limited partnership, amendment, or statement of
5290 correction to be signed and delivered to the division for filing; or

5291 (b) withdraws from future participation as an owner in the enterprise by signing and
5292 delivering to the division for filing a statement of negation under this section.

5293 (2) A person that makes an investment described in Subsection (1) is liable to the same
5294 extent as a general partner to any third party that enters into a transaction with the enterprise,
5295 believing in good faith that the person is a general partner, before the division files a statement
5296 of negation, certificate of limited partnership, amendment, or statement of correction to show
5297 that the person is not a general partner.

5298 (3) If a person makes a diligent effort in good faith to comply with Subsection (1)(a)
5299 and is unable to cause the appropriate certificate of limited partnership, amendment, or
5300 statement of correction to be signed and delivered to the division for filing, the person has the
5301 right to withdraw from the enterprise pursuant to Subsection (1)(b) even if the withdrawal
5302 would otherwise breach an agreement with others that are or have agreed to become co-owners
5303 of the enterprise.

5304 Section 184. Section **48-2e-401** is enacted to read:

5305 **Part 4. General Partners**

5306 **48-2e-401. Becoming general partner.**

5307 (1) A person becomes a general partner:

5308 (a) upon formation of a limited partnership, as agreed among the persons that are to be
5309 the initial partners; and

5310 (b) after formation:

5311 (i) as provided in the partnership agreement;

5312 (ii) under Subsection 48-2e-801(1)(c)(ii) following the dissociation of a limited
5313 partnership's last general partner;

5314 (iii) as the result of a transaction effective under Part 11, Merger, Interest Exchange,
5315 Conversion, and Domestication; or

5316 (iv) with the affirmative vote or consent of all the partners.

5317 (2) A person may become a general partner without:

5318 (a) acquiring a transferable interest; or

5319 (b) making or being obligated to make a contribution to the limited partnership.

5320 Section 185. Section **48-2e-402** is enacted to read:

5321 **48-2e-402. General partner agent of limited partnership.**

5322 (1) Each general partner is an agent of the limited partnership for the purposes of its
5323 activities and affairs. An act of a general partner, including the signing of a record in the
5324 limited partnership's name, for apparently carrying on in the ordinary course the limited
5325 partnership's activities and affairs or activities and affairs of the kind carried on by the limited
5326 partnership binds the limited partnership, unless the general partner did not have authority to
5327 act for the limited partnership in the particular matter and the person with which the general
5328 partner was dealing knew or had notice that the general partner lacked authority.

5329 (2) An act of a general partner which is not apparently for carrying on in the ordinary
5330 course the limited partnership's activities and affairs or activities and affairs of the kind carried
5331 on by the limited partnership binds the limited partnership only if the act was actually
5332 authorized by all the other partners.

5333 Section 186. Section **48-2e-403** is enacted to read:

5334 **48-2e-403. Limited partnership liable for general partner's actionable conduct.**

5335 (1) A limited partnership is liable for loss or injury caused to a person, or for a penalty
5336 incurred, as a result of a wrongful act or omission, or other actionable conduct, of a general
5337 partner acting in the ordinary course of activities and affairs of the limited partnership or with
5338 the actual or apparent authority of the limited partnership.

5339 (2) If, in the course of a limited partnership's activities and affairs or while acting with
5340 actual or apparent authority of the limited partnership, a general partner receives or causes the
5341 limited partnership to receive money or property of a person not a partner, and the money or
5342 property is misapplied by a general partner, the limited partnership is liable for the loss.

5343 Section 187. Section **48-2e-404** is enacted to read:

5344 **48-2e-404. General partner's liability.**

5345 (1) Except as otherwise provided in Subsections (2) and (3), all general partners are
5346 liable jointly and severally for all debts, obligations, and other liabilities of the limited
5347 partnership unless otherwise agreed by the claimant or provided by law.

5348 (2) A person that becomes a general partner of an existing limited partnership is not
5349 personally liable for a debt, obligation, or other liability of the limited partnership incurred
5350 before the person became a general partner.

5351 (3) A debt, obligation, or other liability of a limited partnership incurred while the
5352 limited partnership is a limited liability limited partnership is solely the debt, obligation, or
5353 other liability of the limited liability limited partnership. A general partner is not personally
5354 liable, directly or indirectly, by way of contribution or otherwise, for a debt, obligation, or other
5355 liability of the limited liability limited partnership solely by reason of being or acting as a
5356 general partner. This subsection applies despite anything inconsistent in the partnership
5357 agreement that existed immediately before the vote or consent required to become a limited
5358 liability limited partnership under Subsection 48-2e-406(2)(b).

5359 (4) The failure of a limited liability limited partnership to observe formalities relating

5360 to the exercise of its powers or management of its activities and affairs is not a ground for
5361 imposing liability on a general partner of the limited liability limited partnership for a debt,
5362 obligation, or liability of the limited partnership.

5363 (5) An amendment of a certificate of limited partnership which deletes a statement that
5364 the limited partnership is a limited liability limited partnership does not affect the limitation in
5365 this section on liability of a general partner for a debt, obligation, or other liability of the
5366 limited partnership incurred before the amendment became effective.

5367 Section 188. Section **48-2e-405** is enacted to read:

5368 **48-2e-405. Actions by and against partnership and partners.**

5369 (1) To the extent not inconsistent with Section 48-2e-404, a general partner may be
5370 joined in an action against the limited partnership or named in a separate action.

5371 (2) A judgment against a limited partnership is not by itself a judgment against a
5372 general partner. A judgment against a limited partnership may not be satisfied from a general
5373 partner's assets unless there is also a judgment against the general partner.

5374 (3) A judgment creditor of a general partner may not levy execution against the assets
5375 of the general partner to satisfy a judgment based on a claim against the limited partnership,
5376 unless the general partner is personally liable for the claim under Section 48-2e-404, and:

5377 (a) a judgment based on the same claim has been obtained against the limited
5378 partnership and a writ of execution on the judgment has been returned unsatisfied in whole or
5379 in part;

5380 (b) the limited partnership is a debtor in bankruptcy;

5381 (c) the general partner has agreed that the creditor need not exhaust limited partnership
5382 assets;

5383 (d) a court grants permission to the judgment creditor to levy execution against the
5384 assets of a general partner based on a finding that the limited partnership assets subject to
5385 execution are clearly insufficient to satisfy the judgment, that exhaustion of assets is
5386 excessively burdensome, or that the grant of permission is an appropriate exercise of the court's
5387 equitable powers; or

5388 (e) liability is imposed on the general partner by law or contract independent of the
5389 existence of the limited partnership.

5390 Section 189. Section **48-2e-406** is enacted to read:

5391 **48-2e-406. Management rights of general partner.**

5392 (1) Each general partner has equal rights in the management and conduct of the limited
5393 partnership's activities and affairs. Except as otherwise provided in this chapter, any matter
5394 relating to the activities and affairs of the limited partnership is decided exclusively by the
5395 general partner or, if there is more than one general partner, by a majority of the general
5396 partners.

5397 (2) The affirmative vote or consent of all partners is required to:

5398 (a) amend the partnership agreement;

5399 (b) amend the certificate of limited partnership to add or delete a statement that the
5400 limited partnership is a limited liability limited partnership;

5401 (c) sell, lease, exchange, or otherwise dispose of all, or substantially all, of the limited
5402 partnership's property, with or without the good will, other than in the usual and regular course
5403 of the limited partnership's activities and affairs; and

5404 (d) approve a transaction under Part 11, Merger, Interest Exchange, Conversion, and
5405 Domestication.

5406 (3) A limited partnership shall reimburse a general partner for an advance to the limited
5407 partnership beyond the amount of capital the general partner agreed to contribute.

5408 (4) A payment or advance made by a general partner which gives rise to an obligation
5409 of the limited partnership under Subsection (3) or Subsection 48-2e-408(1) constitutes a loan to
5410 the limited partnership which accrues interest from the date of the payment or advance.

5411 (5) A general partner is not entitled to remuneration for services performed for the
5412 limited partnership.

5413 Section 190. Section **48-2e-407** is enacted to read:

5414 **48-2e-407. Rights to information of general partner and person dissociated as**
5415 **general partner.**

5416 (1) A general partner may inspect and copy required information during regular
5417 business hours in the limited partnership's principal office, without having any particular
5418 purpose for seeking the information.

5419 (2) On reasonable notice, a general partner may inspect and copy during regular
5420 business hours, at a reasonable location specified by the limited partnership, any record
5421 maintained by the limited partnership regarding the limited partnership's activities, affairs,

5422 financial condition, and other circumstances, to the extent the information is material to the
5423 general partner's rights and duties under the partnership agreement or this chapter.

5424 (3) A limited partnership shall furnish to each general partner:

5425 (a) without demand, any information concerning the limited partnership's activities,
5426 affairs, financial condition, and other circumstances which the limited partnership knows and
5427 are material to the proper exercise of the general partner's rights and duties under the
5428 partnership agreement or this chapter, except to the extent the limited partnership can establish
5429 that it reasonably believes the general partner already knows the information; and

5430 (b) on demand, any other information concerning the limited partnership's activities,
5431 affairs, financial condition, and other circumstances, except to the extent the demand or the
5432 information demanded is unreasonable or otherwise improper under the circumstances.

5433 (4) The duty to furnish information under Subsection (2) also applies to each general
5434 partner to the extent the general partner knows any of the information described in Subsection
5435 (2).

5436 (5) Subject to Subsection (8), on 10 days' demand made in a record received by the
5437 limited partnership, a person dissociated as a general partner may have access to the
5438 information and records described in Subsections (1) and (2) at the locations specified in those
5439 subsections if:

5440 (a) the information or record pertains to the period during which the person was a
5441 general partner;

5442 (b) the person seeks the information or record in good faith; and

5443 (c) the person satisfies the requirements imposed on a limited partner by Subsection
5444 48-2e-304(2).

5445 (6) The limited partnership shall respond to a demand made pursuant to Subsection (3)
5446 in the manner provided in Subsection 48-2e-304(3).

5447 (7) A limited partnership may charge a person that makes a demand under this section
5448 the reasonable costs of copying, limited to the costs of labor and material.

5449 (8) A general partner or person dissociated as a general partner may exercise rights
5450 under this section through an agent or, in the case of an individual under legal disability, a legal
5451 representative. Any restriction or condition imposed by the partnership agreement or under
5452 Subsection (9) applies both to the agent or legal representative and the general partner or

5453 person dissociated as a general partner.

5454 (9) The rights under this section do not extend to a person as transferee, but if:

5455 (a) a general partner dies, Section 48-2e-704 applies; and

5456 (b) an individual dissociates as a general partner under Subsection 48-2e-603(7)(b) or
5457 (7)(c), the legal representative of the individual may exercise the rights under Subsection (4) of
5458 a person dissociated as a general partner.

5459 (10) In addition to any restriction or condition stated in the partnership agreement, a
5460 limited partnership, as a matter within the ordinary course of its activities and affairs, may
5461 impose reasonable restrictions and conditions on access to and use of information to be
5462 furnished under this section, including designating information confidential and imposing
5463 nondisclosure and safeguarding obligations on the recipient. In a dispute concerning the
5464 reasonableness of a restriction under this subsection, the limited partnership has the burden of
5465 proving reasonableness.

5466 Section 191. Section **48-2e-408** is enacted to read:

5467 **48-2e-408. Reimbursement, indemnification, advancement, and insurance.**

5468 (1) A limited partnership shall reimburse a general partner for any payment made by
5469 the general partner in the course of the general partner's activities on behalf of the limited
5470 partnership, if the general partner complied with Sections 48-2e-406, 48-2e-409, and 48-2e-504
5471 in making the payment.

5472 (2) A limited partnership shall indemnify and hold harmless a person with respect to
5473 any claim or demand against the person and any debt, obligation, or other liability incurred by
5474 the person by reason of the person's former or present capacity as a general partner, if the
5475 claim, demand, debt, obligation, or other liability does not arise from the person's breach of
5476 Section 48-2e-406, 48-2e-409, or 48-2e-504.

5477 (3) In the ordinary course of its activities and affairs, a limited partnership may
5478 advance reasonable expenses, including attorney's fees and costs, incurred by a person in
5479 connection with a claim or demand against the person by reason of the person's former or
5480 present capacity as a general partner, if the person promises to repay the limited partnership if
5481 the person ultimately is determined not to be entitled to be indemnified under Subsection (2).

5482 (4) A limited partnership may purchase and maintain insurance on behalf of a general
5483 partner against liability asserted against or incurred by the general partner in that capacity or

5484 arising from that status even if, under Subsection 48-2e-112(3)(h), the partnership agreement
5485 could not eliminate or limit the person's liability to the limited partnership for the conduct
5486 giving rise to the liability.

5487 Section 192. Section **48-2e-409** is enacted to read:

5488 **48-2e-409. Standards of conduct for general partners.**

5489 (1) A general partner owes to the limited partnership and, subject to Subsection
5490 48-2e-1001(1), the other partners the duties of loyalty and care stated in Subsections (2) and
5491 (3).

5492 (2) The duty of loyalty of a general partner includes the duties:

5493 (a) to account to the limited partnership and hold as trustee for it any property, profit,
5494 or benefit derived by the general partner:

5495 (i) in the conduct or winding up of the limited partnership's activities and affairs;

5496 (ii) from a use by the general partner of the limited partnership's property; or

5497 (iii) from the appropriation of a limited partnership opportunity;

5498 (b) to refrain from dealing with the limited partnership in the conduct or winding up of
5499 the limited partnership's activities and affairs as or on behalf of a person having an interest
5500 adverse to the limited partnership; and

5501 (c) to refrain from competing with the limited partnership in the conduct or winding up
5502 of the limited partnership's activities and affairs.

5503 (3) The duty of care of a general partner in the conduct or winding up of the limited
5504 partnership's activities and affairs is to refrain from engaging in grossly negligent or reckless
5505 conduct, intentional misconduct, or a knowing violation of law.

5506 (4) A general partner shall discharge the duties and obligations under this chapter or
5507 under the partnership agreement and exercise any rights consistently with the contractual
5508 obligation of good faith and fair dealing.

5509 (5) A general partner does not violate a duty or obligation under this chapter or under
5510 the partnership agreement solely because the general partner's conduct furthers the general
5511 partner's own interest.

5512 (6) All the partners of a limited partnership may authorize or ratify, after full disclosure
5513 of all material facts, a specific act or transaction by a general partner that otherwise would
5514 violate the duty of loyalty.

5515 (7) It is a defense to a claim under Subsection (2)(b) and any comparable claim in
5516 equity or at common law that the transaction was fair to the limited partnership.

5517 (8) If, as permitted by Subsection (6) or the partnership agreement, a general partner
5518 enters into a transaction with the limited partnership which otherwise would be prohibited by
5519 Subsection (2)(b), the general partner's rights and obligations arising from the transaction are
5520 the same as those of a person that is not a general partner.

5521 Section 193. Section **48-2e-501** is enacted to read:

5522 **Part 5. Contributions and Distributions**

5523 **48-2e-501. Form of contribution.**

5524 A contribution may consist of property transferred to, services performed for, or another
5525 benefit provided to the limited partnership or an agreement to transfer property to, perform
5526 services for, or provide another benefit to the limited partnership.

5527 Section 194. Section **48-2e-502** is enacted to read:

5528 **48-2e-502. Liability for contribution.**

5529 (1) A person's obligation to make a contribution to a limited partnership is not excused
5530 by the person's death, disability, dissolution, or other inability to perform personally.

5531 (2) If a person does not fulfill an obligation to make a contribution other than money,
5532 the person is obligated at the option of the limited partnership to contribute money equal to the
5533 value, as stated in the required information, of the part of the contribution which has not been
5534 made.

5535 (3) The obligation of a person to make a contribution may be compromised only by the
5536 affirmative vote or consent of all partners. If a creditor of a limited partnership extends credit
5537 or otherwise acts in reliance on an obligation described in Subsection (1) without notice of any
5538 compromise under this subsection, the creditor may enforce the original obligation.

5539 Section 195. Section **48-2e-503** is enacted to read:

5540 **48-2e-503. Sharing of and right to distributions before dissolution.**

5541 (1) Except to the extent necessary to comply with a transfer effective under Section
5542 48-2e-702 or charging order in effect under Section 48-2e-703, any distributions made by a
5543 limited partnership before its dissolution and winding up must be in equal shares among
5544 partners and persons dissociated as partners.

5545 (2) A person has a right to a distribution before the dissolution and winding up of a

5546 limited partnership only if the limited partnership decides to make an interim distribution. A
5547 person's dissociation does not entitle the person to a distribution.

5548 (3) A person does not have a right to demand or receive a distribution from a limited
5549 partnership in any form other than money. Except as otherwise provided in Subsection
5550 48-2e-813(5), a partnership may distribute an asset in kind only if each part of the asset is
5551 fungible with each other part and each person receives a percentage of the asset equal in value
5552 to the person's share of distributions.

5553 (4) If a partner or transferee becomes entitled to receive a distribution, the partner or
5554 transferee has the status of, and is entitled to all remedies available to, a creditor of the limited
5555 partnership with respect to the distribution. However, the limited partnership's obligation to
5556 make a distribution is subject to offset for any amount owed to the limited partnership by the
5557 partner or a person dissociated as a partner on whose account the distribution is made.

5558 Section 196. Section **48-2e-504** is enacted to read:

5559 **48-2e-504. Limitations on distributions.**

5560 (1) A limited partnership may not make a distribution, including a distribution under
5561 Section 48-2e-813, if after the distribution:

5562 (a) the limited partnership would not be able to pay its debts as they become due in the
5563 ordinary course of the limited partnership's activities and affairs; or

5564 (b) the limited partnership's total assets would be less than the sum of its total liabilities
5565 plus, unless the partnership agreement permits otherwise, the amount that would be needed, if
5566 the limited partnership were to be dissolved and wound up at the time of the distribution, to
5567 satisfy the preferential rights upon dissolution and winding up of partners and transferees
5568 whose preferential rights are superior to those of persons receiving the distribution.

5569 (2) A limited partnership may base a determination that a distribution is not prohibited
5570 under Subsection (1) on:

5571 (a) financial statements prepared on the basis of accounting practices and principles
5572 that are reasonable in the circumstances; or

5573 (b) a fair valuation or other method that is reasonable under the circumstances.

5574 (3) Except as otherwise provided in Subsection (5), the effect of a distribution under
5575 Subsection (1) is measured:

5576 (a) in the case of distribution as defined in Subsection 48-2e-102(4)(a), as of the earlier

5577 of:

5578 (i) the date money or other property is transferred or debt is incurred by the limited
5579 partnership; or

5580 (ii) the date the person entitled to the distribution ceases to own the interest or right
5581 being acquired by the limited partnership in return for the distribution;

5582 (b) in the case of any other distribution of indebtedness, as of the date the indebtedness
5583 is distributed; and

5584 (c) in all other cases, as of the date:

5585 (i) the distribution is authorized, if the payment occurs not later than 120 days after that
5586 date; or

5587 (ii) the payment is made, if payment occurs more than 120 days after the distribution is
5588 authorized.

5589 (4) A limited partnership's indebtedness to a partner or transferee incurred by reason of
5590 a distribution made in accordance with this section is at parity with the limited partnership's
5591 indebtedness to its general, unsecured creditors, except to the extent subordinated by
5592 agreement.

5593 (5) A limited partnership's indebtedness, including indebtedness issued as a
5594 distribution, is not considered a liability for purposes of Subsection (1) if the terms of the
5595 indebtedness provide that payment of principal and interest is made only if and to the extent
5596 that payment of a distribution could then be made under this section. If the indebtedness is
5597 issued as a distribution, each payment of principal or interest is treated as a distribution, the
5598 effect of which is measured on the date the payment is made.

5599 (6) In measuring the effect of a distribution under Section 48-2e-813, the liabilities of a
5600 dissolved limited partnership do not include any claim that has been disposed of under Section
5601 48-2e-806, 48-2e-807, or 48-2e-808.

5602 Section 197. Section **48-2e-505** is enacted to read:

5603 **48-2e-505. Liability for improper distributions.**

5604 (1) If a general partner consents to a distribution made in violation of Section
5605 48-2e-504 and in consenting to the distribution fails to comply with Section 48-2e-409, the
5606 general partner is personally liable to the limited partnership for the amount of the distribution
5607 which exceeds the amount that could have been distributed without the violation of Section

5608 48-2e-504.

5609 (2) A person that receives a distribution knowing that the distribution violated Section
5610 48-2e-504 is personally liable to the limited partnership but only to the extent that the
5611 distribution received by the person exceeded the amount that could have been properly paid
5612 under Section 48-2e-504.

5613 (3) A general partner against which an action is commenced because the general
5614 partner is liable under Subsection (1) may:

5615 (a) implead any other person that is liable under Subsection (1) and seek to enforce a
5616 right of contribution from the person; and

5617 (b) implead any person that received a distribution in violation of Subsection (2) and
5618 seek to enforce a right of contribution from the person in the amount the person received in
5619 violation of Subsection (2).

5620 (4) An action under this section is barred unless commenced not later than two years
5621 after the distribution.

5622 Section 198. Section **48-2e-601** is enacted to read:

5623 **Part 6. Dissociation**

5624 **48-2e-601. Dissociation as limited partner.**

5625 (1) A person does not have a right to dissociate as a limited partner before the
5626 completion of the winding up of the limited partnership.

5627 (2) A person is dissociated as a limited partner when:

5628 (a) the limited partnership has notice of the person's express will to withdraw as a
5629 limited partner, but, if the person specified a withdrawal date later than the date the limited
5630 partnership had notice, on that later date;

5631 (b) an event stated in the partnership agreement as causing the person's dissociation as
5632 a limited partner occurs;

5633 (c) the person is expelled as a limited partner pursuant to the partnership agreement;

5634 (d) the person is expelled as a limited partner by the unanimous vote or consent of the
5635 other partners if:

5636 (i) it is unlawful to carry on the limited partnership's activities and affairs with the
5637 person as a limited partner;

5638 (ii) there has been a transfer of all of the person's transferable interest in the limited

5639 partnership, other than:

5640 (A) a transfer for security purposes; or

5641 (B) a charging order in effect under Section 48-2e-703 which has not been foreclosed;

5642 (iii) the person is a corporation and:

5643 (A) the limited partnership notifies the person that it will be expelled as a limited
5644 partner because the person has filed a statement of dissolution or the equivalent, its charter has
5645 been revoked, or its right to conduct business has been suspended by the jurisdiction of its
5646 incorporation; and

5647 (B) not later than 90 days after the notification the statement of dissolution or the
5648 equivalent has not been revoked or its charter or right to conduct business has not been
5649 reinstated; or

5650 (iv) the person is an unincorporated entity that has been dissolved and whose business
5651 is being wound up;

5652 (e) on application by the limited partnership, the person is expelled as a limited partner
5653 by judicial order because the person:

5654 (i) has engaged or is engaging in wrongful conduct that has affected adversely and
5655 materially, or will affect adversely and materially, the limited partnership's activities and
5656 affairs;

5657 (ii) has committed willfully or persistently, or is committing willfully or persistently, a
5658 material breach of the partnership agreement or the contractual obligation of good faith and fair
5659 dealing under Subsection 48-2e-305(1); or

5660 (iii) has engaged or is engaging in conduct relating to the limited partnership's
5661 activities and affairs which makes it not reasonably practicable to carry on the activities and
5662 affairs with the person as a limited partner;

5663 (f) in the case of a person who is an individual, the individual dies;

5664 (g) in the case of a person that is a testamentary or inter vivos trust or is acting as a
5665 limited partner by virtue of being a trustee of such a trust, the trust's entire transferable interest
5666 in the limited partnership is distributed;

5667 (h) in the case of a person that is an estate or is acting as a limited partner by virtue of
5668 being a personal representative of an estate, the estate's entire transferable interest in the limited
5669 partnership is distributed;

5670 (i) in the case of a person that is not an individual, corporation, unincorporated entity,
5671 trust, or estate, the existence of the person terminates;

5672 (j) the limited partnership participates in a merger under Part 11, Merger, Interest
5673 Exchange, Conversion, and Domestication, and:

5674 (i) the limited partnership is not the surviving entity; or

5675 (ii) otherwise as a result of the merger, the person ceases to be a limited partner;

5676 (k) the limited partnership participates in an interest exchange under Part 11, Merger,
5677 Interest Exchange, Conversion, and Domestication, and as a result of the interest exchange, the
5678 person ceases to be a limited partner;

5679 (l) the limited partnership participates in a conversion under Part 11, Merger, Interest
5680 Exchange, Conversion, and Domestication;

5681 (m) the limited partnership participates in a domestication under Part 11, Merger,
5682 Interest Exchange, Conversion, and Domestication, and as a result of the domestication, the
5683 person ceases to be a limited partner; or

5684 (n) the limited partnership dissolves and completes winding up.

5685 Section 199. Section **48-2e-602** is enacted to read:

5686 **48-2e-602. Effect of dissociation as limited partner.**

5687 (1) If a person is dissociated as a limited partner:

5688 (a) subject to Section 48-2e-704, the person does not have further rights as a limited
5689 partner;

5690 (b) the person's contractual obligation of good faith and fair dealing as a limited partner
5691 under Subsection 48-2e-305(1) ends with regard to matters arising and events occurring after
5692 the person's dissociation; and

5693 (c) subject to Section 48-2e-704 and Part 11, Merger, Interest Exchange, Conversion,
5694 and Domestication, any transferable interest owned by the person in the person's capacity as a
5695 limited partner immediately before dissociation is owned by the person solely as a transferee.

5696 (2) A person's dissociation as a limited partner does not of itself discharge the person
5697 from any debt, obligation, or other liability to the limited partnership or the other partners
5698 which the person incurred while a limited partner.

5699 Section 200. Section **48-2e-603** is enacted to read:

5700 **48-2e-603. Dissociation as general partner.**

5701 A person is dissociated as a general partner when:

5702 (1) the limited partnership has notice of the person's express will to withdraw as a
5703 general partner, but, if the person specifies a withdrawal date later than the date the limited
5704 partnership had notice, on that later date;

5705 (2) an event stated in the partnership agreement as causing the person's dissociation as
5706 a general partner occurs;

5707 (3) the person is expelled as a general partner pursuant to the partnership agreement;

5708 (4) the person is expelled as a general partner by the unanimous vote or consent of the
5709 other partners if:

5710 (a) it is unlawful to carry on the limited partnership's activities and affairs with the
5711 person as a general partner;

5712 (b) there has been a transfer of all of the person's transferable interest in the limited
5713 partnership, other than:

5714 (i) a transfer for security purposes; or

5715 (ii) a charging order in effect under Section 48-2e-703 which has not been foreclosed;

5716 (c) the person is a corporation, and:

5717 (i) the limited partnership notifies the person that it will be expelled as a general
5718 partner because the person has filed a statement of dissolution or the equivalent, its charter has
5719 been revoked, or its right to conduct business has been suspended by the jurisdiction of its
5720 incorporation; and

5721 (ii) not later than 90 days after the notification the statement of dissolution or the
5722 equivalent has not been revoked or its charter or right to conduct business has not been
5723 reinstated; or

5724 (d) the person is an unincorporated entity that has been dissolved and whose business
5725 is being wound up;

5726 (5) on application by the limited partnership or a partner in a direct action under
5727 Section 48-2e-1001, the person is expelled as a general partner by judicial order because the
5728 person:

5729 (a) has engaged or is engaging in wrongful conduct that has affected adversely and
5730 materially, or will affect adversely and materially, the limited partnership's activities and
5731 affairs;

5732 (b) has committed willfully or persistently, or is committing willfully or persistently, a
5733 material breach of the partnership agreement or a duty or obligation under Section 48-2e-409;

5734 or

5735 (c) has engaged or is engaging in conduct relating to the limited partnership's activities
5736 and affairs which makes it not reasonably practicable to carry on the activities or affairs of the
5737 limited partnership with the person as a general partner;

5738 (6) in the case of a person who is an individual:

5739 (a) the individual dies;

5740 (b) a guardian or general conservator for the individual is appointed; or

5741 (c) a court orders that the individual has otherwise become incapable of performing the
5742 individual's duties as a general partner under this chapter or the partnership agreement;

5743 (7) the person:

5744 (a) becomes a debtor in bankruptcy;

5745 (b) executes an assignment for the benefit of creditors; or

5746 (c) seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or
5747 liquidator of the person or of all or substantially all of the person's property;

5748 (8) in the case of a person that is a testamentary or inter vivos trust or is acting as a
5749 general partner by virtue of being a trustee of such a trust, the trust's entire transferable interest
5750 in the limited partnership is distributed;

5751 (9) in the case of a person that is an estate or is acting as a general partner by virtue of
5752 being a personal representative of an estate, the estate's entire transferable interest in the limited
5753 partnership is distributed;

5754 (10) in the case of a person that is not an individual, corporation, unincorporated entity,
5755 trust, or estate, the existence of the person terminates;

5756 (11) the limited partnership participates in a merger under Part 11, Merger, Interest
5757 Exchange, Conversion, and Domestication, and;

5758 (a) the limited partnership is not the surviving entity; or

5759 (b) otherwise as a result of the merger, the person ceases to be a general partner;

5760 (12) the limited partnership participates in an interest exchange under Part 11, Merger,
5761 Interest Exchange, Conversion, and Domestication, and, as a result of the interest exchange, the
5762 person ceases to be a general partner;

5763 (13) the limited partnership participates in a conversion under Part 11, Merger, Interest
5764 Exchange, Conversion, and Domestication;

5765 (14) the limited partnership participates in a domestication under Part 11, Merger,
5766 Interest Exchange, Conversion, and Domestication, and, as a result of the domestication, the
5767 person ceases to be a general partner; or

5768 (15) the limited partnership dissolves and completes winding up.

5769 Section 201. Section **48-2e-604** is enacted to read:

5770 **48-2e-604. Power to dissociate as general partner -- Wrongful dissociation.**

5771 (1) A person has the power to dissociate as a general partner at any time, rightfully or
5772 wrongfully, by withdrawing as a general partner by express will under Subsection
5773 48-2e-603(1).

5774 (2) A person's dissociation as a general partner is wrongful only if the dissociation:

5775 (a) is in breach of an express provision of the partnership agreement; or

5776 (b) occurs before the completion of the winding up of the limited partnership, and:

5777 (i) the person withdraws as a general partner by express will;

5778 (ii) the person is expelled as a general partner by judicial order under Subsection

5779 48-2e-603(5);

5780 (iii) the person is dissociated as a general partner under Subsection 48-2e-603(7); or

5781 (iv) in the case of a person that is not a trust other than a business trust, an estate, or an
5782 individual, the person is expelled or otherwise dissociated as a general partner because it
5783 willfully dissolved or terminated.

5784 (3) A person that wrongfully dissociates as a general partner is liable to the limited
5785 partnership and, subject to Section 48-2e-1001, to the other partners for damages caused by the
5786 dissociation. The liability is in addition to any debt, obligation, or other liability of the general
5787 partner to the limited partnership or the other partners.

5788 Section 202. Section **48-2e-605** is enacted to read:

5789 **48-2e-605. Effect of dissociation as general partner.**

5790 (1) If a person is dissociated as a general partner:

5791 (a) the person's right to participate as a general partner in the management and conduct
5792 of the limited partnership's activities and affairs terminates;

5793 (b) the person's duties and obligations as a general partner under Section 48-2e-409 end

5794 with regard to matters arising and events occurring after the person's dissociation:

5795 (c) the person may sign and deliver to the division for filing a statement of dissociation
5796 pertaining to the person and, at the request of the limited partnership, shall sign an amendment
5797 to the certificate of limited partnership which states that the person has dissociated as a general
5798 partner; and

5799 (d) subject to Section 48-2e-704 and Part 11, Merger, Interest Exchange, Conversion,
5800 and Domestication, any transferable interest owned by the person immediately before
5801 dissociation in the person's capacity as a general partner is owned by the person solely as a
5802 transferee.

5803 (2) A person's dissociation as a general partner does not of itself discharge the person
5804 from any debt, obligation, or other liability to the limited partnership or the other partners
5805 which the person incurred while a general partner.

5806 Section 203. Section **48-2e-606** is enacted to read:

5807 **48-2e-606. Power to bind and liability of person dissociated as general partner.**

5808 (1) After a person is dissociated as a general partner and before the limited partnership
5809 is merged out of existence, converted, or domesticated under Part 11, Merger, Interest
5810 Exchange, Conversion, and Domestication, or dissolved, the limited partnership is bound by an
5811 act of the person only if:

5812 (a) the act would have bound the limited partnership under Section 48-2e-402 before
5813 the dissociation; and

5814 (b) at the time the other party enters into the transaction:

5815 (i) less than two years has passed since the dissociation; and

5816 (ii) the other party does not know or have notice of the dissociation and reasonably
5817 believes that the person is a general partner.

5818 (2) If a limited partnership is bound under Subsection (1), the person dissociated as a
5819 general partner which caused the limited partnership to be bound is liable:

5820 (a) to the limited partnership for any damage caused to the limited partnership arising
5821 from the obligation incurred under Subsection (1); and

5822 (b) if a general partner or another person dissociated as a general partner is liable for
5823 the obligation, to the general partner or other person for any damage caused to the general
5824 partner or other person arising from the liability.

5825 Section 204. Section **48-2e-607** is enacted to read:

5826 **48-2e-607. Liability to other persons of person dissociated as general partner.**

5827 (1) A person's dissociation as a general partner does not of itself discharge the person's
5828 liability as a general partner for a debt, obligation, or other liability of the limited partnership
5829 incurred before dissociation. Except as otherwise provided in Subsections (2) and (3), the
5830 person is not liable for a limited partnership obligation incurred after dissociation.

5831 (2) A person whose dissociation as a general partner resulted in a dissolution and
5832 winding up of the limited partnership's activities and affairs is liable to the same extent as a
5833 general partner under Section 48-2e-404 on an obligation incurred by the limited partnership
5834 under Section 48-2e-804.

5835 (3) A person that has dissociated as a general partner but whose dissociation did not
5836 result in a dissolution and winding up of the limited partnership's activities and affairs is liable
5837 on a transaction entered into by the limited partnership after the dissociation only if:

5838 (a) a general partner would be liable on the transaction; and

5839 (b) at the time the other party enters into the transaction:

5840 (i) less than two years has passed since the dissociation; and

5841 (ii) the other party does not have knowledge or notice of the dissociation and
5842 reasonably believes that the person is a general partner.

5843 (4) By agreement with a creditor of a limited partnership and the limited partnership, a
5844 person dissociated as a general partner may be released from liability for an obligation of the
5845 limited partnership.

5846 (5) A person dissociated as a general partner is released from liability for an obligation
5847 of the limited partnership if the limited partnership's creditor, with knowledge or notice of the
5848 person's dissociation as a general partner but without the person's consent, agrees to a material
5849 alteration in the nature or time of payment of the obligation.

5850 Section 205. Section **48-2e-701** is enacted to read:

5851 **Part 7. Transferable Interest and Rights**

5852 **48-2e-701. Nature of transferable interest.**

5853 The only interest of a partner which is transferable is the partner's transferable interest.
5854 A transferable interest is personal property.

5855 Section 206. Section **48-2e-702** is enacted to read:

5856 **48-2e-702. Transfer of transferable interest.**

5857 (1) A transfer, in whole or in part, of a transferable interest:

5858 (a) is permissible;

5859 (b) does not by itself cause the person's dissociation or a dissolution and winding up of

5860 the limited partnership's activities and affairs; and

5861 (c) subject to Section 48-2e-704, does not entitle the transferee to:

5862 (i) participate in the management or conduct of the limited partnership's activities or
5863 affairs; or

5864 (ii) except as otherwise provided in Subsection (3), have access to required

5865 information, records, or other information concerning the limited partnership's activities and

5866 affairs.

5867 (2) A transferee has the right to receive, in accordance with the transfer, distributions to
5868 which the transferor would otherwise be entitled.

5869 (3) In a dissolution and winding up of a limited partnership, a transferee is entitled to
5870 an account of the limited partnership's transactions only from the date of dissolution.

5871 (4) A transferable interest may be evidenced by a certificate of the interest issued by a
5872 limited partnership in a record, and, subject to this section, the interest represented by the
5873 certificate may be transferred by a transfer of the certificate.

5874 (5) A limited partnership need not give effect to a transferee's rights under this section
5875 until the limited partnership knows or has notice of the transfer.

5876 (6) A transfer of a transferable interest in violation of a restriction on transfer contained
5877 in the partnership agreement is ineffective as to a person having knowledge or notice of the
5878 restriction at the time of transfer.

5879 (7) Except as otherwise provided in Subsections 48-2e-601(2)(d)(ii) and
5880 48-2e-603(4)(b), if a general or limited partner transfers a transferable interest, the transferor
5881 retains the rights of a general or limited partner other than the transferable interest transferred
5882 and retains all the duties and obligations of a general or limited partner.

5883 (8) If a general or limited partner transfers a transferable interest to a person that
5884 becomes a general or limited partner with respect to the transferred interest, the transferee is
5885 liable for the transferor's obligations under Sections 48-2e-502 and 48-2e-505 known to the
5886 transferee when the transferee becomes a partner.

5887 Section 207. Section **48-2e-703** is enacted to read:

5888 **48-2e-703. Charging order.**

5889 (1) On application by a judgment creditor of a partner or transferee, a court may enter a
5890 charging order against the transferable interest of the judgment debtor for the unsatisfied
5891 amount of the judgment. A charging order constitutes a lien on a judgment debtor's
5892 transferable interest and, after the limited partnership has been served with the charging order,
5893 requires the limited partnership to pay over to the person to which the charging order was
5894 issued any distribution that otherwise would be paid to the judgment debtor.

5895 (2) To the extent necessary to effectuate the collection of distributions pursuant to a
5896 charging order in effect under Subsection (1), the court may:

5897 (a) appoint a receiver of the distributions subject to the charging order, with the power
5898 to make all inquiries the judgment debtor might have made; and

5899 (b) make all other orders necessary to give effect to the charging order.

5900 (3) Upon a showing that distributions under a charging order will not pay the judgment
5901 debt within a reasonable time, the court may foreclose the lien and order the sale of the
5902 transferable interest. The purchaser at the foreclosure sale obtains only the transferable
5903 interest, does not thereby become a partner, and is subject to Section 48-2e-702.

5904 (4) At any time before foreclosure under Subsection (3), the partner or transferee
5905 whose transferable interest is subject to a charging order under Subsection (1) may extinguish
5906 the charging order by satisfying the judgment and filing a certified copy of the satisfaction with
5907 the court that issued the charging order.

5908 (5) At any time before foreclosure under Subsection (3), a limited partnership or one or
5909 more partners whose transferable interests are not subject to the charging order may pay to the
5910 judgment creditor the full amount due under the judgment and thereby succeed to the rights of
5911 the judgment creditor, including the charging order.

5912 (6) This chapter does not deprive any partner or transferee of the benefit of any
5913 exemption law applicable to the transferable interest of the partner or transferee.

5914 (7) This section provides the exclusive remedy by which a person seeking to enforce a
5915 judgment against a partner or transferee may, in the capacity of judgment creditor, satisfy the
5916 judgment from the judgment debtor's transferable interest.

5917 Section 208. Section **48-2e-704** is enacted to read:

5918 **48-2e-704. Power of legal representative of deceased partner.**

5919 If a partner dies, the deceased partner's legal representative may exercise:

5920 (1) the rights of a transferee provided in Subsection 48-2e-702(3); and

5921 (2) for the purposes of settling the estate, the rights of a current limited partner under

5922 Section 48-2e-304.

5923 Section 209. Section **48-2e-801** is enacted to read:

5924 **Part 8. Dissolution and Winding Up**

5925 **48-2e-801. Events causing dissolution.**

5926 (1) A limited partnership is dissolved, and its activities and affairs must be wound up,
5927 upon the occurrence of any of the following:

5928 (a) an event or circumstance that the partnership agreement states causes dissolution;

5929 (b) the affirmative vote or consent of all general partners and of limited partners

5930 owning a majority of the rights to receive distributions as limited partners at the time the vote
5931 or consent is to be effective;

5932 (c) after the dissociation of a person as a general partner:

5933 (i) if the limited partnership has at least one remaining general partner, the vote or

5934 consent to dissolve the limited partnership not later than 90 days after the dissociation by

5935 partners owning a majority of the rights to receive distributions as partners at the time the vote

5936 or consent is to be effective; or

5937 (ii) if the limited partnership does not have a remaining general partner, the passage of

5938 90 days after the dissociation, unless before the end of the period:

5939 (A) consent to continue the activities and affairs of the limited partnership and admit at

5940 least one general partner is given by limited partners owning a majority of the rights to receive

5941 distributions as limited partners at the time the consent is to be effective; and

5942 (B) at least one person is admitted as a general partner in accordance with the consent;

5943 (d) the passage of 90 consecutive days after the dissociation of the limited partnership's

5944 last limited partner, unless before the end of the period the limited partnership admits at least

5945 one limited partner;

5946 (e) the passage of 90 consecutive days during which the limited partnership has only

5947 one partner, unless before the end of the period:

5948 (i) the limited partnership admits at least one person as a partner;

5949 (ii) if the previously sole remaining partner is only a general partner, the limited
5950 partnership admits the person as a limited partner; and

5951 (iii) if the previously sole remaining partner is only a limited partner, the limited
5952 partnership admits a person as a general partner;

5953 (f) on application by a partner, the entry by the district court of an order dissolving the
5954 limited partnership on the grounds that:

5955 (i) the conduct of all or substantially all the limited partnership's activities and affairs is
5956 unlawful; or

5957 (ii) it is not reasonably practicable to carry on the limited partnership's activities and
5958 affairs in conformity with the partnership agreement; or

5959 (g) the signing and filing of a statement of administrative dissolution by the division
5960 under Section 48-2e-810.

5961 (2) If an event occurs that imposes a deadline on a limited partnership under
5962 Subsection (1) and before the limited partnership has met the requirements of the deadline,
5963 another event occurs that imposes a different deadline on the limited partnership under
5964 Subsection (1):

5965 (a) the occurrence of the second event does not affect the deadline caused by the first
5966 event; and

5967 (b) the limited partnership's meeting of the requirements of the first deadline does not
5968 extend the second deadline.

5969 Section 210. Section **48-2e-802** is enacted to read:

5970 **48-2e-802. Winding up.**

5971 (1) A dissolved limited partnership shall wind up its activities and affairs, and, except
5972 as otherwise provided in Section 48-2e-803, the limited partnership continues after dissolution
5973 only for the purpose of winding up.

5974 (2) In winding up its activities and affairs, the limited partnership:

5975 (a) shall discharge the limited partnership's debts, obligations, and other liabilities,
5976 settle and close the limited partnership's activities and affairs, and marshal and distribute the
5977 assets of the limited partnership; and

5978 (b) may:

5979 (i) amend its certificate of limited partnership to state that the limited partnership is

5980 dissolved;
5981 (ii) preserve the limited partnership activities, affairs, and property as a going concern
5982 for a reasonable time;
5983 (iii) prosecute and defend actions and proceedings, whether civil, criminal, or
5984 administrative;
5985 (iv) transfer the limited partnership's property;
5986 (v) settle disputes by mediation or arbitration;
5987 (vi) deliver to the division for filing a statement of termination stating the name of the
5988 limited partnership and that the limited partnership is terminated; and
5989 (vii) perform other acts necessary or appropriate to the winding up.
5990 (3) If a dissolved limited partnership does not have a general partner, a person to wind
5991 up the dissolved limited partnership's activities and affairs may be appointed by the affirmative
5992 vote or consent of limited partners owning a majority of the rights to receive distributions as
5993 limited partners at the time the vote or consent is to be effective. A person appointed under
5994 this Subsection (3):
5995 (a) has the powers of a general partner under Section 48-2e-804 but is not liable for the
5996 debts, obligations, and other liabilities of the limited partnership solely by reason of having or
5997 exercising those powers or otherwise acting to wind up the dissolved limited partnership's
5998 activities and affairs; and
5999 (b) shall deliver promptly to the division for filing an amendment to the certificate of
6000 limited partnership stating:
6001 (i) that the limited partnership does not have a general partner;
6002 (ii) the name and street and mailing addresses of the person; and
6003 (iii) that the person has been appointed pursuant to this subsection to wind up the
6004 limited partnership.
6005 (4) On the application of any partner, the district court may order judicial supervision
6006 of the winding up of a dissolved limited partnership, including the appointment of a person to
6007 wind up the limited partnership's activities and affairs, if:
6008 (a) the limited partnership does not have a general partner and within a reasonable time
6009 following the dissolution no person has been appointed pursuant to Subsection (3); or
6010 (b) the applicant establishes other good cause.

6011 Section 211. Section **48-2e-803** is enacted to read:

6012 **48-2e-803. Rescinding dissolution.**

6013 (1) A limited partnership may rescind its dissolution, unless a statement of termination
6014 applicable to the limited partnership is effective, the district court has entered an order under
6015 Subsection 48-2e-801(1)(f) dissolving the limited partnership or the division has dissolved the
6016 limited partnership under Section 48-2e-810.

6017 (2) Rescinding dissolution under this section requires:

6018 (a) the affirmative vote or consent of each partner; and

6019 (b) if the limited partnership has delivered to the division for filing an amendment to
6020 the certificate of limited partnership stating that the partnership is dissolved and if:

6021 (i) the amendment is not effective, the filing by the limited partnership of a statement
6022 of withdrawal under Section 48-2e-207 applicable to the amendment; or

6023 (ii) the amendment is effective, the delivery by the limited partnership to the division
6024 for filing of an amendment to the certificate of limited partnership stating that the dissolution
6025 has been rescinded under this section.

6026 (3) If a limited partnership rescinds its dissolution:

6027 (a) the limited partnership resumes carrying on its activities and affairs as if dissolution
6028 had never occurred;

6029 (b) subject to Subsection (3)(c), any liability incurred by the limited partnership after
6030 the dissolution and before the rescission is effective is determined as if dissolution had never
6031 occurred; and

6032 (c) the rights of a third party arising out of conduct in reliance on the dissolution before
6033 the third party knew or had notice of the rescission may not be adversely affected.

6034 Section 212. Section **48-2e-804** is enacted to read:

6035 **48-2e-804. Power to bind partnership after dissolution.**

6036 (1) A limited partnership is bound by a general partner's act after dissolution which:

6037 (a) is appropriate for winding up the limited partnership's activities and affairs; or

6038 (b) would have bound the limited partnership under Section 48-2e-402 before
6039 dissolution, if, at the time the other party enters into the transaction, the other party does not
6040 know or have notice of the dissolution.

6041 (2) A person dissociated as a general partner binds a limited partnership through an act

6042 occurring after dissolution if:

6043 (a) at the time the other party enters into the transaction:

6044 (i) less than two years has passed since the dissociation; and

6045 (ii) the other party does not have notice of the dissociation and reasonably believes that

6046 the person is a general partner; and

6047 (b) the act:

6048 (i) is appropriate for winding up the limited partnership's activities and affairs; or

6049 (ii) would have bound the limited partnership under Section 48-2e-402 before

6050 dissolution and at the time the other party enters into the transaction the other party does not

6051 have notice of the dissolution.

6052 Section 213. Section **48-2e-805** is enacted to read:

6053 **48-2e-805. Liability after dissolution of general partner and person dissociated as**
6054 **general partner to limited partnership, other general partners, and persons dissociated as**
6055 **general partner.**

6056 (1) If a general partner having knowledge of the dissolution causes a limited
6057 partnership to incur an obligation under Subsection 48-2e-804(1) by an act that is not
6058 appropriate for winding up the limited partnership's activities and affairs, the general partner is
6059 liable:

6060 (a) to the limited partnership for any damage caused to the limited partnership arising
6061 from the obligation; and

6062 (b) if another general partner or a person dissociated as a general partner is liable for
6063 the obligation, to that other general partner or person for any damage caused to that other
6064 general partner or person arising from the liability.

6065 (2) If a person dissociated as a general partner causes a limited partnership to incur an
6066 obligation under Subsection 48-2e-804(2), the person is liable:

6067 (a) to the limited partnership for any damage caused to the limited partnership arising
6068 from the obligation; and

6069 (b) if a general partner or another person dissociated as a general partner is liable for
6070 the obligation, to the general partner or other person for any damage caused to the general
6071 partner or other person arising from the obligation.

6072 Section 214. Section **48-2e-806** is enacted to read:

6073 **48-2e-806. Known claims against dissolved limited partnership.**

6074 (1) Except as otherwise provided in Subsection (4), a dissolved limited partnership
6075 may give notice of a known claim under Subsection (2), which has the effect provided in
6076 Subsection (3).

6077 (2) A dissolved limited partnership may in a record notify its known claimants of the
6078 dissolution. The notice must:

6079 (a) specify the information required to be included in a claim;

6080 (b) state that a claim must be in writing and provide a mailing address to which the
6081 claim is to be sent;

6082 (c) state the deadline for receipt of a claim, which may not be less than 120 days after
6083 the date the notice is received by the claimant;

6084 (d) state that the claim will be barred if not received by the deadline; and

6085 (e) unless the limited partnership has been throughout its existence a limited liability
6086 limited partnership, state that the barring of a claim against the limited partnership will also bar
6087 any corresponding claim against any general partner or person dissociated as a general partner
6088 which is based on Section 48-2e-404.

6089 (3) A claim against a dissolved limited partnership is barred if the requirements of
6090 Subsection (2) are met, and:

6091 (a) the claim is not received by the specified deadline; or

6092 (b) if the claim is timely received but rejected by the limited partnership:

6093 (i) the limited partnership causes the claimant to receive a notice in a record stating that
6094 the claim is rejected and will be barred unless the claimant commences an action against the
6095 limited partnership to enforce the claim not later than 90 days after the claimant receives the
6096 notice; and

6097 (ii) the claimant does not commence the required action not later than 90 days after the
6098 claimant receives the notice.

6099 (4) This section does not apply to a claim based on an event occurring after the
6100 effective date of dissolution or a liability that on that date is contingent.

6101 Section 215. Section **48-2e-807** is enacted to read:

6102 **48-2e-807. Other claims against dissolved limited partnership.**

6103 (1) A dissolved limited partnership may publish notice of its dissolution and request

6104 persons having claims against the dissolved limited partnership to present them in accordance
6105 with the notice.

6106 (2) A notice under Subsection (1) must:

6107 (a) be published at least once in a newspaper of general circulation in the county in this
6108 state in which the dissolved limited partnership's principal office is located or, if the principal
6109 office is not located in this state, in the county in which the office of the dissolved limited
6110 partnership's registered agent is or was last located and in accordance with Section 45-1-101;

6111 (b) describe the information required to be contained in a claim, state that the claim
6112 must be in writing, and provide a mailing address to which the claim is to be sent;

6113 (c) state that a claim against the dissolved limited partnership is barred unless an action
6114 to enforce the claim is commenced not later than three years after publication of the notice; and

6115 (d) unless the dissolved limited partnership has been throughout its existence a limited
6116 liability limited partnership, state that the barring of a claim against the dissolved limited
6117 partnership will also bar any corresponding claim against any general partner or person
6118 dissociated as a general partner which is based on Section 48-2e-404.

6119 (3) If a dissolved limited partnership publishes a notice in accordance with Subsection
6120 (2), the claim of each of the following claimants is barred unless the claimant commences an
6121 action to enforce the claim against the dissolved limited partnership not later than three years
6122 after the publication date of the notice:

6123 (a) a claimant that did not receive notice in a record under Section 48-2e-806;

6124 (b) a claimant whose claim was timely sent to the dissolved limited partnership but not
6125 acted on; and

6126 (c) a claimant whose claim is contingent at, or based on an event occurring after, the
6127 effective date of dissolution.

6128 (4) A claim not barred under this section or Section 48-2e-806 may be enforced:

6129 (a) against the dissolved limited partnership, to the extent of its undistributed assets;

6130 (b) except as otherwise provided in Section 48-2e-808, if the assets of the dissolved
6131 limited partnership have been distributed after dissolution, against a partner or transferee to the
6132 extent of that person's proportionate share of the claim or of the dissolved limited partnership's
6133 assets distributed to the partner or transferee after dissolution, whichever is less, but a person's
6134 total liability for all claims under this subsection may not exceed the total amount of assets

6135 distributed to the person after dissolution; and

6136 (c) against any person liable on the claim under Sections 48-2e-404 and 48-2e-607.

6137 Section 216. Section **48-2e-808** is enacted to read:

6138 **48-2e-808. Court proceedings.**

6139 (1) A dissolved limited partnership that has published a notice under Section 48-2e-807
6140 may file an application with the district court in the county where the dissolved limited
6141 partnership's principal office is located, or, if the principal office is not located in this state,
6142 where the office of its registered agent is located, for a determination of the amount and form
6143 of security to be provided for payment of claims that are contingent, have not been made
6144 known to the dissolved limited partnership, or are based on an event occurring after the
6145 effective date of dissolution but which, based on the facts known to the dissolved limited
6146 partnership, are reasonably expected to arise after the effective date of dissolution. Security is
6147 not required for any claim that is or is reasonably anticipated to be barred under Subsection
6148 48-2e-807(3).

6149 (2) Not later than 10 days after the filing of an application under Subsection (1), the
6150 dissolved limited partnership shall give notice of the proceeding to each claimant holding a
6151 contingent claim known to the dissolved limited partnership.

6152 (3) In a proceeding brought under this section, the court may appoint a guardian ad
6153 litem to represent all claimants whose identities are unknown. The reasonable fees and
6154 expenses of the guardian, including all reasonable expert witness fees, must be paid by the
6155 dissolved limited partnership.

6156 (4) A dissolved limited partnership that provides security in the amount and form
6157 ordered by the court under Subsection (1) satisfies the dissolved limited partnership's
6158 obligations with respect to claims that are contingent, have not been made known to the
6159 dissolved limited partnership, or are based on an event occurring after the effective date of
6160 dissolution, and such claims may not be enforced against a partner or transferee that received
6161 assets in liquidation.

6162 Section 217. Section **48-2e-809** is enacted to read:

6163 **48-2e-809. Liability of general partner and person dissociated as general partner**
6164 **when claim against limited partnership barred.**

6165 If a claim against a dissolved limited partnership is barred under Section 48-2e-806,

6166 48-2e-807, or 48-2e-808, any corresponding claim under Section 48-2e-404 or 48-2e-607 is
6167 also barred.

6168 Section 218. Section **48-2e-810** is enacted to read:

6169 **48-2e-810. Administrative dissolution.**

6170 (1) The division may commence a proceeding under Subsections (2) and (3) to dissolve
6171 a limited partnership administratively if the limited partnership does not:

6172 (a) pay any fee, tax, or penalty required to be paid to the division not later than 60 days
6173 after it is due;

6174 (b) deliver an annual report to the division not later than 60 days after it is due; or

6175 (c) have a registered agent in this state for 60 consecutive days.

6176 (2) If the division determines that one or more grounds exist for administratively
6177 dissolving a limited partnership, the division shall serve the limited partnership with notice in a
6178 record of the division's determination.

6179 (3) If a limited partnership, not later than 60 days after service of the notice under
6180 Subsection (2), does not cure or demonstrate to the satisfaction of the division the nonexistence
6181 of each ground determined by the division, the division shall administratively dissolve the
6182 limited partnership by signing a statement of administrative dissolution that recites the grounds
6183 for dissolution and the effective date of dissolution. The division shall file the statement and
6184 serve a copy on the limited partnership pursuant to Section 48-2e-209.

6185 (4) A limited partnership that is administratively dissolved continues in existence as an
6186 entity but may not carry on any activities except as necessary to wind up its activities and
6187 affairs and liquidate its assets under Sections 48-2e-802, 48-2e-806, 48-2e-807, 48-2e-808, and
6188 48-2e-813 or to apply for reinstatement under Section 48-2e-811.

6189 (5) The administrative dissolution of a limited partnership does not terminate the
6190 authority of its registered agent.

6191 Section 219. Section **48-2e-811** is enacted to read:

6192 **48-2e-811. Reinstatement.**

6193 (1) A limited partnership that is administratively dissolved under Section 48-2e-810
6194 may apply to the division for reinstatement not later than two years after the effective date of
6195 dissolution. The application must state:

6196 (a) the name of the limited partnership at the time of its administrative dissolution and,

6197 if needed, a different name that satisfies Section 48-2e-108;

6198 (b) the address of the principal office of the limited partnership and the name and
6199 address of its registered agent;

6200 (c) the effective date of the limited partnership's administrative dissolution; and

6201 (d) that the grounds for dissolution did not exist or have been cured.

6202 (2) To be reinstated, a limited partnership must pay all fees, taxes, interest, and
6203 penalties that were due to the division at the time of its administrative dissolution and all fees,
6204 taxes, interest, and penalties that would have been due to the division while the limited
6205 partnership was administratively dissolved.

6206 (3) If the division determines that an application under Subsection (1) contains the
6207 information required, is satisfied that the information is correct, and determines that all
6208 payments required to be made to the division by Subsection (2) have been made, the division
6209 shall:

6210 (a) cancel the statement of administrative dissolution and prepare a statement of
6211 reinstatement that states the division's determination and the effective date of reinstatement;

6212 (b) file the statement of reinstatement; and

6213 (c) serve a copy of the statement of reinstatement on the limited partnership.

6214 (4) When reinstatement under this section is effective, the following rules apply:

6215 (a) The restatement relates back to and takes effect as of the effective date of the
6216 administrative dissolution.

6217 (b) The limited partnership resumes carrying on its activities and affairs as if the
6218 administrative dissolution had not occurred.

6219 (c) The rights of a person arising out of an act or omission in reliance on the
6220 dissolution before the person knew or had notice of the reinstatement are not affected.

6221 Section 220. Section **48-2e-812** is enacted to read:

6222 **48-2e-812. Judicial review of denial of reinstatement.**

6223 (1) If the division denies a limited partnership's application for reinstatement following
6224 administrative dissolution, the division shall serve the limited partnership with notice in a
6225 record that explains the reasons for the denial.

6226 (2) A limited partnership may seek judicial review of denial of reinstatement in the
6227 district court not later than 30 days after service of the notice of denial.

6228 Section 221. Section **48-2e-813** is enacted to read:

6229 **48-2e-813. Disposition of assets in winding up -- When contributions required.**

6230 (1) In winding up its activities and affairs, a limited partnership shall apply its assets,
6231 including the contributions required by this section, to discharge the limited partnership's
6232 obligations to creditors, including partners that are creditors.

6233 (2) After a limited partnership complies with Subsection (1), any surplus must be
6234 distributed in the following order, subject to any charging order in effect under Section
6235 48-2e-703:

6236 (a) to each person owning a transferable interest that reflects contributions made and
6237 not previously returned, an amount equal to the value of the unreturned contributions; and

6238 (b) among partners in proportion to their respective rights to share in distributions
6239 immediately before the dissolution of the limited partnership, except to the extent necessary to
6240 comply with any transfer effective under Section 48-2e-702.

6241 (3) If a limited partnership's assets are insufficient to satisfy all of its obligations under
6242 Subsection (1), with respect to each unsatisfied obligation incurred when the limited
6243 partnership was not a limited liability limited partnership, the following rules apply:

6244 (a) Each person that was a general partner when the obligation was incurred and that
6245 has not been released from the obligation under Section 48-2e-607 shall contribute to the
6246 limited partnership for the purpose of enabling the limited partnership to satisfy the obligation.
6247 The contribution due from each of those persons is in proportion to the right to receive
6248 distributions in the capacity of general partner in effect for each of those persons when the
6249 obligation was incurred.

6250 (b) If a person does not contribute the full amount required under Subsection (3)(a)
6251 with respect to an unsatisfied obligation of the limited partnership, the other persons required
6252 to contribute by Subsection (3)(a) on account of the obligation shall contribute the additional
6253 amount necessary to discharge the obligation. The additional contribution due from each of
6254 those other persons is in proportion to the right to receive distributions in the capacity of
6255 general partner in effect for each of those other persons when the obligation was incurred.

6256 (c) If a person does not make the additional contribution required by Subsection (3)(b),
6257 further additional contributions are determined and due in the same manner as provided in that
6258 subsection.

6259 (d) A person that makes an additional contribution under Subsection (3)(b) or (3)(c)
6260 may recover from any person whose failure to contribute under Subsection (3)(a) or (3)(b)
6261 necessitated the additional contribution. A person may not recover under this subsection more
6262 than the amount additionally contributed. A person's liability under this subsection may not
6263 exceed the amount the person failed to contribute.

6264 (4) If a limited partnership does not have sufficient surplus to comply with Subsection
6265 (2)(a), any surplus must be distributed among the owners of transferable interests in proportion
6266 to the value of the respective unreturned contributions.

6267 (5) All distributions made under Subsections (2) and (4) must be paid in money.
6268 Section 222. Section **48-2e-901** is enacted to read:

6269 **Part 9. Foreign Limited Partnerships**

6270 **48-2e-901. Governing law.**

6271 (1) The law of the jurisdiction of formation of a foreign limited partnership governs:

6272 (a) the internal affairs of the foreign limited partnership; and

6273 (b) the liability of a partner as partner for a debt, obligation, or other liability of the
6274 foreign limited partnership.

6275 (2) A foreign limited partnership is not precluded from registering to do business in
6276 this state because of any difference between the law of its jurisdiction of formation and the law
6277 of this state.

6278 (3) Registration of a foreign limited partnership to do business in this state does not
6279 authorize the foreign limited partnership to engage in any activities and affairs or exercise any
6280 power that a limited partnership may not engage in or exercise in this state.

6281 (4) (a) The division may permit a tribal limited partnership to apply for authority to
6282 transact business in the state in the same manner as a foreign limited partnership formed in
6283 another state.

6284 (b) If a tribal limited partnership elects to apply for authority to transact business in the
6285 state, for purposes of this chapter, the tribal limited partnership shall be treated in the same
6286 manner as a foreign limited partnership formed under the laws of another state.

6287 Section 223. Section **48-2e-902** is enacted to read:

6288 **48-2e-902. Registration to do business in this state.**

6289 (1) A foreign limited partnership may not do business in this state until it registers with

6290 the division under this part.

6291 (2) A foreign limited partnership doing business in this state may not maintain an
6292 action or proceeding in this state unless it is registered to do business in this state.

6293 (3) The failure of a foreign limited partnership to register to do business in this state
6294 does not impair the validity of a contract or act of the foreign limited partnership or preclude it
6295 from defending an action or proceeding in this state.

6296 (4) A limitation on the liability of a general partner or limited partners of a foreign
6297 limited partnership is not waived solely because the foreign limited partnership does business
6298 in this state without registering to do business in this state.

6299 (5) Subsections 48-2e-901(1) and (2) apply even if the foreign limited partnership fails
6300 to register under this part.

6301 Section 224. Section **48-2e-903** is enacted to read:

6302 **48-2e-903. Foreign registration statement.**

6303 To register to do business in this state, a foreign limited partnership must deliver a
6304 foreign registration statement to the division for filing. The statement must state:

6305 (1) the name of the foreign limited partnership and, if the name does not comply with
6306 Section 48-2e-108, an alternate name adopted pursuant to Subsection 48-2e-906(1);

6307 (2) that the limited partnership is a foreign limited partnership;

6308 (3) the name of the foreign limited partnership's jurisdiction of formation;

6309 (4) the street and mailing addresses of the foreign limited partnership's principal office
6310 and, if the law of the foreign limited partnership's jurisdiction of formation requires the foreign
6311 limited partnership to maintain an office in that jurisdiction, the street and mailing addresses of
6312 the required office; and

6313 (5) the information required by Subsection 16-17-203(1).

6314 Section 225. Section **48-2e-904** is enacted to read:

6315 **48-2e-904. Amendment of foreign registration.**

6316 A registered foreign limited partnership shall deliver to the division for filing an
6317 amendment to its foreign registration statement if there is a change in:

6318 (1) the name of the foreign limited partnership;

6319 (2) the foreign limited partnership's jurisdiction of formation;

6320 (3) an address required by Subsection 48-2e-903(4); or

6321 (4) the information required by Subsection 48-2e-903(5).

6322 Section 226. Section **48-2e-905** is enacted to read:

6323 **48-2e-905. Activities not constituting doing business.**

6324 (1) Activities of a foreign limited partnership which do not constitute doing business in

6325 this state under this part include:

6326 (a) maintaining, defending, mediating, arbitrating, and settling an action or proceeding;

6327 (b) carrying on any activity concerning its internal affairs, including holding meetings

6328 of its partners;

6329 (c) maintaining accounts in financial institutions;

6330 (d) maintaining offices or agencies for the transfer, exchange, and registration of

6331 securities of the foreign limited partnership or maintaining trustees or depositories with respect

6332 to those securities;

6333 (e) selling through independent contractors;

6334 (f) soliciting or obtaining orders by any means, if the orders require acceptance outside

6335 this state before they become contracts;

6336 (g) creating or acquiring indebtedness, mortgages, or security interests in property;

6337 (h) securing or collecting debts or enforcing mortgages or security interests in property

6338 securing the debts, and holding, protecting, or maintaining property;

6339 (i) conducting an isolated transaction that is not in the course of similar transactions;

6340 (j) owning, without more, property; and

6341 (k) doing business in interstate commerce.

6342 (2) A person does not do business in this state solely by being a partner of a foreign

6343 limited partnership that does business in this state. This section does not apply in determining

6344 the contacts or activities that may subject a foreign limited partnership to service of process,

6345 taxation, or regulation under law of this state other than this chapter.

6346 Section 227. Section **48-2e-906** is enacted to read:

6347 **48-2e-906. Noncomplying name of foreign limited partnership.**

6348 (1) A foreign limited partnership whose name does not comply with Section 48-2e-108

6349 may not register to do business in this state until it adopts, for the purpose of doing business in

6350 this state, an alternate name that complies with Section 48-2e-108. A registered foreign limited

6351 partnership that registers under an alternate name under this subsection need not comply with

6352 Title 42, Chapter 2, Conducting Business Under Assumed Name. After registering to do
6353 business in this state with an alternate name, a registered foreign limited partnership shall do
6354 business in this state under:

6355 (a) the alternate name;

6356 (b) the foreign limited partnership's name, with the addition of its jurisdiction of
6357 formation; or

6358 (c) an assumed or fictitious name the foreign limited partnership is authorized to use
6359 under Title 42, Chapter 2, Conducting Business Under Assumed Name.

6360 (2) If a registered foreign limited partnership changes its name to one that does not
6361 comply with Section 48-2e-108, it may not do business in this state until it complies with
6362 Subsection (1) by amending its registration to adopt an alternate name that complies with
6363 Section 48-2e-108.

6364 Section 228. Section **48-2e-907** is enacted to read:

6365 **48-2e-907. Withdrawal deemed on conversion to domestic filing entity or domestic**
6366 **limited liability partnership.**

6367 A registered foreign limited partnership that converts to a domestic limited liability
6368 partnership or to a domestic entity that is organized, incorporated, or otherwise formed through
6369 the delivery of a record to the division for filing is deemed to have withdrawn its registration
6370 on the effective date of the conversion.

6371 Section 229. Section **48-2e-908** is enacted to read:

6372 **48-2e-908. Withdrawal on dissolution or conversion to nonfiling entity other than**
6373 **limited liability partnership.**

6374 (1) A registered foreign limited partnership that has dissolved and completed winding
6375 up or has converted to a domestic or foreign entity that is not organized, incorporated, or
6376 otherwise formed through the public filing of a record, other than a limited liability partnership,
6377 shall deliver a statement of withdrawal to the division for filing. The statement must state:

6378 (a) in the case of a foreign limited partnership that has completed winding up:

6379 (i) its name and jurisdiction of formation; and

6380 (ii) that the foreign limited partnership surrenders its registration to do business in this
6381 state as a registered foreign limited partnership; and

6382 (b) in the case of a foreign limited partnership that has converted:

6383 (i) the name of the converting foreign limited partnership and its jurisdiction of
6384 formation;

6385 (ii) the type of entity to which the foreign limited partnership has converted and its
6386 jurisdiction of formation;

6387 (iii) that the converted entity surrenders the converting partnership's registration to do
6388 business in this state and revokes the authority of the converting foreign limited partnership's
6389 registered agent to act as registered agent in this state on the behalf of the foreign limited
6390 partnership or the converted entity; and

6391 (iv) a mailing address to which service of process may be made under Subsection (2).

6392 (2) After a withdrawal under this section of a foreign limited partnership that has
6393 converted to another type of entity is effective, service of process in any action or proceeding
6394 based on a cause of action arising during the time the foreign limited partnership was registered
6395 to do business in this state may be made pursuant to Subsection 16-17-301(2).

6396 Section 230. Section **48-2e-909** is enacted to read:

6397 **48-2e-909. Transfer of registration.**

6398 (1) When a registered foreign limited partnership has merged into a foreign entity that
6399 is not registered to do business in this state or has converted to a foreign entity required to
6400 register with the division to do business in this state, the foreign entity shall deliver to the
6401 division for filing an application for transfer of registration. The application must state:

6402 (a) the name of the registered foreign limited partnership before the merger or
6403 conversion;

6404 (b) that before the merger or conversion the registration pertained to a foreign limited
6405 partnership;

6406 (c) the name of the applicant foreign entity into which the foreign limited partnership
6407 has merged or to which it has been converted, and, if the name does not comply with Section
6408 48-2e-108 or similar provision of law of this state governing an entity of the same type as the
6409 applicant foreign entity, an alternate name adopted pursuant to Subsection 48-2e-906(1) or
6410 similar provision of law of this state governing a foreign entity registered to do business in this
6411 state of the same type as the applicable foreign entity;

6412 (d) the type of entity of the applicant foreign entity and its jurisdiction of formation;

6413 (e) the street and mailing addresses of the principal office of the applicant foreign

6414 entity and, if the law of the entity's jurisdiction of formation requires the entity to maintain an
6415 office in that jurisdiction, the street and mailing addresses of that office; and

6416 (f) the information required under Subsection 16-17-203(1).

6417 (2) When an application for transfer of registration takes effect, the registration of the
6418 foreign limited partnership to do business in this state is transferred without interruption to the
6419 foreign entity into which the foreign limited partnership has merged or to which it has been
6420 converted.

6421 Section 231. Section **48-2e-910** is enacted to read:

6422 **48-2e-910. Termination of registration.**

6423 (1) The division may terminate the registration of a registered foreign limited
6424 partnership in the manner provided in Subsections (2) and (3) if the foreign limited partnership
6425 does not:

6426 (a) pay, not later than 60 days after the due date, any fee, tax, interest, or penalty
6427 required to be paid to the division under this chapter or law other than this chapter;

6428 (b) deliver to the division for filing, not later than 60 days after the due date, an annual
6429 report;

6430 (c) have a registered agent as required by Section 48-2e-111; or

6431 (d) deliver to the division for filing a statement of a change under Section 16-17-206
6432 not later than 30 days after a change has occurred in the name or address of the registered
6433 agent.

6434 (2) The division may terminate the registration of a registered foreign limited
6435 partnership by:

6436 (a) filing a notice of termination or noting the termination in the records of the
6437 division; and

6438 (b) delivering a copy of the notice or the information in the notation to the foreign
6439 limited partnership's registered agent, or if the foreign limited partnership does not have a
6440 registered agent, to the foreign limited partnership's principal office.

6441 (3) The notice must state or the information in the notation under Subsection (2) must
6442 include:

6443 (a) the effective date of the termination, which must be at least 60 days after the date
6444 the division delivers the copy; and

6445 (b) the grounds for termination under Subsection (1).
6446 (4) The authority of the registered foreign limited partnership to do business in this
6447 state ceases on the effective date of the notice of termination or notation under Subsection (2),
6448 unless before that date the foreign limited partnership cures each ground for termination stated
6449 in the notice or notation. If the foreign limited partnership cures each ground, the division shall
6450 file a record so stating.

6451 Section 232. Section **48-2e-911** is enacted to read:

6452 **48-2e-911. Withdrawal of registration of registered foreign limited partnership.**

6453 (1) A registered foreign limited partnership may withdraw its registration by delivering
6454 a statement of withdrawal to the division for filing. The statement of withdrawal must state:

6455 (a) the name of the foreign limited partnership and its jurisdiction of formation;

6456 (b) that the foreign limited partnership is not doing business in this state and that it
6457 withdraws its registration to do business in this state;

6458 (c) that the foreign limited partnership revokes the authority of its registered agent to
6459 accept service on its behalf in this state; and

6460 (d) an address to which service of process may be made under Subsection (2).

6461 (2) After the withdrawal of the registration of a partnership, service of process in any
6462 action or proceeding based on a cause of action arising during the time the foreign limited
6463 partnership was registered to do business in this state may be made pursuant to Subsection
6464 16-17-301(2).

6465 Section 233. Section **48-2e-912** is enacted to read:

6466 **48-2e-912. Action by attorney general.**

6467 The attorney general may maintain an action to enjoin a foreign limited partnership
6468 from doing business in this state in violation of this part.

6469 Section 234. Section **48-2e-1001** is enacted to read:

6470 **Part 10. Actions by Partners**

6471 **48-2e-1001. Direct action by partner.**

6472 (1) Subject to Subsection (2), a partner may maintain a direct action against another
6473 partner or the limited partnership, with or without an accounting as to the limited partnership's
6474 activities and affairs, to enforce the partner's rights and otherwise protect the partner's interests,
6475 including rights and interests under the partnership agreement or this chapter or arising

6476 independently of the partnership relationship.

6477 (2) A partner maintaining a direct action under this section must plead and prove an
6478 actual or threatened injury that is not solely the result of an injury suffered or threatened to be
6479 suffered by the limited partnership.

6480 (3) A right to an accounting upon a dissolution and winding up does not revive a claim
6481 barred by law.

6482 Section 235. Section **48-2e-1002** is enacted to read:

6483 **48-2e-1002. Derivative action.**

6484 A partner may maintain a derivative action to enforce a right of a limited partnership if:

6485 (1) the partner first makes a demand on the general partners, requesting that they cause
6486 the limited partnership to bring an action to enforce the right, and the general partners do not
6487 bring the action within a reasonable time; or

6488 (2) a demand under Subsection (1) would be futile.

6489 Section 236. Section **48-2e-1003** is enacted to read:

6490 **48-2e-1003. Proper plaintiff.**

6491 A derivative action to enforce a right of a limited partnership may be maintained only
6492 by a person that is a partner at the time the action is commenced and:

6493 (1) which was a partner when the conduct giving rise to the action occurred; or

6494 (2) whose status as a partner devolved on the person by operation of law or pursuant to
6495 the terms of the partnership agreement from a person that was a partner at the time of the
6496 conduct.

6497 Section 237. Section **48-2e-1004** is enacted to read:

6498 **48-2e-1004. Pleading.**

6499 In a derivative action to enforce a right of a limited partnership, the complaint must
6500 state with particularity:

6501 (1) the date and content of plaintiff's demand and the response to the demand by the
6502 general partner; or

6503 (2) why demand should be excused as futile.

6504 Section 238. Section **48-2e-1005** is enacted to read:

6505 **48-2e-1005. Special litigation committee.**

6506 (1) If a limited partnership is named as or made a party in a derivative proceeding, the

6507 limited partnership may appoint a special litigation committee to investigate the claims asserted
6508 in the proceeding and determine whether pursuing the action is in the best interests of the
6509 limited partnership. If the limited partnership appoints a special litigation committee, on
6510 motion by the committee made in the name of the limited partnership, except for good cause
6511 shown, the court shall stay discovery for the time reasonably necessary to permit the committee
6512 to make its investigation. This subsection does not prevent the court from:

6513 (a) enforcing a person's right to information under Section 48-2e-304 or 48-2e-407; or

6514 (b) granting extraordinary relief in the form of a temporary restraining order or
6515 preliminary injunction.

6516 (2) A special litigation committee must be composed of one or more disinterested and
6517 independent individuals, who may be partners.

6518 (3) A special litigation committee may be appointed:

6519 (a) by a majority of the general partners not named as parties in the proceeding; and

6520 (b) if all general partners are named as parties in the proceeding, by a majority of the
6521 general partners named as defendants.

6522 (4) After appropriate investigation, a special litigation committee may determine that it
6523 is in the best interests of the limited partnership that the proceeding:

6524 (a) continue under the control of the plaintiff;

6525 (b) continue under the control of the committee;

6526 (c) be settled on terms approved by the committee; or

6527 (d) be dismissed.

6528 (5) After making a determination under Subsection (4), a special litigation committee
6529 shall file with the court a statement of its determination and its report supporting its
6530 determination and shall serve each party with a copy of the determination and report. The court
6531 shall determine whether the members of the committee were disinterested and independent and
6532 whether the committee conducted its investigation and made its recommendation in good faith,
6533 independently, and with reasonable care, with the committee having the burden of proof. If the
6534 court finds that the members of the committee were disinterested and independent and that the
6535 committee acted in good faith, independently, and with reasonable care, the court shall enforce
6536 the determination of the committee. Otherwise, the court shall dissolve the stay of discovery
6537 entered under Subsection (1) and allow the action to continue under the control of the plaintiff.

6538 Section 239. Section **48-2e-1006** is enacted to read:

6539 **48-2e-1006. Proceeds and expenses.**

6540 (1) Except as otherwise provided in Subsection (2):

6541 (a) any proceeds or other benefits of a derivative action, whether by judgment,
6542 compromise, or settlement, belong to the limited partnership and not to the plaintiff; and

6543 (b) if the plaintiff receives any proceeds, the plaintiff shall remit them immediately to
6544 the limited partnership.

6545 (2) If a derivative action is successful in whole or in part, the court may award the
6546 plaintiff reasonable expenses, including reasonable attorney's fees and costs, from the recovery
6547 of the limited partnership.

6548 (3) A derivative action on behalf of a limited partnership may not be voluntarily
6549 dismissed or settled without the court's approval.

6550 Section 240. Section **48-2e-1101** is enacted to read:

6551 **Part 11. Merger, Interest Exchange, Conversion, and Domestication**

6552 **48-2e-1101. Definitions.**

6553 In this part:

6554 (1) "Acquired entity" means the entity, all of one or more classes or series of interests
6555 in which are acquired in an interest exchange.

6556 (2) "Acquiring entity" means the entity that acquires all of one or more classes or series
6557 of interests of the acquired entity in an interest exchange.

6558 (3) "Conversion" means a transaction authorized by Section 48-2e-1141 through
6559 Section 48-2e-1146.

6560 (4) "Converted entity" means the converting entity as it continues in existence after a
6561 conversion.

6562 (5) "Converting entity" means the domestic entity that approves a plan of conversion
6563 pursuant to Section 48-2e-1143 or the foreign entity that approves a conversion pursuant to the
6564 law of its jurisdiction of formation.

6565 (6) "Distributional interest" means the right under an unincorporated entity's organic
6566 law and organic rules to receive distributions from the entity.

6567 (7) "Domestic," with respect to an entity, means governed as to its internal affairs by
6568 the law of this state.

6569 (8) "Domesticated limited partnership" means the domesticating limited partnership as
6570 it continues in existence after a domestication.

6571 (9) "Domesticating limited partnership" means the domestic limited partnership that
6572 approves a plan of domestication pursuant to Section 48-2e-1153 or the foreign limited
6573 partnership that approves a domestication pursuant to the law of its jurisdiction of formation.

6574 (10) "Domestication" means a transaction authorized by Sections 48-2e-1151 through
6575 48-2e-1156.

6576 (11) "Entity":

6577 (a) means:

6578 (i) a business corporation;

6579 (ii) a nonprofit corporation;

6580 (iii) a general partnership, including a limited liability partnership;

6581 (iv) a limited partnership, including a limited liability limited partnership;

6582 (v) a limited liability company;

6583 (vi) a limited cooperative association;

6584 (vii) an unincorporated nonprofit association;

6585 (viii) a statutory trust, business trust, or common-law business trust; or

6586 (ix) any other person that has:

6587 (A) a legal existence separate from any interest holder of that person; or

6588 (B) the power to acquire an interest in real property in its own name; and

6589 (b) does not include:

6590 (i) an individual;

6591 (ii) a trust with a predominantly donative purpose, or a charitable trust;

6592 (iii) an association or relationship that is not a partnership solely by reason of

6593 Subsection 48-1d-202(3) or a similar provision of the law of another jurisdiction;

6594 (iv) a decedent's estate; or

6595 (v) a government or a governmental subdivision, agency, or instrumentality.

6596 (12) "Filing entity" means an entity whose formation requires the filing of a public
6597 organic record.

6598 (13) "Foreign," with respect to an entity, means an entity governed as to its internal
6599 affairs by the law of a jurisdiction other than this state.

6600 (14) "Governance interest" means a right under the organic law or organic rules of an
6601 unincorporated entity, other than as a governor, agent, assignee, or proxy, to:

6602 (a) receive or demand access to information concerning, or the books and records of,
6603 the entity;

6604 (b) vote for or consent to the election of the governors of the entity; or

6605 (c) receive notice of or vote on or consent to an issue involving the internal affairs of
6606 the entity.

6607 (15) "Governor" means:

6608 (a) a director of a business corporation;

6609 (b) a director or trustee of a nonprofit corporation;

6610 (c) a general partner of a general partnership;

6611 (d) a general partner of a limited partnership;

6612 (e) a manager of a manager-managed limited liability company;

6613 (f) a member of a member-managed limited liability company;

6614 (g) a director of a limited cooperative association;

6615 (h) a manager of an unincorporated nonprofit association;

6616 (i) a trustee of a statutory trust, business trust, or common-law business trust; or

6617 (j) any other person under whose authority the powers of an entity are exercised and
6618 under whose direction the activities and affairs of the entity are managed pursuant to the
6619 organic law and organic rules of the entity.

6620 (16) "Interest" means:

6621 (a) a share in a business corporation;

6622 (b) a membership in a nonprofit corporation;

6623 (c) a partnership interest in a general partnership;

6624 (d) a partnership interest in a limited partnership;

6625 (e) a membership interest in a limited liability company;

6626 (f) a member's interest in a limited cooperative association;

6627 (g) a membership in an unincorporated nonprofit association;

6628 (h) a beneficial interest in a statutory trust, business trust, or common-law business
6629 trust; or

6630 (i) a governance interest or distributional interest in any other type of unincorporated

6631 entity.

6632 (17) "Interest exchange" means a transaction authorized by Sections 48-2e-1131

6633 through 48-2e-1136.

6634 (18) "Interest holder" means:

6635 (a) a shareholder of a business corporation;

6636 (b) a member of a nonprofit corporation;

6637 (c) a general partner of a general partnership;

6638 (d) a general partner of a limited partnership;

6639 (e) a limited partner of a limited partnership;

6640 (f) a member of a limited liability company;

6641 (g) a member of a limited cooperative association;

6642 (h) a member of an unincorporated nonprofit association;

6643 (i) a beneficiary or beneficial owner of a statutory trust, business trust, or common-law

6644 business trust; or

6645 (j) any other direct holder of an interest.

6646 (19) "Interest holder liability" means:

6647 (a) personal liability for a liability of an entity which is imposed on a person:

6648 (i) solely by reason of the status of the person as an interest holder; or

6649 (ii) by the organic rules of the entity which make one or more specified interest holders

6650 or categories of interest holders liable in their capacity as interest holders for all or specified

6651 liabilities of the entity; or

6652 (b) an obligation of an interest holder under the organic rules of an entity to contribute

6653 to the entity.

6654 (20) "Jurisdiction of formation" means the jurisdiction whose law includes the organic

6655 law of an entity.

6656 (21) "Merger" means a transaction authorized by Sections 48-2e-1121 through

6657 48-2e-1126.

6658 (22) "Merging entity" means an entity that is a party to a merger and exists

6659 immediately before the merger becomes effective.

6660 (23) "Organic law" means the law of an entity's jurisdiction of formation governing the

6661 internal affairs of the entity.

6662 (24) "Organic rules" means the public organic record and private organic rules of an
6663 entity.

6664 (25) "Plan" means a plan of merger, plan of interest exchange, plan of conversion, or
6665 plan of domestication.

6666 (26) "Plan of conversion" means a plan under Section 48-2e-1142.

6667 (27) "Plan of domestication" means a plan under Section 48-2e-1152.

6668 (28) "Plan of interest exchange" means a plan under Section 48-2e-1132.

6669 (29) "Plan of merger" means a plan under Section 48-2e-1122.

6670 (30) "Private organic rules" means the rules, whether or not in a record, that govern the
6671 internal affairs of an entity, are binding on all its interest holders, and are not part of its public
6672 organic record, if any. The term includes:

6673 (a) the bylaws of a business corporation;

6674 (b) the bylaws of a nonprofit corporation;

6675 (c) the partnership agreement of a general partnership;

6676 (d) the partnership agreement of a limited partnership;

6677 (e) the operating agreement of a limited liability company;

6678 (f) the bylaws of a limited cooperative association;

6679 (g) the governing principles of an unincorporated nonprofit association; and

6680 (h) the trust instrument of a statutory trust or similar rules of a business trust or a
6681 common-law business trust.

6682 (31) "Protected agreement" means:

6683 (a) a record evidencing indebtedness and any related agreement in effect on July 1,
6684 2014;

6685 (b) an agreement that is binding on an entity on July 1, 2014;

6686 (c) the organic rules of an entity in effect on July 1, 2014; or

6687 (d) an agreement that is binding on any of the governors or interest holders of an entity
6688 on July 1, 2014.

6689 (32) "Public organic record" means the record, the filing of which by the division is
6690 required to form an entity, and any amendment to or restatement of that record. The term
6691 includes:

6692 (a) the articles of incorporation of a business corporation;

- 6693 (b) the articles of incorporation of a nonprofit corporation;
6694 (c) the certificate of limited partnership of a limited partnership;
6695 (d) the certificate of organization of a limited liability company;
6696 (e) the articles of organization of a limited cooperative association; and
6697 (f) the certificate of trust of a statutory trust or similar record of a business trust.
6698 (33) "Registered foreign entity" means a foreign entity that is registered to do business
6699 in this state pursuant to a record filed by the division.
6700 (34) "Statement of conversion" means a statement under Section 48-2e-1145.
6701 (35) "Statement of domestication" means a statement under Section 48-2e-1155.
6702 (36) "Statement of interest exchange" means a statement under Section 48-2e-1135.
6703 (37) "Statement of merger" means a statement under Section 48-2e-1125.
6704 (38) "Surviving entity" means the entity that continues in existence after or is created
6705 by a merger.
6706 (39) "Type of entity" means a generic form of entity:
6707 (a) recognized at common law; or
6708 (b) formed under an organic law, whether or not some entities formed under that
6709 organic law are subject to provisions of that law that create different categories of the form of
6710 entity.
6711 Section 241. Section **48-2e-1102** is enacted to read:
6712 **48-2e-1102. Relationship of part to other laws.**
6713 This part does not authorize an act prohibited by, and does not affect the application or
6714 requirements of, law other than this part.
6715 Section 242. Section **48-2e-1103** is enacted to read:
6716 **48-2e-1103. Required notice or approval.**
6717 (1) A domestic or foreign entity that is required to give notice to, or obtain the approval
6718 of, a governmental agency or officer of this state to be a party to a merger must give the notice
6719 or obtain the approval to be a party to an interest exchange, conversion, or domestication.
6720 (2) Property held for a charitable purpose under the law of this state by a domestic or
6721 foreign entity immediately before a transaction under this part becomes effective may not, as a
6722 result of the transaction, be diverted from the objects for which it was donated, granted,
6723 devised, or otherwise transferred unless, to the extent required by or pursuant to the law of this

6724 state concerning cy pres or other law dealing with nondiversion of charitable assets, the entity
6725 obtains an appropriate order of the district court specifying the disposition of the property.

6726 (3) A bequest, devise, gift, grant, or promise contained in a will or other instrument of
6727 donation, subscription, or conveyance that is made to a merging entity that is not the surviving
6728 entity and that takes effect or remains payable after the merger inures to the surviving entity. A
6729 trust obligation that would govern property if transferred to the nonsurviving entity applies to
6730 property that is transferred to the surviving entity under this section.

6731 Section 243. Section **48-2e-1104** is enacted to read:

6732 **48-2e-1104. Status of filings.**

6733 A filing under this part signed by a domestic entity becomes part of the public organic
6734 record of the entity if the entity's organic law provides that similar filings under that law
6735 become part of the public organic record of the entity.

6736 Section 244. Section **48-2e-1105** is enacted to read:

6737 **48-2e-1105. Nonexclusivity.**

6738 The fact that a transaction under this part produces a certain result does not preclude the
6739 same result from being accomplished in any other manner permitted by law other than this part.

6740 Section 245. Section **48-2e-1106** is enacted to read:

6741 **48-2e-1106. Reference to external facts.**

6742 A plan may refer to facts ascertainable outside the plan if the manner in which the facts
6743 will operate upon the plan is specified in the plan. The facts may include the occurrence of an
6744 event or a determination or action by a person, whether or not the event, determination, or
6745 action is within the control of a party to the transaction.

6746 Section 246. Section **48-2e-1107** is enacted to read:

6747 **48-2e-1107. Alternative means of approval of transactions.**

6748 Except as otherwise provided in the organic law or organic rules of a domestic entity,
6749 approval of a transaction under this part by the unanimous vote or consent of its interest
6750 holders satisfies the requirements of this part for approval of the transaction.

6751 Section 247. Section **48-2e-1108** is enacted to read:

6752 **48-2e-1108. Appraisal rights.**

6753 (1) An interest holder of a domestic merging, acquired, converting, or domesticating
6754 entity is entitled to appraisal rights in connection with the transaction if the interest holder

6755 would have been entitled to appraisal rights under the entity's organic law in connection with a
6756 merger in which the interest of the interest holder was changed, converted, or exchanged
6757 unless:

6758 (a) the organic law permits the organic rules to limit the availability of appraisal rights;
6759 and

6760 (b) the organic rules provide such a limit.

6761 (2) An interest holder of a domestic merging, acquired, converting, or domesticating
6762 entity is entitled to contractual appraisal rights in connection with a transaction under this part
6763 to the extent provided in:

6764 (a) the entity's organic rules; or

6765 (b) the plan.

6766 Section 248. Section **48-2e-1121** is enacted to read:

6767 **48-2e-1121. Merger authorized.**

6768 (1) By complying with Sections 48-2e-1121 through 48-2e-1126:

6769 (a) one or more domestic limited partnerships may merge with one or more domestic or
6770 foreign entities into a domestic or foreign surviving entity; and

6771 (b) two or more foreign entities may merge into a domestic limited partnership.

6772 (2) By complying with the provisions of Sections 48-2e-1121 through 48-2e-1126
6773 applicable to foreign entities, a foreign entity may be a party to a merger under Sections
6774 48-2e-1121 through 48-2e-1126 or may be the surviving entity in such a merger if the merger is
6775 authorized by the law of the foreign entity's jurisdiction of formation.

6776 Section 249. Section **48-2e-1122** is enacted to read:

6777 **48-2e-1122. Plan of merger.**

6778 (1) A domestic limited partnership may become a party to a merger under Sections
6779 48-2e-1121 through 48-2e-1126 by approving a plan of merger. The plan must be in a record
6780 and contain:

6781 (a) as to each merging entity, its name, jurisdiction of formation, and type of entity;

6782 (b) if the surviving entity is to be created in the merger, a statement to that effect and
6783 the entity's name, jurisdiction of formation, and type of entity;

6784 (c) the manner of converting the interests in each party to the merger into interests,
6785 securities, obligations, money, other property, rights to acquire interests or securities, or any

6786 combination of the foregoing;

6787 (d) if the surviving entity exists before the merger, any proposed amendments to its
6788 public organic record, if any, or to its private organic rules that are, or are proposed to be, in a
6789 record;

6790 (e) if the surviving entity is to be created in the merger, its proposed public organic
6791 record, if any, and the full text of its private organic rules that are proposed to be in a record;

6792 (f) the other terms and conditions of the merger; and

6793 (g) any other provision required by the law of a merging entity's jurisdiction of
6794 formation or the organic rules of a merging entity.

6795 (2) In addition to the requirements of Subsection (1), a plan of merger may contain any
6796 other provision not prohibited by law.

6797 Section 250. Section **48-2e-1123** is enacted to read:

6798 **48-2e-1123. Approval of merger.**

6799 (1) A plan of merger is not effective unless it has been approved:

6800 (a) by a domestic merging limited partnership, by all the partners of the limited
6801 partnership entitled to vote on or consent to any matter; and

6802 (b) in a record, by each partner of a domestic merging limited partnership that will
6803 have interest holder liability for debts, obligations, and other liabilities that arise after the
6804 merger becomes effective, unless:

6805 (i) the partnership agreement of the limited partnership in a record provides for the
6806 approval of a merger in which some or all of its partners become subject to interest holder
6807 liability by the vote or consent of fewer than all the partners; and

6808 (ii) the partner consented in a record to or voted for that provision of the partnership
6809 agreement or became a partner after the adoption of that provision.

6810 (2) A merger involving a domestic merging entity that is not a limited partnership is
6811 not effective unless the merger is approved by that entity in accordance with its organic law.

6812 (3) A merger involving a foreign merging entity is not effective unless the merger is
6813 approved by the foreign entity in accordance with the law of the foreign entity's jurisdiction of
6814 formation.

6815 Section 251. Section **48-2e-1124** is enacted to read:

6816 **48-2e-1124. Amendment of abandonment of plan of merger.**

6817 (1) A plan of merger may be amended only with the consent of each party to the plan,
6818 except as otherwise provided in the plan.

6819 (2) A domestic merging limited partnership may approve an amendment of a plan of
6820 merger:

6821 (a) in the same manner as the plan was approved, if the plan does not provide for the
6822 manner in which it may be amended; or

6823 (b) by the partners in the manner provided in the plan, but a partner that was entitled to
6824 vote on or consent to approval of the merger is entitled to vote on or consent to any amendment
6825 of the plan that will change:

6826 (i) the amount or kind of interests, securities, obligations, money, other property, rights
6827 to acquire interests or securities, or any combination of the foregoing, to be received by the
6828 interest holders of any party to the plan;

6829 (ii) the public organic record, if any, or private organic rules of the surviving entity that
6830 will be in effect immediately after the merger becomes effective, except for changes that do not
6831 require approval of the interest holders of the surviving entity under its organic law or organic
6832 rules; or

6833 (iii) any other terms or conditions of the plan, if the change would adversely affect the
6834 partner in any material respect.

6835 (3) After a plan of merger has been approved and before a statement of merger
6836 becomes effective, the plan may be abandoned as provided in the plan. Unless prohibited by
6837 the plan, a domestic merging limited partnership may abandon the plan in the same manner as
6838 the plan was approved.

6839 (4) If a plan of merger is abandoned after a statement of merger has been delivered to
6840 the division for filing and before the statement becomes effective, a statement of abandonment,
6841 signed by a party to the plan, must be delivered to the division for filing before the statement of
6842 merger becomes effective. The statement of abandonment takes effect on filing, and the
6843 merger is abandoned and does not become effective. The statement of abandonment must
6844 contain:

6845 (a) the name of each party to the plan of merger;

6846 (b) the date on which the statement of merger was delivered to the division for filing;

6847 and

6848 (c) a statement that the merger has been abandoned in accordance with this section.

6849 Section 252. Section **48-2e-1125** is enacted to read:

6850 **48-2e-1125. Statement of merger.**

6851 (1) A statement of merger must be signed by each merging entity and delivered to the
6852 division for filing.

6853 (2) A statement of merger must contain:

6854 (a) the name, jurisdiction of formation, and type of entity of each merging entity that is
6855 not the surviving entity;

6856 (b) the name, jurisdiction of formation, and type of entity of the surviving entity;

6857 (c) a statement that the merger was approved by each domestic merging entity, if any,
6858 in accordance with Sections 48-2e-1121 through 48-2e-1126 and by each foreign merging
6859 entity, if any, in accordance with the law of its jurisdiction of formation;

6860 (d) if the surviving entity exists before the merger and is a domestic filing entity, any
6861 amendment to its public organic record approved as part of the plan of merger;

6862 (e) if the surviving entity is created by the merger and is a domestic filing entity, its
6863 public organic record, as an attachment;

6864 (f) if the surviving entity is created by the merger and is a domestic limited liability
6865 partnership, its statement of qualification, as an attachment; and

6866 (g) if the surviving entity is a foreign entity that is not a registered foreign entity, a
6867 mailing address to which the division may send any process served on the division pursuant to
6868 Subsection 48-2e-1126(5).

6869 (3) In addition to the requirements of Subsection (2), a statement of merger may
6870 contain any other provision not prohibited by law.

6871 (4) If the surviving entity is a domestic entity, its public organic record, if any, must
6872 satisfy the requirements of the law of this state, but the public organic record does not need to
6873 be signed.

6874 (5) A plan of merger that is signed by all the merging entities and meets all the
6875 requirements of Subsection (2) may be delivered to the division for filing instead of a statement
6876 of merger and on filing has the same effect. If a plan of merger is filed as provided in this
6877 subsection, references in this part to a statement of merger refer to the plan of merger filed
6878 under this Subsection (5).

6879 Section 253. Section **48-2e-1126** is enacted to read:

6880 **48-2e-1126. Effect of merger.**

6881 (1) When a merger becomes effective:

6882 (a) the surviving entity continues or comes into existence;

6883 (b) each merging entity that is not the surviving entity ceases to exist;

6884 (c) all property of each merging entity vests in the surviving entity without transfer,
6885 reversion, or impairment;

6886 (d) all debts, obligations, and other liabilities of each merging entity are debts,
6887 obligations, and other liabilities of the surviving entity;

6888 (e) except as otherwise provided by law or the plan of merger, all the rights, privileges,
6889 immunities, powers, and purposes of each merging entity vest in the surviving entity;

6890 (f) if the surviving entity exists before the merger:

6891 (i) all its property continues to be vested in it without transfer, reversion, or
6892 impairment;

6893 (ii) it remains subject to all its debts, obligations, and other liabilities; and

6894 (iii) all its rights, privileges, immunities, powers, and purposes continue to be vested in
6895 it;

6896 (g) the name of the surviving entity may be substituted for the name of any merging
6897 entity that is a party to any pending action or proceeding;

6898 (h) if the surviving entity exists before the merger:

6899 (i) its public organic record, if any, is amended as provided in the statement of merger;
6900 and

6901 (ii) its private organic rules that are to be in a record, if any, are amended to the extent
6902 provided in the plan of merger;

6903 (i) if the surviving entity is created by the merger:

6904 (i) its public organic record, if any, is effective; and

6905 (ii) its private organic rules are effective; and

6906 (j) the interests in each merging entity which are to be converted in the merger are
6907 converted, and the interest holders of those interests are entitled only to the rights provided to
6908 them under the plan of merger and to any appraisal rights they have under Section 48-2e-1108
6909 and the merging entity's organic law.

6910 (2) Except as otherwise provided in the organic law or organic rules of a merging
6911 entity, the merger does not give rise to any rights that an interest holder, governor, or third
6912 party would otherwise have upon a dissolution, liquidation, or winding up of the merging
6913 entity.

6914 (3) When a merger becomes effective, a person that did not have interest holder
6915 liability with respect to any of the merging entities and becomes subject to interest holder
6916 liability with respect to a domestic entity as a result of the merger has interest holder liability
6917 only to the extent provided by the organic law of that entity and only for those debts,
6918 obligations, and other liabilities that arise after the merger becomes effective.

6919 (4) When a merger becomes effective, the interest holder liability of a person that
6920 ceases to hold an interest in a domestic merging entity with respect to which the person had
6921 interest holder liability is as follows:

6922 (a) The merger does not discharge any interest holder liability under the organic law of
6923 the domestic merging entity to the extent the interest holder liability arose before the merger
6924 became effective.

6925 (b) The person does not have interest holder liability under the organic law of the
6926 domestic merging entity for any debt, obligation, or other liability that arises after the merger
6927 becomes effective.

6928 (c) The organic law of the domestic merging entity continues to apply to the release,
6929 collection, or discharge of any interest holder liability preserved under Subsection (4)(a) as if
6930 the merger had not occurred and the surviving entity were the domestic merging entity.

6931 (d) The person has whatever rights of contribution from any other person as are
6932 provided by law other than this chapter, this chapter, or the organic rules of the domestic
6933 merging entity with respect to any interest holder liability preserved under Subsection (4)(a) as
6934 if the merger had not occurred.

6935 (5) When a merger becomes effective, a foreign entity that is the surviving entity may
6936 be served with process in this state for the collection and enforcement of any debts, obligations,
6937 or other liabilities of a domestic merging entity as provided in Section 16-17-301.

6938 (6) When a merger becomes effective, the registration to do business in this state of
6939 any foreign merging entity that is not the surviving entity is canceled.

6940 Section 254. Section **48-2e-1131** is enacted to read:

6941 **48-2e-1131. Interest exchange authorized.**

6942 (1) By complying with Sections 48-2e-1131 through 48-2e-1136:

6943 (a) a domestic limited partnership may acquire all of one or more classes or series of
6944 interests of another domestic or foreign entity in exchange for interests, securities, obligations,
6945 money, other property, rights to acquire interests or securities, or any combination of the
6946 foregoing; or

6947 (b) all of one or more classes or series of interests of a domestic limited partnership
6948 may be acquired by another domestic or foreign entity in exchange for interests, securities,
6949 obligations, rights to acquire interests or securities, money, or other property, or any
6950 combination of the foregoing.

6951 (2) By complying with the provisions of Sections 48-2e-1131 through 48-2e-1136
6952 applicable to foreign entities, a foreign entity may be the acquiring or acquired entity in an
6953 interest exchange under Sections 48-2e-1131 through 48-2e-1136 if the interest exchange is
6954 authorized by the law of the foreign entity's jurisdiction of formation.

6955 (3) If a protected agreement contains a provision that applies to a merger of a domestic
6956 limited partnership but does not refer to an interest exchange, the provision applies to an
6957 interest exchange in which the domestic limited partnership is the acquired entity as if the
6958 interest exchange were a merger until the provision is amended after July 1, 2014.

6959 Section 255. Section **48-2e-1132** is enacted to read:

6960 **48-2e-1132. Plan of interest exchange.**

6961 (1) A domestic limited partnership may be the acquired entity in an interest exchange
6962 under Sections 48-2e-1131 through 48-2e-1136 by approving a plan of interest exchange. The
6963 plan must be in a record and contain:

6964 (a) the name of the acquired entity;

6965 (b) the name, jurisdiction of formation, and type of entity of the acquiring entity;

6966 (c) the manner of converting the interests in the acquired entity into interests,
6967 securities, obligations, money, other property, rights to acquire interests or securities, or any
6968 combination of the foregoing;

6969 (d) any proposed amendments to the certificate of limited partnership or partnership
6970 agreement that are, or are proposed to be, in a record of the acquired entity;

6971 (e) the other terms and conditions of the interest exchange; and

6972 (f) any other provision required by the law of this state or the partnership agreement of
6973 the acquired entity.

6974 (2) In addition to the requirements of Subsection (1), a plan of interest exchange may
6975 contain any other provision not prohibited by law.

6976 Section 256. Section **48-2e-1133** is enacted to read:

6977 **48-2e-1133. Approval of interest exchange.**

6978 (1) A plan of interest exchange is not effective unless it has been approved:

6979 (a) by all the partners of a domestic acquired limited partnership entitled to vote on or
6980 consent to any matter; and

6981 (b) in a record, by each partner of the domestic acquired limited partnership that will
6982 have interest holder liability for debts, obligations, and other liabilities that arise after the
6983 interest exchange becomes effective, unless:

6984 (i) the partnership agreement of the limited partnership in a record provides for the
6985 approval of an interest exchange or a merger in which some or all of its partners become
6986 subject to interest holder liability by the vote or consent of fewer than all of the partners; and

6987 (ii) the partner consented in a record to or voted for that provision of the partnership
6988 agreement or became a partner after the adoption of that provision.

6989 (2) An interest exchange involving a domestic acquired entity that is not a limited
6990 partnership is not effective unless it is approved by the domestic entity in accordance with its
6991 organic law.

6992 (3) An interest exchange involving a foreign acquired entity is not effective unless it is
6993 approved by the foreign entity in accordance with the law of the foreign entity's jurisdiction of
6994 formation.

6995 (4) Except as otherwise provided in its organic law or organic rules, the interest holders
6996 of the acquiring entity are not required to approve the interest exchange.

6997 Section 257. Section **48-2e-1134** is enacted to read:

6998 **48-2e-1134. Amendment or abandonment of plan of interest exchange.**

6999 (1) A plan of interest exchange may be amended only with the consent of each party to
7000 the plan, except as otherwise provided in the plan.

7001 (2) A domestic acquired limited partnership may approve an amendment of a plan of
7002 interest exchange:

7003 (a) in the same manner as the plan was approved, if the plan does not provide for the
7004 manner in which it may be amended; or

7005 (b) by the partners of the limited partnership in the manner provided in the plan, but a
7006 partner that was entitled to vote on or consent to approval of the interest exchange is entitled to
7007 vote on or consent to any amendment of the plan that will change:

7008 (i) the amount or kind of interests, securities, obligations, money, other property, rights
7009 to acquire interests or securities, or any combination of the foregoing, to be received by any of
7010 the partners of the acquired limited partnership under the plan;

7011 (ii) the certificate of limited partnership or partnership agreement of the acquired
7012 limited partnership that will be in effect immediately after the interest exchange becomes
7013 effective, except for changes that do not require approval of the partners of the acquired limited
7014 partnership under this chapter or the partnership agreement; or

7015 (iii) any other terms or conditions of the plan, if the change would adversely affect the
7016 partner in any material respect.

7017 (3) After a plan of interest exchange has been approved and before a statement of
7018 interest exchange becomes effective, the plan may be abandoned as provided in the plan.

7019 Unless prohibited by the plan, a domestic acquired limited partnership may abandon the plan in
7020 the same manner as the plan was approved.

7021 (4) If a plan of interest exchange is abandoned after a statement of interest exchange
7022 has been delivered to the division for filing and before the statement becomes effective, a
7023 statement of abandonment, signed by the acquired limited partnership, must be delivered to the
7024 division for filing before the statement of interest exchange becomes effective. The statement
7025 of abandonment takes effect on filing, and the interest exchange is abandoned and does not
7026 become effective. The statement of abandonment must contain:

7027 (a) the name of the acquired limited partnership;

7028 (b) the date on which the statement of interest exchange was delivered to the division
7029 for filing; and

7030 (c) a statement that the interest exchange has been abandoned in accordance with this
7031 section.

7032 Section 258. Section **48-2e-1135** is enacted to read:

7033 **48-2e-1135. Statement of interest exchange.**

7034 (1) A statement of interest exchange must be signed by a domestic acquired limited
7035 partnership and delivered to the division for filing.

7036 (2) A statement of interest exchange must contain:

7037 (a) the name of the acquired limited partnership;

7038 (b) the name, jurisdiction of formation, and type of entity of the acquiring entity;

7039 (c) a statement that the plan of interest exchange was approved by the acquired entity
7040 in accordance with Sections 48-2e-1131 through 48-2e-1136; and

7041 (d) any amendments to the acquired limited partnership's certificate of limited
7042 partnership approved as part of the plan of interest exchange.

7043 (3) In addition to the requirements of Subsection (2), a statement of interest exchange
7044 may contain any other provision not prohibited by law.

7045 (4) A plan of interest exchange that is signed by a domestic acquired limited
7046 partnership and meets all the requirements of Subsection (2) may be delivered to the division
7047 for filing instead of a statement of interest exchange and on filing has the same effect. If a plan
7048 of interest exchange is filed as provided in this subsection, references in this part to a statement
7049 of interest exchange refer to the plan of interest exchange filed under this Subsection (4).

7050 Section 259. Section **48-2e-1136** is enacted to read:

7051 **48-2e-1136. Effect of interest exchange.**

7052 (1) When an interest exchange in which the acquired entity is a domestic limited
7053 partnership becomes effective:

7054 (a) the interests in the domestic acquired limited partnership that are the subject of the
7055 interest exchange cease to exist or are converted or exchanged, and the partners holding those
7056 interests are entitled only to the rights provided to them under the plan of interest exchange and
7057 to any appraisal rights they have under Section 48-2e-1108;

7058 (b) the acquiring entity becomes the interest holder of the interests in the acquired
7059 limited partnership stated in the plan of interest exchange to be acquired by the acquiring
7060 entity;

7061 (c) the certificate of limited partnership of the acquired limited partnership is amended
7062 as provided in the statement of interest exchange; and

7063 (d) the provisions of the partnership agreement of the acquired limited partnership that
7064 are to be in a record, if any, are amended to the extent provided in the plan of interest

7065 exchange.

7066 (2) Except as otherwise provided in the partnership agreement of a domestic acquired
7067 limited partnership, the interest exchange does not give rise to any rights that a partner or third
7068 party would have upon a dissolution, liquidation, or winding up of the acquired limited
7069 partnership.

7070 (3) When an interest exchange becomes effective, a person that did not have interest
7071 holder liability with respect to a domestic acquired limited partnership and becomes subject to
7072 interest holder liability with respect to a domestic entity as a result of the interest exchange has
7073 interest holder liability only to the extent provided by the organic law of the entity and only for
7074 those debts, obligations, and other liabilities that arise after the interest exchange becomes
7075 effective.

7076 (4) When an interest exchange becomes effective, the interest holder liability of a
7077 person that ceases to hold an interest in a domestic acquired limited partnership with respect to
7078 which the person had interest holder liability is as follows:

7079 (a) The interest exchange does not discharge any interest holder liability to the extent
7080 the interest holder liability arose before the interest exchange became effective.

7081 (b) The person does not have interest holder liability for any debt, obligation, or other
7082 liability that arises after the interest exchange becomes effective.

7083 (c) The person has whatever rights of contribution from any other person as are
7084 provided by other law, this chapter, or the partnership agreement of the acquired entity with
7085 respect to any interest holder liability preserved under Subsection (4)(a) as if the interest
7086 exchange had not occurred.

7087 Section 260. Section **48-2e-1141** is enacted to read:

7088 **48-2e-1141. Conversion authorized.**

7089 (1) By complying with Sections 48-2e-1141 through 48-2e-1146 a domestic limited
7090 partnership may become:

7091 (a) a domestic entity that is a different type of entity; or

7092 (b) a foreign entity that is a different type of entity, if the conversion is authorized by
7093 the law of the foreign jurisdiction.

7094 (2) By complying with the provisions of Sections 48-2e-1141 through 48-2e-1146
7095 applicable to foreign entities, a foreign entity that is not a foreign limited partnership may

7096 become a domestic limited partnership if the conversion is authorized by the law of the foreign
7097 entity's jurisdiction of formation.

7098 (3) If a protected agreement contains a provision that applies to a merger of a domestic
7099 limited partnership but does not refer to a conversion, the provision applies to a conversion of
7100 the entity as if the conversion were a merger until the provision is amended after July 1, 2014.

7101 Section 261. Section **48-2e-1142** is enacted to read:

7102 **48-2e-1142. Plan of conversion.**

7103 (1) A domestic limited partnership may convert to a different type of entity under
7104 Sections 48-2e-1141 through 48-2e-1146 by approving a plan of conversion. The plan must be
7105 in a record and contain:

7106 (a) the name of the converting limited partnership;

7107 (b) the name, jurisdiction of formation, and type of entity of the converted entity;

7108 (c) the manner of converting the interests in the converting limited partnership into
7109 interests, securities, obligations, money, other property, rights to acquire interests or securities,
7110 or any combination of the foregoing;

7111 (d) the proposed public organic record of the converted entity if it will be a filing
7112 entity;

7113 (e) the full text of the private organic rules of the converted entity that are proposed to
7114 be in a record;

7115 (f) the other terms and conditions of the conversion; and

7116 (g) any other provision required by the law of this state or the partnership agreement of
7117 the converting limited partnership.

7118 (2) In addition to the requirements of Subsection (1), a plan of conversion may contain
7119 any other provision not prohibited by law.

7120 Section 262. Section **48-2e-1143** is enacted to read:

7121 **48-2e-1143. Approval of conversion.**

7122 (1) A plan of conversion is not effective unless it has been approved:

7123 (a) by a domestic converting limited partnership by all of the partners of the limited
7124 partnership entitled to vote on or consent to any matter; and

7125 (b) in a record, by each partner of a domestic converting limited partnership that will
7126 have interest holder liability for debts, obligations, and other liabilities that arise after the

7127 conversion becomes effective:

7128 (i) the partnership agreement of the limited partnership provides in a record for the
7129 approval of a conversion or a merger in which some or all of its partners become subject to
7130 interest holder liability by the vote or consent of fewer than all the interest holders; and

7131 (ii) the partner voted for or consented in a record to that provision of the partnership
7132 agreement or became a partner after the adoption of that provision.

7133 (2) A conversion involving a domestic converting entity that is not a limited
7134 partnership is not effective unless it is approved by the domestic converting entity in
7135 accordance with its organic law.

7136 (3) A conversion of a foreign converting entity is not effective unless it is approved by
7137 the foreign entity in accordance with the law of the foreign entity's jurisdiction of formation.

7138 Section 263. Section **48-2e-1144** is enacted to read:

7139 **48-2e-1144. Amendment or abandonment of plan of conversion.**

7140 (1) A plan of conversion of a domestic converting limited partnership may be
7141 amended:

7142 (a) in the same manner as the plan was approved, if the plan does not provide for the
7143 manner in which it may be amended; or

7144 (b) by the partners of the limited partnership in the manner provided in the plan, but a
7145 partner that was entitled to vote on or consent to approval of the conversion is entitled to vote
7146 on or consent to any amendment of the plan that will change:

7147 (i) the amount or kind of interests, securities, obligations, money, other property, rights
7148 to acquire interests or securities, or any combination of the foregoing, to be received by any of
7149 the partners of the converting entity under the plan;

7150 (ii) the public organic record or private organic rules of the converted entity that will be
7151 in effect immediately after the conversion becomes effective, except for changes that do not
7152 require approval of the interest holders of the converted entity under its organic law or organic
7153 rules; or

7154 (iii) any other terms or conditions of the plan, if the change would adversely affect the
7155 partner in any material respect.

7156 (2) After a plan of conversion has been approved by a domestic converting limited
7157 partnership and before a statement of conversion becomes effective, the plan may be

7158 abandoned as provided in the plan. Unless prohibited by the plan, a domestic converting
7159 limited partnership may abandon the plan in the same manner as the plan was approved.

7160 (3) If a plan of conversion is abandoned after a statement of conversion has been
7161 delivered to the division for filing and before the statement becomes effective, a statement of
7162 abandonment, signed by the converting entity, must be delivered to the division for filing
7163 before the time the statement of conversion becomes effective. The statement of abandonment
7164 takes effect on filing, and the conversion is abandoned and does not become effective. The
7165 statement of abandonment must contain:

7166 (a) the name of the converting limited partnership;

7167 (b) the date on which the statement of conversion was delivered to the division for
7168 filing; and

7169 (c) a statement that the conversion has been abandoned in accordance with this section.

7170 Section 264. Section **48-2e-1145** is enacted to read:

7171 **48-2e-1145. Statement of conversion.**

7172 (1) A statement of conversion must be signed by the converting entity and delivered to
7173 the division for filing.

7174 (2) A statement of conversion must contain:

7175 (a) the name, jurisdiction of formation, and type of entity of the converting entity;

7176 (b) the name, jurisdiction of formation, and type of entity of the converted entity;

7177 (c) if the converting entity is a domestic entity, a statement that the plan of conversion
7178 was approved in accordance with Sections 48-2e-1141 through 48-2e-1146 or, if the converting
7179 entity is a foreign entity, a statement that the conversion was approved by the foreign
7180 converting entity in accordance with the law of its jurisdiction of formation;

7181 (d) if the converted entity is a domestic filing entity, the text of its public organic
7182 record, as an attachment;

7183 (e) if the converted entity is a domestic limited liability partnership, the text of its
7184 statement of qualification, as an attachment; and

7185 (f) if the converted entity is a foreign entity that is not a registered foreign entity, a
7186 mailing address to which the division may send any process served on the division pursuant to
7187 Subsection 48-2e-1146(5).

7188 (3) In addition to the requirements of Subsection (2), a statement of conversion may

7189 contain any other provision not prohibited by law.

7190 (4) If the converted entity is a domestic entity, its public organic record, if any, must
7191 satisfy the requirements of the law of this state, but the public organic record does not need to
7192 be signed.

7193 (5) A plan of conversion that is signed by a domestic converting entity and meets all
7194 the requirements of Subsection (2) may be delivered to the division for filing instead of a
7195 statement of conversion and on filing has the same effect. If a plan of conversion is filed as
7196 provided in this subsection, references in this part to a statement of conversion refer to the plan
7197 of conversion filed under this Subsection (5).

7198 Section 265. Section **48-2e-1146** is enacted to read:

7199 **48-2e-1146. Effect of conversion.**

7200 (1) When a conversion in which the converted entity is a domestic limited partnership
7201 becomes effective:

7202 (a) the converted entity is:

7203 (i) organized under and subject to this chapter; and

7204 (ii) the same entity without interruption as the converting entity;

7205 (b) all property of the converting entity continues to be vested in the converted entity
7206 without transfer, reversion, or impairment;

7207 (c) all debts, obligations, and other liabilities of the converting entity continue as debts,
7208 obligations, and other liabilities of the converted entity;

7209 (d) except as otherwise provided by law or the plan of conversion, all the rights,
7210 privileges, immunities, powers, and purposes of the converting entity remain in the converted
7211 entity;

7212 (e) the name of the converted entity may be substituted for the name of the converting
7213 entity in any pending action or proceeding;

7214 (f) the provisions of the partnership agreement of the converted entity that are to be in a
7215 record, if any, approved as part of the plan of conversion are effective; and

7216 (g) the interests in the converting entity are converted, and the interest holders of the
7217 converting entity are entitled only to the rights provided to them under the plan of conversion
7218 and to any appraisal rights they have under Section 48-2e-1108 and the converting entity's
7219 organic law.

7220 (2) Except as otherwise provided in the partnership agreement of a domestic converting
7221 limited partnership, the conversion does not give rise to any rights that a partner or third party
7222 would have upon a dissolution, liquidation, or winding up of the converting entity.

7223 (3) When a conversion becomes effective, a person that did not have interest holder
7224 liability with respect to the converting entity and becomes subject to interest holder liability
7225 with respect to a domestic entity as a result of the conversion has interest holder liability only
7226 to the extent provided by the organic law of the entity and only for those debts, obligations, and
7227 other liabilities that arise after the conversion becomes effective.

7228 (4) When a conversion becomes effective, the interest holder liability of a person that
7229 ceases to hold an interest in a domestic limited partnership with respect to which the person
7230 had interest holder liability is as follows:

7231 (a) The conversion does not discharge any interest holder liability to the extent the
7232 interest holder liability arose before the conversion became effective.

7233 (b) The person does not have interest holder liability for any debt, obligation, or other
7234 liability that arises after the conversion becomes effective.

7235 (c) The person has whatever rights of contribution from any other person as are
7236 provided by law other than this chapter, this chapter, or the partnership agreement of the
7237 converting entity with respect to any interest holder liability preserved under Subsection (4)(a)
7238 as if the conversion had not occurred.

7239 (5) When a conversion becomes effective, a foreign entity that is the converted entity
7240 may be served with process in this state for the collection and enforcement of any of its debts,
7241 obligations, and other liabilities as provided in Section 16-17-301.

7242 (6) If the converting entity is a registered foreign entity, its registration to do business
7243 in this state is canceled when the conversion becomes effective.

7244 (7) A conversion does not require the entity to wind up its affairs and does not
7245 constitute or cause the dissolution of the entity.

7246 Section 266. Section **48-2e-1151** is enacted to read:

7247 **48-2e-1151. Domestication authorized.**

7248 (1) By complying with Sections 48-2e-1151 through 48-2e-1156, a domestic limited
7249 partnership may become a foreign limited partnership if the domestication is authorized by the
7250 law of the foreign jurisdiction.

7251 (2) By complying with the provisions of Sections 48-2e-1151 through 48-2e-1156
7252 applicable to foreign limited partnerships, a foreign limited partnership may become a domestic
7253 limited partnership if the domestication is authorized by the law of the foreign limited
7254 partnership's jurisdiction of formation.

7255 (3) If a protected agreement contains a provision that applies to a merger of a domestic
7256 limited partnership but does not refer to a domestication, the provision applies to a
7257 domestication of the limited partnership as if the domestication were a merger until the
7258 provision is amended after July 1, 2014.

7259 Section 267. Section **48-2e-1152** is enacted to read:

7260 **48-2e-1152. Plan of domestication.**

7261 (1) A domestic limited partnership may become a foreign limited partnership in a
7262 domestication by approving a plan of domestication. The plan must be in a record and contain:

7263 (a) the name of the domesticating limited partnership;

7264 (b) the name and jurisdiction of formation of the domesticated limited partnership;

7265 (c) the manner of converting the interests in the domesticating limited partnership into
7266 interests, securities, obligations, money, other property, rights to acquire interests or securities,
7267 or any combination of the foregoing;

7268 (d) the proposed certificate of limited partnership of the domesticated limited
7269 partnership;

7270 (e) the full text of the partnership agreement of the domesticated limited partnership
7271 rights to acquire interests or securities, that are proposed to be in a record;

7272 (f) the other terms and conditions of the domestication; and

7273 (g) any other provision required by the law of this state or the partnership agreement of
7274 the domesticating limited partnership.

7275 (2) In addition to the requirements of Subsection (1), a plan of domestication may
7276 contain any other provision not prohibited by law.

7277 Section 268. Section **48-2e-1153** is enacted to read:

7278 **48-2e-1153. Approval of domestication.**

7279 (1) A plan of domestication of a domestic domesticating limited partnership is not
7280 effective unless it has been approved:

7281 (a) by all the partners entitled to vote on or consent to any matter; and

7282 (b) in a record, by each partner that will have interest holder liability for debts,
7283 obligations, and other liabilities that arise after the domestication becomes effective, unless:

7284 (i) the partnership agreement of the entity in a record provide for the approval of a
7285 domestication or merger in which some or all of its partners become subject to interest holder
7286 liability by the vote or consent of fewer than all the partners; and

7287 (ii) the partner voted for or consented in a record to that provision of the partnership
7288 agreement or became a partner after the adoption of that provision.

7289 (2) A domestication of a foreign domesticating limited partnership is not effective
7290 unless it is approved in accordance with the law of the foreign limited partnership's jurisdiction
7291 of formation.

7292 Section 269. Section **48-2e-1154** is enacted to read:

7293 **48-2e-1154. Amendment or abandonment of plan of domestication.**

7294 (1) A plan of domestication of a domestic domesticating limited partnership may be
7295 amended:

7296 (a) in the same manner as the plan was approved, if the plan does not provide for the
7297 manner in which it may be amended; or

7298 (b) by the partners of the limited partnership in the manner provided in the plan, but a
7299 partner that was entitled to vote on or consent to approval of the domestication is entitled to
7300 vote on or consent to any amendment of the plan that will change:

7301 (i) the amount or kind of interests, securities, obligations, money, other property, rights
7302 to acquire interests or securities, or any combination of the foregoing, to be received by any of
7303 the partners of the domesticating limited partnership under the plan;

7304 (ii) the certificate of limited partnership or partnership agreement of the domesticated
7305 limited partnership that will be in effect immediately after the domestication becomes effective,
7306 except for changes that do not require approval of the partners of the domesticated limited
7307 partnership under its organic law or partnership agreement; or

7308 (iii) any other terms or conditions of the plan, if the change would adversely affect the
7309 partner in any material respect.

7310 (2) After a plan of domestication has been approved by a domestic domesticating
7311 limited partnership and before a statement of domestication becomes effective, the plan may be
7312 abandoned as provided in the plan. Unless prohibited by the plan, by a domestic domesticating

7313 limited partnership may abandon the plan in the same manner as the plan was approved.

7314 (3) If a plan of domestication is abandoned after a statement of domestication has been
7315 delivered to the division for filing and before the statement becomes effective, a statement of
7316 abandonment, signed by the limited partnership, must be delivered to the division for filing
7317 before the time the statement of domestication becomes effective. The statement of
7318 abandonment takes effect on filing, and the domestication is abandoned and does not become
7319 effective. The statement of abandonment must contain:

7320 (a) the name of the domesticating limited partnership;

7321 (b) the date on which the statement of domestication was delivered to the division for
7322 filing; and

7323 (c) a statement that the domestication has been abandoned in accordance with this
7324 section.

7325 Section 270. Section **48-2e-1155** is enacted to read:

7326 **48-2e-1155. Statement of domestication.**

7327 (1) A statement of domestication must be signed by the domesticating limited
7328 partnership and delivered to the division for filing.

7329 (2) A statement of domestication must contain:

7330 (a) the name and jurisdiction of formation of the domesticating limited partnership;

7331 (b) the name and jurisdiction of formation of the domesticated limited partnership;

7332 (c) if the domesticating limited partnership is a domestic limited partnership, a
7333 statement that the plan of domestication was approved in accordance with Sections 48-2e-1151
7334 through 48-2e-1156 or, if the domesticating limited partnership is a foreign limited partnership,
7335 a statement that the domestication was approved in accordance with the law of its jurisdiction
7336 of formation;

7337 (d) the certificate of limited partnership of the domesticated limited partnership, as an
7338 attachment; and

7339 (e) if the domesticated foreign limited partnership is not a registered foreign limited
7340 partnership, a mailing address to which the division may send any process served on the
7341 division pursuant to Subsection 48-2e-1156(5).

7342 (3) In addition to the requirements of Subsection (2), a statement of domestication may
7343 contain any other provision not prohibited by law.

7344 (4) The certificate of limited partnership of a domesticated domestic limited
7345 partnership must satisfy the requirements of the law of this state, but the certificate does not
7346 need to be signed.

7347 (5) A plan of domestication that is signed by a domesticating domestic limited
7348 partnership and meets all of the requirements of Subsection (2) may be delivered to the division
7349 for filing instead of a statement of domestication and on filing has the same effect. If a plan of
7350 domestication is filed as provided in this subsection, references in this part to a statement of
7351 domestication refer to the plan of domestication filed under this Subsection (5).

7352 Section 271. Section **48-2e-1156** is enacted to read:

7353 **48-2e-1156. Effect of domestication.**

7354 (1) When a domestication becomes effective:

7355 (a) the domesticated limited partnership is:

7356 (i) organized under and subject to the organic law of the domesticated limited
7357 partnership; and

7358 (ii) the same entity without interruption as the domesticating limited partnership;

7359 (b) all property of the domesticating limited partnership continues to be vested in the
7360 domesticated limited partnership without transfer, reversion, or impairment;

7361 (c) all debts, obligations, and other liabilities of the domesticating limited partnership
7362 continue as debts, obligations, and other liabilities of the domesticated limited partnership;

7363 (d) except as otherwise provided by law or the plan of domestication, all the rights,
7364 privileges, immunities, powers, and purposes of the domesticating limited partnership remain
7365 in the domesticated limited partnership;

7366 (e) the name of the domesticated limited partnership may be substituted for the name of
7367 the domesticating limited partnership in any pending action or proceeding;

7368 (f) the certificate of limited partnership of the domesticated limited partnership is
7369 effective;

7370 (g) the provisions of the partnership agreement of the domesticated limited partnership
7371 that are to be in a record, if any, approved as part of the plan of domestication are effective; and

7372 (h) the interests in the domesticating limited partnership are converted to the extent and
7373 as approved in connection with the domestication, and the partners of the domesticating limited
7374 partnership are entitled only to the rights provided to them under the plan of domestication and

7375 to any appraisal rights they have under Section 48-2e-1108.

7376 (2) Except as otherwise provided in the organic law or partnership agreement of the
7377 domesticating limited partnership, the domestication does not give rise to any rights that a
7378 partner or third party would have upon a dissolution, liquidation, or winding up of the
7379 domesticating limited partnership.

7380 (3) When a domestication becomes effective, a person that did not have interest holder
7381 liability with respect to the domesticating limited partnership and becomes subject to interest
7382 holder liability with respect to a domestic limited partnership as a result of the domestication
7383 has interest holder liability only to the extent provided by the organic law of the domestic
7384 limited partnership and only for those debts, obligations, and other liabilities that arise after the
7385 domestication becomes effective.

7386 (4) When a domestication becomes effective, the following rules apply:

7387 (a) The domestication does not discharge any interest holder liability under this chapter
7388 to the extent the interest holder liability arose before the domestication became effective.

7389 (b) A person does not have interest holder liability under this part for any debt,
7390 obligation, or other liability that arise after the domestication becomes effective.

7391 (c) A person has whatever rights of contribution from any other person as are provided
7392 by law other than this chapter, this chapter, or the partnership agreement of a domestic
7393 domesticating limited partnership with respect to any interest holder liability preserved under
7394 Subsection (4)(a) as if the domestication had not occurred.

7395 (5) When a domestication becomes effective, a foreign limited partnership that is the
7396 domesticated limited partnership may be served with process in this state for the collection and
7397 enforcement of any of its debts, obligations, and other liabilities as provided in Section
7398 16-17-301.

7399 (6) If the domesticating limited partnership is a registered foreign limited partnership,
7400 the registration of the foreign limited partnership is canceled when the domestication becomes
7401 effective.

7402 (7) A domestication does not require the limited partnership to wind up its affairs and
7403 does not constitute or cause the dissolution of the limited partnership.

7404 Section 272. Section **48-2e-1201** is enacted to read:

7405 **Part 12. Miscellaneous Provisions**

7406 **48-2e-1201. Uniformity of application and construction.**

7407 In applying and construing this chapter, consideration must be given to the need to
7408 promote uniformity of the law with respect to its subject matter among states that enact the
7409 uniform act upon which this chapter is based.

7410 Section 273. Section **48-2e-1202** is enacted to read:

7411 **48-2e-1202. Severability clause.**

7412 If any provision of this chapter or its application to any person or circumstance is held
7413 invalid, the invalidity does not affect other provisions or applications of this chapter which can
7414 be given effect without the invalid provision or application, and to this end the provisions of
7415 this chapter are severable.

7416 Section 274. Section **48-2e-1203** is enacted to read:

7417 **48-2e-1203. Relation to Electronic Signatures in Global and National Commerce**

7418 **Act.**

7419 This chapter modifies, limits, and supersedes the Electronic Signatures in Global and
7420 National Commerce Act, 15 U.S.C. Sec. 7001 et seq., but this chapter does not modify, limit,
7421 or supersede Sec. 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of
7422 any of the notices described in Sec. 103(b) of that act, 15 U.S.C. Sec. 7003(b).

7423 Section 275. Section **48-2e-1204** is enacted to read:

7424 **48-2e-1204. Savings clause.**

7425 This chapter does not affect an action commenced, proceeding brought, or right accrued
7426 before this chapter takes effect.

7427 Section 276. Section **48-2e-1205** is enacted to read:

7428 **48-2e-1205. Application to existing relationships.**

7429 (1) Before January 1, 2016, this chapter governs only:

7430 (a) a limited partnership formed on or after July 1, 2014; and

7431 (b) except as otherwise provided in Subsections (3) and (4), a limited partnership
7432 formed before July 1, 2014, which elects, in the manner provided in its partnership agreement
7433 or by law for amending the partnership agreement, to be subject to this chapter.

7434 (2) Except as otherwise provided in Subsection (3), on and after January 1, 2016, this
7435 chapter governs all limited partnerships.

7436 (3) With respect to a limited partnership formed before July 1, 2014, the following

7437 rules apply except as the partners otherwise elect in the manner provided in the partnership
7438 agreement or by law for amending the partnership agreement:

7439 (a) Subsection 48-2e-104(3) does not apply and the limited partnership has whatever
7440 duration it had under the law applicable immediately before July 1, 2014.

7441 (b) Sections 48-2e-601 and 48-2e-602 do not apply and a limited partner has the same
7442 right and power to dissociate from the limited partnership, with the same consequences, as
7443 existed immediately before July 1, 2014.

7444 (c) Subsection 48-2e-603(4) does not apply and the partners have the same right and
7445 power to expel a general partner as existed immediately before July 1, 2014.

7446 (d) Subsection 48-2e-603(5) does not apply and a court has the same power to expel a
7447 general partner as the court had immediately before July 1, 2014.

7448 (e) Subsection 48-2e-801(1)(c) does not apply and the connection between a person's
7449 dissociation as a general partner and the dissolution of the limited partnership is the same as
7450 existed immediately before July 1, 2014.

7451 (4) With respect to a limited partnership that elects pursuant to Subsection (1)(b) to be
7452 subject to this chapter, after the election takes effect the provisions of this chapter relating to
7453 the liability of the limited partnership's general partners to third parties apply:

7454 (a) before January 1, 2016, to:

7455 (i) a third party that had not done business with the limited partnership in the year
7456 before the election took effect; and

7457 (ii) a third party that had done business with the limited partnership in the year before
7458 the election took effect only if the third party knows or has received a notification of the
7459 election; and

7460 (b) on and after January 1, 2016, to all third parties, but those provisions remain
7461 inapplicable to any obligation incurred while those provisions were inapplicable under
7462 Subsection (4)(a)(ii).

7463 Section 277. Section **48-3a-101** is enacted to read:

7464 **CHAPTER 3a. UTAH REVISED UNIFORM LIMITED LIABILITY COMPANY ACT**

7465 **Part 1. General Provisions**

7466 **48-3a-101. Title.**

7467 This chapter may be cited as the "Utah Revised Uniform Limited Liability Company

7468 Act."

7469 Section 278. Section **48-3a-102** is enacted to read:

7470 **48-3a-102. Definitions.**

7471 As used in this chapter:

7472 (1) "Certificate of organization" means the certificate required by Section 48-3a-201.

7473 The term includes the certificate as amended or restated.

7474 (2) "Contribution," except in the phrase "right of contribution," means property or a

7475 benefit described in Section 48-3a-402, which is provided by a person to a limited liability

7476 company to become a member or in the person's capacity as a member.

7477 (3) "Debtor in bankruptcy" means a person that is the subject of:

7478 (a) an order for relief under Title 11 of the United States Code or a comparable order

7479 under a successor statute of general application; or

7480 (b) a comparable order under federal, state, or foreign law governing insolvency.

7481 (4) "Distribution" means a transfer of money or other property from a limited liability

7482 company to a person on account of a transferable interest or in the person's capacity as a

7483 member. The term:

7484 (a) includes:

7485 (i) a redemption or other purchase by a limited liability company of a transferable

7486 interest; and

7487 (ii) a transfer to a member in return for the member's relinquishment of any right to

7488 participate as a member in the management or conduct of the company's activities and affairs

7489 or to have access to records or other information concerning the company's activities and

7490 affairs; and

7491 (b) does not include amounts constituting reasonable compensation for present or past

7492 service or payments made in the ordinary course of business under a bona fide retirement plan

7493 or other bona fide benefits program.

7494 (5) "Division" means the Division of Corporations and Commercial Code.

7495 (6) "Foreign limited liability company" means an unincorporated entity formed under

7496 the law of a jurisdiction other than this state, which would be a limited liability company,

7497 including a low-profit limited liability company, if formed under the law of this state.

7498 (7) "Governing person" means a person, alone or in concert with others, by or under

7499 whose authority the powers of the limited liability company are exercised and under whose
7500 direction the activities and affairs of the limited liability company are managed pursuant to this
7501 chapter and the limited liability company's operating agreement. The term includes:

7502 (a) a manager of a manager-managed limited liability company;

7503 (b) a member of a member-managed limited liability company; and

7504 (c) the chief executive officer of a limited liability company in which officers have
7505 been appointed, regardless of the actual designated title.

7506 (8) "Jurisdiction," used to refer to a political entity, means the United States, a state, a
7507 foreign country, or a political subdivision of a foreign country.

7508 (9) "Jurisdiction of formation" means, with respect to an entity, the jurisdiction:

7509 (a) under whose law the entity is formed; or

7510 (b) in the case of a limited liability partnership or foreign limited liability partnership,
7511 in which the partnership's statement of qualification is filed.

7512 (10) "Limited liability company," except in the phrase "foreign limited liability
7513 company," means an entity formed under this chapter or which becomes subject to this chapter
7514 under Part 10, Merger, Interest Exchange, Conversion, and Domestication, or Section
7515 48-3a-1405.

7516 (11) "Low-profit limited liability company" means a limited liability company meeting
7517 the requirements of Part 13, Low-Profit Limited Liability Companies.

7518 (12) "Manager" means a person that under the operating agreement of a manager-
7519 managed limited liability company is responsible, alone or in concert with others, for
7520 performing the management functions stated in Subsection 48-3a-407(3).

7521 (13) "Manager-managed limited liability company" means a limited liability company
7522 that qualifies under Subsection 48-3a-407(1).

7523 (14) "Member" means a person that:

7524 (a) has become a member of a limited liability company under Section 48-3a-401 or
7525 was a member in a company when the company became subject to this chapter under Section
7526 48-3a-1405; and

7527 (b) has not dissociated under Section 48-3a-602.

7528 (15) "Member-managed limited liability company" means a limited liability company
7529 that is not a manager-managed limited liability company.

7530 (16) "Operating agreement" means the agreement, whether or not referred to as an
7531 operating agreement and whether oral, implied, in a record, or in any combination thereof, of
7532 all the members of a limited liability company, including a sole member, concerning the
7533 matters described in Subsection 48-3a-112(1). The term includes the agreement as amended or
7534 restated.

7535 (17) "Organizer" means a person that acts under Section 48-3a-201 to form a limited
7536 liability company.

7537 (18) "Person" means an individual, business corporation, nonprofit corporation,
7538 partnership, limited partnership, limited liability company, limited cooperative association,
7539 unincorporated nonprofit association, statutory trust, business trust, common-law business
7540 trust, estate, trust, association, joint venture, public corporation, government or governmental
7541 subdivision, agency, or instrumentality, or any other legal or commercial entity.

7542 (19) "Principal office" means the principal executive office of a limited liability
7543 company or foreign limited liability company, whether or not the office is located in this state.

7544 (20) "Professional services company" means a limited liability company organized in
7545 accordance with Part 11, Professional Services Companies.

7546 (21) "Property" means all property, whether real, personal, or mixed or tangible or
7547 intangible, or any right or interest therein.

7548 (22) "Record," used as a noun, means information that is inscribed on a tangible
7549 medium or that is stored in an electronic or other medium and is retrievable in perceivable
7550 form.

7551 (23) "Registered agent" means an agent of a limited liability company or foreign
7552 limited liability company which is authorized to receive service of any process, notice, or
7553 demand required or permitted by law to be served on the company.

7554 (24) "Registered foreign limited liability company" means a foreign limited liability
7555 company that is registered to do business in this state pursuant to a statement of registration
7556 filed by the division.

7557 (25) "Series" means a series created in accordance with Part 12, Series Limited
7558 Liability Companies.

7559 (26) "Sign" means, with present intent to authenticate or adopt a record:

7560 (a) to execute or adopt a tangible symbol; or

7561 (b) to attach to or logically associate with the record an electronic symbol, sound, or
7562 process.

7563 (27) "State" means a state of the United States, the District of Columbia, Puerto Rico,
7564 the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction
7565 of the United States.

7566 (28) "Transfer" includes:

7567 (a) an assignment;

7568 (b) a conveyance;

7569 (c) a sale;

7570 (d) a lease;

7571 (e) an encumbrance, including a mortgage or security interest;

7572 (f) a gift; and

7573 (g) a transfer by operation of law.

7574 (29) "Transferable interest" means the right, as initially owned by a person in the
7575 person's capacity as a member, to receive distributions from a limited liability company in
7576 accordance with the operating agreement, whether or not the person remains a member or
7577 continues to own any part of the right. The term applies to any fraction of the interest by
7578 whomever owned.

7579 (30) "Transferee" means a person to which all or part of a transferable interest has been
7580 transferred, whether or not the transferor is a member. The term includes a person that owns a
7581 transferable interest under Subsection 48-3a-603(1)(c).

7582 (31) "Tribal limited liability company" means a limited liability company that is:

7583 (a) formed under the law of a tribe; and

7584 (b) at least 51% owned or controlled by the tribe under whose law the limited liability
7585 company is formed.

7586 (32) "Tribe" means a tribe, band, nation, pueblo, or other organized group or
7587 community of Indians, including an Alaska Native village that is legally recognized as eligible
7588 for and is consistent with a special program, service, or entitlement provided by the United
7589 States to Indians because of their status as Indians.

7590 Section 279. Section **48-3a-103** is enacted to read:

7591 **48-3a-103. Knowledge -- Notice.**

- 7592 (1) A person knows a fact if the person:
7593 (a) has actual knowledge of it; or
7594 (b) is deemed to know it under Subsection (4)(a) or law other than this chapter.
7595 (2) A person has notice of a fact if the person:
7596 (a) has reason to know the fact from all the facts known to the person at the time in
7597 question; or
7598 (b) is deemed to have notice of the fact under Subsection (4)(b).
7599 (3) Subject to Subsection 48-3a-209(6), a person notifies another person of a fact by
7600 taking steps reasonably required to inform the other person in ordinary course, whether or not
7601 those steps cause the other person to know the fact.
7602 (4) A person not a member is deemed:
7603 (a) to know of a limitation on authority to transfer real property as provided in
7604 Subsection 48-3a-302(7); and
7605 (b) to have notice of a limited liability company's:
7606 (i) dissolution 90 days after a statement of dissolution under Subsection
7607 48-3a-703(2)(b)(i) becomes effective;
7608 (ii) termination 90 days after a statement of termination under Subsection
7609 48-3a-703(2)(b)(vi) becomes effective;
7610 (iii) participation in a merger, interest exchange, conversion, or domestication 90 days
7611 after a statement of merger, interest exchange, conversion, or domestication under Part 10,
7612 Merger, Interest Exchange, Conversion, and Domestication, becomes effective; and
7613 (iv) abandonment of a merger, interest exchange, conversion, or domestication 90 days
7614 after a statement of abandonment of merger, interest exchange, conversion, or domestication
7615 under Part 10, Merger, Interest Exchange, Conversion, and Domestication, becomes effective.
7616 Section 280. Section **48-3a-104** is enacted to read:
7617 **48-3a-104. Nature, purpose, and duration of limited liability company.**
7618 (1) A limited liability company is an entity distinct from its member or members.
7619 (2) A limited liability company may have any lawful purpose, regardless of whether for
7620 profit.
7621 (3) A limited liability company has perpetual duration.
7622 Section 281. Section **48-3a-105** is enacted to read:

7623 **48-3a-105. Powers.**

7624 A limited liability company has the capacity to sue and be sued in its own name and the
7625 power to do all things necessary or convenient to carry on its activities and affairs.

7626 Section 282. Section **48-3a-106** is enacted to read:

7627 **48-3a-106. Governing law.**

7628 The law of this state governs:

7629 (1) the internal affairs of a limited liability company; and

7630 (2) the liability of a member as member and a manager as manager for the debts,

7631 obligations, or other liabilities of a limited liability company.

7632 Section 283. Section **48-3a-107** is enacted to read:

7633 **48-3a-107. Supplemental principles of law.**

7634 Unless displaced by particular provisions of this chapter, the principles of law and
7635 equity supplement this chapter.

7636 Section 284. Section **48-3a-108** is enacted to read:

7637 **48-3a-108. Permitted names.**

7638 (1) Except as provided in Section 48-3a-1104 or 48-3a-1302, the name of a limited
7639 liability company must contain the words "limited liability company" or "limited company" or
7640 the abbreviation "L.L.C.", "LLC", "L.C.", or "LC". "Limited" may be abbreviated as "Ltd.",
7641 and "company" may be abbreviated as "Co."

7642 (2) Except as otherwise provided in Subsection (4), the name of a limited liability
7643 company, and the name under which a foreign limited liability company may register to do
7644 business in this state, must be distinguishable on the records of the division from:

7645 (a) the name of an existing person whose formation required the filing of a record by
7646 the division;

7647 (b) the name of a limited liability partnership;

7648 (c) the name of a person registered to do business in this state by the filing of a record
7649 by the division;

7650 (d) each name reserved under Section 48-3a-109 or other law of this state providing for
7651 the reservation of a name by the filing of a record by the division;

7652 (e) each name registered under Section 48-3a-110 or other law of this state providing
7653 for the registration of a name by the filing of a record by the division; and

7654 (f) an assumed name registered under Title 42, Chapter 2, Conducting Business Under
7655 Assumed Name.

7656 (3) If a person consents in a record to the use of its name and submits an undertaking in
7657 a form satisfactory to the division to change its name to a name that is distinguishable on the
7658 records of the division from any name in any category of names in Subsection (2), the name of
7659 the consenting person may be used by the person to which the consent was given.

7660 (4) Except as otherwise provided in Subsection (5), in determining whether a name is
7661 the same as or not distinguishable on the records of the division from the name of another
7662 entity, words, phrases, or abbreviations indicating the type of entity, such as "corporation",
7663 "corp.", "incorporated", "Inc.", "professional corporation", "PC", "P.C.", "professional
7664 association", "PA", "P.A.", "limited", "Ltd.", "limited partnership", "LP", "L.P.", "limited
7665 liability partnership", "LLP", "L.L.P.", "registered limited liability partnership", "RLLP",
7666 "R.L.L.P.", "limited liability limited partnership", "LLL", "L.L.L.P.", "registered limited
7667 liability limited partnership", "RLLL", "R.L.L.L.P.", "limited liability company", "LLC",
7668 "L.L.C.", "professional limited liability company", "PLLC", or "P.L.L.C.", may not be taken
7669 into account.

7670 (5) A person may consent in a record to the use of a name that is not distinguishable on
7671 the records of the division from its name except for the addition of a word, phrase, or
7672 abbreviation indicating the type of person as provided in Subsection (4). In such a case, the
7673 person need not change its name pursuant to Subsection (2).

7674 (6) The division may not approve for filing a name that implies that a limited liability
7675 company is an agency of this state or any of its political subdivisions, if it is not actually such a
7676 legally established agency or subdivision.

7677 (7) The authorization to file a certificate under or to reserve or register a limited
7678 liability company name as granted by the division does not:

7679 (a) abrogate or limit the law governing unfair competition or unfair trade practices;

7680 (b) derogate from the common law, the principles of equity, or the statutes of this state
7681 or of the United States with respect to the right to acquire and protect names and trademarks; or

7682 (c) create an exclusive right in geographic or generic terms contained within a name.

7683 (8) The name of a limited liability company or foreign limited liability company may
7684 not contain:

- 7685 (a) the words:
 7686 (i) "association";
 7687 (ii) "corporation";
 7688 (iii) "incorporated";
 7689 (iv) "partnership"; or
 7690 (v) "limited partnership";
 7691 (b) any word or abbreviation that is of like import to the words listed in Subsection
 7692 (8)(a);
 7693 (c) without the written consent of the United States Olympic Committee, the words:
 7694 (i) "Olympic";
 7695 (ii) "Olympiad"; or
 7696 (iii) "Citius Altius Fortius"; and
 7697 (d) without the written consent of the Division of Consumer Protection issued in
 7698 accordance with Section 13-34-114 the words:
 7699 (i) "university";
 7700 (ii) "college"; or
 7701 (iii) "institute" or "institution."
 7702 Section 285. Section **48-3a-109** is enacted to read:
 7703 **48-3a-109. Reservation of name.**
 7704 (1) A person may reserve the exclusive use of a name that complies with Section
 7705 48-3a-108 by delivering an application to the division for filing. The application must state the
 7706 name and address of the applicant and the name to be reserved. If the division finds that the
 7707 name is available, the division shall reserve the name for the applicant's exclusive use for 120
 7708 days.
 7709 (2) The owner of a reserved name may transfer the reservation to another person by
 7710 delivering to the division a signed notice in a record of the transfer, which states the name and
 7711 address of the transferee.
 7712 Section 286. Section **48-3a-110** is enacted to read:
 7713 **48-3a-110. Registration of name.**
 7714 (1) A foreign limited liability company not registered to do business in this state under
 7715 Part 9, Foreign Limited Liability Companies, may register its name, or an alternate name

7716 adopted pursuant to Section 48-3a-906, if the name is distinguishable on the records of the
7717 division from the names that are not available under Section 48-3a-108.

7718 (2) To register its name or an alternate name adopted pursuant to Section 48-3a-906, a
7719 foreign limited liability company must deliver to the division for filing an application stating
7720 the foreign limited liability company's name, the jurisdiction and date of its formation, and any
7721 alternate name adopted pursuant to Section 48-3a-906. If the division finds that the name
7722 applied for is available, the division shall register the name for the applicant's exclusive use.

7723 (3) The registration of a name under this section is effective for one year after the date
7724 of registration.

7725 (4) A foreign limited liability company whose name registration is effective may renew
7726 the registration for successive one-year periods by delivering, not earlier than three months
7727 before the expiration of the registration, to the division for filing a renewal application that
7728 complies with this section. When filed, the renewal application renews the registration for a
7729 succeeding one-year period.

7730 (5) A foreign limited liability company whose name registration is effective may
7731 register as a foreign limited liability company under the registered name or consent in a signed
7732 record to the use of that name by another person that is not an individual.

7733 Section 287. Section **48-3a-111** is enacted to read:

7734 **48-3a-111. Registered agent.**

7735 (1) Each limited liability company and each registered foreign limited liability
7736 company shall designate in accordance with Section 16-17-203(1) and maintain a registered
7737 agent in this state.

7738 (2) A limited liability company or registered foreign limited liability company may
7739 change its registered agent or the address of its registered agent by filing with the division a
7740 statement of change in accordance with Section 16-17-206.

7741 Section 288. Section **48-3a-112** is enacted to read:

7742 **48-3a-112. Operating agreement -- Scope, functions, and limitations.**

7743 (1) Except as otherwise provided in Subsections (3) and (4), the operating agreement
7744 governs:

7745 (a) relations among the members as members and between the members and the
7746 limited liability company;

- 7747 (b) the rights and duties under this chapter of a person in the capacity of manager;
7748 (c) the activities and affairs of the limited liability company and the conduct of those
7749 activities and affairs; and
7750 (d) the means and conditions for amending the operating agreement.
7751 (2) To the extent the operating agreement does not provide for a matter described in
7752 Subsection (1), this chapter governs the matter.
7753 (3) An operating agreement may not:
7754 (a) vary a limited liability company's capacity under Section 48-3a-105 to sue and be
7755 sued in its own name;
7756 (b) vary the law applicable under Section 48-3a-106;
7757 (c) vary any requirement, procedure, or other provision of this chapter pertaining to:
7758 (i) registered agents; or
7759 (ii) the division, including provisions pertaining to records authorized or required to be
7760 delivered to the division for filing under this chapter;
7761 (d) vary the provisions of Section 48-3a-204;
7762 (e) eliminate the duty of loyalty or the duty of care, except as otherwise provided in
7763 Subsection (4);
7764 (f) eliminate the contractual obligation of good faith and fair dealing under Subsection
7765 48-3a-409(4), but the operating agreement may prescribe the standards, if not unconscionable
7766 or against public policy, by which the performance of the obligation is to be measured;
7767 (g) relieve or exonerate a person from liability for conduct involving bad faith, willful
7768 misconduct, or recklessness;
7769 (h) unreasonably restrict the duties and rights under Section 48-3a-410, but the
7770 operating agreement may impose reasonable restrictions on the availability and use of
7771 information obtained under that section and may define appropriate remedies, including
7772 liquidated damages, for a breach of any reasonable restriction on use;
7773 (i) vary the causes of dissolution specified in Subsections 48-3a-701(4)(a) and (5);
7774 (j) vary the requirement to wind up the limited liability company's activities and affairs
7775 as specified in Subsections 48-3a-703(1), (2)(a), and (5);
7776 (k) unreasonably restrict the right of a member to maintain an action under Part 8,
7777 Action By Members;

7778 (l) vary the provisions of Section 48-3a-805, but the operating agreement may provide
7779 that the limited liability company may not have a special litigation committee;

7780 (m) vary the right of a member to approve a merger, interest exchange, conversion, or
7781 domestication under Subsections 48-3a-1023(1)(b), 48-3a-1033(1)(b), 48-3a-1043(1)(b), or
7782 48-3a-1053(1)(b); or

7783 (n) except as otherwise provided in Section 48-3a-113 and Subsection 48-3a-114(2),
7784 restrict the rights under this chapter of a person other than a member or manager.

7785 (4) Subject to Subsection (3)(g), without limiting other terms that may be included in
7786 an operating agreement, the following rules apply:

7787 (a) The operating agreement may specify the method by which a specific act or
7788 transaction that would otherwise violate the duty of loyalty may be authorized or ratified by one
7789 or more disinterested and independent persons after full disclosure of all material facts.

7790 (b) To the extent the operating agreement of a member-managed limited liability
7791 company expressly relieves a member of a responsibility that the member would otherwise
7792 have under this chapter and imposes the responsibility on one or more other members, the
7793 operating agreement may, to the benefit of the member that the operating agreement relieves of
7794 the responsibility, also eliminate or limit any fiduciary duty that would have pertained to the
7795 responsibility.

7796 (c) If not unconscionable or against public policy, the operating agreement may:

7797 (i) alter or eliminate the aspects of the duty of loyalty stated in Subsections
7798 48-3a-409(2) and (9);

7799 (ii) identify specific types or categories of activities that do not violate the duty of
7800 loyalty;

7801 (iii) alter the duty of care, but may not authorize intentional misconduct or knowing
7802 violation of law; and

7803 (iv) alter or eliminate any other fiduciary duty.

7804 (5) The court shall decide as a matter of law whether a term of an operating agreement
7805 is unconscionable or against public policy under Subsection (3)(f) or (4)(c). The court:

7806 (a) shall make its determination as of the time the challenged term became part of the
7807 operating agreement and by considering only circumstances existing at that time; and

7808 (b) may invalidate the term only if, in light of the purposes, activities, and affairs of the

7809 limited liability company, it is readily apparent that:

7810 (i) the objective of the term is unconscionable or against public policy; or

7811 (ii) the means to achieve the term's objective is unconscionable or against public
7812 policy.

7813 Section 289. Section **48-3a-113** is enacted to read:

7814 **48-3a-113. Operating agreement -- Effect on limited liability company and person**
7815 **becoming member -- Preformation agreement.**

7816 (1) A limited liability company is bound by and may enforce the operating agreement,
7817 whether or not the limited liability company has itself manifested assent to the operating
7818 agreement.

7819 (2) A person that becomes a member of a limited liability company is deemed to assent
7820 to the operating agreement.

7821 (3) Two or more persons intending to become the initial members of a limited liability
7822 company may make an agreement providing that upon the formation of the limited liability
7823 company the agreement will become the operating agreement. One person intending to
7824 become the initial member of a limited liability company may assent to terms providing that
7825 upon the formation of the limited liability company the terms will become the operating
7826 agreement.

7827 Section 290. Section **48-3a-114** is enacted to read:

7828 **48-3a-114. Operating agreement -- Effect on third parties and relationship to**
7829 **records effective on behalf of limited liability company.**

7830 (1) An operating agreement may specify that its amendment requires the approval of a
7831 person that is not a party to the operating agreement or the satisfaction of a condition. An
7832 amendment is ineffective if its adoption does not include the required approval or satisfy the
7833 specified condition.

7834 (2) The obligations of a limited liability company and its members to a person in the
7835 person's capacity as a transferee or a person dissociated as a member are governed by the
7836 operating agreement. Subject only to a court order issued under Subsection 48-3a-503(2)(b) to
7837 effectuate a charging order, an amendment to the operating agreement made after a person
7838 becomes a transferee or is dissociated as a member:

7839 (a) is effective with regard to any debt, obligation, or other liability of the limited

7840 liability company or its members to the person in the person's capacity as a transferee or person
7841 dissociated as a member; and

7842 (b) is not effective to the extent the amendment imposes a new debt, obligation, or
7843 other liability on the transferee or person dissociated as a member.

7844 (3) If a record delivered by a limited liability company to the division for filing
7845 becomes effective and contains a provision that would be ineffective under Subsection
7846 48-3a-112(3) or (4)(c) if contained in the operating agreement, the provision is ineffective in
7847 the record.

7848 (4) Subject to Subsection (3), if a record delivered by a limited liability company to the
7849 division for filing becomes effective and conflicts with a provision of the operating agreement:

7850 (a) the operating agreement prevails as to members, persons dissociated as members,
7851 transferees, and managers; and

7852 (b) the record prevails as to other persons to the extent they reasonably rely on the
7853 record.

7854 Section 291. Section **48-3a-115** is enacted to read:

7855 **48-3a-115. Delivery of record.**

7856 (1) Except as otherwise provided in this chapter, permissible means of delivery of a
7857 record include delivery by hand, the United States Postal Service, a commercial delivery
7858 service, and electronic transmission.

7859 (2) Delivery to the division is effective only when a record is received by the division.

7860 Section 292. Section **48-3a-116** is enacted to read:

7861 **48-3a-116. Reservation of power to amend or repeal.**

7862 The Legislature of this state has power to amend or repeal all or part of this chapter at
7863 any time, and all domestic and foreign limited liability companies subject to this chapter are
7864 governed by the amendment or repeal.

7865 Section 293. Section **48-3a-201** is enacted to read:

7866 **Part 2. Formation -- Certificate of Organization and Other Filings**

7867 **48-3a-201. Formation of limited liability company -- Certificate of organization.**

7868 (1) One or more persons may act as organizers to form a limited liability company by
7869 delivering to the division for filing a certificate of organization.

7870 (2) A certificate of organization must state:

- 7871 (a) the name of the limited liability company, which must comply with Section
7872 48-3a-108;
- 7873 (b) the street and mailing address of the limited liability company's principal office;
7874 (c) the information required by Subsection 16-17-203(1);
7875 (d) if the limited liability company is a low-profit limited liability company, a
7876 statement that the limited liability company is a low-profit limited liability company;
7877 (e) if the limited liability company is a professional services company, the information
7878 required by Section 48-3a-1103; and
- 7879 (f) if the limited liability company is to have one or more series in which the liabilities
7880 of the series are to be limited as contemplated by Subsection 48-3a-1201(2), notice of the
7881 limitation on liability in accordance with Section 48-3a-1202.
- 7882 (3) A certificate of organization may contain statements as to matters other than those
7883 required by Subsection (2), but may not vary or otherwise affect the provisions specified in
7884 Subsection 48-3a-112(3) in a manner inconsistent with that section. However, a statement in a
7885 certificate of organization is not effective as a statement of authority.
- 7886 (4) A limited liability company is formed when the limited liability company's
7887 certificate of organization becomes effective and at least one person becomes a member.
- 7888 Section 294. Section **48-3a-202** is enacted to read:
- 7889 **48-3a-202. Amendment or restatement of certificate of organization.**
- 7890 (1) A certificate of organization may be amended or restated at any time, except that in
7891 accordance with Section 48-3a-1303, a low-profit limited liability company shall amend its
7892 certificate of organization if the limited liability company ceases to be a low-profit limited
7893 liability company.
- 7894 (2) To amend its certificate of organization, a limited liability company must deliver to
7895 the division for filing an amendment stating:
- 7896 (a) the name of the limited liability company;
7897 (b) the date of filing of its initial certificate of organization; and
7898 (c) the changes the amendment makes to the certificate as most recently amended or
7899 restated.
- 7900 (3) To restate its certificate of organization, a limited liability company must deliver to
7901 the division for filing a restatement designated as such in its heading.

7902 (4) If a member of a member-managed limited liability company, or a manager of a
7903 manager-managed limited liability company, knows that any information in a filed certificate
7904 of organization was inaccurate when the certificate was filed or has become inaccurate due to
7905 changed circumstances, the member or manager shall promptly:

7906 (a) cause the certificate to be amended; or

7907 (b) if appropriate, deliver to the division for filing a statement of change under Section
7908 16-17-206 or a statement of correction under Section 48-3a-208.

7909 Section 295. Section **48-3a-203** is enacted to read:

7910 **48-3a-203. Signing of records to be delivered for filing to division.**

7911 (1) A record delivered to the division for filing pursuant to this chapter must be signed
7912 as follows:

7913 (a) Except as otherwise provided in Subsections (1)(b) and (c), a record signed on
7914 behalf of a limited liability company must be signed by a person authorized by the limited
7915 liability company.

7916 (b) A limited liability company's initial certificate of organization must be signed by at
7917 least one person acting as an organizer.

7918 (c) A record delivered on behalf of a dissolved limited liability company that has no
7919 member must be signed by the person winding up the limited liability company's activities and
7920 affairs under Subsection 48-3a-703(3) or a person appointed under Subsection 48-3a-703(4) to
7921 wind up the activities and affairs.

7922 (d) A statement of denial by a person under Section 48-3a-303 must be signed by that
7923 person.

7924 (e) Any other record delivered on behalf of a person to the division for filing must be
7925 signed by that person.

7926 (2) Any record filed under this chapter may be signed by an agent. Whenever this
7927 chapter requires a particular individual to sign a record and the individual is deceased or
7928 incompetent, the record may be signed by a legal representative of the individual.

7929 (3) A person that signs a record as an agent or legal representative thereby affirms as a
7930 fact that the person is authorized to sign the record.

7931 Section 296. Section **48-3a-204** is enacted to read:

7932 **48-3a-204. Signing and filing pursuant to judicial order.**

7933 (1) If a person required by this chapter to sign a record or deliver a record to the
7934 division for filing under this chapter does not do so, any other person that is aggrieved may
7935 petition the district court to order:

7936 (a) the person to sign the record;

7937 (b) the person to deliver the record to the division for filing; or

7938 (c) the division to file the record unsigned.

7939 (2) If a petitioner under Subsection (1) is not the limited liability company or foreign
7940 limited liability company to which the record pertains, the petitioner shall make the limited
7941 liability company or foreign limited liability company a party to the action.

7942 (3) A record filed under Subsection (1)(c) is effective without being signed.

7943 Section 297. Section **48-3a-205** is enacted to read:

7944 **48-3a-205. Filing requirements.**

7945 (1) To be filed by the division pursuant to this chapter, a record must be received by
7946 the division, comply with this chapter, and satisfy the following:

7947 (a) The filing of the record must be required or permitted by this chapter.

7948 (b) The record must be physically delivered in written form unless and to the extent the
7949 division permits electronic delivery of records.

7950 (c) The words in the record must be in English, and numbers must be in Arabic or
7951 Roman numerals, but the name of an entity need not be in English if written in English letters
7952 or Arabic or Roman numerals.

7953 (d) The record must be signed by a person authorized or required under this chapter to
7954 sign the record.

7955 (e) The record must state the name and capacity, if any, of each individual who signed
7956 it, either on behalf of the individual or the person authorized or required to sign the record, but
7957 need not contain a seal, attestation, acknowledgment, or verification.

7958 (2) If law other than this chapter prohibits the disclosure by the division of information
7959 contained in a record delivered to the division for filing, the division shall accept the record if
7960 the record otherwise complies with this chapter, but the division may redact the information.

7961 (3) When a record is delivered to the division for filing, any fee required under this
7962 chapter and any fee, tax, interest, or penalty required to be paid under this chapter or law other
7963 than this chapter must be paid in a manner permitted by the division or by that law.

7964 (4) The division may require that a record delivered in written form be accompanied by
7965 an identical or conformed copy.

7966 Section 298. Section **48-3a-206** is enacted to read:

7967 **48-3a-206. Effective time and date.**

7968 Except as otherwise provided in Section 48-3a-207 and subject to Subsection
7969 48-3a-208(3), a record filed under this chapter is effective:

7970 (1) on the date and at the time of its filing by the division, as provided in Section
7971 48-3a-209;

7972 (2) on the date of filing and at the time specified in the record as its effective time, if
7973 later than the time under Subsection (1);

7974 (3) at a specified delayed effective date and time, which may not be more than 90 days
7975 after the date of filing; or

7976 (4) if a delayed effective date is specified, but no time is specified, at 12:01 a.m. on the
7977 date specified, which may not be more than 90 days after the date of filing.

7978 Section 299. Section **48-3a-207** is enacted to read:

7979 **48-3a-207. Withdrawal of filed record before effectiveness.**

7980 (1) Except as otherwise provided in Sections 48-3a-1024, 48-3a-1034, 48-3a-1044, and
7981 48-3a-1054, a record delivered to the division for filing may be withdrawn before it takes effect
7982 by delivering to the division for filing a statement of withdrawal.

7983 (2) A statement of withdrawal must:

7984 (a) be signed by each person that signed the record being withdrawn, except as
7985 otherwise agreed by those persons;

7986 (b) identify the record to be withdrawn; and

7987 (c) if signed by fewer than all the persons that signed the record being withdrawn, state
7988 that the record is withdrawn in accordance with the agreement of all the persons that signed the
7989 record.

7990 (3) On filing by the division of a statement of withdrawal, the action or transaction
7991 evidenced by the original record does not take effect.

7992 Section 300. Section **48-3a-208** is enacted to read:

7993 **48-3a-208. Correcting filed record.**

7994 (1) A person on whose behalf a filed record was delivered to the division for filing may

7995 correct the record if:

7996 (a) the record at the time of filing was inaccurate;

7997 (b) the record was defectively signed; or

7998 (c) the electronic transmission of the record to the division was defective.

7999 (2) To correct a filed record, a person on whose behalf the record was delivered to the
8000 division must deliver to the division for filing a statement of correction.

8001 (3) A statement of correction:

8002 (a) may not state a delayed effective date;

8003 (b) must be signed by the person correcting the filed record;

8004 (c) must identify the filed record to be corrected;

8005 (d) must specify the inaccuracy or defect to be corrected; and

8006 (e) must correct the inaccuracy or defect.

8007 (4) A statement of correction is effective as of the effective date of the filed record that
8008 it corrects except for purposes of Subsection 48-3a-103(4) and as to persons relying on the
8009 uncorrected filed record and adversely affected by the correction. For those purposes and as to
8010 those persons, the statement of correction is effective when filed.

8011 Section 301. Section **48-3a-209** is enacted to read:

8012 **48-3a-209. Duty of division to file -- Review of refusal to file -- Transmission of**
8013 **information by division.**

8014 (1) The division shall file a record delivered to the division for filing which satisfies
8015 this chapter. The duty of the division under this section is ministerial.

8016 (2) When the division files a record, the division shall record it as filed on the date and
8017 at the time of its delivery. After filing a record, the division shall deliver to the person that
8018 submitted the record a copy of the record with an acknowledgment of the date and time of
8019 filing and, in the case of a statement of denial, also to the limited liability company to which
8020 the statement pertains.

8021 (3) If the division refuses to file a record, the division shall, not later than 15 business
8022 days after the record is delivered:

8023 (a) return the record or notify the person that submitted the record of the refusal; and

8024 (b) provide a brief explanation in a record of the reason for the refusal.

8025 (4) If the division refuses to file a record, the person that submitted the record may

8026 petition the district court to compel filing of the record. The record and the explanation of the
8027 division of the refusal to file must be attached to the petition. The court may decide the matter
8028 in a summary proceeding.

8029 (5) The filing of or refusal to file a record does not create a presumption that the
8030 information contained in the record is correct or incorrect.

8031 (6) Except as otherwise provided by Section 16-17-301 or by law other than this
8032 chapter, the division may deliver any record to a person by delivering it:

8033 (a) in person to the person that submitted it;

8034 (b) to the address of the person's registered agent;

8035 (c) to the principal office of the person; or

8036 (d) to another address the person provides to the division for delivery.

8037 Section 302. Section **48-3a-210** is enacted to read:

8038 **48-3a-210. Liability for inaccurate information in filed record.**

8039 (1) If a record delivered to the division for filing under this chapter and filed by the
8040 division contains inaccurate information, a person that suffers loss by reliance on the
8041 information may recover damages for the loss from:

8042 (a) a person that signed the record, or caused another to sign it on the person's behalf,
8043 and knew the information to be inaccurate at the time the record was signed; and

8044 (b) subject to Subsection (2), a member of a member-managed limited liability
8045 company or the manager of a manager-managed limited liability company, if:

8046 (i) the record was delivered for filing on behalf of the limited liability company; and

8047 (ii) the member or manager had notice of the inaccuracy for a reasonably sufficient
8048 time before the information was relied upon so that, before the reliance, the member or
8049 manager reasonably could have:

8050 (A) effected an amendment under Section 48-3a-202;

8051 (B) filed a petition under Section 48-3a-204; or

8052 (C) delivered to the division for filing a statement of change under Section 16-17-206
8053 or a statement of correction under Section 48-3a-208.

8054 (2) To the extent that the operating agreement of a member-managed limited liability
8055 company expressly relieves a member of responsibility for maintaining the accuracy of
8056 information contained in records delivered on behalf of the limited liability company to the

8057 division for filing under this chapter and imposes that responsibility on one or more other
8058 members, the liability stated in Subsection (1)(b) applies to those other members and not to the
8059 member that the operating agreement relieves of the responsibility.

8060 (3) An individual who signs a record authorized or required to be filed under this
8061 chapter affirms under penalty of perjury that the information stated in the record is accurate.

8062 Section 303. Section **48-3a-211** is enacted to read:

8063 **48-3a-211. Certificate of good standing or registration.**

8064 (1) On request of any person, the division shall issue a certificate of good standing for a
8065 limited liability company or a certificate of registration for a registered foreign limited liability
8066 company.

8067 (2) A certificate under Subsection (1) must state:

8068 (a) the limited liability company's name or the registered foreign limited liability
8069 company's name used in this state;

8070 (b) in the case of a limited liability company:

8071 (i) that a certificate of organization has been filed and has taken effect;

8072 (ii) the date the certificate of organization became effective;

8073 (iii) the period of the limited liability company's duration if the records of the division
8074 reflect that its period of duration is less than perpetual; and

8075 (iv) that:

8076 (A) no statement of dissolution, statement of administrative dissolution, or statement of
8077 termination has been filed;

8078 (B) the records of the division do not otherwise reflect that the company has been
8079 dissolved or terminated; and

8080 (C) a proceeding is not pending under Section 48-3a-708;

8081 (c) in the case of a registered foreign limited liability company, that it is registered to
8082 do business in this state;

8083 (d) that all fees, taxes, interest, and penalties owed to this state by the limited liability
8084 company or foreign limited liability company and collected through the division have been
8085 paid, if:

8086 (i) payment is reflected in the records of the division; and

8087 (ii) nonpayment affects the good standing or registration of the limited liability

8088 company or foreign limited liability company;

8089 (e) that the most recent annual report required by Section 48-3a-212 has been delivered
8090 to the division for filing; and

8091 (f) other facts reflected in the records of the division pertaining to the limited liability
8092 company or foreign limited liability company which the person requesting the certificate
8093 reasonably requests.

8094 (3) Subject to any qualification stated in the certificate, a certificate issued by the
8095 division under Subsection (1) may be relied upon as conclusive evidence of the facts stated in
8096 the certificate.

8097 Section 304. Section **48-3a-212** is enacted to read:

8098 **48-3a-212. Annual report for division.**

8099 (1) A limited liability company or a registered foreign limited liability company shall
8100 deliver to the division for filing an annual report that states:

8101 (a) the name of the limited liability company or registered foreign limited liability
8102 company;

8103 (b) the information required by Subsection 16-17-203(1);

8104 (c) the street and mailing addresses of its principal office;

8105 (d) the name of at least one governing person; and

8106 (e) in the case of a foreign limited liability company, its jurisdiction of formation and
8107 any alternate name adopted under Subsection 48-3a-906(1).

8108 (2) Information in the annual report must be current as of the date the report is signed
8109 by the limited liability company or registered foreign limited liability company.

8110 (3) A report must be delivered to the division for each year following the calendar year
8111 in which the limited liability company's certificate of organization became effective or the
8112 registered foreign limited liability company registered to do business in this state:

8113 (a) in the case of a limited liability company, the annual report must be delivered to the
8114 division during the month in which is the anniversary date on which the limited liability
8115 company's certificate of formation became effective; and

8116 (b) in the case of a registered foreign limited liability company, the annual report must
8117 be delivered to the division during the month in which is the anniversary date on which the
8118 registered foreign limited liability company registered to do business in this state.

8119 (4) If an annual report does not contain the information required by this section, the
8120 division promptly shall notify the reporting limited liability company or registered foreign
8121 limited liability company in a record and return the report for correction.

8122 (5) If an annual report contains the name or address of a registered agent which differs
8123 from the information shown in the records of the division immediately before the annual report
8124 becomes effective, the differing information in the annual report is considered a statement of
8125 change under Section 16-17-206.

8126 Section 305. Section **48-3a-301** is enacted to read:

8127 **Part 3. Relations of Members and Managers to Persons Dealing with**
8128 **Limited Liability Company**

8129 **48-3a-301. No agency powers of member as member.**

8130 (1) A member is not an agent of a limited liability company solely by reason of being a
8131 member.

8132 (2) A person's status as a member does not prevent or restrict law other than this
8133 chapter from imposing liability on a limited liability company because of the person's conduct.

8134 Section 306. Section **48-3a-302** is enacted to read:

8135 **48-3a-302. Statement of authority.**

8136 (1) A limited liability company may deliver to the division for filing a statement of
8137 authority. The statement:

8138 (a) must include the name of the limited liability company and the street and mailing
8139 addresses of its registered agent;

8140 (b) with respect to any position that exists in or with respect to the limited liability
8141 company, may state the authority, or limitations on the authority, of all persons holding the
8142 position to:

8143 (i) execute an instrument transferring real property held in the name of the limited
8144 liability company; or

8145 (ii) enter into other transactions on behalf of, or otherwise act for or bind, the limited
8146 liability company; and

8147 (c) may state the authority, or limitations on the authority, of a specific person to:

8148 (i) execute an instrument transferring real property held in the name of the limited
8149 liability company; or

8150 (ii) enter into other transactions on behalf of, or otherwise act for or bind, the limited
8151 liability company.

8152 (2) To amend or cancel a statement of authority filed by the division, a limited liability
8153 company must deliver to the division for filing an amendment or cancellation stating:

8154 (a) the name of the limited liability company;

8155 (b) the street and mailing addresses of the limited liability company's registered agent;

8156 (c) the date the statement being affected became effective; and

8157 (d) the contents of the amendment or a declaration that the statement is canceled.

8158 (3) A statement of authority affects only the power of a person to bind a limited
8159 liability company to persons that are not members.

8160 (4) Subject to Subsection (3) and Subsection 48-3a-103(4), and except as otherwise
8161 provided in Subsections (6), (7), and (8), a limitation on the authority of a person or a position
8162 contained in an effective statement of authority is not by itself evidence of knowledge or notice
8163 of the limitation by any person.

8164 (5) Subject to Subsection (3), a grant of authority not pertaining to transfers of real
8165 property and contained in an effective statement of authority is conclusive in favor of a person
8166 that gives value in reliance on the grant, except to the extent that when the person gives value:

8167 (a) the person has knowledge to the contrary;

8168 (b) the statement of authority has been canceled or restrictively amended under
8169 Subsection (2); or

8170 (c) a limitation on the grant is contained in another statement of authority that became
8171 effective after the statement of authority containing the grant became effective.

8172 (6) Subject to Subsection (3), an effective statement of authority that grants authority to
8173 transfer real property held in the name of the limited liability company and a certified copy of
8174 which is recorded in the office for recording transfers of the real property is conclusive in favor
8175 of a person that gives value in reliance on the grant without knowledge to the contrary, except
8176 to the extent that when the person gives value:

8177 (a) the statement of authority has been canceled or restrictively amended under
8178 Subsection (2), and a certified copy of the cancellation or restrictive amendment has been
8179 recorded in the office for recording transfers of the real property; or

8180 (b) a limitation on the grant is contained in another statement of authority that became

8181 effective after the statement of authority containing the grant became effective, and a certified
8182 copy of the later-effective statement of authority is recorded in the office for recording transfers
8183 of the real property.

8184 (7) Subject to Subsection (3), if a certified copy of an effective statement of authority
8185 containing a limitation on the authority to transfer real property held in the name of a limited
8186 liability company is recorded in the office for recording transfers of that real property, all
8187 persons are deemed to know of the limitation.

8188 (8) Subject to Subsection (9), an effective statement of dissolution or termination is a
8189 cancellation of any filed statement of authority for the purposes of Subsection (6) and is a
8190 limitation on authority for the purposes of Subsection (7).

8191 (9) After a statement of dissolution becomes effective, a limited liability company may
8192 deliver to the division for filing and, if appropriate, may record a statement of authority that is
8193 designated as a postdissolution statement of authority. The postdissolution statement of
8194 authority operates as provided in Subsections (6) and (7).

8195 (10) Unless earlier canceled, an effective statement of authority is canceled by
8196 operation of law five years after the date on which the statement of authority, or its most recent
8197 amendment, becomes effective. This cancellation operates without need for any recording
8198 under Subsection (6) or (7).

8199 (11) An effective statement of denial operates as a restrictive amendment under this
8200 section and may be recorded by certified copy for purposes of Subsection (6)(a).

8201 Section 307. Section **48-3a-303** is enacted to read:

8202 **48-3a-303. Statement of denial.**

8203 A person named in a filed statement of authority granting that person authority may
8204 deliver to the division for filing a statement of denial that:

8205 (1) provides the name of the limited liability company and the caption of the statement
8206 of authority to which the statement of denial pertains; and

8207 (2) denies the grant of authority.

8208 Section 308. Section **48-3a-304** is enacted to read:

8209 **48-3a-304. Liability of members and managers.**

8210 (1) A debt, obligation, or other liability of a limited liability company is solely the debt,
8211 obligation, or other liability of the limited liability company. A member or manager is not

8212 personally liable, directly or indirectly, by way of contribution or otherwise, for a debt,
8213 obligation, or other liability of the limited liability company solely by reason of being or acting
8214 as a member or manager. This Subsection (1) applies regardless of the dissolution of the
8215 limited liability company.

8216 (2) The failure of a limited liability company to observe formalities relating to the
8217 exercise of its powers or management of its activities and affairs is not a ground for imposing
8218 liability on a member or manager of the limited liability company for a debt, obligation, or
8219 other liability of the limited liability company.

8220 Section 309. Section **48-3a-401** is enacted to read:

8221 **Part 4. Relations of Members to Each Other and to Limited Liability Company**
8222 **48-3a-401. Becoming a member.**

8223 (1) If a limited liability company is to have only one member upon formation, the
8224 person becomes a member as agreed by that person and the organizer of the limited liability
8225 company. That person and the organizer may be, but need not be, different persons. If
8226 different, the organizer acts on behalf of the initial member.

8227 (2) If a limited liability company is to have more than one member upon formation,
8228 those persons become members as agreed by the persons before the formation of the limited
8229 liability company. The organizer acts on behalf of the persons in forming the limited liability
8230 company and may be, but need not be, one of the persons.

8231 (3) After formation of a limited liability company, a person becomes a member:

8232 (a) as provided in the operating agreement;

8233 (b) as the result of a transaction effective under Part 10, Merger, Interest Exchange,
8234 Conversion, and Domestication;

8235 (c) with the consent of all the members; or

8236 (d) as provided in Subsection 48-3a-701(3).

8237 (4) A person may become a member without:

8238 (a) acquiring a transferable interest; or

8239 (b) making or being obligated to make a contribution to the limited liability company.

8240 Section 310. Section **48-3a-402** is enacted to read:

8241 **48-3a-402. Form of contribution.**

8242 A contribution may consist of property transferred to, services performed for, or another

8243 benefit provided to the limited liability company or an agreement to transfer property to,
8244 perform services for, or provide another benefit to the company.

8245 Section 311. Section **48-3a-403** is enacted to read:

8246 **48-3a-403. Liability for contributions.**

8247 (1) A person's obligation to make a contribution to a limited liability company is not
8248 excused by the person's death, disability, or other inability to perform personally.

8249 (2) If a person does not fulfill an obligation to make a contribution other than money,
8250 the person is obligated at the option of the limited liability company to contribute money equal
8251 to the value of the part of the contribution which has not been made.

8252 (3) The obligation of a person to make a contribution may be compromised only by
8253 consent of all members. If a creditor of a limited liability company extends credit or otherwise
8254 acts in reliance on an obligation described in Subsection (1) without notice of a compromise
8255 under this subsection, the creditor may enforce the obligation.

8256 Section 312. Section **48-3a-404** is enacted to read:

8257 **48-3a-404. Sharing of and right to distributions before dissolution.**

8258 (1) Any distributions made by a limited liability company before its dissolution and
8259 winding up must be in equal shares among members and persons dissociated as members,
8260 except to the extent necessary to comply with a transfer effective under Section 48-3a-502 or
8261 charging order in effect under Section 48-3a-503.

8262 (2) A person has a right to a distribution before the dissolution and winding up of a
8263 limited liability company only if the limited liability company decides to make an interim
8264 distribution. A person's dissociation does not entitle the person to a distribution.

8265 (3) A person does not have a right to demand or receive a distribution from a limited
8266 liability company in any form other than money. Except as otherwise provided in Subsection
8267 48-3a-711(4), a limited liability company may distribute an asset in kind only if each part of the
8268 asset is fungible with each other part and each person receives a percentage of the asset equal
8269 in value to the person's share of distributions.

8270 (4) If a member or transferee becomes entitled to receive a distribution, the member or
8271 transferee has the status of, and is entitled to all remedies available to, a creditor of the limited
8272 liability company with respect to the distribution. However, the limited liability company's
8273 obligation to make a distribution is subject to offset for any amount owed to the limited

8274 liability company by the member or a person dissociated as a member on whose account the
8275 distribution is made.

8276 Section 313. Section **48-3a-405** is enacted to read:

8277 **48-3a-405. Limitation on distributions.**

8278 (1) A limited liability company may not make a distribution, including a distribution
8279 under Section 48-3a-711, if after the distribution:

8280 (a) the limited liability company would not be able to pay its debts as they become due
8281 in the ordinary course of the limited liability company's activities and affairs; or

8282 (b) the limited liability company's total assets would be less than the sum of its total
8283 liabilities plus, unless the operating agreement permits otherwise, the amount that would be
8284 needed, if the limited liability company were to be dissolved and wound up at the time of the
8285 distribution, to satisfy the preferential rights upon dissolution and winding up of members and
8286 transferees whose preferential rights are superior to those of persons receiving the distribution.

8287 (2) A limited liability company may base a determination that a distribution is not
8288 prohibited under Subsection (1) on:

8289 (a) financial statements prepared on the basis of accounting practices and principles
8290 that are reasonable in the circumstances; or

8291 (b) a fair valuation or other method that is reasonable under the circumstances.

8292 (3) Except as otherwise provided in Subsection (5), the effect of a distribution under
8293 Subsection (1) is measured:

8294 (a) in the case of a distribution as defined in Subsection 48-3a-102(4)(a), as of the
8295 earlier of:

8296 (i) the date money or other property is transferred or debt is incurred by the limited
8297 liability company; or

8298 (ii) the date the person entitled to the distribution ceases to own the interest or right
8299 being acquired by the limited liability company in return for the distribution;

8300 (b) in the case of any other distribution of indebtedness, as of the date the indebtedness
8301 is distributed; and

8302 (c) in all other cases, as of the date:

8303 (i) the distribution is authorized, if the payment occurs not later than 120 days after that
8304 date; or

8305 (ii) the payment is made, if the payment occurs more than 120 days after the
8306 distribution is authorized.

8307 (4) A limited liability company's indebtedness to a member or transferee incurred by
8308 reason of a distribution made in accordance with this section is at parity with the limited
8309 liability company's indebtedness to its general, unsecured creditors, except to the extent
8310 subordinated by agreement.

8311 (5) A limited liability company's indebtedness, including indebtedness issued as a
8312 distribution, is not a liability for purposes of Subsection (1) if the terms of the indebtedness
8313 provide that payment of principal and interest is made only if and to the extent that payment of
8314 a distribution could then be made under this section. If the indebtedness is issued as a
8315 distribution, each payment of principal or interest is treated as a distribution, the effect of
8316 which is measured on the date the payment is made.

8317 (6) In measuring the effect of a distribution under Section 48-3a-711, the liabilities of a
8318 dissolved limited liability company do not include any claim that has been disposed of under
8319 Section 48-3a-705, 48-3a-706, or 48-3a-707.

8320 Section 314. Section **48-3a-406** is enacted to read:

8321 **48-3a-406. Liability for improper distributions.**

8322 (1) Except as otherwise provided in Subsection (2), if a member of a member-managed
8323 limited liability company or manager of a manager-managed limited liability company consents
8324 to a distribution made in violation of Section 48-3a-405 and in consenting to the distribution
8325 fails to comply with Section 48-3a-409, the member or manager is personally liable to the
8326 limited liability company for the amount of the distribution which exceeds the amount that
8327 could have been distributed without the violation of Section 48-3a-405.

8328 (2) To the extent the operating agreement of a member-managed limited liability
8329 company expressly relieves a member of the authority and responsibility to consent to
8330 distributions and imposes that authority and responsibility on one or more other members, the
8331 liability stated in Subsection (1) applies to the other members and not the member that the
8332 operating agreement relieves of authority and responsibility.

8333 (3) A person that receives a distribution knowing that the distribution violated Section
8334 48-3a-405 is personally liable to the limited liability company but only to the extent that the
8335 distribution received by the person exceeded the amount that could have been properly paid

8336 under Section 48-3a-405.

8337 (4) A person against which an action is commenced because the person is liable under
8338 Subsection (1) may:

8339 (a) implead any other person that is liable under Subsection (1) and seek to enforce a
8340 right of contribution from the person; and

8341 (b) implead any person that received a distribution in violation of Subsection (3) and
8342 seek to enforce a right of contribution from the person in the amount the person received in
8343 violation of Subsection (3).

8344 (5) An action under this section is barred unless commenced not later than two years
8345 after the distribution.

8346 Section 315. Section **48-3a-407** is enacted to read:

8347 **48-3a-407. Management of limited liability company.**

8348 (1) A limited liability company is a member-managed limited liability company unless
8349 the operating agreement:

8350 (a) expressly provides that:

8351 (i) the limited liability company is or will be "manager-managed";

8352 (ii) the limited liability company is or will be "managed by managers"; or

8353 (iii) management of the limited liability company is or will be "vested in managers"; or

8354 (b) includes words of similar import.

8355 (2) In a member-managed limited liability company, the following rules apply:

8356 (a) Except as otherwise provided in this chapter, the management and conduct of the
8357 limited liability company are vested in the members.

8358 (b) Each member has equal rights in the management and conduct of the limited
8359 liability company's activities and affairs.

8360 (c) A difference arising among members as to a matter in the ordinary course of the
8361 activities of the limited liability company shall be decided by a majority of the members.

8362 (d) An act outside the ordinary course of the activities and affairs of the limited liability
8363 company may be undertaken only with the affirmative vote or consent of all members.

8364 (e) The affirmative vote or consent of all members is required to approve a transaction
8365 under Part 10, Merger, Interest Exchange, Conversion, and Domestication.

8366 (f) The operating agreement may be amended only with the affirmative vote or consent

8367 of all members.

8368 (3) In a manager-managed limited liability company, the following rules apply:

8369 (a) Except as expressly provided in this chapter, any matter relating to the activities and
8370 affairs of the limited liability company is decided exclusively by the manager, or, if there is
8371 more than one manager, by a majority of the managers.

8372 (b) Each manager has equal rights in the management and conduct of the limited
8373 liability company's activities and affairs.

8374 (c) The affirmative vote or consent of all members is required to:

8375 (i) approve a transaction under Part 10, Merger, Interest Exchange, Conversion, and
8376 Domestication;

8377 (ii) undertake any act outside the ordinary course of the limited liability company's
8378 activities and affairs; or

8379 (iii) amend the operating agreement.

8380 (d) A manager may be chosen at any time by the consent of a majority of the members
8381 and remains a manager until a successor has been chosen, unless the manager at an earlier time
8382 resigns, is removed, or dies, or, in the case of a manager that is not an individual, terminates.

8383 A manager may be removed at any time by the consent of a majority of the members without
8384 notice or cause.

8385 (e) A person need not be a member to be a manager, but the dissociation of a member
8386 that is also a manager removes the person as a manager. If a person that is both a manager and
8387 a member ceases to be a manager, that cessation does not by itself dissociate the person as a
8388 member.

8389 (f) A person's ceasing to be a manager does not discharge any debt, obligation, or other
8390 liability to the limited liability company or members which the person incurred while a
8391 manager.

8392 (4) An action requiring the vote or consent of members under this chapter may be taken
8393 without a meeting, and a member may appoint a proxy or other agent to vote, consent, or
8394 otherwise act for the member by signing an appointing record, personally or by the member's
8395 agent.

8396 (5) The dissolution of a limited liability company does not affect the applicability of
8397 this section. However, a person that wrongfully causes dissolution of the limited liability

8398 company loses the right to participate in management as a member and a manager.

8399 (6) A limited liability company shall reimburse a member for an advance to the limited
8400 liability company beyond the amount of capital the member agreed to contribute.

8401 (7) A payment or advance made by a member which gives rise to an obligation of the
8402 limited liability company under Subsection (6) or Subsection 48-3a-408(1) constitutes a loan to
8403 the limited liability company which accrues interest from the date of the payment or advance.

8404 (8) A member is not entitled to remuneration for services performed for a
8405 member-managed limited liability company, except for reasonable compensation for services
8406 rendered in winding up the activities of the limited liability company.

8407 Section 316. Section **48-3a-408** is enacted to read:

8408 **48-3a-408. Reimbursement, indemnification, advancement, and insurance.**

8409 (1) A limited liability company shall reimburse a member of a member-managed
8410 limited liability company or the manager of a manager-managed limited liability company for
8411 any payment made by the member or manager in the course of the member's or manager's
8412 activities on behalf of the limited liability company, if the member or manager complied with
8413 Sections 48-3a-407 and 48-3a-409 in making the payment.

8414 (2) A limited liability company shall indemnify and hold harmless a person with
8415 respect to any claim or demand against the person and any debt, obligation, or other liability
8416 incurred by the person by reason of the person's former or present capacity as a member or
8417 manager, if the claim, demand, debt, obligation, or other liability does not arise from the
8418 person's breach of Section 48-3a-405, 48-3a-407, or 48-3a-409.

8419 (3) In the ordinary course of its activities and affairs, a limited liability company may
8420 advance reasonable expenses, including attorney's fees and costs, incurred by a person in
8421 connection with a claim or demand against the person by reason of the person's former or
8422 present capacity as a member or manager, if the person promises to repay the limited liability
8423 company if the person ultimately is determined not to be entitled to be indemnified under
8424 Subsection (2).

8425 (4) A limited liability company may purchase and maintain insurance on behalf of a
8426 member or manager of the limited liability company against liability asserted against or
8427 incurred by the member or manager in that capacity or arising from that status even if, under
8428 Subsection 48-3a-112(3)(g), the operating agreement could not eliminate or limit the person's

8429 liability to the limited liability company for the conduct giving rise to the liability.

8430 Section 317. Section **48-3a-409** is enacted to read:

8431 **48-3a-409. Standards of conduct for members and managers.**

8432 (1) A member of a member-managed limited liability company owes to the limited
8433 liability company and, subject to Subsection 48-3a-801(1), the other members the duties of
8434 loyalty and care stated in Subsections (2) and (3).

8435 (2) The duty of loyalty of a member in a member-managed limited liability company
8436 includes the duties:

8437 (a) to account to the limited liability company and to hold as trustee for it any property,
8438 profit, or benefit derived by the member:

8439 (i) in the conduct or winding up of the limited liability company's activities and affairs;

8440 (ii) from a use by the member of the limited liability company's property; or

8441 (iii) from the appropriation of a limited liability company opportunity;

8442 (b) to refrain from dealing with the limited liability company in the conduct or winding
8443 up of the limited liability company's activities and affairs as or on behalf of a person having an
8444 interest adverse to the limited liability company; and

8445 (c) to refrain from competing with the limited liability company in the conduct of the
8446 company's activities and affairs before the dissolution of the limited liability company.

8447 (3) The duty of care of a member of a member-managed limited liability company in
8448 the conduct or winding up of the limited liability company's activities and affairs is to refrain
8449 from engaging in grossly negligent or reckless conduct, intentional misconduct, or a knowing
8450 violation of law.

8451 (4) A member shall discharge the duties and obligations under this chapter or under the
8452 operating agreement and exercise any rights consistently with the contractual obligation of
8453 good faith and fair dealing.

8454 (5) A member does not violate a duty or obligation under this chapter or under the
8455 operating agreement solely because the member's conduct furthers the member's own interest.

8456 (6) All the members of a member-managed limited liability company or a
8457 manager-managed limited liability company may authorize or ratify, after full disclosure of all
8458 material facts, a specific act or transaction that otherwise would violate the duty of loyalty.

8459 (7) It is a defense to a claim under Subsection (2)(b) and any comparable claim in

8460 equity or at common law that the transaction was fair to the limited liability company.

8461 (8) If, as permitted by Subsection (6) or (9)(f) or the operating agreement, a member
8462 enters into a transaction with the limited liability company which otherwise would be
8463 prohibited by Subsection (2)(b), the member's rights and obligations arising from the
8464 transaction are the same as those of a person that is not a member.

8465 (9) In a manager-managed limited liability company, the following rules apply:

8466 (a) Subsections (1), (2), (3), and (7) apply to the manager or managers and not the
8467 members.

8468 (b) The duty stated under Subsection (2)(c) continues until winding up is completed.

8469 (c) Subsection (4) applies to managers and members.

8470 (d) Subsection (5) applies only to members.

8471 (e) The power to ratify under Subsection (6) applies only to the members.

8472 (f) Subject to Subsection (4), a member does not have any duty to the limited liability
8473 company or to any other member solely by reason of being a member.

8474 Section 318. Section **48-3a-410** is enacted to read:

8475 **48-3a-410. Rights of member, manager, and person dissociated as member to**
8476 **information.**

8477 (1) In a member-managed limited liability company, the following rules apply:

8478 (a) On reasonable notice, a member may inspect and copy during regular business
8479 hours, at a reasonable location specified by the limited liability company, any record
8480 maintained by the limited liability company regarding the limited liability company's activities,
8481 affairs, financial condition, and other circumstances, to the extent the information is material to
8482 the member's rights and duties under the operating agreement or this chapter.

8483 (b) The limited liability company shall furnish to each member:

8484 (i) without demand, any information concerning the limited liability company's
8485 activities, affairs, financial condition, and other circumstances which the limited liability
8486 company knows and is material to the proper exercise of the member's rights and duties under
8487 the operating agreement or this chapter, except to the extent the limited liability company can
8488 establish that it reasonably believes the member already knows the information; and

8489 (ii) on demand, any other information concerning the limited liability company's
8490 activities, affairs, financial condition, and other circumstances, except to the extent the demand

8491 or information demanded is unreasonable or otherwise improper under the circumstances.

8492 (c) The duty to furnish information under Subsection (1)(b) also applies to each
8493 member to the extent the member knows any of the information described in Subsection (1)(b).

8494 (2) In a manager-managed limited liability company, the following rules apply:

8495 (a) The informational rights stated in Subsection (1) and the duty stated in Subsection
8496 (1)(c) apply to the managers and not the members.

8497 (b) During regular business hours and at a reasonable location specified by the limited
8498 liability company, a member may inspect and copy full information regarding the activities,
8499 affairs, financial condition, and other circumstances of the limited liability company as is just
8500 and reasonable if:

8501 (i) the member seeks the information for a purpose reasonably related to the member's
8502 interest as a member;

8503 (ii) the member makes a demand in a record received by the limited liability company,
8504 describing with reasonable particularity the information sought and the purpose for seeking the
8505 information; and

8506 (iii) the information sought is directly connected to the member's purpose.

8507 (c) Not later than 10 days after receiving a demand pursuant to Subsection (2)(b)(ii),
8508 the limited liability company shall in a record inform the member that made the demand of:

8509 (i) the information that the limited liability company will provide in response to the
8510 demand and when and where the limited liability company will provide the information; and

8511 (ii) the limited liability company's reasons for declining, if the limited liability
8512 company declines to provide any demanded information.

8513 (d) Whenever this chapter or an operating agreement provides for a member to give or
8514 withhold consent to a matter, before the consent is given or withheld, the limited liability
8515 company shall, without demand, provide the member with all information that is known to the
8516 limited liability company and is material to the member's decision.

8517 (3) Subject to Subsection (9), on 10 days' demand made in a record received by a
8518 limited liability company, a person dissociated as a member may have access to information to
8519 which the person was entitled while a member if:

8520 (a) the information pertains to the period during which the person was a member;

8521 (b) the person seeks the information in good faith; and

8522 (c) the person satisfies the requirements imposed on a member by Subsection (2)(b).

8523 (4) A limited liability company shall respond to a demand made pursuant to Subsection

8524 (3) in the manner provided in Subsection (2)(c).

8525 (5) A limited liability company may charge a person that makes a demand under this

8526 section the reasonable costs of copying, limited to the costs of labor and material.

8527 (6) A member or person dissociated as a member may exercise rights under this section

8528 through an agent or, in the case of an individual under legal disability, a legal representative.

8529 Any restriction or condition imposed by the operating agreement or under Subsection (9)

8530 applies both to the agent or legal representative and the member or person dissociated as a

8531 member.

8532 (7) Subject to Subsection (9), the rights under this section do not extend to a person as

8533 transferee.

8534 (8) If a member dies, Section 48-3a-504 applies.

8535 (9) In addition to any restriction or condition stated in the operating agreement, a

8536 limited liability company, as a matter within the ordinary course of its activities and affairs,

8537 may impose reasonable restrictions and conditions on access to and use of information to be

8538 furnished under this section, including designating information confidential and imposing

8539 nondisclosure and safeguarding obligations on the recipient. In a dispute concerning the

8540 reasonableness of a restriction under this subsection, the limited liability company has the

8541 burden of proving reasonableness.

8542 Section 319. Section **48-3a-501** is enacted to read:

8543 **Part 5. Transferable Interest and Rights of Transferees and Creditors**

8544 **48-3a-501. Nature of transferable interest.**

8545 A transferable interest is personal property.

8546 Section 320. Section **48-3a-502** is enacted to read:

8547 **48-3a-502. Transfer of transferable interest.**

8548 (1) Subject to Subsection 48-3a-503(6), a transfer, in whole or in part, of a transferable

8549 interest:

8550 (a) is permissible;

8551 (b) does not by itself cause a member's dissociation or a dissolution and winding up of

8552 the limited liability company's activities and affairs; and

- 8553 (c) subject to Section 48-3a-504, does not entitle the transferee to:
8554 (i) participate in the management or conduct of the limited liability company's
8555 activities and affairs; or
8556 (ii) except as otherwise provided in Subsection (3), have access to records or other
8557 information concerning the limited liability company's activities and affairs.
8558 (2) A transferee has the right to receive, in accordance with the transfer, distributions to
8559 which the transferor would otherwise be entitled.
8560 (3) In a dissolution and winding up of a limited liability company, a transferee is
8561 entitled to an account of the limited liability company's transactions only from the date of
8562 dissolution.
8563 (4) A transferable interest may be evidenced by a certificate of the interest issued by
8564 the limited liability company in a record, and, subject to this section, the interest represented by
8565 the certificate may be transferred by a transfer of the certificate.
8566 (5) A limited liability company need not give effect to a transferee's rights under this
8567 section until the limited liability company knows or has notice of the transfer.
8568 (6) A transfer of a transferable interest in violation of a restriction on transfer contained
8569 in the operating agreement is ineffective as to a person having knowledge or notice of the
8570 restriction at the time of transfer.
8571 (7) Except as otherwise provided in Subsection 48-3a-602(5)(b), if a member transfers
8572 a transferable interest, the transferor retains the rights of a member other than the transferable
8573 interest transferred and retains all the duties and obligations of a member.
8574 (8) If a member transfers a transferable interest to a person that becomes a member
8575 with respect to the transferred interest, the transferee is liable for the member's obligations
8576 under Section 48-3a-403 and Subsection 48-3a-406(3) known to the transferee when the
8577 transferee becomes a member.
8578 Section 321. Section **48-3a-503** is enacted to read:
8579 **48-3a-503. Charging order.**
8580 (1) On application by a judgment creditor of a member or transferee, a court may enter
8581 a charging order against the transferable interest of the judgment debtor for the unsatisfied
8582 amount of the judgment. Except as otherwise provided in Subsection (6), a charging order
8583 constitutes a lien on a judgment debtor's transferable interest and, after the limited liability

8584 company has been served with the charging order, requires the limited liability company to pay
8585 over to the person to which the charging order was issued any distribution that otherwise would
8586 be paid to the judgment debtor.

8587 (2) To the extent necessary to effectuate the collection of distributions pursuant to a
8588 charging order in effect under Subsection (1), the court may:

8589 (a) appoint a receiver of the distributions subject to the charging order, with the power
8590 to make all inquiries the judgment debtor might have made; and

8591 (b) make all other orders necessary to give effect to the charging order.

8592 (3) Upon a showing that distributions under a charging order will not pay the judgment
8593 debt within a reasonable time, the court may foreclose the lien and order the sale of the
8594 transferable interest. Except as otherwise provided in Subsection (6), the purchaser at the
8595 foreclosure sale only obtains the transferable interest, does not thereby become a member, and
8596 is subject to Section 48-3a-502.

8597 (4) At any time before foreclosure under Subsection (3), the member or transferee
8598 whose transferable interest is subject to a charging order under Subsection (1) may extinguish
8599 the charging order by satisfying the judgment and filing a certified copy of the satisfaction with
8600 the court that issued the charging order.

8601 (5) At any time before foreclosure under Subsection (3), a limited liability company or
8602 one or more members whose transferable interests are not subject to the charging order may
8603 pay to the judgment creditor the full amount due under the judgment and thereby succeed to the
8604 rights of the judgment creditor, including the charging order.

8605 (6) If a court orders foreclosure of a charging order lien against the sole member of a
8606 limited liability company:

8607 (a) the court shall confirm the sale;

8608 (b) the purchaser at the sale obtains the member's entire interest, not only the member's
8609 transferable interest;

8610 (c) the purchaser thereby becomes a member; and

8611 (d) the person whose interest was subject to the foreclosed charging order is
8612 dissociated as a member.

8613 (7) This chapter does not deprive any member or transferee of the benefit of any
8614 exemption laws applicable to the transferable interest of the member or transferee.

8615 (8) This section provides the exclusive remedy by which a person seeking to enforce a
8616 judgment against a member or transferee may, in the capacity of judgment creditor, satisfy the
8617 judgment from the judgment debtor's transferable interest.

8618 Section 322. Section **48-3a-504** is enacted to read:

8619 **48-3a-504. Power of legal representative of deceased member.**

8620 If a member dies, the deceased member's legal representative may exercise:

8621 (1) the rights of a transferee provided in Subsection 48-3a-502(3); and

8622 (2) for the purposes of settling the estate, the rights the deceased member had under

8623 Section 48-3a-410.

8624 Section 323. Section **48-3a-601** is enacted to read:

8625 **Part 6. Dissociation**

8626 **48-3a-601. Power to dissociate as member -- Wrongful dissociation.**

8627 (1) A person has the power to dissociate as a member at any time, rightfully or
8628 wrongfully, by withdrawing as a member by express will under Subsection 48-3a-602(1).

8629 (2) A person's dissociation as a member is wrongful only if the dissociation:

8630 (a) is in breach of an express provision of the operating agreement; or

8631 (b) occurs before the completion of the winding up of the limited liability company

8632 and:

8633 (i) the person withdraws as a member by express will;

8634 (ii) the person is expelled as a member by judicial order under Subsection

8635 48-3a-602(6);

8636 (iii) the person is dissociated under Subsection 48-3a-602(8); or

8637 (iv) in the case of a person that is not a trust other than a business trust, an estate, or an

8638 individual, the person is expelled or otherwise dissociated as a member because it willfully

8639 dissolved or terminated.

8640 (3) A person that wrongfully dissociates as a member is liable to the limited liability
8641 company and, subject to Section 48-3a-801, to the other members for damages caused by the

8642 dissociation. The liability is in addition to any debt, obligation, or other liability of the member

8643 to the limited liability company or the other members.

8644 Section 324. Section **48-3a-602** is enacted to read:

8645 **48-3a-602. Events causing dissociation.**

8646 A person is dissociated as a member when:

8647 (1) the limited liability company has notice of the person's express will to withdraw as
8648 a member, but, if the person specified a withdrawal date later than the date the limited liability
8649 company had notice, on that later date;

8650 (2) an event stated in the operating agreement as causing the person's dissociation
8651 occurs;

8652 (3) the person's entire interest is transferred in a foreclosure sale under Subsection
8653 48-3a-503(6);

8654 (4) the person is expelled as a member pursuant to the operating agreement;

8655 (5) the person is expelled as a member by the unanimous consent of the other members
8656 if:

8657 (a) it is unlawful to carry on the limited liability company's activities and affairs with
8658 the person as a member;

8659 (b) there has been a transfer of all the person's transferable interest in the limited
8660 liability company, other than:

8661 (i) a transfer for security purposes; or

8662 (ii) a charging order in effect under Section 48-3a-503 which has not been foreclosed;

8663 (c) the person is a corporation, and:

8664 (i) the limited liability company notifies the person that it will be expelled as a member
8665 because the person has filed a statement of dissolution or the equivalent, its charter has been
8666 revoked, or its right to conduct business has been suspended by the jurisdiction of its
8667 incorporation; and

8668 (ii) not later than 90 days after the notification the statement of dissolution or the
8669 equivalent has not been revoked or its charter or right to conduct business has not been
8670 reinstated; or

8671 (d) the person is an unincorporated entity that has been dissolved and whose business
8672 is being wound up;

8673 (6) on application by the limited liability company or a member in a direct action under
8674 Section 48-3a-801, the person is expelled as a member by judicial order because the person:

8675 (a) has engaged or is engaging in wrongful conduct that has affected adversely and
8676 materially, or will affect adversely and materially, the limited liability company's activities and

8677 affairs;

8678 (b) has committed willfully or persistently, or is committing willfully or persistently, a
8679 material breach of the operating agreement or a duty or obligation under Section 48-3a-409; or

8680 (c) has engaged or is engaging in conduct relating to the limited liability company's
8681 activities and affairs which makes it not reasonably practicable to carry on the activities and
8682 affairs with the person as a member;

8683 (7) in the case of an individual:

8684 (a) the individual dies; or

8685 (b) in a member-managed limited liability company:

8686 (i) a guardian or general conservator for the individual is appointed; or

8687 (ii) a court orders that the individual has otherwise become incapable of performing the
8688 individual's duties as a member under this chapter or the operating agreement;

8689 (8) in a member-managed limited liability company, the person:

8690 (a) becomes a debtor in bankruptcy;

8691 (b) executes an assignment for the benefit of creditors; or

8692 (c) seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or
8693 liquidator of the person or of all or substantially all the person's property;

8694 (9) in the case of a person that is a testamentary or inter vivos trust or is acting as a
8695 member by virtue of being a trustee of such a trust, the trust's entire transferable interest in the
8696 limited liability company is distributed;

8697 (10) in the case of a person that is an estate or is acting as a member by virtue of being
8698 a personal representative of an estate, the estate's entire transferable interest in the limited
8699 liability company is distributed, but not merely by reason of substitution of a successor
8700 personal representative;

8701 (11) in the case of a person that is not an individual, corporation, unincorporated entity,
8702 trust, or estate, the existence of the person terminates;

8703 (12) the limited liability company participates in a merger under Part 10, Merger,
8704 Interest Exchange, Conversion, and Domestication, and:

8705 (a) the limited liability company is not the surviving entity; or

8706 (b) otherwise as a result of the merger, the person ceases to be a member;

8707 (13) the limited liability company participates in an interest exchange under Part 10,

8708 Merger, Interest Exchange, Conversion, and Domestication, and, as a result of the interest
8709 exchange, the person ceases to be a member;

8710 (14) the limited liability company participates in a conversion under Part 10, Merger,
8711 Interest Exchange, Conversion, and Domestication;

8712 (15) the limited liability company participates in a domestication under Part 10,
8713 Merger, Interest Exchange, Conversion, and Domestication, and, as a result of the
8714 domestication, the person ceases to be a member; or

8715 (16) the limited liability company dissolves and completes winding up.

8716 Section 325. Section **48-3a-603** is enacted to read:

8717 **48-3a-603. Effect of dissociation.**

8718 (1) If a person is dissociated as a member:

8719 (a) the person's right to participate as a member in the management and conduct of the
8720 company's activities and affairs terminates;

8721 (b) if the limited liability company is member-managed, the person's duties and
8722 obligations under Section 48-3a-409 as a member end with regard to matters arising and events
8723 occurring after the person's dissociation; and

8724 (c) subject to Section 48-3a-504 and Part 10, Merger, Interest Exchange, Conversion,
8725 and Domestication, any transferable interest owned by the person in the person's capacity as a
8726 member immediately before dissociation as a member is owned by the person solely as a
8727 transferee.

8728 (2) A person's dissociation as a member does not of itself discharge the person from
8729 any debt, obligation, or other liability to the limited liability company or the other members
8730 which the person incurred while a member.

8731 Section 326. Section **48-3a-701** is enacted to read:

8732 **Part 7. Dissolution and Winding Up**

8733 **48-3a-701. Events causing dissolution.**

8734 A limited liability company is dissolved, and its activities and affairs must be wound
8735 up, upon the occurrence of any of the following:

8736 (1) an event or circumstance that the operating agreement states causes dissolution;

8737 (2) the consent of all the members;

8738 (3) the passage of 90 consecutive days during which the limited liability company has

8739 no members unless:

8740 (a) consent to admit at least one specified person as a member is given by transferees
8741 owning the rights to receive a majority of distributions as transferees at the time the consent is
8742 to be effective; and

8743 (b) at least one person becomes a member in accordance with the consent;

8744 (4) on application by a member, the entry by the district court of an order dissolving
8745 the limited liability company on the grounds that:

8746 (a) the conduct of all or substantially all of the limited liability company's activities and
8747 affairs is unlawful; or

8748 (b) it is not reasonably practicable to carry on the limited liability company's activities
8749 and affairs in conformity with the certificate of organization and the operating agreement;

8750 (5) on application by a member, the entry by the district court of an order dissolving
8751 the limited liability company on the grounds that the managers or those members in control of
8752 the limited liability company:

8753 (a) have acted, are acting, or will act in a manner that is illegal or fraudulent; or

8754 (b) have acted, are acting, or will act in a manner that is oppressive and was, is, or will
8755 be directly harmful to the applicant; or

8756 (6) the signing and filing of a statement of administrative dissolution by the division
8757 under Subsection 48-3a-708(3).

8758 Section 327. Section **48-3a-702** is enacted to read:

8759 **48-3a-702. Election to purchase in lieu of dissolution.**

8760 (1) In a proceeding under Subsection 48-3a-701(5) to dissolve a limited liability
8761 company, the limited liability company may elect or, if it fails to elect, one or more members
8762 may elect to purchase the interest in the limited liability company owned by the applicant
8763 member at the fair market value of the interest, determined as provided in this section. An
8764 election pursuant to this Subsection (1) is irrevocable unless the district court determines that it
8765 is equitable to set aside or modify the election.

8766 (2) An election to purchase pursuant to this section may be filed with the district court
8767 at any time within 90 days after the filing of the petition in a proceeding under Subsection
8768 48-3a-701(5) or at any later time as the district court in its discretion may allow. If the limited
8769 liability company files an election with the district court within the 90-day period, or at any

8770 later time allowed by the district court, to purchase the interest in the limited liability company
8771 owned by the applicant member, the limited liability company shall purchase the interest in the
8772 manner provided in this section.

8773 (3) If the limited liability company does not file an election with the district court
8774 within the time period, but an election to purchase the interest in the limited liability company
8775 owned by the applicant member is filed by one or more members within the time period, the
8776 limited liability company shall, within 10 days after the later of the end of the time period
8777 allowed for the filing of elections to purchase under this section or notification from the district
8778 court of an election by members to purchase the interest in the limited liability company owned
8779 by the applicant member as provided in this section, give written notice of the election to
8780 purchase to all members of the limited liability company, other than the applicant member.
8781 The notice shall state the name and the percentage interest in the limited liability company
8782 owned by the applicant member and the name and the percentage interest in the limited liability
8783 company owned by each electing member. The notice shall advise any recipients who have not
8784 participated in the election of their right to join in the election to purchase the interest in the
8785 limited liability company in accordance with this section and of the date by which any notice of
8786 intent to participate must be filed with the district court.

8787 (4) Members who wish to participate in the purchase of the interest in the limited
8788 liability company of the applicant member must file notice of their intention to join in the
8789 purchase by electing members no later than 30 days after the effective date of the limited
8790 liability company's notice of their right to join in the election to purchase.

8791 (5) All members who have filed with the district court an election or notice of their
8792 intention to participate in the election to purchase the interest in the limited liability company
8793 of the applicant member thereby become irrevocably obligated to participate in the purchase of
8794 the interest from the applicant member upon the terms and conditions of this section, unless the
8795 district court otherwise directs.

8796 (6) After an election has been filed by the limited liability company or one or more
8797 members, the proceedings under Subsection 48-3a-701(5) may not be discontinued or settled,
8798 nor may the applicant member sell or otherwise dispose of the applicant member's interest in
8799 the limited liability company, unless the district court determines that it would be equitable to
8800 the limited liability company and the members, other than the applicant member, to permit any

8801 discontinuance, settlement, sale, or other disposition.

8802 (7) If, within 60 days after the earlier of the limited liability company filing of an
8803 election to purchase the interest in the limited liability company of the applicant member or the
8804 limited liability company's mailing of a notice to its members of the filing of an election by the
8805 members to purchase the interest in the limited liability company of the applicant member, the
8806 applicant member and electing limited liability company or members reach agreement as to the
8807 fair market value and terms of the purchase of the applicant member's interest, the district court
8808 shall enter an order directing the purchase of the applicant member's interest, upon the terms
8809 and conditions agreed to by the parties.

8810 (8) If the parties are unable to reach an agreement as provided for in Subsection (7),
8811 upon application of any party, the district court shall stay the proceedings under Subsection
8812 48-3a-701(5) and determine the fair market value of the applicant member's interest in the
8813 limited liability company as of the day before the date on which the petition under Subsection
8814 48-3a-701(5) was filed or as of any other date the district court determines to be appropriate
8815 under the circumstances and based on the factors the district court determines to be appropriate.

8816 (9) Upon determining the fair market value of the interest in the limited liability
8817 company of the applicant member, the district court shall enter an order directing the purchase
8818 of the interest in the limited liability company upon terms and conditions the district court
8819 determines to be appropriate. The terms and conditions may include payment of the purchase
8820 price in installments, where necessary in the interest of equity, provision for security to assure
8821 payment of the purchase price and any additional costs, fees, and expenses awarded by the
8822 district court, and an allocation of the interest in the limited liability company among members
8823 if the interest in the limited liability company is to be purchased by members.

8824 (10) In allocating the applicant member's interest in the limited liability company
8825 among holders of different classes of members, the district court shall attempt to preserve the
8826 existing distribution of voting rights among member classes to the extent practicable. The
8827 district court may direct that holders of a specific class or classes may not participate in the
8828 purchase. The district court may not require any electing member to purchase more of the
8829 interest in the limited liability company owned by the applicant member than the percentage
8830 interest that the purchasing member may have set forth in the purchasing member's election or
8831 notice of intent to participate filed with the district court.

8832 (11) Interest may be allowed at the rate and from the date determined by the district
8833 court to be equitable. However, if the district court finds that the refusal of the applicant
8834 member to accept an offer of payment was arbitrary or otherwise not in good faith, interest may
8835 not be allowed.

8836 (12) If the district court finds that the applicant member had probable ground for relief
8837 under Subsection 48-3a-701(5), the district court may award to the applicant member
8838 reasonable fees and expenses of counsel and experts employed by the applicant member.

8839 (13) Upon entry of an order under Subsection (7) or (9), the district court shall dismiss
8840 the petition to dissolve the limited liability company under Subsection 48-3a-701(5) and the
8841 applicant member shall no longer have any rights or status as a member of the limited liability
8842 company, except the right to receive the amounts awarded to the applicant member by the
8843 district court. The award is enforceable in the same manner as any other judgment.

8844 (14) The purchase ordered pursuant to Subsection (9) shall be made within 10 days
8845 after the date the order becomes final, unless before that time the limited liability company files
8846 with the district court a notice of its intention to file a statement of dissolution. The statement
8847 of dissolution must then be adopted and filed within 60 days after notice.

8848 (15) Upon filing of a statement of dissolution, the limited liability company is
8849 dissolved and shall be wound up pursuant to Section 48-3a-703, and the order entered pursuant
8850 to Subsection (9) is no longer of any force or effect. However, the district court may award the
8851 applicant member reasonable fees and expenses in accordance with Subsection (12). The
8852 applicant member may continue to pursue any claims previously asserted on behalf of the
8853 limited liability company.

8854 (16) Any payment by the limited liability company pursuant to an order under
8855 Subsection (7) or (9), other than an award of fees and expenses pursuant to Subsection (12), is
8856 subject to the provisions of Sections 48-3a-405 and 48-3a-406.

8857 Section 328. Section **48-3a-703** is enacted to read:

8858 **48-3a-703. Winding up.**

8859 (1) A dissolved limited liability company shall wind up its activities and affairs and,
8860 except as otherwise provided in Section 48-3a-704, the limited liability company continues
8861 after dissolution only for the purpose of winding up.

8862 (2) In winding up its activities and affairs, a limited liability company:

8863 (a) shall discharge the limited liability company's debts, obligations, and other
8864 liabilities, settle and close the limited liability company's activities and affairs, and marshal and
8865 distribute the assets of the limited liability company; and

8866 (b) may:

8867 (i) deliver to the division for filing a statement of dissolution stating the name of the
8868 limited liability company and that the limited liability company is dissolved;

8869 (ii) preserve the limited liability company activities, affairs, and property as a going
8870 concern for a reasonable time;

8871 (iii) prosecute and defend actions and proceedings, whether civil, criminal, or
8872 administrative;

8873 (iv) transfer the limited liability company's property;

8874 (v) settle disputes by mediation or arbitration;

8875 (vi) deliver to the division for filing a statement of termination stating the name of the
8876 limited liability company and that the limited liability company is terminated; and

8877 (vii) perform other acts necessary or appropriate to the winding up.

8878 (3) If a dissolved limited liability company has no members, the legal representative of
8879 the last person to have been a member may wind up the activities and affairs of the limited
8880 liability company. If the person does so, the person has the powers of a sole manager under
8881 Subsection 48-3a-407(3) and is deemed to be a manager for the purposes of Subsection
8882 48-3a-304(1).

8883 (4) If the legal representative under Subsection (3) declines or fails to wind up the
8884 limited liability company's activities and affairs, a person may be appointed to do so by the
8885 consent of transferees owning a majority of the rights to receive distributions as transferees at
8886 the time the consent is to be effective. A person appointed under this Subsection (4):

8887 (a) has the powers of a sole manager under Subsection 48-3a-407(3) and is deemed to
8888 be a manager for the purposes of Subsection 48-3a-304(1); and

8889 (b) shall promptly deliver to the division for filing an amendment to the limited
8890 liability company's certificate of organization stating:

8891 (i) that the limited liability company has no members;

8892 (ii) the name and street and mailing addresses of the person; and

8893 (iii) that the person has been appointed pursuant to this subsection to wind up the

8894 limited liability company.

8895 (5) A district court may order judicial supervision of the winding up of a dissolved
8896 limited liability company, including the appointment of a person to wind up the limited liability
8897 company's activities and affairs:

8898 (a) on application of a member, if the applicant establishes good cause;

8899 (b) on the application of a transferee, if:

8900 (i) the company does not have any members;

8901 (ii) the legal representative of the last person to have been a member declines or fails to
8902 wind up the limited liability company's activities; and

8903 (iii) within a reasonable time following the dissolution a person has not been appointed
8904 pursuant to Subsection (4); or

8905 (c) in connection with a proceeding under Subsection 48-3a-701(4) or (5).

8906 Section 329. Section **48-3a-704** is enacted to read:

8907 **48-3a-704. Rescinding dissolution.**

8908 (1) A limited liability company may rescind its dissolution, unless a statement of
8909 termination applicable to the limited liability company is effective, the district court has
8910 entered an order under Subsection 48-3a-701(4) or (5) dissolving the limited liability company,
8911 or the division has dissolved the limited liability company under Section 48-3a-708.

8912 (2) Rescinding dissolution under this section requires:

8913 (a) the consent of each member;

8914 (b) if a statement of dissolution applicable to the limited liability company has been
8915 filed by the division but has not become effective, the delivery to the division for filing of a
8916 statement of withdrawal under Section 48-3a-207 applicable to the statement of dissolution;
8917 and

8918 (c) if a statement of dissolution applicable to the limited liability company is effective,
8919 the delivery to the division for filing of a statement of correction under Section 48-3a-208
8920 stating that dissolution has been rescinded under this section.

8921 (3) If a limited liability company rescinds its dissolution:

8922 (a) the limited liability company resumes carrying on its activities and affairs as if
8923 dissolution had never occurred;

8924 (b) subject to Subsection (3)(c), any liability incurred by the limited liability company

8925 after the dissolution and before the rescission is effective is determined as if dissolution had
8926 never occurred; and

8927 (c) the rights of a third party arising out of conduct in reliance on the dissolution before
8928 the third party knew or had notice of the rescission may not be adversely affected.

8929 Section 330. Section **48-3a-705** is enacted to read:

8930 **48-3a-705. Known claims against dissolved limited liability company.**

8931 (1) A dissolved limited liability company in winding up may dispose of the known
8932 claims against it by following the procedures described in this section.

8933 (2) A limited liability company in winding up, electing to dispose of known claims
8934 pursuant to this section, may give written notice of the limited liability company's dissolution
8935 to known claimants at any time after the effective date of the dissolution. The written notice
8936 must:

8937 (a) describe the information that must be included in a claim;

8938 (b) provide an address to which written notice of any claim must be given to the
8939 limited liability company;

8940 (c) state the deadline, which may not be fewer than 120 days after the effective date of
8941 the notice, by which the dissolved limited liability company must receive the claim; and

8942 (d) state that, unless sooner barred by another state statute limiting actions, the claim
8943 will be barred if not received by the deadline.

8944 (3) Unless sooner barred by another state statute limiting actions, a claim against the
8945 dissolved limited liability company is barred if:

8946 (a) a claimant was given notice under Subsection (2) and the claim is not received by
8947 the dissolved limited liability company by the deadline; or

8948 (b) the dissolved limited liability company delivers to the claimant written notice of
8949 rejection of the claim within 90 days after receipt of the claim and the claimant whose claim
8950 was rejected by the dissolved limited liability company does not commence a proceeding to
8951 enforce the claim within 90 days after the effective date of the rejection notice.

8952 (4) Claims which are not rejected by the dissolved limited liability company in writing
8953 within 90 days after receipt of the claim by the dissolved limited liability company shall be
8954 considered approved.

8955 (5) The failure of the dissolved limited liability company to give notice to any known

8956 claimant pursuant to Subsection (2) does not affect the disposition under this section of any
8957 claim held by any other known claimant.

8958 (6) This section does not apply to a claim based on an event occurring after the
8959 effective date of dissolution or a liability that on that date is contingent.

8960 Section 331. Section **48-3a-706** is enacted to read:

8961 **48-3a-706. Other claims against dissolved limited liability company.**

8962 (1) A dissolved limited liability company may publish notice of its dissolution and
8963 request persons having claims against the limited liability company to present them in
8964 accordance with the notice.

8965 (2) A notice under Subsection (1) must:

8966 (a) be published at least once in a newspaper of general circulation in the county in this
8967 state in which the dissolved limited liability company's principal office is located or, if the
8968 principal office is not located in this state, in the county in which the office of the limited
8969 liability company's registered agent is or was last located and in accordance with Section
8970 45-1-101;

8971 (b) describe the information required to be contained in a claim, state that the claim
8972 must be in writing, and provide a mailing address to which the claim is to be sent; and

8973 (c) state that a claim against the limited liability company is barred unless an action to
8974 enforce the claim is commenced not later than three years after publication of the notice.

8975 (3) If a dissolved limited liability company publishes a notice in accordance with
8976 Subsection (2), the claim of each of the following claimants is barred unless the claimant
8977 commences an action to enforce the claim against the limited liability company not later than
8978 three years after the publication date of the notice:

8979 (a) a claimant that did not receive notice in a record under Section 48-3a-705;

8980 (b) a claimant whose claim was timely sent to the limited liability company but not
8981 acted on; and

8982 (c) a claimant whose claim is contingent at, or based on an event occurring after, the
8983 effective date of dissolution.

8984 (4) A claim not barred under this section or Section 48-3a-705 may be enforced:

8985 (a) against a dissolved limited liability company, to the extent of its undistributed
8986 assets; and

8987 (b) except as otherwise provided in Section 48-3a-707, if assets of the limited liability
8988 company have been distributed after dissolution, against a member or transferee to the extent of
8989 that person's proportionate share of the claim or of the limited liability company's assets
8990 distributed to the member or transferee after dissolution, whichever is less, but a person's total
8991 liability for all claims under this subsection may not exceed the total amount of assets
8992 distributed to the person after dissolution.

8993 Section 332. Section **48-3a-707** is enacted to read:

8994 **48-3a-707. Court proceedings.**

8995 (1) A dissolved limited liability company that has published a notice under Section
8996 48-3a-706 may file an application with district court in the county where the dissolved limited
8997 liability company's principal office is located, or, if the principal office is not located in this
8998 state, where the office of its registered agent is located, for a determination of the amount and
8999 form of security to be provided for payment of claims that are contingent, have not been made
9000 known to the limited liability company, or are based on an event occurring after the effective
9001 date of dissolution but which, based on the facts known to the dissolved limited liability
9002 company, are reasonably expected to arise after the effective date of dissolution. Security is
9003 not required for any claim that is or is reasonably anticipated to be barred under Subsection
9004 48-3a-706(3).

9005 (2) Not later than 10 days after the filing of an application under Subsection (1), the
9006 dissolved limited liability company shall give notice of the proceeding to each claimant holding
9007 a contingent claim known to the limited liability company.

9008 (3) In any proceeding under this section, the court may appoint a guardian ad litem to
9009 represent all claimants whose identities are unknown. The reasonable fees and expenses of the
9010 guardian, including all reasonable expert witness fees, must be paid by the dissolved limited
9011 liability company.

9012 (4) A dissolved limited liability company that provides security in the amount and form
9013 ordered by the court under Subsection (1) satisfies the limited liability company's obligations
9014 with respect to claims that are contingent, have not been made known to the limited liability
9015 company, or are based on an event occurring after the effective date of dissolution, and such
9016 claims may not be enforced against a member or transferee that received assets in liquidation.

9017 Section 333. Section **48-3a-708** is enacted to read:

9018 **48-3a-708. Administrative dissolution.**

9019 (1) The division may commence a proceeding under Subsections (2) and (3) to dissolve
9020 a limited liability company administratively if the limited liability company does not:

9021 (a) pay any fee, tax, interest, or penalty required to be paid to the division not later than
9022 60 days after it is due;

9023 (b) deliver an annual report to the division not later than 60 days after it is due; or

9024 (c) have a registered agent in this state for 60 consecutive days.

9025 (2) If the division determines that one or more grounds exist for administratively
9026 dissolving a limited liability company, the division shall serve the limited liability company
9027 with notice in a record of division's determination.

9028 (3) If a limited liability company, not later than 60 days after service of the notice
9029 under Subsection (2), does not cure or demonstrate to the satisfaction of the division the
9030 nonexistence of each ground determined by the division, the division shall administratively
9031 dissolve the limited liability company by signing a statement of administrative dissolution that
9032 recites the grounds for dissolution and the effective date of dissolution. The division shall file
9033 the statement and serve a copy on the limited liability company pursuant to Section 48-3a-209.

9034 (4) A limited liability company that is administratively dissolved continues in existence
9035 as an entity but may not carry on any activities except as necessary to wind up its activities and
9036 affairs and liquidate its assets under Sections 48-3a-703, 48-3a-705, 48-3a-706, 48-3a-707, and
9037 48-3a-711, or to apply for reinstatement under Section 48-3a-709.

9038 (5) The administrative dissolution of a limited liability company does not terminate the
9039 authority of its registered agent.

9040 Section 334. Section **48-3a-709** is enacted to read:

9041 **48-3a-709. Reinstatement.**

9042 (1) A limited liability company that is administratively dissolved under Section
9043 48-3a-708 may apply to the division for reinstatement not later than two years after the
9044 effective date of dissolution. The application must state:

9045 (a) the name of the limited liability company at the time of its administrative
9046 dissolution and, if needed, a different name that satisfies Section 48-3a-108;

9047 (b) the address of the principal office of the limited liability company and the name and
9048 address of its registered agent;

9049 (c) the effective date of the limited liability company's administrative dissolution; and
9050 (d) that the grounds for dissolution did not exist or have been cured.

9051 (2) To be reinstated, a limited liability company must pay all fees, taxes, interest, and
9052 penalties that were due to the division at the time of its administrative dissolution and all fees,
9053 taxes, interest, and penalties that would have been due to the division while the limited liability
9054 company was administratively dissolved.

9055 (3) If the division determines that an application under Subsection (1) contains the
9056 information required by Subsection (1), is satisfied that the information is correct, and
9057 determines that all payments required to be made to the division by Subsection (2) have been
9058 made, the division shall:

9059 (a) cancel the statement of administrative dissolution and prepare a statement of
9060 reinstatement that states the division's determination and the effective date of reinstatement;

9061 (b) file the statement of reinstatement; and

9062 (c) serve a copy of the statement of reinstatement on the limited liability company.

9063 (4) When reinstatement under this section is effective, the following rules apply:

9064 (a) The reinstatement relates back to and takes effect as of the effective date of the
9065 administrative dissolution.

9066 (b) The limited liability company may resume its activities and affairs as if the
9067 administrative dissolution had not occurred.

9068 (c) The rights of a person arising out of an act or omission in reliance on the
9069 dissolution before the person knew or had notice of the reinstatement are not affected.

9070 Section 335. Section **48-3a-710** is enacted to read:

9071 **48-3a-710. Judicial review of denial of reinstatement.**

9072 (1) If the division denies a limited liability company's application for reinstatement
9073 following administrative dissolution, the division shall serve the limited liability company with
9074 a notice in a record that explains the reasons for the denial.

9075 (2) A limited liability company may seek judicial review of denial of reinstatement in
9076 the district court not later than 30 days after service of the notice of denial.

9077 Section 336. Section **48-3a-711** is enacted to read:

9078 **48-3a-711. Disposition of assets in winding up.**

9079 (1) In winding up its activities and affairs, a limited liability company shall apply its

9080 assets to discharge its obligations to creditors, including members that are creditors.

9081 (2) After a limited liability company complies with Subsection (1), any surplus must be
9082 distributed in the following order, subject to any charging order in effect under Section
9083 48-3a-503:

9084 (a) to each person owning a transferable interest that reflects contributions made and
9085 not previously returned, an amount equal to the value of the unreturned contributions; and

9086 (b) in equal shares among members and dissociated members, except to the extent
9087 necessary to comply with any transfer effective under Section 48-3a-502.

9088 (3) If a limited liability company does not have sufficient surplus to comply with
9089 Subsection (2)(a), any surplus must be distributed among the owners of transferable interests in
9090 proportion to the value of the respective unreturned contributions.

9091 (4) All distributions made under Subsections (2) and (3) must be paid in money.

9092 Section 337. Section **48-3a-801** is enacted to read:

9093 **Part 8. Action by Members**

9094 **48-3a-801. Direct action by member.**

9095 (1) Subject to Subsection (2), a member may maintain a direct action against another
9096 member, a manager, or the limited liability company to enforce the member's rights and
9097 otherwise protect the member's interests, including rights and interests under the operating
9098 agreement or this chapter or arising independently of the membership relationship.

9099 (2) A member maintaining a direct action under this section must plead and prove an
9100 actual or threatened injury that is not solely the result of an injury suffered or threatened to be
9101 suffered by the limited liability company.

9102 Section 338. Section **48-3a-802** is enacted to read:

9103 **48-3a-802. Derivative action.**

9104 A member may maintain a derivative action to enforce a right of a limited liability
9105 company if:

9106 (1) the member first makes a demand on the other members in a member-managed
9107 limited liability company, or the managers of a manager-managed limited liability company,
9108 requesting that they cause the limited liability company to bring an action to enforce the right,
9109 and the managers or other members do not bring the action within a reasonable time; or

9110 (2) a demand under Subsection (1) would be futile.

9111 Section 339. Section **48-3a-803** is enacted to read:

9112 **48-3a-803. Proper plaintiff.**

9113 A derivative action to enforce a right of a limited liability company may be maintained
9114 only by a person that is a member at the time the action is commenced and:

9115 (1) was a member when the conduct giving rise to the action occurred; or

9116 (2) whose status as a member devolved on the person by operation of law or pursuant
9117 to the terms of the operating agreement from a person that was a member at the time of the
9118 conduct.

9119 Section 340. Section **48-3a-804** is enacted to read:

9120 **48-3a-804. Pleading.**

9121 In a derivative action, the complaint must state with particularity:

9122 (1) the date and content of plaintiff's demand and the response by the managers or other
9123 members to the demand; or

9124 (2) why the demand should be excused as futile.

9125 Section 341. Section **48-3a-805** is enacted to read:

9126 **48-3a-805. Special litigation committee.**

9127 (1) If a limited liability company is named as or made a party in a derivative
9128 proceeding, the limited liability company may appoint a special litigation committee to
9129 investigate the claims asserted in the proceeding and determine whether pursuing the action is
9130 in the best interests of the limited liability company. If the limited liability company appoints a
9131 special litigation committee, on motion by the committee made in the name of the limited
9132 liability company, except for good cause shown, the court shall stay discovery for the time
9133 reasonably necessary to permit the committee to make its investigation. This Subsection (1)
9134 does not prevent the court from:

9135 (a) enforcing a person's right to information under Section 48-3a-410; or

9136 (b) granting extraordinary relief in the form of a temporary restraining order or
9137 preliminary injunction upon a showing of good cause.

9138 (2) A special litigation committee must be composed of one or more disinterested and
9139 independent individuals, who may be members.

9140 (3) A special litigation committee may be appointed:

9141 (a) in a member-managed limited liability company:

9142 (i) by the consent of a majority of the members not named as parties in the proceeding;
9143 and

9144 (ii) if all members are named as parties in the proceeding, by a majority of the
9145 members named as defendants; or

9146 (b) in a manager-managed limited liability company:

9147 (i) by a majority of the managers not named as parties in the proceeding; and

9148 (ii) if all managers are named as parties in the proceeding, by a majority of the
9149 managers named as defendants.

9150 (4) After appropriate investigation, a special litigation committee may determine that it
9151 is in the best interests of the limited liability company that the proceeding:

9152 (a) continue under the control of the plaintiff;

9153 (b) continue under the control of the committee;

9154 (c) be settled on terms approved by the committee; or

9155 (d) be dismissed.

9156 (5) After making a determination under Subsection (4), a special litigation committee
9157 shall file with the court a statement of its determination and its report supporting its
9158 determination and shall serve each party with a copy of the determination and report. The court
9159 shall determine whether the members of the committee were disinterested and independent and
9160 whether the committee conducted its investigation and made its recommendation in good faith,
9161 independently, and with reasonable care, with the committee having the burden of proof. If the
9162 court finds that the members of the committee were disinterested and independent and that the
9163 committee acted in good faith, independently, and with reasonable care, the court shall enforce
9164 the determination of the committee. Otherwise, the court shall dissolve the stay of discovery
9165 entered under Subsection (1) and allow the action to continue under the control of the plaintiff.

9166 Section 342. Section **48-3a-806** is enacted to read:

9167 **48-3a-806. Proceeds and expenses.**

9168 (1) Except as otherwise provided in Subsection (2):

9169 (a) any proceeds or other benefits of a derivative action, whether by judgment,
9170 compromise, or settlement, belong to the limited liability company and not to the plaintiff; and

9171 (b) if the plaintiff receives any proceeds, the plaintiff shall remit them immediately to
9172 the limited liability company.

9173 (2) If a derivative action is successful in whole or in part, the court may award the
9174 plaintiff reasonable expenses, including reasonable attorney's fees and costs, from the recovery
9175 of the limited liability company.

9176 (3) A derivative action on behalf of a limited liability company may not be voluntarily
9177 dismissed or settled without the court's approval.

9178 Section 343. Section **48-3a-901** is enacted to read:

9179 **Part 9. Foreign Limited Liability Companies**

9180 **48-3a-901. Governing law.**

9181 (1) The law of the jurisdiction of formation of a foreign limited liability company
9182 governs:

9183 (a) the internal affairs of the foreign limited liability company; and

9184 (b) the liability of a member as member and a manager as manager for a debt,

9185 obligation, or other liability of the company.

9186 (2) A foreign limited liability company is not precluded from registering to do business
9187 in this state because of any difference between the law of the jurisdiction of formation and the
9188 law of this state.

9189 (3) Registration of a foreign limited liability company to do business in this state does
9190 not authorize the foreign limited liability company to engage in any activities or affairs or
9191 exercise any power that a limited liability company may not engage in or exercise in this state.

9192 (4) (a) The division may permit a tribal limited liability company to apply for authority
9193 to transact business in the state in the same manner as a foreign limited liability company
9194 formed in another state.

9195 (b) If a tribal limited liability company elects to apply for authority to transact business
9196 in the state, for purposes of this chapter, the tribal limited liability company shall be treated in
9197 the same manner as a foreign limited liability company formed under the laws of another state.

9198 Section 344. Section **48-3a-902** is enacted to read:

9199 **48-3a-902. Registration to do business in this state.**

9200 (1) A foreign limited liability company may not do business in this state until it
9201 registers with the division under this chapter.

9202 (2) A foreign limited liability company doing business in this state may not maintain an
9203 action or proceeding in this state unless it is registered to do business in this state.

9204 (3) The failure of a foreign limited liability company to register to do business in this
9205 state does not impair the validity of a contract or act of the foreign limited liability company or
9206 preclude it from defending an action or proceeding in this state.

9207 (4) A limitation on the liability of a member or manager of a foreign limited liability
9208 company is not waived solely because the foreign limited liability company does business in
9209 this state without registering to do business in this state.

9210 (5) Subsections 48-3a-901(1) and (2) apply even if a foreign limited liability company
9211 fails to register under this chapter.

9212 Section 345. Section **48-3a-903** is enacted to read:

9213 **48-3a-903. Foreign registration statement.**

9214 To register to do business in this state, a foreign limited liability company must deliver
9215 a foreign registration statement to the division for filing. The statement must state:

9216 (1) the name of the foreign limited liability company and, if the name does not comply
9217 with Section 48-3a-108, an alternate name adopted pursuant to Subsection 48-3a-906(1);

9218 (2) that the company is a foreign limited liability company;

9219 (3) the name of the foreign limited liability company's jurisdiction of formation;

9220 (4) the street and mailing addresses of the foreign limited liability company's principal
9221 office and, if the law of the jurisdiction of formation requires the foreign limited liability
9222 company to maintain an office in that jurisdiction, the street and mailing addresses of the
9223 required office; and

9224 (5) the information required by Subsection 16-17-203(1).

9225 Section 346. Section **48-3a-904** is enacted to read:

9226 **48-3a-904. Amendment of foreign registration statement.**

9227 A registered foreign limited liability company shall deliver to the division for filing an
9228 amendment to its foreign registration statement if there is a change in:

9229 (1) the name of the foreign limited liability company;

9230 (2) the foreign limited liability company's jurisdiction of formation;

9231 (3) an address required by Subsection 48-3a-903(4); or

9232 (4) the information required by Subsection 48-3a-903(5).

9233 Section 347. Section **48-3a-905** is enacted to read:

9234 **48-3a-905. Activities not constituting doing business.**

- 9235 (1) Activities of a foreign limited liability company which do not constitute doing
9236 business in this state under this part include:
- 9237 (a) maintaining, defending, mediating, arbitrating, or settling an action or proceeding;
9238 (b) carrying on any activity concerning its internal affairs, including holding meetings
9239 of its members or managers;
- 9240 (c) maintaining accounts in financial institutions;
9241 (d) maintaining offices or agencies for the transfer, exchange, and registration of the
9242 securities of the foreign limited liability company or maintaining trustees or depositories with
9243 respect to those securities;
- 9244 (e) selling through independent contractors;
9245 (f) soliciting or obtaining orders by any means if the orders require acceptance outside
9246 this state before they become contracts;
- 9247 (g) creating or acquiring indebtedness, mortgages, or security interests in property;
9248 (h) securing or collecting debts or enforcing mortgages or security interests in property
9249 securing the debts and holding, protecting, or maintaining property;
- 9250 (i) conducting an isolated transaction that is not in the course of similar transactions;
9251 (j) owning, without more, property; and
9252 (k) doing business in interstate commerce.
- 9253 (2) A person does not do business in this state solely by being a member or manager of
9254 a foreign limited liability company that does business in this state.
- 9255 (3) This section does not apply in determining the contacts or activities that may
9256 subject a foreign limited liability company to service of process, taxation, or regulation under
9257 law of this state other than this chapter.
- 9258 Section 348. Section **48-3a-906** is enacted to read:
- 9259 **48-3a-906. Noncomplying name of foreign limited liability company.**
- 9260 (1) A foreign limited liability company whose name does not comply with Section
9261 48-3a-108 may not register to do business in this state until it adopts, for the purpose of doing
9262 business in this state, an alternate name that complies with Section 48-3a-108. A registered
9263 foreign limited liability company that registers under an alternate name under this subsection
9264 need not comply with Title 42, Chapter 2, Conducting Business Under Assumed Name. After
9265 registering to do business in this state with an alternate name, a registered foreign limited

9266 liability company shall do business in this state under:

9267 (a) the alternate name;

9268 (b) the foreign limited liability company's name, with the addition of its jurisdiction of
9269 formation; or

9270 (c) an assumed or fictitious name the foreign limited liability company is authorized to
9271 use under Title 42, Chapter 2, Conducting Business Under Assumed Name.

9272 (2) If a registered foreign limited liability company changes its name to one that does
9273 not comply with Section 48-3a-108, it may not do business in this state until it complies with
9274 Subsection (1) by amending its registration to adopt an alternate name that complies with
9275 Section 48-3a-108.

9276 Section 349. Section **48-3a-907** is enacted to read:

9277 **48-3a-907. Withdrawal deemed on conversion to domestic filing entity or**
9278 **domestic limited liability partnership.**

9279 A registered foreign limited liability company that converts to a domestic limited
9280 liability partnership or to a domestic entity that is organized, incorporated, or otherwise formed
9281 through the delivery of a record to the division for filing is deemed to have withdrawn its
9282 registration on the effective date of the conversion.

9283 Section 350. Section **48-3a-908** is enacted to read:

9284 **48-3a-908. Withdrawal on dissolution or conversion to nonfiling entity other than**
9285 **limited liability partnership.**

9286 (1) A registered foreign limited liability company that has dissolved and completed
9287 winding up or has converted to a domestic or foreign entity that is not organized, incorporated,
9288 or otherwise formed through the public filing of a record, other than a limited liability
9289 partnership, shall deliver a statement of withdrawal to the division for filing. The statement
9290 must state:

9291 (a) in the case of a foreign limited liability company that has completed winding up:

9292 (i) its name and jurisdiction of formation; and

9293 (ii) that the foreign limited liability company surrenders its registration to do business
9294 in this state; and

9295 (b) in the case of a foreign limited liability company that has converted:

9296 (i) the name of the converting foreign limited liability company and its jurisdiction of

9297 formation;

9298 (ii) the type of entity to which the foreign limited liability company has converted and
9299 its jurisdiction of formation;

9300 (iii) that the converted entity surrenders the converting foreign limited liability
9301 company's registration to do business in this state and revokes the authority of the converting
9302 foreign limited liability company's registered agent to act as registered agent in this state on
9303 behalf of the foreign limited liability company or the converted entity; and

9304 (iv) a mailing address to which service of process may be made under Subsection (2).

9305 (2) After a withdrawal under this section of a foreign limited liability company that has
9306 converted to another type of entity is effective, service of process in any action or proceeding
9307 based on a cause of action arising during the time the foreign limited liability company was
9308 registered to do business in this state may be made pursuant to Subsection 16-17-301(2).

9309 Section 351. Section **48-3a-909** is enacted to read:

9310 **48-3a-909. Transfer of registration.**

9311 (1) When a registered foreign limited liability company has merged into a foreign
9312 entity that is not registered to do business in this state or has converted to a foreign entity
9313 required to register with the division to do business in this state, the foreign entity shall deliver
9314 to the division for filing an application for transfer of registration. The application must state:

9315 (a) the name of the registered foreign limited liability company before the merger or
9316 conversion;

9317 (b) that before the merger or conversion the registration pertained to a foreign limited
9318 liability company;

9319 (c) the name of the applicant foreign entity into which the foreign limited liability
9320 company has merged or to which it has been converted, and, if the name does not comply with
9321 Section 48-3a-108 or similar provision of law of this state governing an entity of the same type
9322 as the applicant foreign entity, an alternate name adopted pursuant to Subsection 48-3a-906(1)
9323 or similar provision of law of this state governing a foreign entity registered to do business in
9324 this state of the same type as the applicable foreign entity;

9325 (d) the type of entity of the applicant foreign entity and its jurisdiction of formation;

9326 (e) the street and mailing addresses of the principal office of the applicant foreign
9327 entity and, if the law of the entity's jurisdiction of formation requires the entity to maintain an

9328 office in that jurisdiction, the street and mailing addresses of that office; and

9329 (f) the information required under Subsection 16-17-203(1).

9330 (2) When an application for transfer of registration takes effect, the registration of the
9331 foreign limited liability company to do business in this state is transferred without interruption
9332 to the foreign entity into which the foreign company has merged or to which it has been
9333 converted.

9334 Section 352. Section **48-3a-910** is enacted to read:

9335 **48-3a-910. Termination of registration.**

9336 (1) The division may terminate the registration of a registered foreign limited liability
9337 company in the manner provided in Subsections (2) and (3) if the foreign limited liability
9338 company does not:

9339 (a) pay, not later than 60 days after the due date, any fee, tax, interest, or penalty
9340 required to be paid to the division under this chapter or law other than this chapter;

9341 (b) deliver to the division for filing, not later than 60 days after the due date, an annual
9342 report required under Section 48-3a-212;

9343 (c) have a registered agent as required by Section 48-3a-111; or

9344 (d) deliver to the division for filing a statement of a change under Section 16-17-206
9345 not later than 30 days after a change has occurred in the name or address of the registered
9346 agent.

9347 (2) The division may terminate the registration of a registered foreign limited liability
9348 company by:

9349 (a) filing a notice of termination or noting the termination in the records of the
9350 division; and

9351 (b) delivering a copy of the notice or the information in the notation to the foreign
9352 limited liability company's registered agent, or if the foreign limited liability company does not
9353 have a registered agent, to the foreign limited liability company's principal office.

9354 (3) A notice must state or the information in the notation must include:

9355 (a) the effective date of the termination, which must be at least 60 days after the date
9356 the division delivers the copy; and

9357 (b) the grounds for termination under Subsection (1).

9358 (4) The authority of a registered foreign limited liability company to do business in this

9359 state ceases on the effective date of the notice of termination or notation under Subsection (2),
9360 unless before that date the foreign limited liability company cures each ground for termination
9361 stated in the notice or notation. If the foreign limited liability company cures each ground, the
9362 division shall file a record so stating.

9363 Section 353. Section **48-3a-911** is enacted to read:

9364 **48-3a-911. Withdrawal of registration of registered foreign limited liability**
9365 **company.**

9366 (1) A registered foreign limited liability company may withdraw its registration by
9367 delivering a statement of withdrawal to the division for filing. The statement of withdrawal
9368 must state:

9369 (a) the name of the foreign limited liability company and its jurisdiction of formation;

9370 (b) that the foreign limited liability company is not doing business in this state and that
9371 it withdraws its registration to do business in this state;

9372 (c) that the foreign limited liability company revokes the authority of its registered
9373 agent to accept service on its behalf in this state; and

9374 (d) an address to which service of process may be made under Subsection (2).

9375 (2) After the withdrawal of the registration of a foreign limited liability company,
9376 service of process in any action or proceeding based on a cause of action arising during the
9377 time the foreign limited liability company was registered to do business in this state may be
9378 made pursuant to Subsection 16-17-301(2).

9379 Section 354. Section **48-3a-912** is enacted to read:

9380 **48-3a-912. Action by attorney general.**

9381 The attorney general may maintain an action to enjoin a foreign limited liability
9382 company from doing business in this state in violation of this part.

9383 Section 355. Section **48-3a-1001** is enacted to read:

9384 **Part 10. Merger, Interest Exchange, Conversion, and Domestication**

9385 **48-3a-1001. Definitions.**

9386 In this part:

9387 (1) "Acquired entity" means the entity, all of one or more classes or series of interests
9388 in which are acquired in an interest exchange.

9389 (2) "Acquiring entity" means the entity that acquires all of one or more classes or series

9390 of interests of the acquired entity in an interest exchange.

9391 (3) "Conversion" means a transaction authorized by Sections 48-3a-1041 through
9392 48-3a-1046.

9393 (4) "Converted entity" means the converting entity as it continues in existence after a
9394 conversion.

9395 (5) "Converting entity" means the domestic entity that approves a plan of conversion
9396 pursuant to Section 48-3a-1043 or the foreign entity that approves a conversion pursuant to the
9397 law of its jurisdiction of formation.

9398 (6) "Distributional interest" means the right under an unincorporated entity's organic
9399 law and organic rules to receive distributions from the entity.

9400 (7) "Domestic," with respect to an entity, means governed as to its internal affairs by
9401 the law of this state.

9402 (8) "Domesticated limited liability company" means the domesticating limited liability
9403 company as it continues in existence after a domestication.

9404 (9) "Domesticating limited liability company" means the domestic limited liability
9405 company that approves a plan of domestication pursuant to Section 48-3a-1053 or the foreign
9406 limited liability company that approves a domestication pursuant to the law of its jurisdiction
9407 of formation.

9408 (10) "Domestication" means a transaction authorized by Sections 48-3a-1051 through
9409 48-3a-1056.

9410 (11) "Entity":

9411 (a) means:

9412 (i) a business corporation;

9413 (ii) a nonprofit corporation;

9414 (iii) a general partnership, including a limited liability partnership;

9415 (iv) a limited partnership, including a limited liability limited partnership;

9416 (v) a limited liability company;

9417 (vi) a limited cooperative association;

9418 (vii) an unincorporated nonprofit association;

9419 (viii) a statutory trust, business trust, or common-law business trust; or

9420 (ix) any other person that has:

- 9421 (A) a legal existence separate from any interest holder of that person; or
9422 (B) the power to acquire an interest in real property in its own name; and
9423 (b) does not include:
9424 (i) an individual;
9425 (ii) a trust with a predominantly donative purpose or a charitable trust;
9426 (iii) an association or relationship that is not a partnership solely by reason of
9427 Subsection 48-1d-202(3) or a similar provision of the law of another jurisdiction;
9428 (iv) a decedent's estate; or
9429 (v) a government or a governmental subdivision, agency, or instrumentality.
9430 (12) "Filing entity" means an entity whose formation requires the filing of a public
9431 organic record.
9432 (13) "Foreign," with respect to an entity, means an entity governed as to its internal
9433 affairs by the law of a jurisdiction other than this state.
9434 (14) "Governance interest" means a right under the organic law or organic rules of an
9435 unincorporated entity, other than as a governor, agent, assignee, or proxy, to:
9436 (a) receive or demand access to information concerning, or the books and records of,
9437 the entity;
9438 (b) vote for or consent to the election of the governors of the entity; or
9439 (c) receive notice of or vote on or consent to an issue involving the internal affairs of
9440 the entity.
9441 (15) "Governor" means:
9442 (a) a director of a business corporation;
9443 (b) a director or trustee of a nonprofit corporation;
9444 (c) a general partner of a general partnership;
9445 (d) a general partner of a limited partnership;
9446 (e) a manager of a manager-managed limited liability company;
9447 (f) a member of a member-managed limited liability company;
9448 (g) a director of a limited cooperative association;
9449 (h) a manager of an unincorporated nonprofit association;
9450 (i) a trustee of a statutory trust, business trust, or common-law business trust; or
9451 (j) any other person under whose authority the powers of an entity are exercised and

9452 under whose direction the activities and affairs of the entity are managed pursuant to the
9453 organic law and organic rules of the entity.

9454 (16) "Interest" means:

9455 (a) a share in a business corporation;

9456 (b) a membership in a nonprofit corporation;

9457 (c) a partnership interest in a general partnership;

9458 (d) a partnership interest in a limited partnership;

9459 (e) a membership interest in a limited liability company;

9460 (f) a member's interest in a limited cooperative association;

9461 (g) a membership in an unincorporated nonprofit association;

9462 (h) a beneficial interest in a statutory trust, business trust, or common-law business

9463 trust; or

9464 (i) a governance interest or distributional interest in any other type of unincorporated
9465 entity.

9466 (17) "Interest exchange" means a transaction authorized by Sections 48-3a-1031
9467 through 48-3a-1036.

9468 (18) "Interest holder" means:

9469 (a) a shareholder of a business corporation;

9470 (b) a member of a nonprofit corporation;

9471 (c) a general partner of a general partnership;

9472 (d) a general partner of a limited partnership;

9473 (e) a limited partner of a limited partnership;

9474 (f) a member of a limited liability company;

9475 (g) a member of a limited cooperative association;

9476 (h) a member of an unincorporated nonprofit association;

9477 (i) a beneficiary or beneficial owner of a statutory trust, business trust, or common-law

9478 business trust; or

9479 (j) any other direct holder of an interest.

9480 (19) "Interest holder liability" means:

9481 (a) personal liability for a liability of an entity which is imposed on a person;

9482 (i) solely by reason of the status of the person as an interest holder; or

9483 (ii) by the organic rules of the entity which make one or more specified interest holders
9484 or categories of interest holders liable in their capacity as interest holders for all or specified
9485 liabilities of the entity; or

9486 (b) an obligation of an interest holder under the organic rules of an entity to contribute
9487 to the entity.

9488 (20) "Merger" means a transaction authorized by Sections 48-3a-1021 through
9489 48-3a-1026.

9490 (21) "Merging entity" means an entity that is a party to a merger and exists
9491 immediately before the merger becomes effective.

9492 (22) "Organic law" means the law of an entity's jurisdiction of formation governing the
9493 internal affairs of the entity.

9494 (23) "Organic rules" means the public organic record and private organic rules of an
9495 entity.

9496 (24) "Plan" means a plan of merger, plan of interest exchange, plan of conversion, or
9497 plan of domestication.

9498 (25) "Plan of conversion" means a plan under Section 48-3a-1042.

9499 (26) "Plan of domestication" means a plan under Section 48-3a-1052.

9500 (27) "Plan of interest exchange" means a plan under Section 48-3a-1032.

9501 (28) "Plan of merger" means a plan under Section 48-3a-1022.

9502 (29) "Private organic rules" means the rules, whether or not in a record, that govern the
9503 internal affairs of an entity, are binding on all its interest holders, and are not part of its public
9504 organic record, if any. The term includes:

9505 (a) the bylaws of a business corporation;

9506 (b) the bylaws of a nonprofit corporation;

9507 (c) the partnership agreement of a general partnership;

9508 (d) the partnership agreement of a limited partnership;

9509 (e) the operating agreement of a limited liability company;

9510 (f) the bylaws of a limited cooperative association;

9511 (g) the governing principles of an unincorporated nonprofit association; and

9512 (h) the trust instrument of a statutory trust or similar rules of a business trust or
9513 common-law business trust.

- 9514 (30) "Protected agreement" means:
9515 (a) a record evidencing indebtedness and any related agreement in effect on July 1,
9516 2014;
9517 (b) an agreement that is binding on an entity on July 1, 2014;
9518 (c) the organic rules of an entity in effect on July 1, 2014; or
9519 (d) an agreement that is binding on any of the governors or interest holders of an entity
9520 on July 1, 2014.
- 9521 (31) "Public organic record" means the record the filing of which by the division is
9522 required to form an entity and any amendment to or restatement of that record. The term
9523 includes:
- 9524 (a) the articles of incorporation of a business corporation;
9525 (b) the articles of incorporation of a nonprofit corporation;
9526 (c) the certificate of limited partnership of a limited partnership;
9527 (d) the certificate of organization of a limited liability company;
9528 (e) the articles of organization of a limited cooperative association; and
9529 (f) the certificate of trust of a statutory trust or similar record of a business trust.
- 9530 (32) "Registered foreign entity" means a foreign entity that is registered to do business
9531 in this state pursuant to a record filed by the division.
- 9532 (33) "Statement of conversion" means a statement under Section 48-3a-1045.
9533 (34) "Statement of domestication" means a statement under Section 48-3a-1055.
9534 (35) "Statement of interest exchange" means a statement under Section 48-3a-1035.
9535 (36) "Statement of merger" means a statement under Section 48-3a-1025.
9536 (37) "Surviving entity" means the entity that continues in existence after or is created
9537 by a merger.
- 9538 (38) "Type of entity" means a generic form of entity:
9539 (a) recognized at common law; or
9540 (b) formed under an organic law, whether or not some entities formed under that
9541 organic law are subject to provisions of that law that create different categories of the form of
9542 entity.
- 9543 Section 356. Section **48-3a-1002** is enacted to read:
9544 **48-3a-1002. Relationship of part to other laws.**

9545 This part does not authorize an act prohibited by, and does not affect the application or
9546 requirements of, law other than this chapter.

9547 Section 357. Section **48-3a-1003** is enacted to read:

9548 **48-3a-1003. Required notice or approval.**

9549 (1) A domestic or foreign entity that is required to give notice to, or obtain the approval
9550 of, a governmental agency or officer of this state to be a party to a merger must give the notice
9551 or obtain the approval to be a party to an interest exchange, conversion, or domestication.

9552 (2) Property held for a charitable purpose under the law of this state by a domestic or
9553 foreign entity immediately before a transaction under this part becomes effective may not, as a
9554 result of the transaction, be diverted from the objects for which it was donated, granted,
9555 devised, or otherwise transferred unless, to the extent required by or pursuant to the law of this
9556 state concerning cy pres or other law dealing with nondiversion of charitable assets, the entity
9557 obtains an appropriate order of the district court specifying the disposition of the property.

9558 (3) A bequest, devise, gift, grant, or promise contained in a will or other instrument of
9559 donation, subscription, or conveyance that is made to a merging entity that is not the surviving
9560 entity and that takes effect or remains payable after the merger inures to the surviving entity. A
9561 trust obligation that would govern property if transferred to the nonsurviving entity applies to
9562 property that is transferred to the surviving entity under this section.

9563 Section 358. Section **48-3a-1004** is enacted to read:

9564 **48-3a-1004. Status of filings.**

9565 A filing under this part signed by a domestic entity becomes part of the public organic
9566 record of the entity if the entity's organic law provides that similar filings under that law
9567 become part of the public organic record of the entity.

9568 Section 359. Section **48-3a-1005** is enacted to read:

9569 **48-3a-1005. Nonexclusivity.**

9570 The fact that a transaction under this part produces a certain result does not preclude the
9571 same result from being accomplished in any other manner permitted by law other than this part.

9572 Section 360. Section **48-3a-1006** is enacted to read:

9573 **48-3a-1006. References to external facts.**

9574 A plan may refer to facts ascertainable outside the plan if the manner in which the facts
9575 will operate upon the plan is specified in the plan. The facts may include the occurrence of an

9576 event or a determination or action by a person, whether or not the event, determination, or
9577 action is within the control of a party to the transaction.

9578 Section 361. Section **48-3a-1007** is enacted to read:

9579 **48-3a-1007. Alternative means of approval of transactions.**

9580 Except as otherwise provided in the organic law or organic rules of a domestic entity,
9581 approval of a transaction under this part by the unanimous vote or consent of its interest
9582 holders satisfies the requirements of this part for approval of the transaction.

9583 Section 362. Section **48-3a-1008** is enacted to read:

9584 **48-3a-1008. Appraisal rights.**

9585 (1) An interest holder of a domestic merging, acquired, converting, or domesticating
9586 entity is entitled to appraisal rights in connection with the transaction if the interest holder
9587 would have been entitled to appraisal rights under the entity's organic law in connection with a
9588 merger in which the interest of the interest holder was changed, converted, or exchanged
9589 unless:

9590 (a) the organic law permits the organic rules to limit the availability of appraisal rights;
9591 and

9592 (b) the organic rules provide such a limit.

9593 (2) An interest holder of a domestic merging, acquired, converting, or domesticating
9594 entity is entitled to contractual appraisal rights in connection with a transaction under this part
9595 to the extent provided in:

9596 (a) the entity's organic rules; or

9597 (b) the plan.

9598 Section 363. Section **48-3a-1021** is enacted to read:

9599 **48-3a-1021. Merger authorized.**

9600 (1) By complying with Sections 48-3a-1021 through 48-3a-1026:

9601 (a) one or more domestic limited liability companies may merge with one or more
9602 domestic or foreign entities into a domestic or foreign surviving entity; and

9603 (b) two or more foreign entities may merge into a domestic limited liability company.

9604 (2) By complying with the provisions of Sections 48-3a-1021 through 48-3a-1026

9605 applicable to foreign entities, a foreign entity may be a party to a merger under Sections

9606 48-3a-1021 through 48-3a-1026 or may be the surviving entity in such a merger if the merger is

9607 authorized by the law of the foreign entity's jurisdiction of formation.

9608 Section 364. Section **48-3a-1022** is enacted to read:

9609 **48-3a-1022. Plan of merger.**

9610 (1) A domestic limited liability company may become a party to a merger under
9611 Sections 48-3a-1021 through 48-3a-1026 by approving a plan of merger. The plan must be in a
9612 record and contain:

9613 (a) as to each merging entity, its name, jurisdiction of formation, and type of entity;

9614 (b) if the surviving entity is to be created in the merger, a statement to that effect and
9615 the entity's name, jurisdiction of formation, and type of entity;

9616 (c) the manner of converting the interests in each party to the merger into interests,
9617 securities, obligations, money, other property, rights to acquire interests or securities, or any
9618 combination of the foregoing;

9619 (d) if the surviving entity exists before the merger, any proposed amendments to its
9620 public organic record, if any, or to its private organic rules that are, or are proposed to be, in a
9621 record;

9622 (e) if the surviving entity is to be created in the merger, its proposed public organic
9623 record, if any, and the full text of its private organic rules that are proposed to be in a record;

9624 (f) the other terms and conditions of the merger; and

9625 (g) any other provision required by the law of a merging entity's jurisdiction of
9626 formation or the organic rules of a merging entity.

9627 (2) In addition to the requirements of Subsection (1), a plan of merger may contain any
9628 other provision not prohibited by law.

9629 Section 365. Section **48-3a-1023** is enacted to read:

9630 **48-3a-1023. Approval of merger.**

9631 (1) A plan of merger is not effective unless it has been approved:

9632 (a) by a domestic merging limited liability company, by all the members of the limited
9633 liability company entitled to vote on or consent to any matter; and

9634 (b) in a record, by each member of a domestic merging limited liability company that
9635 will have interest holder liability for debts, obligations, and other liabilities that arise after the
9636 merger becomes effective, unless:

9637 (i) the operating agreement of the limited liability company in a record provides for the

9638 approval of a merger in which some or all of its members become subject to interest holder
9639 liability by the vote or consent of fewer than all the members; and

9640 (ii) the member consented in a record to or voted for that provision of the operating
9641 agreement or became a member after the adoption of that provision.

9642 (2) A merger involving a domestic merging entity that is not a limited liability
9643 company is not effective unless the merger is approved by that entity in accordance with its
9644 organic law.

9645 (3) A merger involving a foreign merging entity is not effective unless the merger is
9646 approved by the foreign entity in accordance with the law of the foreign entity's jurisdiction of
9647 formation.

9648 Section 366. Section **48-3a-1024** is enacted to read:

9649 **48-3a-1024. Amendment or abandonment of plan of merger.**

9650 (1) A plan of merger may be amended only with the consent of each party to the plan,
9651 except as otherwise provided in the plan.

9652 (2) A domestic merging limited liability company may approve an amendment of a
9653 plan of merger:

9654 (a) in the same manner as the plan was approved, if the plan does not provide for the
9655 manner in which it may be amended; or

9656 (b) by the managers or members in the manner provided in the plan, but a member that
9657 was entitled to vote on or consent to approval of the merger is entitled to vote on or consent to
9658 any amendment of the plan that will change:

9659 (i) the amount or kind of interests, securities, obligations, money, other property, rights
9660 to acquire interests or securities, or any combination of the foregoing, to be received by the
9661 interest holders of any party to the plan;

9662 (ii) the public organic record, if any, or private organic rules of the surviving entity that
9663 will be in effect immediately after the merger becomes effective, except for changes that do not
9664 require approval of the interest holders of the surviving entity under its organic law or organic
9665 rules; or

9666 (iii) any other terms or conditions of the plan, if the change would adversely affect the
9667 member in any material respect.

9668 (3) After a plan of merger has been approved and before a statement of merger

9669 becomes effective, the plan may be abandoned as provided in the plan. Unless prohibited by
9670 the plan, a domestic merging limited liability company may abandon the plan in the same
9671 manner as the plan was approved.

9672 (4) If a plan of merger is abandoned after a statement of merger has been delivered to
9673 the division for filing and before the statement becomes effective, a statement of abandonment,
9674 signed by a party to the plan, must be delivered to the division for filing before the statement of
9675 merger becomes effective. The statement of abandonment takes effect on filing, and the
9676 merger is abandoned and does not become effective. The statement of abandonment must
9677 contain:

9678 (a) the name of each party to the plan of merger;

9679 (b) the date on which the statement of merger was delivered to the division for filing;

9680 and

9681 (c) a statement that the merger has been abandoned in accordance with this section.

9682 Section 367. Section **48-3a-1025** is enacted to read:

9683 **48-3a-1025. Statement of merger.**

9684 (1) A statement of merger must be signed by each merging entity and delivered to the
9685 division for filing.

9686 (2) A statement of merger must contain:

9687 (a) the name, jurisdiction of formation, and type of entity of each merging entity that is
9688 not the surviving entity;

9689 (b) the name, jurisdiction of formation, and type of entity of the surviving entity;

9690 (c) a statement that the merger was approved by each domestic merging entity, if any,
9691 in accordance with Sections 48-3a-1021 through 48-3a-1026 and by each foreign merging
9692 entity, if any, in accordance with the law of its jurisdiction of formation;

9693 (d) if the surviving entity exists before the merger and is a domestic filing entity, any
9694 amendment to its public organic record approved as part of the plan of merger;

9695 (e) if the surviving entity is created by the merger and is a domestic filing entity, its
9696 public organic record, as an attachment;

9697 (f) if the surviving entity is created by the merger and is a domestic limited liability
9698 partnership, its statement of qualification, as an attachment; and

9699 (g) if the surviving entity is a foreign entity that is not a registered foreign entity, a

9700 mailing address to which the division may send any process served on the division pursuant to
9701 Subsection 48-3a-1026(5).

9702 (3) In addition to the requirements of Subsection (2), a statement of merger may
9703 contain any other provision not prohibited by law.

9704 (4) If the surviving entity is a domestic entity, its public organic record, if any, must
9705 satisfy the requirements of the law of this state, but the public organic record does not need to
9706 be signed.

9707 (5) A plan of merger that is signed by all the merging entities and meets all the
9708 requirements of Subsection (2) may be delivered to the division for filing instead of a statement
9709 of merger and on filing has the same effect. If a plan of merger is filed as provided in this
9710 subsection, references in this part to a statement of merger refer to the plan of merger filed
9711 under this Subsection (5).

9712 Section 368. Section **48-3a-1026** is enacted to read:

9713 **48-3a-1026. Effect of merger.**

9714 (1) When a merger becomes effective:

9715 (a) the surviving entity continues or comes into existence;

9716 (b) each merging entity that is not the surviving entity ceases to exist;

9717 (c) all property of each merging entity vests in the surviving entity without transfer,
9718 reversion, or impairment;

9719 (d) all debts, obligations, and other liabilities of each merging entity are debts,
9720 obligations, and other liabilities of the surviving entity;

9721 (e) except as otherwise provided by law or the plan of merger, all the rights, privileges,
9722 immunities, powers, and purposes of each merging entity vest in the surviving entity;

9723 (f) if the surviving entity exists before the merger:

9724 (i) all its property continues to be vested in it without transfer, reversion, or
9725 impairment;

9726 (ii) it remains subject to all its debts, obligations, and other liabilities; and

9727 (iii) all its rights, privileges, immunities, powers, and purposes continue to be vested in
9728 it;

9729 (g) the name of the surviving entity may be substituted for the name of any merging
9730 entity that is a party to any pending action or proceeding;

- 9731 (h) if the surviving entity exists before the merger:
9732 (i) its public organic record, if any, is amended as provided in the statement of merger;
9733 and
9734 (ii) its private organic rules that are to be in a record, if any, are amended to the extent
9735 provided in the plan of merger;
9736 (i) if the surviving entity is created by the merger:
9737 (i) its public organic record, if any, is effective; and
9738 (ii) its private organic rules are effective; and
9739 (j) the interests in each merging entity which are to be converted in the merger are
9740 converted, and the interest holders of those interests are entitled only to the rights provided to
9741 them under the plan of merger and to any appraisal rights they have under Section 48-3a-1008
9742 and the merging entity's organic law.
9743 (2) Except as otherwise provided in the organic law or organic rules of a merging
9744 entity, the merger does not give rise to any rights that an interest holder, governor, or third
9745 party would have upon a dissolution, liquidation, or winding up of the merging entity.
9746 (3) When a merger becomes effective, a person that did not have interest holder
9747 liability with respect to any of the merging entities and becomes subject to interest holder
9748 liability with respect to a domestic entity as a result of the merger has interest holder liability
9749 only to the extent provided by the organic law of that entity and only for those debts,
9750 obligations, and other liabilities that arise after the merger becomes effective.
9751 (4) When a merger becomes effective, the interest holder liability of a person that
9752 ceases to hold an interest in a domestic merging entity with respect to which the person had
9753 interest holder liability is as follows:
9754 (a) The merger does not discharge any interest holder liability under the organic law of
9755 the domestic merging entity to the extent the interest holder liability arose before the merger
9756 became effective.
9757 (b) The person does not have interest holder liability under the organic law of the
9758 domestic merging entity for any debt, obligation, or other liability that arises after the merger
9759 becomes effective.
9760 (c) The organic law of the domestic merging entity continues to apply to the release,
9761 collection, or discharge of any interest holder liability preserved under Subsection (4)(a) as if

9762 the merger had not occurred and the surviving entity were the domestic merging entity.

9763 (d) The person has whatever rights of contribution from any other person as are
9764 provided by law other than this chapter, this chapter, or the organic rules of the domestic
9765 merging entity with respect to any interest holder liability preserved under Subsection (4)(a) as
9766 if the merger had not occurred.

9767 (5) When a merger becomes effective, a foreign entity that is the surviving entity may
9768 be served with process in this state for the collection and enforcement of any debts, obligations,
9769 or other liabilities of a domestic merging entity as provided in Section 16-17-301.

9770 (6) When a merger becomes effective, the registration to do business in this state of
9771 any foreign merging entity that is not the surviving entity is canceled.

9772 Section 369. Section **48-3a-1031** is enacted to read:

9773 **48-3a-1031. Interest exchange authorized.**

9774 (1) By complying with Sections 48-3a-1031 through 48-3a-1036:

9775 (a) a domestic limited liability company may acquire all of one or more classes or
9776 series of interests of another domestic or foreign entity in exchange for interests, securities,
9777 obligations, money, other property, rights to acquire interests or securities, or any combination
9778 of the foregoing; or

9779 (b) all of one or more classes or series of interests of a domestic limited liability
9780 company may be acquired by another domestic or foreign entity in exchange for interests,
9781 securities, obligations, money, other property, rights to acquire interests or securities, or any
9782 combination of the foregoing.

9783 (2) By complying with the provisions of Sections 48-3a-1031 through 48-3a-1036
9784 applicable to foreign entities, a foreign entity may be the acquiring or acquired entity in an
9785 interest exchange under Sections 48-3a-1031 through 48-3a-1036 if the interest exchange is
9786 authorized by the law of the foreign entity's jurisdiction of formation.

9787 (3) If a protected agreement contains a provision that applies to a merger of a domestic
9788 limited liability company but does not refer to an interest exchange, the provision applies to an
9789 interest exchange in which the domestic limited liability company is the acquired entity as if
9790 the interest exchange were a merger until the provision is amended after July 1, 2014.

9791 Section 370. Section **48-3a-1032** is enacted to read:

9792 **48-3a-1032. Plan of interest exchange.**

9793 (1) A domestic limited liability company may be the acquired entity in an interest
9794 exchange under Sections 48-3a-1031 through 48-3a-1036 by approving a plan of interest
9795 exchange. The plan must be in a record and contain:

9796 (a) the name of the acquired entity;

9797 (b) the name, jurisdiction of formation, and type of entity of the acquiring entity;

9798 (c) the manner of converting the interests in the acquired entity into interests,
9799 securities, obligations, money, other property, rights to acquire interests or securities, or any
9800 combination of the foregoing;

9801 (d) any proposed amendments to the certificate of organization or operating agreement
9802 that are, or are proposed to be, in a record of the acquired entity;

9803 (e) the other terms and conditions of the interest exchange; and

9804 (f) any other provision required by the law of this state or the operating agreement of
9805 the acquired entity.

9806 (2) In addition to the requirements of Subsection (1), a plan of interest exchange may
9807 contain any other provision not prohibited by law.

9808 Section 371. Section **48-3a-1033** is enacted to read:

9809 **48-3a-1033. Approval of interest exchange.**

9810 (1) A plan of interest exchange is not effective unless it has been approved:

9811 (a) by all the members of a domestic acquired limited liability company entitled to vote
9812 on or consent to any matter; and

9813 (b) in a record, by each member of the domestic acquired limited liability company that
9814 will have interest holder liability for debts, obligations, and other liabilities that arise after the
9815 interest exchange becomes effective, unless:

9816 (i) the operating agreement of the limited liability company in a record provides for the
9817 approval of an interest exchange or a merger in which some or all of its members become
9818 subject to interest holder liability by the vote or consent of fewer than all the members; and

9819 (ii) the member consented in a record to or voted for that provision of the operating
9820 agreement or became a member after the adoption of that provision.

9821 (2) An interest exchange involving a domestic acquired entity that is not a limited
9822 liability company is not effective unless it is approved by the domestic entity in accordance
9823 with its organic law.

9824 (3) An interest exchange involving a foreign acquired entity is not effective unless it is
9825 approved by the foreign entity in accordance with the law of the foreign entity's jurisdiction of
9826 formation.

9827 (4) Except as otherwise provided in its organic law or organic rules, the interest holders
9828 of the acquiring entity are not required to approve the interest exchange.

9829 Section 372. Section **48-3a-1034** is enacted to read:

9830 **48-3a-1034. Amendment or abandonment of plan of interest exchange.**

9831 (1) A plan of interest exchange may be amended only with the consent of each party to
9832 the plan, except as otherwise provided in the plan.

9833 (2) A domestic acquired limited liability company may approve an amendment of a
9834 plan of interest exchange:

9835 (a) in the same manner as the plan was approved, if the plan does not provide for the
9836 manner in which it may be amended; or

9837 (b) by the managers or members of the domestic acquired limited liability company in
9838 the manner provided in the plan, but an interest holder that was entitled to vote on or consent to
9839 approval of the interest exchange is entitled to vote on or consent to any amendment of the plan
9840 that will change:

9841 (i) the amount or kind of interests, securities, obligations, money, other property, rights
9842 to acquire interests or securities, or any combination of the foregoing, to be received by any of
9843 the members of the acquired limited liability company under the plan;

9844 (ii) the certificate of organization or operating agreement of the acquired limited
9845 liability company that will be in effect immediately after the interest exchange becomes
9846 effective, except for changes that do not require approval of the members of the acquired
9847 limited liability company under this chapter or the operating agreement; or

9848 (iii) any other terms or conditions of the plan, if the change would adversely affect the
9849 member in any material respect.

9850 (3) After a plan of interest exchange has been approved and before a statement of
9851 interest exchange becomes effective, the plan may be abandoned as provided in the plan.

9852 Unless prohibited by the plan, a domestic acquired limited liability company may abandon the
9853 plan in the same manner as the plan was approved.

9854 (4) If a plan of interest exchange is abandoned after a statement of interest exchange

9855 has been delivered to the division for filing and before the statement becomes effective, a
9856 statement of abandonment, signed by the acquired limited liability company, must be delivered
9857 to the division for filing before the statement of interest exchange becomes effective. The
9858 statement of abandonment takes effect on filing, and the interest exchange is abandoned and
9859 does not become effective. The statement of abandonment must contain:

9860 (a) the name of the acquired limited liability company;

9861 (b) the date on which the statement of interest exchange was delivered to the division
9862 for filing; and

9863 (c) a statement that the interest exchange has been abandoned in accordance with this
9864 section.

9865 Section 373. Section **48-3a-1035** is enacted to read:

9866 **48-3a-1035. Statement of interest exchange.**

9867 (1) A statement of interest exchange must be signed by a domestic acquired limited
9868 liability company and delivered to the division for filing.

9869 (2) A statement of interest exchange must contain:

9870 (a) the name of the acquired limited liability company;

9871 (b) the name, jurisdiction of formation, and type of entity of the acquiring entity;

9872 (c) a statement that the plan of interest exchange was approved by the acquired limited
9873 liability entity in accordance with Sections 48-3a-1031 through 48-3a-1036; and

9874 (d) any amendments to the acquired limited liability company's certificate of
9875 organization approved as part of the plan of interest exchange.

9876 (3) In addition to the requirements of Subsection (2), a statement of interest exchange
9877 may contain any other provision not prohibited by law.

9878 (4) A plan of interest exchange that is signed by a domestic acquired limited liability
9879 company and meets all the requirements of Subsection (2) may be delivered to the division for
9880 filing instead of a statement of interest exchange and on filing has the same effect. If a plan of
9881 interest exchange is filed as provided in this subsection, references in this part to a statement of
9882 interest exchange refer to the plan of interest exchange filed under this Subsection (4).

9883 Section 374. Section **48-3a-1036** is enacted to read:

9884 **48-3a-1036. Effect of interest exchange.**

9885 (1) When an interest exchange in which the acquired entity is a domestic limited

9886 liability company becomes effective:

9887 (a) the interests in a domestic limited liability company that are the subject of the
9888 interest exchange cease to exist or are converted or exchanged, and the members holding those
9889 interests are entitled only to the rights provided to them under the plan of interest exchange and
9890 to any appraisal rights they have under Section 48-3a-1008;

9891 (b) the acquiring entity becomes the interest holder of the interests in the acquired
9892 limited liability company stated in the plan of interest exchange to be acquired by the acquiring
9893 entity;

9894 (c) the certificate of organization of the acquired limited liability company is amended
9895 as provided in the statement of interest exchange; and

9896 (d) the provisions of the operating agreement of the acquired limited liability company
9897 that are to be in a record, if any, are amended to the extent provided in the plan of interest
9898 exchange.

9899 (2) Except as otherwise provided in the operating agreement of a domestic acquired
9900 limited liability company, the interest exchange does not give rise to any rights that a member,
9901 manager, or third party would have upon a dissolution, liquidation, or winding up of the
9902 acquired limited liability company.

9903 (3) When an interest exchange becomes effective, a person that did not have interest
9904 holder liability with respect to a domestic acquired limited liability company and becomes
9905 subject to interest holder liability with respect to a domestic entity as a result of the interest
9906 exchange has interest holder liability only to the extent provided by the organic law of the
9907 entity and only for those debts, obligations, and other liabilities that arise after the interest
9908 exchange becomes effective.

9909 (4) When an interest exchange becomes effective, the interest holder liability of a
9910 person that ceases to hold an interest in a domestic acquired limited liability company with
9911 respect to which the person had interest holder liability is as follows:

9912 (a) The interest exchange does not discharge any interest holder liability to the extent
9913 the interest holder liability arose before the interest exchange became effective.

9914 (b) The person does not have interest holder liability for any debt, obligation, or other
9915 liability that arises after the interest exchange becomes effective.

9916 (c) The person has whatever rights of contribution from any other person as are

9917 provided by law other than this chapter, this chapter, or the operating agreement of the acquired
9918 limited liability company with respect to any interest holder liability preserved under
9919 Subsection (4)(a) as if the interest exchange had not occurred.

9920 Section 375. Section **48-3a-1041** is enacted to read:

9921 **48-3a-1041. Conversion authorized.**

9922 (1) By complying with Sections 48-3a-1041 through 48-3a-1046, a domestic limited
9923 liability company may become:

9924 (a) a domestic entity that is a different type of entity; or

9925 (b) a foreign entity that is a different type of entity, if the conversion is authorized by
9926 the law of the foreign jurisdiction.

9927 (2) By complying with the provisions of Sections 48-3a-1041 through 48-3a-1046
9928 applicable to foreign entities, a foreign entity that is not a foreign limited liability company may
9929 become a domestic limited liability company if the conversion is authorized by the law of the
9930 foreign entity's jurisdiction of formation.

9931 (3) If a protected agreement contains a provision that applies to a merger of a domestic
9932 limited liability company but does not refer to a conversion, the provision applies to a
9933 conversion of the entity as if the conversion were a merger until the provision is amended after
9934 July 1, 2014.

9935 Section 376. Section **48-3a-1042** is enacted to read:

9936 **48-3a-1042. Plan of conversion.**

9937 (1) A domestic limited liability company may convert to a different type of entity under
9938 Sections 48-3a-1041 through 48-3a-1046 by approving a plan of conversion. The plan must be
9939 in a record and contain:

9940 (a) the name of the converting limited liability company;

9941 (b) the name, jurisdiction of formation, and type of entity of the converted entity;

9942 (c) the manner of converting the interests in the converting limited liability company
9943 into interests, securities, obligations, money, other property, rights to acquire interests or
9944 securities, or any combination of the foregoing;

9945 (d) the proposed public organic record of the converted entity if it will be a filing
9946 entity;

9947 (e) the full text of the private organic rules of the converted entity that are proposed to

9948 be in a record;

9949 (f) the other terms and conditions of the conversion; and

9950 (g) any other provision required by the law of this state or the operating agreement of
9951 the converting limited liability company.

9952 (2) In addition to the requirements of Subsection (1), a plan of conversion may contain
9953 any other provision not prohibited by law.

9954 Section 377. Section **48-3a-1043** is enacted to read:

9955 **48-3a-1043. Approval of conversion.**

9956 (1) A plan of conversion is not effective unless it has been approved:

9957 (a) by a domestic converting limited liability company by all the members of the
9958 limited liability company entitled to vote on or consent to any matter; and

9959 (b) in a record, by each member of a domestic converting limited liability company that
9960 will have interest holder liability for debts, obligations, and other liabilities that arise after the
9961 conversion becomes effective:

9962 (i) the operating agreement of the limited liability company provides in a record for the
9963 approval of a conversion or a merger in which some or all of its interest holders become subject
9964 to interest holder liability by the vote or consent of fewer than all the interest holders; and

9965 (ii) the member voted for or consented in a record to that provision of the operating
9966 agreement or became a member after the adoption of that provision.

9967 (2) A conversion involving a domestic converting entity that is not a limited liability
9968 company is not effective unless it is approved by the domestic converting entity in accordance
9969 with its organic law.

9970 (3) A conversion of a foreign converting entity is not effective unless it is approved by
9971 the foreign entity in accordance with the law of the foreign entity's jurisdiction of formation.

9972 Section 378. Section **48-3a-1044** is enacted to read:

9973 **48-3a-1044. Amendment or abandonment of plan of conversion.**

9974 (1) A plan of conversion of a domestic converting limited liability company may be
9975 amended:

9976 (a) in the same manner as the plan was approved, if the plan does not provide for the
9977 manner in which it may be amended; or

9978 (b) by the managers or members of the entity in the manner provided in the plan, but a

9979 member that was entitled to vote on or consent to approval of the conversion is entitled to vote
9980 on or consent to any amendment of the plan that will change:

9981 (i) the amount or kind of interests, securities, obligations, money, other property, rights
9982 to acquire interests or securities, or any combination of the foregoing, to be received by any of
9983 the interest holders of the converting entity under the plan;

9984 (ii) the public organic record or private organic rules of the converted entity that will be
9985 in effect immediately after the conversion becomes effective, except for changes that do not
9986 require approval of the interest holders of the converted entity under its organic law or organic
9987 rules; or

9988 (iii) any other terms or conditions of the plan, if the change would adversely affect the
9989 interest holder in any material respect.

9990 (2) After a plan of conversion has been approved by a domestic converting limited
9991 liability company and before a statement of conversion becomes effective, the plan may be
9992 abandoned as provided in the plan. Unless prohibited by the plan, a domestic converting
9993 limited liability company may abandon the plan in the same manner as the plan was approved.

9994 (3) If a plan of conversion is abandoned after a statement of conversion has been
9995 delivered to the division for filing and before the statement of conversion becomes effective, a
9996 statement of abandonment, signed by the converting entity, must be delivered to the division
9997 for filing before the time the statement of conversion becomes effective. The statement of
9998 abandonment takes effect on filing, and the conversion is abandoned and does not become
9999 effective. The statement of abandonment must contain:

10000 (a) the name of the converting limited liability company;

10001 (b) the date on which the statement of conversion was delivered to the division for
10002 filing; and

10003 (c) a statement that the conversion has been abandoned in accordance with this section.

10004 Section 379. Section **48-3a-1045** is enacted to read:

10005 **48-3a-1045. Statement of conversion.**

10006 (1) A statement of conversion must be signed by the converting entity and delivered to
10007 the division for filing.

10008 (2) A statement of conversion must contain:

10009 (a) the name, jurisdiction of formation, and type of entity of the converting entity;

- 10010 (b) the name, jurisdiction of formation, and type of entity of the converted entity;
- 10011 (c) if the converting entity is a domestic entity, a statement that the plan of conversion
- 10012 was approved in accordance with Sections 48-3a-1041 through 48-3a-1046 or, if the converting
- 10013 entity is a foreign entity, a statement that the conversion was approved by the foreign
- 10014 converting entity in accordance with the law of its jurisdiction of formation;
- 10015 (d) if the converted entity is a domestic filing entity, the text of its public organic
- 10016 record, as an attachment;
- 10017 (e) if the converted entity is a domestic limited liability partnership, the text of its
- 10018 statement of qualification, as an attachment; and
- 10019 (f) if the converted entity is a foreign entity that is not a registered foreign entity, a
- 10020 mailing address to which the division may send any process served on the division pursuant to
- 10021 Subsection 48-3a-1046(5).
- 10022 (3) In addition to the requirements of Subsection (2), a statement of conversion may
- 10023 contain any other provision not prohibited by law.
- 10024 (4) If a converted entity is a domestic entity, its public organic record, if any, must
- 10025 satisfy the requirements of the law of this state, but the public organic record does not need to
- 10026 be signed.
- 10027 (5) A plan of conversion that is signed by a domestic converting entity and meets all
- 10028 the requirements of Subsection (2) may be delivered to the division for filing instead of a
- 10029 statement of conversion and on filing has the same effect. If a plan of conversion is filed as
- 10030 provided in this subsection, references in this part to a statement of conversion refer to the plan
- 10031 of conversion filed under this Subsection (5).
- 10032 Section 380. Section **48-3a-1046** is enacted to read:
- 10033 **48-3a-1046. Effect of conversion.**
- 10034 (1) When a conversion in which the converted entity is a domestic limited liability
- 10035 company becomes effective:
- 10036 (a) the converted entity is:
- 10037 (i) organized under and subject to this chapter; and
- 10038 (ii) the same entity without interruption as the converting entity;
- 10039 (b) all property of the converting entity continues to be vested in the converted entity
- 10040 without transfer, reversion, or impairment;

10041 (c) all debts, obligations, and other liabilities of the converting entity continue as debts,
10042 obligations, and other liabilities of the converted entity;

10043 (d) except as otherwise provided by law or the plan of conversion, all the rights,
10044 privileges, immunities, powers, and purposes of the converting entity remain in the converted
10045 entity;

10046 (e) the name of the converted entity may be substituted for the name of the converting
10047 entity in any pending action or proceeding;

10048 (f) the provisions of the operating agreement of the converted entity that are to be in a
10049 record, if any, approved as part of the plan of conversion are effective; and

10050 (g) the interests in the converting entity are converted, and the interest holders of the
10051 converting entity are entitled only to the rights provided to them under the plan of conversion
10052 and to any appraisal rights they have under Section 48-3a-1008 and the converting entity's
10053 organic law.

10054 (2) Except as otherwise provided in the operating agreement of a domestic converting
10055 limited liability company, the conversion does not give rise to any rights that a member,
10056 manager, or third party would have upon a dissolution, liquidation, or winding up of the
10057 converting entity.

10058 (3) When a conversion becomes effective, a person that did not have interest holder
10059 liability with respect to the converting entity and becomes subject to interest holder liability
10060 with respect to a domestic entity as a result of the conversion has interest holder liability only
10061 to the extent provided by the organic law of the entity and only for those debts, obligations, and
10062 other liabilities that arise after the conversion becomes effective.

10063 (4) When a conversion becomes effective, the interest holder liability of a person that
10064 ceases to hold an interest in a domestic limited liability company with respect to which the
10065 person had interest holder liability is as follows:

10066 (a) the conversion does not discharge any interest holder liability to the extent the
10067 interest holder liability arose before the conversion became effective;

10068 (b) the person does not have interest holder liability for any debt, obligation, or other
10069 liability that arises after the conversion becomes effective; and

10070 (c) the person has whatever rights of contribution from any other person as are
10071 provided by law other than this chapter, this chapter, or the operating agreement of the

10072 converting entity with respect to any interest holder liability preserved under Subsection (4)(a)
10073 as if the conversion had not occurred.

10074 (5) When a conversion becomes effective, a foreign entity that is the converted entity
10075 may be served with process in this state for the collection and enforcement of any of its debts,
10076 obligations, and liabilities as provided in Section 16-17-301.

10077 (6) If the converting entity is a registered foreign entity, the registration to do business
10078 in this state of the converting entity is canceled when the conversion becomes effective.

10079 (7) A conversion does not require the entity to wind up its affairs and does not
10080 constitute or cause the dissolution of the entity.

10081 Section 381. Section **48-3a-1051** is enacted to read:

10082 **48-3a-1051. Domestication authorized.**

10083 (1) By complying with Sections 48-3a-1051 through 48-3a-1056, a domestic limited
10084 liability company may become a foreign limited liability company if the domestication is
10085 authorized by the law of the foreign jurisdiction.

10086 (2) By complying with the provisions of Sections 48-3a-1051 through 48-3a-1056
10087 applicable to foreign limited liability companies, a foreign limited liability company may
10088 become a domestic limited liability company if the domestication is authorized by the law of
10089 the foreign limited liability company's jurisdiction of formation.

10090 (3) If a protected agreement contains a provision that applies to a merger of a domestic
10091 limited liability company but does not refer to a domestication, the provision applies to a
10092 domestication of the limited liability company as if the domestication were a merger until the
10093 provision is amended after July 1, 2014.

10094 Section 382. Section **48-3a-1052** is enacted to read:

10095 **48-3a-1052. Plan of domestication.**

10096 (1) A domestic limited liability company may become a foreign limited liability
10097 company in a domestication by approving a plan of domestication. The plan must be in a
10098 record and contain:

10099 (a) the name of the domesticating limited liability company;

10100 (b) the name and jurisdiction of formation of the domesticated limited liability
10101 company;

10102 (c) the manner of converting the interests in the domesticating limited liability

10103 company into interests, securities, obligations, money, other property, rights to acquire interests
10104 or securities, or any combination of the foregoing;

10105 (d) the proposed certificate of organization of the domesticated limited liability
10106 company;

10107 (e) the full text of the provisions of the operating agreement of the domesticated
10108 limited liability company that are proposed to be in a record;

10109 (f) the other terms and conditions of the domestication; and

10110 (g) any other provision required by the law of this state or the operating agreement of
10111 the domesticating limited liability company.

10112 (2) In addition to the requirements of Subsection (1), a plan of domestication may
10113 contain any other provision not prohibited by law.

10114 Section 383. Section **48-3a-1053** is enacted to read:

10115 **48-3a-1053. Approval of domestication.**

10116 (1) A plan of domestication of a domestic domesticating limited liability company is
10117 not effective unless it has been approved:

10118 (a) by all the members entitled to vote on or consent to any matter; and

10119 (b) in a record, by each member that will have interest holder liability for debts,
10120 obligations, and other liabilities that arise after the domestication becomes effective, unless:

10121 (i) the operating agreement of the entity in a record provides for the approval of a
10122 domestication or merger in which some or all of its members become subject to interest holder
10123 liability by the vote or consent of fewer than all the members; and

10124 (ii) the member voted for or consented in a record to that provision of the operating
10125 agreement or became an interest holder after the adoption of that provision.

10126 (2) A domestication of a foreign domesticating limited liability company is not
10127 effective unless it is approved in accordance with the law of the foreign limited liability
10128 company's jurisdiction of formation.

10129 Section 384. Section **48-3a-1054** is enacted to read:

10130 **48-3a-1054. Amendment or abandonment of plan of domestication.**

10131 (1) A plan of domestication of a domestic domesticating limited liability company may
10132 be amended:

10133 (a) in the same manner as the plan was approved, if the plan does not provide for the

10134 manner in which it may be amended; or

10135 (b) by the managers or members of the limited liability company in the manner
10136 provided in the plan, but a member that was entitled to vote on or consent to approval of the
10137 domestication is entitled to vote on or consent to any amendment of the plan that will change:

10138 (i) the amount or kind of interests, securities, obligations, money, other property, rights
10139 to acquire interests or securities, or any combination of the foregoing, to be received by any of
10140 the interest holders of the domesticating limited liability company under the plan;

10141 (ii) the certificate of organization or operating agreement of the domesticated limited
10142 liability company that will be in effect immediately after the domestication becomes effective,
10143 except for changes that do not require approval of the members of the domesticated limited
10144 liability company under its organic law or operating agreement; or

10145 (iii) any other terms or conditions of the plan, if the change would adversely affect the
10146 interest holder in any material respect.

10147 (2) After a plan of domestication has been approved by a domestic domesticating
10148 limited liability company and before a statement of domestication becomes effective, the plan
10149 may be abandoned as provided in the plan. Unless prohibited by the plan, a domestic
10150 domesticating limited liability company may abandon the plan in the same manner as the plan
10151 was approved.

10152 (3) If a plan of domestication is abandoned after a statement of domestication has been
10153 delivered to the division for filing and before the statement of domestication becomes effective,
10154 a statement of abandonment, signed by the domesticating limited liability company, must be
10155 delivered to the division for filing before the time the statement of domestication becomes
10156 effective. The statement of abandonment takes effect on filing, and the domestication is
10157 abandoned and does not become effective. The statement of abandonment must contain:

10158 (a) the name of the domesticating limited liability company;

10159 (b) the date on which the statement of domestication was delivered to the division for
10160 filing; and

10161 (c) a statement that the domestication has been abandoned in accordance with this
10162 section.

10163 Section 385. Section **48-3a-1055** is enacted to read:

10164 **48-3a-1055. Statement of domestication.**

10165 (1) A statement of domestication must be signed by the domesticating limited liability
10166 company and delivered to the division for filing.

10167 (2) A statement of domestication must contain:

10168 (a) the name and jurisdiction of formation of the domesticating limited liability
10169 company;

10170 (b) the name and jurisdiction of formation of the domesticated limited liability
10171 company;

10172 (c) if the domesticating limited liability company is a domestic limited liability
10173 company, a statement that the plan of domestication was approved in accordance with Sections
10174 48-3a-1051 through 48-3a-1056 or, if the domesticating limited liability company is a foreign
10175 limited liability company, a statement that the domestication was approved in accordance with
10176 the law of its jurisdiction of formation;

10177 (d) the certificate of organization of the domesticated limited liability company, as an
10178 attachment; and

10179 (e) if the domesticated foreign limited liability company is not a registered foreign
10180 limited liability company, a mailing address to which the division may send any process served
10181 on the division pursuant to Subsection 48-3a-1056(5).

10182 (3) In addition to the requirements of Subsection (2), a statement of domestication may
10183 contain any other provision not prohibited by law.

10184 (4) The certificate of organization of a domesticated domestic limited liability company
10185 must satisfy the requirements of the law of this state, but the certificate does not need to be
10186 signed.

10187 (5) A plan of domestication that is signed by a domesticating domestic limited liability
10188 company and meets all the requirements of Subsection (2) may be delivered to the division for
10189 filing instead of a statement of domestication and on filing has the same effect. If a plan of
10190 domestication is filed as provided in this subsection, references in this part to a statement of
10191 domestication refer to the plan of domestication filed under this Subsection (5).

10192 Section 386. Section **48-3a-1056** is enacted to read:

10193 **48-3a-1056. Effect of domestication.**

10194 (1) When a domestication becomes effective:

10195 (a) the domesticated limited liability company is:

10196 (i) organized under and subject to the organic law of the domesticated limited liability
10197 company; and

10198 (ii) the same entity without interruption as the domesticating limited liability company;

10199 (b) all property of the domesticating limited liability company continues to be vested in
10200 the domesticated limited liability company without transfer, reversion, or impairment;

10201 (c) all debts, obligations, and other liabilities of the domesticating limited liability
10202 company continue as debts, obligations, and other liabilities of the domesticated limited
10203 liability company;

10204 (d) except as otherwise provided by law or the plan of domestication, all the rights,
10205 privileges, immunities, powers, and purposes of the domesticating limited liability company
10206 remain in the domesticated limited liability company;

10207 (e) the name of the domesticated limited liability company may be substituted for the
10208 name of the domesticating limited liability company in any pending action or proceeding;

10209 (f) the certificate of organization of the domesticated limited liability company is
10210 effective;

10211 (g) the provisions of the operating agreement of the domesticated limited liability
10212 company that are to be in a record, if any, approved as part of the plan of domestication are
10213 effective; and

10214 (h) the interests in the domesticating limited liability company are converted to the
10215 extent and as approved in connection with the domestication, and the members of the
10216 domesticating limited liability company are entitled only to the rights provided to them under
10217 the plan of domestication and to any appraisal rights they have under Section 48-3a-1008.

10218 (2) Except as otherwise provided in the organic law or operating agreement of the
10219 domesticating limited liability company, the domestication does not give rise to any rights that
10220 a member, manager, or third party would have upon a dissolution, liquidation, or winding up of
10221 the domesticating limited liability company.

10222 (3) When a domestication becomes effective, a person that did not have interest holder
10223 liability with respect to the domesticating limited liability company and becomes subject to
10224 interest holder liability with respect to a domestic limited liability company as a result of the
10225 domestication has interest holder liability only to the extent provided by the organic law of the
10226 domestic limited liability company and only for those debts, obligations, and other liabilities

10227 that arise after the domestication becomes effective.

10228 (4) When a domestication becomes effective:

10229 (a) The domestication does not discharge any interest holder liability under this chapter
10230 to the extent the interest holder liability arose before the domestication became effective.

10231 (b) A person does not have interest holder liability under this part for any debts,
10232 obligations, and other liabilities that arise after the domestication becomes effective.

10233 (c) A person has whatever rights of contribution from any other person as are provided
10234 by law other than this chapter, this chapter, or the operating agreement of a domestic
10235 domesticating limited liability company with respect to any interest holder liability preserved
10236 under Subsection (4)(a) as if the domestication had not occurred.

10237 (5) When a domestication becomes effective, a foreign limited liability company that is
10238 the domesticated limited liability company may be served with process in this state for the
10239 collection and enforcement of any of its debts, obligations, and liabilities as provided in
10240 Section 16-17-301.

10241 (6) If the domesticating limited liability company is a registered foreign limited
10242 liability company, the registration of the foreign limited liability company is canceled when the
10243 domestication becomes effective.

10244 (7) A domestication does not require the limited liability company to wind up its affairs
10245 and does not constitute or cause the dissolution of the company.

10246 Section 387. Section **48-3a-1101** is enacted to read:

10247 **Part 11. Professional Services Companies**

10248 **48-3a-1101. Definitions.**

10249 As used in this part:

10250 (1) "Professional services" means a personal service provided by:

10251 (a) a public accountant holding a license under Title 58, Chapter 26a, Certified Public
10252 Accountant Licensing Act, or a subsequent law regulating the practice of public accounting;

10253 (b) an architect holding a license under Title 58, Chapter 3a, Architects Licensing Act,
10254 or a subsequent law regulating the practice of architecture;

10255 (c) an attorney granted the authority to practice law by the:

10256 (i) Utah Supreme Court; or

10257 (ii) one or more of the following that licenses or regulates the authority to practice law

- 10258 in a state or territory of the United States other than Utah:
- 10259 (A) a supreme court;
- 10260 (B) a court other than a supreme court;
- 10261 (C) an agency;
- 10262 (D) an instrumentality; or
- 10263 (E) a regulating board;
- 10264 (d) a chiropractor holding a license under Title 58, Chapter 73, Chiropractic Physician
- 10265 Practice Act, or any subsequent law regulating the practice of chiropractics;
- 10266 (e) a doctor of dentistry holding a license under Title 58, Chapter 69, Dentist and
- 10267 Dental Hygienist Practice Act, or a subsequent law regulating the practice of dentistry;
- 10268 (f) a professional engineer registered under Title 58, Chapter 22, Professional
- 10269 Engineers and Professional Land Surveyors Licensing Act, or a subsequent law regulating the
- 10270 practice of engineers and land surveyors;
- 10271 (g) a naturopath holding a license under Title 58, Chapter 71, Naturopathic Physician
- 10272 Practice Act, or a subsequent law regulating the practice of naturopathy;
- 10273 (h) a nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, or Title 58,
- 10274 Chapter 44a, Nurse Midwife Practice Act, or a subsequent law regulating the practice of
- 10275 nursing;
- 10276 (i) an optometrist holding a license under Title 58, Chapter 16a, Utah Optometry
- 10277 Practice Act, or a subsequent law regulating the practice of optometry;
- 10278 (j) an osteopathic physician or surgeon holding a license under Title 58, Chapter 68,
- 10279 Utah Osteopathic Medical Practice Act, or a subsequent law regulating the practice of
- 10280 osteopathy;
- 10281 (k) a pharmacist holding a license under Title 58, Chapter 17b, Pharmacy Practice Act,
- 10282 or a subsequent law regulating the practice of pharmacy;
- 10283 (l) a physician, surgeon, or doctor of medicine holding a license under Title 58,
- 10284 Chapter 67, Utah Medical Practice Act, or a subsequent law regulating the practice of
- 10285 medicine;
- 10286 (m) a physical therapist holding a license under Title 58, Chapter 24b, Physical
- 10287 Therapy Practice Act, or a subsequent law regulating the practice of physical therapy;
- 10288 (n) a podiatric physician holding a license under Title 58, Chapter 5a, Podiatric

10289 Physician Licensing Act, or a subsequent law regulating the practice of podiatry;

10290 (o) a psychologist holding a license under Title 58, Chapter 61, Psychologist Licensing
10291 Act, or any subsequent law regulating the practice of psychology;

10292 (p) a principal broker, associate broker, or sales agent holding a license under Title 61,
10293 Chapter 2f, Real Estate Licensing and Practices Act, or a subsequent law regulating the sale,
10294 exchange, purchase, rental, or leasing of real estate;

10295 (q) a clinical or certified social worker holding a license under Title 58, Chapter 60,
10296 Part 2, Social Worker Licensing Act, or a subsequent law regulating the practice of social
10297 work;

10298 (r) a mental health therapist holding a license under Title 58, Chapter 60, Mental
10299 Health Professional Practice Act, or a subsequent law regulating the practice of mental health
10300 therapy;

10301 (s) a veterinarian holding a license under Title 58, Chapter 28, Veterinary Practice Act,
10302 or a subsequent law regulating the practice of veterinary medicine; or

10303 (t) an individual licensed, certified, or registered under Title 61, Chapter 2g, Real
10304 Estate Appraiser Licensing and Certification Act, or a subsequent law regulating the practice of
10305 appraising real estate.

10306 (2) "Regulating board" means the entity organized pursuant to state law that licenses
10307 and regulates the practice of the profession that a limited liability company is organized to
10308 provide.

10309 Section 388. Section **48-3a-1102** is enacted to read:

10310 **48-3a-1102. Application of this part.**

10311 (1) If a conflict arises between this part and another provision of this chapter, this part
10312 controls.

10313 (2) Notwithstanding the other provisions of this part, on and after January 1, 2016:

10314 (a) a professional services company may not designate series of transferable interests;
10315 and

10316 (b) a limited liability company may not form a professional services company as a
10317 series of the limited liability company.

10318 Section 389. Section **48-3a-1103** is enacted to read:

10319 **48-3a-1103. Additional requirements for certificate of organization.**

- 10320 The certificate of organization of a professional services company shall:
- 10321 (1) comply with Section 48-3a-201; and
- 10322 (2) contain the following:
- 10323 (a) a name consistent with Section 48-3a-1104;
- 10324 (b) a description of the profession to be practiced through the professional services
- 10325 company; and
- 10326 (c) notwithstanding Section 48-3a-201, the name and street address of each member or
- 10327 manager of the professional services company.
- 10328 Section 390. Section **48-3a-1104** is enacted to read:
- 10329 **48-3a-1104. Name limitations.**
- 10330 (1) The name of a domestic professional services company and of a foreign
- 10331 professional services company authorized to transact business in this state, in addition to
- 10332 complying with Sections 48-3a-108 and 48-3a-906:
- 10333 (a) may not contain language stating or implying that it is formed for a purpose other
- 10334 than that authorized by:
- 10335 (i) its certificate of organization; or
- 10336 (ii) Section 48-3a-1106;
- 10337 (b) must conform with any rule made by the regulating board having jurisdiction over a
- 10338 professional service described in the professional services company's certificate of
- 10339 organization; and
- 10340 (c) in lieu of the requirement of Subsection 48-3a-108(1), must contain the words
- 10341 "professional limited liability company" or the abbreviations "P.L.L.C." or "PLLC" in:
- 10342 (i) its certificate of organization; and
- 10343 (ii) a report or document filed with the division.
- 10344 (2) Notwithstanding Subsection (1)(c), a professional services company may hold itself
- 10345 out to the public under a name that does not contain the words "professional limited liability
- 10346 company" or the abbreviations "P.L.L.C." or "PLLC" if that name complies with Subsection
- 10347 48-3a-108(1).
- 10348 (3) Sections 48-3a-108 and 48-3a-906 do not prevent the use of a name otherwise
- 10349 prohibited by those sections if the name is:
- 10350 (a) the personal name of an individual member or individual former member of the

10351 professional services company; or

10352 (b) the name of an individual who was associated with a predecessor of the

10353 professional services company.

10354 Section 391. Section **48-3a-1105** is enacted to read:

10355 **48-3a-1105. Providing a professional service.**

10356 (1) Subject to Section 48-3a-1106, a professional services company may provide a
10357 professional service in this state only through an individual licensed or otherwise authorized in
10358 this state to provide the professional service.

10359 (2) Subsection (1) does not:

10360 (a) require an individual employed by a professional services company to be licensed
10361 to perform a service for the professional services company if a license is not otherwise
10362 required;

10363 (b) prohibit a licensed individual from providing a professional service in the
10364 individual's professional capacity although the individual is a member, manager, employee, or
10365 agent of a professional services company; or

10366 (c) prohibit an individual licensed in another state from providing a professional
10367 service for a professional services company in this state if not prohibited by the regulating
10368 board.

10369 Section 392. Section **48-3a-1106** is enacted to read:

10370 **48-3a-1106. Limit of one profession.**

10371 (1) A professional services company organized to provide a professional service under
10372 this part may provide only:

10373 (a) one specific type of professional service; and

10374 (b) services ancillary to the professional service described in Subsection (1)(a).

10375 (2) A professional services company organized to provide a professional service under
10376 this part may not engage in a business other than to provide:

10377 (a) the professional service that it was organized to provide; and

10378 (b) services ancillary to the professional service described in Subsection (2)(a).

10379 (3) Notwithstanding Subsections (1) and (2), a professional services company may:

10380 (a) own real and personal property necessary or appropriate for providing the type of

10381 professional service it was organized to provide; and

- 10382 (b) invest the professional services company's money in one or more of the following:
10383 (i) real estate;
10384 (ii) mortgages;
10385 (iii) stocks;
10386 (iv) bonds; or
10387 (v) another type of investment.

10388 Section 393. Section **48-3a-1107** is enacted to read:

10389 **48-3a-1107. Activity limitations.**

10390 A professional services company may not do anything that an individual licensed to
10391 practice the profession that the professional services company is organized to provide is
10392 prohibited from doing.

10393 Section 394. Section **48-3a-1108** is enacted to read:

10394 **48-3a-1108. This part does not limit regulating board.**

10395 This part does not restrict the authority or duty of a regulating board to license an
10396 individual providing a professional service or the practice of the profession that is within the
10397 jurisdiction of the regulating board, notwithstanding that the individual:

- 10398 (1) is a member, manager, or employee of a professional services company; or
10399 (2) provides the professional service or engages in the practice of the profession
10400 through a professional services company.

10401 Section 395. Section **48-3a-1109** is enacted to read:

10402 **48-3a-1109. Member or manager of a professional services company.**

10403 A professional services company organized to provide a professional service:

- 10404 (1) may include a member, manager, or employee who is authorized under the laws of
10405 the jurisdiction where the member, manager, or employee resides to provide a similar
10406 professional service;

10407 (2) may include a member who is not licensed or registered by the state to provide the
10408 professional service to the extent allowed by the applicable licensing or registration act relating
10409 to the professional service; and

- 10410 (3) may render a professional service in this state only through a member, manager, or
10411 employee who is licensed or registered by this state to render the professional service.

10412 Section 396. Section **48-3a-1110** is enacted to read:

10413 **48-3a-1110. Restriction on transfer by member.**

10414 (1) Except as provided in Subsections (2) and (3), a member of a professional services
10415 company may sell or transfer the member's interest in the professional services company only
10416 to:

10417 (a) the professional services company; or

10418 (b) an individual who is licensed or registered by this state to provide the same type of
10419 professional service as the professional service for which the professional services company is
10420 organized, or who otherwise satisfies the requirements of Subsection 48-3a-1109(1) or (2).

10421 (2) Upon the death or incapacity of a member of a professional services company, the
10422 member's interest in the professional services company may be transferred to the personal
10423 representative or estate of the deceased or incapacitated member.

10424 (3) The person to whom an interest is transferred under Subsection (2) may continue to
10425 hold the interest for a reasonable period, but may not participate in a decision concerning the
10426 providing of a professional service.

10427 Section 397. Section **48-3a-1111** is enacted to read:

10428 **48-3a-1111. Purchase of interest upon death, incapacity, or disqualification of**
10429 **member.**

10430 (1) Subject to this part, one or more of the following may provide for the purchase of a
10431 member's interest in a professional services company upon the death, incapacity, or
10432 disqualification of the member:

10433 (a) the certificate of organization;

10434 (b) the operating agreement; or

10435 (c) a private agreement.

10436 (2) In the absence of a provision described in Subsection (1), a professional services
10437 company shall purchase the interest of a member who is deceased, incapacitated, or no longer
10438 qualified to own an interest in the professional services company within 90 days after the day
10439 on which the professional services company is notified of the death, incapacity, or
10440 disqualification.

10441 (3) If a professional services company purchases a member's interest under Subsection
10442 (2), the professional services company shall purchase the interest at a price that is the
10443 reasonable fair market value as of the date of death, incapacity, or disqualification.

10444 (4) If a professional services company fails to purchase a member's interest as required
10445 by Subsection (2) at the end of the 90-day period described in Subsection (2), one of the
10446 following may bring an action in the district court of the county in which the principal office or
10447 place of practice of the professional services company is located to enforce Subsection (2):

10448 (a) the personal representative of a deceased member;

10449 (b) the guardian or conservator of an incapacitated member; or

10450 (c) the disqualified member.

10451 (5) A court in which an action is brought under Subsection (4) may:

10452 (a) award the person bringing the action the reasonable fair market value of the
10453 interest; or

10454 (b) within its jurisdiction, order the liquidation of the professional services company.

10455 (6) If a person described in Subsections (4)(a) through (c) is successful in an action
10456 under Subsection (4), the court shall award the person reasonable attorney's fees and costs.

10457 Section 398. Section **48-3a-1112** is enacted to read:

10458 **48-3a-1112. Conversion to nonprofessional company.**

10459 (1) A professional services company subject to this part converts into a limited liability
10460 company subject to this chapter, but not subject to this part on the day on which:

10461 (a) no member of the professional services company is licensed or registered for the
10462 professional service for which the professional services company is organized; or

10463 (b) all members entitled to vote on or consent to any matter consent not to be a
10464 professional services company subject to this part.

10465 (2) A professional services company converted as provided in Subsection (1) shall
10466 upon the event described in Subsection (1) operate as and be treated as a limited liability
10467 company subject to this chapter, but not subject to this part.

10468 (3) A limited liability company resulting from a conversion under this section may
10469 reconvert to a professional services company:

10470 (a) upon at least one member of the limited liability company being licensed or
10471 registered for the professional service for which the limited liability company is organized; and

10472 (b) each member of the limited liability company entitled to vote on or consent to any
10473 matter consents to reconvert the limited liability company to a professional services company
10474 subject to this part.

10475 (4) If a professional services company is converted or reconverted under this section,
10476 the professional services company shall file a certificate of amendment to the certificate of
10477 organization with the division within a reasonable time after the conversion or reconversion to
10478 reflect the changes.

10479 Section 399. Section **48-3a-1201** is enacted to read:

10480 **Part 12. Series Limited Liability Companies**

10481 **48-3a-1201. Series of transferable interests.**

10482 (1) An operating agreement may establish or provide for the establishment of a
10483 designated series of transferable interests having separate rights, powers, or duties with respect
10484 to specified property or obligations of the limited liability company or profits and losses
10485 associated with specified property or obligations, and, to the extent provided in the operating
10486 agreement, any such series may have a separate business purpose or investment objective. The
10487 name of each series must contain the name of the limited liability company and be
10488 distinguishable from the name of any other series.

10489 (2) Notwithstanding contrary provisions of this chapter, the debts, liabilities, and
10490 obligations incurred, contracted for, or otherwise existing with respect to a particular series
10491 shall be enforceable against the assets of that series only, and not against the assets of the
10492 limited liability company generally or any other series, if all of the following apply:

10493 (a) the series is established by or in accordance with the operating agreement;

10494 (b) separate and distinct records are maintained for the series;

10495 (c) the assets associated with the series are held and accounted for separately from the
10496 other assets of the limited liability company, including another series;

10497 (d) the operating agreement or the agreement establishing the series provides for the
10498 limitation on liabilities of the series; and

10499 (e) notice of the limitation on liability of the series is set forth in the limited liability
10500 company's certificate of organization in accordance with Section 48-3a-1202.

10501 (3) A series meeting all of the conditions of Subsection (2) shall:

10502 (a) be treated as a separate entity to the extent set forth in the certificate of
10503 organization; and

10504 (b) have the power and capacity to, in its own name, contract, hold title to property,
10505 grant liens and security interests, and sue and be sued.

- 10506 (4) Notwithstanding the other provisions of this section:
10507 (a) property and assets of a series may not be transferred to the limited liability
10508 company generally or another series if the transfer impairs the ability of the series releasing the
10509 property or assets to pay its debts existing at the time of the transfer unless fair value is given to
10510 the transferring series for the property or assets transferred; and
10511 (b) a tax or other liability of the limited liability company generally or of a series may
10512 not be assigned by the series against which the tax or other liability is imposed to the limited
10513 liability company generally or to another series within the limited liability company if the
10514 assignment impairs a creditor's right and ability to fully collect an amount due when owed.
10515 (5) Notwithstanding the other provisions of this part:
10516 (a) a professional services company may not designate a series of transferable interests;
10517 and
10518 (b) a limited liability company may not form a professional services company as a
10519 series of the limited liability company.
10520 (6) Except to the extent modified by this part, the provisions of this chapter which are
10521 generally applicable to a limited liability company, and its managers, members, and transferees,
10522 shall be applicable to each series with respect to the operations of such a series.
10523 Section 400. Section **48-3a-1202** is enacted to read:
10524 **48-3a-1202. Notice of limitation on liability of a series.**
10525 (1) Notice in a limited liability company's certificate of organization of the limitation
10526 on liabilities of a series as referenced in Subsection 48-3a-1201(2)(e) is sufficient for all
10527 purposes of this part whether or not the limited liability company has established a series at the
10528 time the notice is included in the certificate of organization.
10529 (2) The notice of a limitation on liability of a series as referenced in Subsection
10530 48-3a-1201(2)(e) is not required to reference a specific series.
10531 (3) The filing by the division of the certificate of organization containing a notice of
10532 the limitation on liabilities of a series constitutes notice of the limitation on liabilities of the
10533 series.
10534 Section 401. Section **48-3a-1203** is enacted to read:
10535 **48-3a-1203. Agreement to be liable.**
10536 Notwithstanding Section 48-3a-304, or a contrary provision in an operating agreement,

10537 a member or manager may agree to be obligated personally for any or all of the debts,
10538 obligations, or liabilities of one or more series.

10539 Section 402. Section **48-3a-1204** is enacted to read:

10540 **48-3a-1204. Series related provisions in operating agreement.**

10541 (1) An operating agreement may provide for classes or groups of members or managers
10542 associated with a series having such relative rights, powers, and duties as the operating
10543 agreement may provide.

10544 (2) The operating agreement may provide for the future creation of additional classes
10545 or groups of members or managers associated with the series having such relative rights,
10546 powers, and duties as may from time to time be established, including rights, powers, and
10547 duties senior to existing classes and groups of members or managers associated with the series.

10548 (3) An operating agreement may provide for the taking of an action, including the
10549 amendment of the operating agreement, without the vote or approval of any member or
10550 manager or class or group of members or managers, including all action to create under the
10551 provisions of the operating agreement a class or group of the series of membership interests
10552 that was not previously outstanding.

10553 (4) An operating agreement may provide that any member or class or group of
10554 members associated with a series does not have voting rights.

10555 (5) An operating agreement may grant to all or certain identified members or managers
10556 or a specified class or group of the members or managers associated with a series the right to
10557 vote on any matter separately or with all or any class or group of the members or managers
10558 associated with the series. Voting by members or managers associated with a series may be on
10559 any basis including:

10560 (a) a per capita basis;

10561 (b) a number basis;

10562 (c) on the basis of a financial interest; or

10563 (d) by class or group.

10564 Section 403. Section **48-3a-1205** is enacted to read:

10565 **48-3a-1205. Management of a series.**

10566 (1) A series is member-managed unless the operating agreement:

10567 (a) expressly provides that:

- 10568 (i) the series is or will be "manager-managed";
10569 (ii) the series is or will be "managed by managers"; or
10570 (iii) management of the series is or will be "vested in managers"; or
10571 (b) includes words of similar import.
- 10572 (2) In a member-managed series, unless modified pursuant to Section 48-3a-1204, the
10573 following rules apply:
- 10574 (a) The management and conduct of the series are vested in the members of the series.
10575 (b) Each series member has equal rights in the management and conduct of the series'
10576 activities.
- 10577 (c) A difference arising among series members as to a matter in the ordinary course of
10578 the activities of the series shall be decided by a majority of the series members.
- 10579 (d) An act outside the ordinary course of the activities of the series may be undertaken
10580 only with the consent of all members of the series.
- 10581 (e) The operating agreement may be amended only with the consent of all members of
10582 the series.
- 10583 (3) In a manager-managed series, the following rules apply:
- 10584 (a) Except as otherwise expressly provided in this chapter, any matter relating to the
10585 activities of the series is decided exclusively by the managers of the series.
- 10586 (b) Each series manager has equal rights in the management and conduct of the
10587 activities of the series.
- 10588 (c) A difference arising among managers of a series as to a matter in the ordinary
10589 course of the activities of the series shall be decided by a majority of the managers of the series.
- 10590 (d) Unless modified pursuant to Section 48-3a-1204, the consent of all members of the
10591 series is required to:
- 10592 (i) sell, lease, exchange, or otherwise dispose of all, or substantially all, of the series'
10593 property, with or without the goodwill, outside the ordinary course of the series' activities;
10594 (ii) approve a transaction under Part 10, Merger, Interest Exchange, Conversion, and
10595 Domestication;
- 10596 (iii) undertake any other act outside the ordinary course of the series' activities; and
10597 (iv) amend the operating agreement as it pertains to the series.
- 10598 (e) A manager of the series may be chosen at any time by the consent of a majority of

10599 the members of the series and remains a manager of the series until a successor has been
10600 chosen, unless the series manager at an earlier time resigns, is removed, or dies, or, in the case
10601 of a series manager that is not an individual, terminates. A series manager may be removed at
10602 any time by the consent of a majority of the members without notice or cause.

10603 (f) A person need not be a series member to be a manager of a series, but the
10604 dissociation of a series member that is also a series manager removes the person as a manager
10605 of the series. If a person that is both a series manager and a series member ceases to be a
10606 manager of the series, that cessation does not by itself dissociate the person as a member of the
10607 series.

10608 (g) A person's ceasing to be a series manager does not discharge any debt, obligation,
10609 or other liability to the series or members of the series which the person incurred while a
10610 manager of the series.

10611 (4) An action requiring the consent of members of a series under this chapter may be
10612 taken without a meeting, and a member of a series may appoint a proxy or other agent to
10613 consent or otherwise act for the series member by signing an appointing record, personally or
10614 by the series member's agent.

10615 (5) The dissolution of a series does not affect the applicability of this section.
10616 However, a person that wrongfully causes dissolution of the series loses the right to participate
10617 in management as a series member and a series manager.

10618 (6) This chapter does not entitle a series member of a series to remuneration for
10619 services performed for a member-managed series, except for reasonable compensation for
10620 services rendered in winding up the activities of the series.

10621 Section 404. Section **48-3a-1206** is enacted to read:

10622 **48-3a-1206. Series distributions.**

10623 (1) Any distribution made by a series before its dissolution and winding up must be in
10624 equal shares among the series members and dissociated series members, except to the extent
10625 necessary to comply with any transfer effective under Section 48-3a-502 and any charging
10626 order in effect under Section 48-3a-503.

10627 (2) A person has a right to a distribution before the dissolution and winding up of a
10628 series only if the series decides to make an interim distribution. A person's dissociation with
10629 respect to a series does not entitle the person to a distribution.

10630 (3) A person does not have a right to demand or receive a distribution from a series in
10631 any form other than money. Except as otherwise provided in Subsection 48-3a-711(3), a series
10632 may distribute an asset in kind if each part of the asset is fungible with each other part and each
10633 person receives a percentage of the asset equal in value to the person's share of distributions.

10634 (4) If a series member or transferee becomes entitled to receive a distribution, the series
10635 member or transferee has the status of, and is entitled to all remedies available to, a creditor of
10636 the series with respect to the distribution. However, the series' obligation to make a
10637 distribution is subject to offset for any amounts owed to the series by the member or a person
10638 dissociated as a member on whose account the distribution is made.

10639 (5) A series may not make a distribution if after the distribution:

10640 (a) the series would not be able to pay its debts as they become due in the ordinary
10641 course of the series' activities; or

10642 (b) the series' total assets would be less than the sum of its total liabilities plus the
10643 amount that would be needed, if the series were to be dissolved, wound up, and terminated at
10644 the time of the distribution, to satisfy the preferential rights upon dissolution, winding up, and
10645 termination of members whose preferential rights are superior to those of persons receiving the
10646 distribution.

10647 (6) A series may base a determination that a distribution is not prohibited under
10648 Subsection (5) on financial statements prepared on the basis of accounting practices and
10649 principles that are reasonable in the circumstances or on a fair valuation or other method that is
10650 reasonable under the circumstances.

10651 (7) Except as otherwise provided in Subsection (9), the effect of a distribution under
10652 Subsection (5) is measured:

10653 (a) in the case of a distribution by purchase, redemption, or other acquisition of a
10654 transferable interest in the series, as of the date money or other property is transferred or debt
10655 incurred by the series; or

10656 (b) in all other cases, as of the date:

10657 (i) the distribution is authorized, if the payment occurs within 120 days after that date;

10658 or

10659 (ii) the payment is made, if the payment occurs more than 120 days after the
10660 distribution is authorized.

10661 (8) A series' indebtedness to a series member incurred by reason of a distribution made
10662 in accordance with this section is at parity with the series' indebtedness to its general,
10663 unsecured creditors.

10664 (9) A series' indebtedness, including indebtedness issued in connection with or as part
10665 of a distribution, is not a liability for purposes of Subsection (5) if the terms of the indebtedness
10666 provide that payment of principal and interest are made only to the extent that a distribution
10667 could be made to members of the series under this section. If such indebtedness is issued as a
10668 distribution, each payment of principal or interest on the indebtedness is treated as a
10669 distribution, the effect of which is measured on the date the payment is made.

10670 (10) Except as otherwise provided in Subsection (11), if a member of a
10671 member-managed series or manager of a manager-managed series consents to a distribution
10672 made in violation of this section and in consenting to the distribution fails to comply with
10673 Section 48-3a-409, the member or manager is personally liable to the series for the amount of
10674 the distribution that exceeds the amount that could have been distributed without the violation
10675 of this section.

10676 (11) To the extent the operating agreement of a member-managed series expressly
10677 relieves a series member of the authority and responsibility to consent to distributions and
10678 imposes that authority and responsibility on one or more other members of the series, the
10679 liability stated in Subsection (10) applies to the other members of the series and not the
10680 member of the series that the operating agreement relieves of authority and responsibility.

10681 (12) A person that receives a distribution from a series knowing that the distribution to
10682 that person was made in violation of this section is personally liable to the limited liability
10683 company but only to the extent that the distribution received by the person exceeded the
10684 amount that could have been properly paid under this section.

10685 (13) A person against which an action is commenced because the person is liable under
10686 Subsection (10) may:

10687 (a) implead any other person that is liable under Subsection (10) and seek to compel
10688 contribution from the person; and

10689 (b) implead any person that received a distribution in violation of Subsection (12) and
10690 seek to compel contribution from the person in the amount the person received in violation of
10691 Subsection (12).

10692 (14) An action under this section is barred if not commenced within two years after the
10693 distribution.

10694 Section 405. Section **48-3a-1207** is enacted to read:

10695 **48-3a-1207. Events causing dissociation from a series.**

10696 (1) Unless otherwise provided in the operating agreement, a member ceases to be
10697 associated with a series and to have the power to exercise a right or power of a member with
10698 respect to the series upon the assignment of all of the member's transferable interest in the
10699 limited liability company with respect to the series.

10700 (2) Unless otherwise provided in an operating agreement, an event under this chapter
10701 or the operating agreement that causes a member to cease to be associated with a series does
10702 not, by itself:

10703 (a) cause the member to cease to be associated with another series;

10704 (b) terminate the continued membership of a member in the limited liability company;

10705 or

10706 (c) cause the termination of the series, regardless of whether the member is the last
10707 remaining member associated with the series.

10708 Section 406. Section **48-3a-1208** is enacted to read:

10709 **48-3a-1208. Dissolution of a series.**

10710 (1) Except to the extent otherwise provided in the operating agreement, a series may be
10711 dissolved and its affairs wound up without causing the dissolution of the limited liability
10712 company.

10713 (2) The dissolution of a series does not affect the limitation on liabilities of the series
10714 under Section 48-3a-1201.

10715 (3) A series is dissolved and its affairs shall be wound up upon the dissolution of the
10716 limited liability company under Section 48-3a-701 or upon the occurrence of any of the events
10717 described in Section 48-3a-701, as applied to the series.

10718 (4) Notwithstanding Section 48-3a-703, unless otherwise provided in the operating
10719 agreement, any of the following persons may wind up the affairs of a dissolved series:

10720 (a) a manager associated with a series who has not wrongfully caused the dissolution of
10721 the series;

10722 (b) if there is no manager that satisfies the requirements of Subsection (4)(a), the

10723 members associated with the series who have not wrongfully caused the dissolution of the
10724 series or a person approved by the members associated with the series who have not wrongfully
10725 caused the dissolution of the series; or

10726 (c) if there is more than one class or group of members associated with the series, then
10727 by each class or group of members associated with the series, in either case, by members who
10728 have not wrongfully caused the dissolution of the series, and either:

10729 (i) own more than 50% of the transferable interests of the series owned by members
10730 associated with the series who have not wrongfully caused the dissolution of the series; or

10731 (ii) own more than 50% of the transferable interests of each class or group associated
10732 with the series owned by members associated with the series who have not wrongfully caused
10733 the dissolution of the series.

10734 (5) The persons winding up the affairs of a series, in the name of the series and for and
10735 on behalf of the series, may take all actions with respect to the series as are permitted under
10736 Section 48-3a-703 for a limited liability company. The persons winding up the affairs of a
10737 series shall provide for the claims and obligations of the series as provided in Section
10738 48-3a-711 for a limited liability company and distribute the assets of the series as provided in
10739 Section 48-3a-711 for a limited liability company. An action taken pursuant to this subsection
10740 may not affect the liability of a member and may not impose liability on a liquidating trustee.

10741 Section 407. Section **48-3a-1209** is enacted to read:

10742 **48-3a-1209. Foreign limited liability company -- Series.**

10743 A foreign limited liability company that is registered to do business in this state that is
10744 governed by an operating agreement that establishes or provides for the establishment of a
10745 series of transferable interests having separate rights, powers, or duties with respect to specified
10746 property or obligations of the foreign limited liability company, or profits and losses associated
10747 with the specified property or obligations, shall indicate that fact on the foreign registration
10748 statement filed by the division. In addition, the foreign limited liability company shall state on
10749 the foreign registration statement whether the debts, liabilities, and obligations incurred,
10750 contracted for, or otherwise existing with respect to a particular series, if any, are enforceable
10751 against the assets of such series only, and not against the assets of the foreign limited liability
10752 company generally or any other series. Notice in a foreign limited liability company's foreign
10753 registration statement of the limitation on liability of a series as referenced in this section shall

10754 have the same effect found in Section 48-3a-1202 as a notice of limitation on liability of a
10755 series set forth in a limited liability company's certificate of organization.

10756 Section 408. Section **48-3a-1301** is enacted to read:

10757 **Part 13. Low-Profit Limited Liability Companies**

10758 **48-3a-1301. Application of this part.**

10759 If a conflict arises between this part and another provision of this chapter, this part
10760 controls.

10761 Section 409. Section **48-3a-1302** is enacted to read:

10762 **48-3a-1302. Requirements.**

10763 (1) To be a low-profit limited liability company, a limited liability company shall:

10764 (a) contain in its name the abbreviation "L3C" or "l3c";

10765 (b) state in its certificate of organization that it is a low-profit limited liability
10766 company;

10767 (c) organize under this chapter; and

10768 (d) be organized for a business purpose that satisfies, and at all times operates to satisfy
10769 each of the requirements under Subsection (2).

10770 (2) A low-profit limited liability company:

10771 (a) shall significantly further the accomplishment of one or more charitable or
10772 educational purposes within the meaning of Section 170(c)(2)(B), Internal Revenue Code;

10773 (b) shall demonstrate that it would not be formed but for the limited liability company's
10774 relationship to the accomplishment of a charitable or educational purpose;

10775 (c) subject to Subsection (3), may not have as a significant purpose the production of
10776 income or the appreciation of property; and

10777 (d) may not have as a purpose to accomplish one or more political or legislative
10778 purposes within the meaning of Section 170(c)(2)(D), Internal Revenue Code.

10779 (3) Notwithstanding Subsection (2), if a low-profit limited liability company produces
10780 significant income or capital appreciation, in the absence of other factors, the fact that the
10781 low-profit limited liability company produces significant income or capital appreciation is not
10782 conclusive evidence of a significant purpose involving the production of income or the
10783 appreciation of property.

10784 Section 410. Section **48-3a-1303** is enacted to read:

10785 **48-3a-1303. Ceasing to be a low-profit limited liability company.**

10786 (1) If a limited liability company that is a low-profit limited liability company at its
10787 formation at any time ceases to meet a requirement to be a low-profit limited liability company
10788 under Section 48-3a-1302, the limited liability company:

10789 (a) ceases to be a low-profit limited liability company on the day on which the limited
10790 liability company no longer meets the requirement; and

10791 (b) if it continues to meet the requirements of this chapter to be a limited liability
10792 company, continues to exist as a limited liability company that is not a low-profit limited
10793 liability company.

10794 (2) A low-profit limited liability company's failure to meet a requirement of Section
10795 48-3a-1302 may be:

10796 (a) voluntary, in order to convert to a limited liability company that is not a low-profit
10797 limited liability company; or

10798 (b) involuntary.

10799 (3) If a low-profit limited liability company ceases to be a low-profit limited liability
10800 company in accordance with this section, the limited liability company shall:

10801 (a) change its name to conform with Section 48-3a-108; and

10802 (b) amend its certificate of organization in accordance with Section 48-3a-202.

10803 Section 411. Section **48-3a-1304** is enacted to read:

10804 **48-3a-1304. Merger, interest exchange, conversion, or domestication of a**
10805 **low-profit limited liability company.**

10806 A low-profit limited liability company may engage in a merger, interest exchange,
10807 conversion, or domestication under Part 10, Merger, Interest Exchange, Conversion, and
10808 Domestication, to the same extent as a limited liability company that is not a low-profit limited
10809 liability company.

10810 Section 412. Section **48-3a-1401** is enacted to read:

10811 **Part 14. Miscellaneous Provisions**

10812 **48-3a-1401. Uniformity of application and construction.**

10813 In applying and construing this chapter, consideration must be given to the need to
10814 promote uniformity of the law with respect to its subject matter among states that enact the
10815 uniform act upon which this chapter is based.

10816 Section 413. Section **48-3a-1402** is enacted to read:

10817 **48-3a-1402. Severability clause.**

10818 If any provision of this chapter or its application to any person or circumstance is held
10819 invalid, the invalidity does not affect other provisions or applications of this chapter which can
10820 be given effect without the invalid provision or application, and to this end the provisions of
10821 this chapter are severable.

10822 Section 414. Section **48-3a-1403** is enacted to read:

10823 **48-3a-1403. Relation to Electronic Signatures in Global and National Commerce**

10824 **Act.**

10825 This chapter modifies, limits, and supersedes the Electronic Signatures in Global and
10826 National Commerce Act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or supersede
10827 Section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of the
10828 notices described in Section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

10829 Section 415. Section **48-3a-1404** is enacted to read:

10830 **48-3a-1404. Savings clause.**

10831 This chapter does not affect an action commenced, proceeding brought, or right accrued
10832 before this chapter takes effect.

10833 Section 416. Section **48-3a-1405** is enacted to read:

10834 **48-3a-1405. Application to existing relationships.**

10835 (1) Before January 1, 2016, this chapter governs only:

10836 (a) a limited liability company formed on or after July 1, 2014; and

10837 (b) except as otherwise provided in Subsection (3), a limited liability company formed
10838 before July 1, 2014, which elects, in the manner provided in its operating agreement or by law
10839 for amending the operating agreement, to be subject to this chapter.

10840 (2) Except as otherwise provided in Subsection (3), on and after January 1, 2016, this
10841 chapter governs all limited liability companies.

10842 (3) For the purposes of applying this chapter to a limited liability company formed
10843 before July 1, 2014:

10844 (a) the limited liability company's articles of organization are deemed to be the limited
10845 liability company's certificate of organization;

10846 (b) for the purposes of applying Subsection 48-3a-102(15) and subject to Subsection

10847 48-3a-114(4), language in the limited liability company's articles of organization designating
10848 the limited liability company's management structure operates as if that language were in the
10849 operating agreement; and

10850 (c) the limited liability company has perpetual duration unless otherwise stated in the
10851 limited liability company's articles of organization.

10852 Section 417. Section **53C-1-201 (Effective 05/01/13) (Sup 07/01/13)** is amended to
10853 read:

10854 **53C-1-201 (Effective 05/01/13) (Sup 07/01/13). Creation of administration --**

10855 **Purpose -- Director.**

10856 (1) (a) There is established within state government the School and Institutional Trust
10857 Lands Administration.

10858 (b) The administration shall manage all school and institutional trust lands and assets
10859 within the state, except as otherwise provided in Title 53C, Chapter 3, Deposit and Allocation
10860 of Revenue from Trust Lands, and Sections 51-7a-201 and 51-7a-202.

10861 (2) The administration is an independent state agency and not a division of any other
10862 department.

10863 (3) (a) It is subject to the usual legislative and executive department controls except as
10864 provided in this Subsection (3).

10865 (b) (i) The director may make rules as approved by the board that allow the
10866 administration to classify a business proposal submitted to the administration as protected
10867 under Section 63G-2-305, for as long as is necessary to evaluate the proposal.

10868 (ii) The administration shall return the proposal to the party who submitted the
10869 proposal, and incur no further duties under Title 63G, Chapter 2, Government Records Access
10870 and Management Act, if the administration determines not to proceed with the proposal.

10871 (iii) The administration shall classify the proposal pursuant to law if it decides to
10872 proceed with the proposal.

10873 (iv) Section 63G-2-403 does not apply during the review period.

10874 (c) The director shall make rules in compliance with Title 63G, Chapter 3, Utah
10875 Administrative Rulemaking Act, except that the administration is not subject to Subsections
10876 63G-3-301(6) and (7) and Section 63G-3-601, and the director, with the board's approval, may
10877 establish a procedure for the expedited approval of rules, based on written findings by the

10878 director showing:

10879 (i) the changes in business opportunities affecting the assets of the trust;

10880 (ii) the specific business opportunity arising out of those changes which may be lost
10881 without the rule or changes to the rule;

10882 (iii) the reasons the normal procedures under Section 63G-3-301 cannot be met without
10883 causing the loss of the specific opportunity;

10884 (iv) approval by at least five board members; and

10885 (v) that the director has filed a copy of the rule and a rule analysis, stating the specific
10886 reasons and justifications for its findings, with the Division of Administrative Rules and
10887 notified interested parties as provided in Subsection 63G-3-301(10).

10888 (d) (i) The administration shall comply with Title 67, Chapter 19, Utah State Personnel
10889 Management Act, except as provided in this Subsection (3)(d).

10890 (ii) The board may approve, upon recommendation of the director, that exemption for
10891 specific positions under Subsections 67-19-12(2) and 67-19-15(1) is required in order to enable
10892 the administration to efficiently fulfill its responsibilities under the law. The director shall
10893 consult with the executive director of the Department of Human Resource Management prior
10894 to making such a recommendation.

10895 (iii) The positions of director, deputy director, associate director, assistant director,
10896 legal counsel appointed under Section 53C-1-305, administrative assistant, and public affairs
10897 officer are exempt under Subsections 67-19-12(2) and 67-19-15(1).

10898 (iv) Salaries for exempted positions, except for the director, shall be set by the director,
10899 after consultation with the executive director of the Department of Human Resource
10900 Management, within ranges approved by the board. The board and director shall consider
10901 salaries for similar positions in private enterprise and other public employment when setting
10902 salary ranges.

10903 (v) The board may create an annual incentive and bonus plan for the director and other
10904 administration employees designated by the board, based upon the attainment of financial
10905 performance goals and other measurable criteria defined and budgeted in advance by the board.

10906 (e) The administration shall comply with Title 63G, Chapter 6a, Utah Procurement
10907 Code, except where the board approves, upon recommendation of the director, exemption from
10908 the Utah Procurement Code, and simultaneous adoption of rules under Title 63G, Chapter 3,

10909 Utah Administrative Rulemaking Act, for procurement, which enable the administration to
 10910 efficiently fulfill its responsibilities under the law.

10911 (f) (i) Except as provided in Subsection (3)(f)(ii), the administration is not subject to
 10912 the fee agency requirements of Section 63J-1-504.

10913 (ii) The following fees of the administration are subject to the requirements of Section
 10914 63J-1-504: application, assignment, amendment, affidavit for lost documents, name change,
 10915 reinstatement, grazing nonuse, extension of time, partial conveyance, patent reissue, collateral
 10916 assignment, electronic payment, and processing.

10917 (4) The administration is managed by a director of school and institutional trust lands
 10918 appointed by a majority vote of the board of trustees with the consent of the governor.

10919 (5) (a) The board of trustees shall provide policies for the management of the
 10920 administration and for the management of trust lands and assets.

10921 (b) The board shall provide policies for the ownership and control of Native American
 10922 remains that are discovered or excavated on school and institutional trust lands in consultation
 10923 with the Division of Indian Affairs and giving due consideration to Title 9, Chapter 9, Part 4,
 10924 Native American Grave Protection and Repatriation Act. The director may make rules in
 10925 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement
 10926 policies provided by the board regarding Native American remains.

10927 (6) In connection with joint ventures and other transactions involving trust lands and
 10928 minerals approved under Sections 53C-1-303 and 53C-2-401, the administration, with board
 10929 approval, may become a member of a limited liability company under Title 48, Chapter 2c,
 10930 Utah Revised Limited Liability Company Act, or Title 48, Chapter [2c] 3a, Utah Revised
 10931 Limited Liability Company Act, as appropriate pursuant to Section 48-3a-1405 and is
 10932 considered a person under Section 48-2c-102 or Section 48-3a-102.

10933 Section 418. Section **61-2f-401 (Effective 07/01/13)** is amended to read:

10934 **61-2f-401 (Effective 07/01/13). Grounds for disciplinary action.**

10935 The following acts are unlawful for a person licensed or required to be licensed under
 10936 this chapter:

10937 (1) (a) making a substantial misrepresentation;

10938 (b) making an intentional misrepresentation;

10939 (c) pursuing a continued and flagrant course of misrepresentation;

10940 (d) making a false representation or promise through an agent, sales agent, advertising,
10941 or otherwise; or

10942 (e) making a false representation or promise of a character likely to influence,
10943 persuade, or induce;

10944 (2) acting for more than one party in a transaction without the informed consent of the
10945 parties;

10946 (3) (a) acting as an associate broker or sales agent while not affiliated with a principal
10947 broker;

10948 (b) representing or attempting to represent a principal broker other than the principal
10949 broker with whom the person is affiliated; or

10950 (c) representing as sales agent or having a contractual relationship similar to that of
10951 sales agent with a person other than a principal broker;

10952 (4) (a) failing, within a reasonable time, to account for or to remit money that belongs
10953 to another and comes into the person's possession;

10954 (b) commingling money described in Subsection (4)(a) with the person's own money;
10955 or

10956 (c) diverting money described in Subsection (4)(a) from the purpose for which the
10957 money is received;

10958 (5) paying or offering to pay valuable consideration, as defined by the commission, to a
10959 person not licensed under this chapter, except that valuable consideration may be shared:

10960 (a) with a principal broker of another jurisdiction; or

10961 (b) as provided under:

10962 (i) Title 16, Chapter 10a, Utah Revised Business Corporation Act;

10963 (ii) Title 16, Chapter 11, Professional Corporation Act; or

10964 (iii) Title 48, Chapter 2c, Utah Revised Limited Liability Company Act, or Title 48,

10965 Chapter [3] 3a, Utah Revised Uniform Limited Liability Company Act, as appropriate pursuant
10966 to Section 48-3a-1405;

10967 (6) being incompetent to act as a principal broker, associate broker, or sales agent in
10968 such manner as to safeguard the interests of the public;

10969 (7) failing to voluntarily furnish a copy of a document to the parties before and after the
10970 execution of a document;

- 10971 (8) failing to keep and make available for inspection by the division a record of each
10972 transaction, including:
- 10973 (a) the names of buyers and sellers or lessees and lessors;
 - 10974 (b) the identification of real estate;
 - 10975 (c) the sale or rental price;
 - 10976 (d) money received in trust;
 - 10977 (e) agreements or instructions from buyers and sellers or lessees and lessors; and
 - 10978 (f) any other information required by rule;
- 10979 (9) failing to disclose, in writing, in the purchase, sale, or rental of real estate, whether
10980 the purchase, sale, or rental is made for that person or for an undisclosed principal;
- 10981 (10) being convicted of a criminal offense involving moral turpitude within five years
10982 of the most recent application:
- 10983 (a) regardless of whether the criminal offense is related to real estate; and
 - 10984 (b) including:
 - 10985 (i) a conviction based upon a plea of nolo contendere; or
 - 10986 (ii) a plea held in abeyance to a criminal offense involving moral turpitude;
 - 10987 (11) advertising the availability of real estate or the services of a licensee in a false,
10988 misleading, or deceptive manner;
 - 10989 (12) in the case of a principal broker or a licensee who is a branch manager, failing to
10990 exercise reasonable supervision over the activities of the principal broker's or branch manager's
10991 licensed or unlicensed staff;
 - 10992 (13) violating or disregarding:
 - 10993 (a) this chapter;
 - 10994 (b) an order of the commission; or
 - 10995 (c) the rules adopted by the commission and the division;
 - 10996 (14) breaching a fiduciary duty owed by a licensee to the licensee's principal in a real
10997 estate transaction;
 - 10998 (15) any other conduct which constitutes dishonest dealing;
 - 10999 (16) unprofessional conduct as defined by statute or rule;
 - 11000 (17) having one of the following suspended, revoked, surrendered, or cancelled on the
11001 basis of misconduct in a professional capacity that relates to character, honesty, integrity, or

- 11002 truthfulness:
- 11003 (a) a real estate license, registration, or certificate issued by another jurisdiction; or
- 11004 (b) another license, registration, or certificate to engage in an occupation or profession
- 11005 issued by this state or another jurisdiction;
- 11006 (18) failing to respond to a request by the division in an investigation authorized under
- 11007 this chapter, including:
- 11008 (a) failing to respond to a subpoena;
- 11009 (b) withholding evidence; or
- 11010 (c) failing to produce documents or records;
- 11011 (19) in the case of a dual licensed title licensee as defined in Section 31A-2-402:
- 11012 (a) providing a title insurance product or service without the approval required by
- 11013 Section 31A-2-405; or
- 11014 (b) knowingly providing false or misleading information in the statement required by
- 11015 Subsection 31A-2-405(2);
- 11016 (20) violating an independent contractor agreement between a principal broker and a
- 11017 sales agent or associate broker as evidenced by a final judgment of a court; or
- 11018 (21) (a) engaging in an act of loan modification assistance that requires licensure as a
- 11019 mortgage officer under Chapter 2c, Utah Residential Mortgage Practices and Licensing Act,
- 11020 without being licensed under that chapter;
- 11021 (b) engaging in an act of foreclosure rescue without entering into a written agreement
- 11022 specifying what one or more acts of foreclosure rescue will be completed;
- 11023 (c) inducing a person who is at risk of foreclosure to hire the licensee to engage in an
- 11024 act of foreclosure rescue by:
- 11025 (i) suggesting to the person that the licensee has a special relationship with the person's
- 11026 lender or loan servicer; or
- 11027 (ii) falsely representing or advertising that the licensee is acting on behalf of:
- 11028 (A) a government agency;
- 11029 (B) the person's lender or loan servicer; or
- 11030 (C) a nonprofit or charitable institution; or
- 11031 (d) recommending or participating in a foreclosure rescue that requires a person to:
- 11032 (i) transfer title to real estate to the licensee or to a third-party with whom the licensee

11033 has a business relationship or financial interest;

11034 (ii) make a mortgage payment to a person other than the person's loan servicer; or

11035 (iii) refrain from contacting the person's:

11036 (A) lender;

11037 (B) loan servicer;

11038 (C) attorney;

11039 (D) credit counselor; or

11040 (E) housing counselor.

11041 Section 419. Section **61-2g-103 (Effective 07/01/13)** is amended to read:

11042 **61-2g-103 (Effective 07/01/13). Other law unaffected.**

11043 This chapter may not be considered to prohibit a person licensed, certified, or registered

11044 under this chapter from engaging in the practice of real estate appraising as a professional

11045 corporation or a limited liability company in accordance with:

11046 (1) Title 16, Chapter 11, Professional Corporation Act; or

11047 (2) Title 48, Chapter 2c, Utah Revised Limited Liability Company Act, or Title 48,

11048 Chapter [3] 3a, Utah Revised Uniform Limited Liability Company Act, as appropriate pursuant

11049 to Section 48-3a-1405.

11050 Section 420. Section **63I-2-248** is enacted to read:

11051 **63I-2-248. Repeal dates -- Title 48.**

11052 (1) Title 48, Chapter 1, General and Limited Liability Partnerships, is repealed January

11053 1, 2016.

11054 (2) Title 48, Chapter 2a, Utah Revised Uniform Limited Partnership Act, is repealed

11055 January 1, 2016.

11056 (3) Title 48, Chapter 2c, Utah Revised Limited Liability Company Act, is repealed

11057 January 1, 2016.

11058 Section 421. Section **75-7-1011 (Effective 07/01/13)** is amended to read:

11059 **75-7-1011 (Effective 07/01/13). Interest as general partner.**

11060 (1) Except as otherwise provided in Subsection (3) or unless personal liability is

11061 imposed in the contract, a trustee who holds an interest as a general partner in a general or

11062 limited partnership is not personally liable on a contract entered into by the partnership after

11063 the trust's acquisition of the interest if the fiduciary capacity was disclosed in the contract or in

11064 a statement previously filed pursuant to Title 48, Chapter 2a, Utah Revised Uniform Limited
 11065 Partnership Act, or Title 48, Chapter [2d] 2e, Utah Uniform Limited Partnership Act, as
 11066 appropriate pursuant to Section 48-3a-1405.

11067 (2) Except as otherwise provided in Subsection (3), a trustee who holds an interest as a
 11068 general partner is not personally liable for torts committed by the partnership or for obligations
 11069 arising from ownership or control of the interest unless the trustee is personally at fault.

11070 (3) The immunity provided by this section does not apply if an interest in the
 11071 partnership is held by the trustee in a capacity other than that of trustee or is held by the
 11072 trustee's spouse or one or more of the trustee's descendants, siblings, or parents, or the spouse
 11073 of any of them.

11074 (4) If the trustee of a revocable trust holds an interest as a general partner, the settlor is
 11075 personally liable for contracts and other obligations of the partnership as if the settlor were a
 11076 general partner.

11077 Section 422. **Repealer.**

11078 This bill repeals:

11079 **Laws of Utah 2011, Chapter 353, Uncodified Section 310, Repealer, which**
 11080 **repealed Title 48, Chapters 1, 2a, and 2c; and the effect of which is to reinstate sections in**
 11081 **Title 48, Chapters 1, 2a, and 2c, which will continue to be in effect.**

11082 Section 423. **Repealer.**

11083 This bill repeals:

11084 Section **48-1a-101 (Effective 07/01/13), Title.**

11085 Section **48-1a-102 (Effective 07/01/13), Definitions.**

11086 Section **48-1b-101 (Effective 07/01/13), Title -- Definitions.**

11087 Section **48-1b-102 (Effective 07/01/13), Knowledge and notice.**

11088 Section **48-1b-103 (Effective 07/01/13), Effect of partnership agreement --**

11089 **Nonwaivable provisions.**

11090 Section **48-1b-104 (Effective 07/01/13), Supplemental principles of law.**

11091 Section **48-1b-105 (Effective 07/01/13), Execution, filing, and recording of**
 11092 **statements.**

11093 Section **48-1b-106 (Effective 07/01/13), Governing law.**

11094 Section **48-1b-107 (Effective 07/01/13), Partnership subject to amendment or**

- 11095 **repeal of chapter.**
- 11096 Section 48-1b-201 (Effective 07/01/13), Partnership as entity.
- 11097 Section 48-1b-202 (Effective 07/01/13), Formation of partnership.
- 11098 Section 48-1b-203 (Effective 07/01/13), Partnership property.
- 11099 Section 48-1b-204 (Effective 07/01/13), When property is partnership property.
- 11100 Section 48-1b-301 (Effective 07/01/13), Partner agent of partnership.
- 11101 Section 48-1b-302 (Effective 07/01/13), Transfer of partnership property.
- 11102 Section 48-1b-303 (Effective 07/01/13), Statement of partnership authority.
- 11103 Section 48-1b-304 (Effective 07/01/13), Statement of denial.
- 11104 Section 48-1b-305 (Effective 07/01/13), Partnership liable for partner's actionable
- 11105 **conduct.**
- 11106 Section 48-1b-306 (Effective 07/01/13), Partner's liability.
- 11107 Section 48-1b-307 (Effective 07/01/13), Actions by and against partnership and
- 11108 **partners.**
- 11109 Section 48-1b-308 (Effective 07/01/13), Liability of purported partner.
- 11110 Section 48-1b-401 (Effective 07/01/13), Partner's rights and duties.
- 11111 Section 48-1b-402 (Effective 07/01/13), Distributions in kind.
- 11112 Section 48-1b-403 (Effective 07/01/13), Partner's rights and duties with respect to
- 11113 **information.**
- 11114 Section 48-1b-404 (Effective 07/01/13), General standards of partner's conduct.
- 11115 Section 48-1b-405 (Effective 07/01/13), Actions by partnership and partners.
- 11116 Section 48-1b-406 (Effective 07/01/13), Continuation of partnership beyond
- 11117 **definite term or particular undertaking.**
- 11118 Section 48-1b-501 (Effective 07/01/13), Partner not co-owner of partnership
- 11119 **property.**
- 11120 Section 48-1b-502 (Effective 07/01/13), Partner's transferable interest in
- 11121 **partnership.**
- 11122 Section 48-1b-503 (Effective 07/01/13), Transfer of partner's transferable interest.
- 11123 Section 48-1b-504 (Effective 07/01/13), Partner's transferable interest subject to
- 11124 **charging order.**
- 11125 Section 48-1b-601 (Effective 07/01/13), Events causing partner's dissociation.

- 11126 Section **48-1b-602 (Effective 07/01/13), Partner's power to dissociate -- Wrongful**
11127 **dissociation.**
- 11128 Section **48-1b-603 (Effective 07/01/13), Effect of partner's dissociation.**
- 11129 Section **48-1b-701 (Effective 07/01/13), Purchase of dissociated partner's interest.**
- 11130 Section **48-1b-702 (Effective 07/01/13), Dissociated partner's power to bind and**
11131 **liability to partnership.**
- 11132 Section **48-1b-703 (Effective 07/01/13), Dissociated partner's liability to other**
11133 **persons.**
- 11134 Section **48-1b-704 (Effective 07/01/13), Statement of dissociation.**
- 11135 Section **48-1b-705 (Effective 07/01/13), Continued use of partnership name.**
- 11136 Section **48-1b-801 (Effective 07/01/13), Events causing dissolution and winding up**
11137 **of partnership business.**
- 11138 Section **48-1b-802 (Effective 07/01/13), Partnership continues after dissolution.**
- 11139 Section **48-1b-803 (Effective 07/01/13), Right to wind up partnership business.**
- 11140 Section **48-1b-804 (Effective 07/01/13), Partner's power to bind partnership after**
11141 **dissolution.**
- 11142 Section **48-1b-805 (Effective 07/01/13), Statement of dissolution.**
- 11143 Section **48-1b-806 (Effective 07/01/13), Partner's liability to other partners after**
11144 **dissolution.**
- 11145 Section **48-1b-807 (Effective 07/01/13), Settlement of accounts and contributions**
11146 **among partners.**
- 11147 Section **48-1b-901 (Effective 07/01/13), Definitions.**
- 11148 Section **48-1b-902 (Effective 07/01/13), Merger.**
- 11149 Section **48-1b-903 (Effective 07/01/13), Action on plan of merger by constituent**
11150 **partnership.**
- 11151 Section **48-1b-904 (Effective 07/01/13), Filings required and permitted for merger**
11152 **-- Effective date.**
- 11153 Section **48-1b-905 (Effective 07/01/13), Effect of merger.**
- 11154 Section **48-1b-906 (Effective 07/01/13), Conversion.**
- 11155 Section **48-1b-907 (Effective 07/01/13), Action on plan of conversion by converting**
11156 **partnership.**

- 11157 Section **48-1b-908 (Effective 07/01/13), Filings required for conversion -- Effective**
11158 **date.**
- 11159 Section **48-1b-909 (Effective 07/01/13), Effect of conversion.**
- 11160 Section **48-1b-910 (Effective 07/01/13), Domestication.**
- 11161 Section **48-1b-911 (Effective 07/01/13), Action on plan of domestication by**
11162 **domesticating partnership.**
- 11163 Section **48-1b-912 (Effective 07/01/13), Filings required for domestication --**
11164 **Effective date.**
- 11165 Section **48-1b-913 (Effective 07/01/13), Effect of domestication.**
- 11166 Section **48-1b-914 (Effective 07/01/13), Restrictions on approval of mergers,**
11167 **conversions, and domestications.**
- 11168 Section **48-1b-915 (Effective 07/01/13), Part not exclusive.**
- 11169 Section **48-1b-1001 (Effective 07/01/13), Statement of qualification.**
- 11170 Section **48-1b-1002 (Effective 07/01/13), Name.**
- 11171 Section **48-1b-1003 (Effective 07/01/13), Annual report.**
- 11172 Section **48-1b-1004 (Effective 07/01/13), Limited liability partnership providing**
11173 **professional services.**
- 11174 Section **48-1b-1101 (Effective 07/01/13), Law governing foreign limited liability**
11175 **partnership.**
- 11176 Section **48-1b-1102 (Effective 07/01/13), Statement of foreign qualification.**
- 11177 Section **48-1b-1102.1 (Effective 07/01/13), Noncomplying name of foreign limited**
11178 **liability partnership.**
- 11179 Section **48-1b-1103 (Effective 07/01/13), Effect of failure to qualify.**
- 11180 Section **48-1b-1104 (Effective 07/01/13), Activities not constituting transacting**
11181 **business.**
- 11182 Section **48-1b-1105 (Effective 07/01/13), Action by attorney general.**
- 11183 Section **48-1b-1201 (Effective 07/01/13), Uniformity of application and**
11184 **construction.**
- 11185 Section **48-1b-1202 (Effective 07/01/13), Relation to electronic signatures in global**
11186 **and national commerce act.**
- 11187 Section **48-1b-1203 (Effective 07/01/13), Severability clause.**

- 11188 Section **48-1b-1204 (Effective 07/01/13), Savings clause.**
- 11189 Section **48-1b-1205 (Effective 07/01/13), Applicability.**
- 11190 Section **48-2d-101 (Effective 07/01/13), Title.**
- 11191 Section **48-2d-102 (Effective 07/01/13), Definitions.**
- 11192 Section **48-2d-103 (Effective 07/01/13), Knowledge and notice.**
- 11193 Section **48-2d-104 (Effective 07/01/13), Nature, purpose, and duration of entity.**
- 11194 Section **48-2d-105 (Effective 07/01/13), Powers.**
- 11195 Section **48-2d-106 (Effective 07/01/13), Governing law.**
- 11196 Section **48-2d-107 (Effective 07/01/13), Supplemental principles of law -- Rate of**
- 11197 **interest.**
- 11198 Section **48-2d-108 (Effective 07/01/13), Name.**
- 11199 Section **48-2d-109 (Effective 07/01/13), Reservation of name.**
- 11200 Section **48-2d-110 (Effective 07/01/13), Effect of partnership agreement --**
- 11201 **Nonwaivable provisions.**
- 11202 Section **48-2d-111 (Effective 07/01/13), Required information.**
- 11203 Section **48-2d-112 (Effective 07/01/13), Business transactions of partner with**
- 11204 **partnership.**
- 11205 Section **48-2d-113 (Effective 07/01/13), Dual capacity.**
- 11206 Section **48-2d-114 (Effective 07/01/13), Consent and proxies of partners.**
- 11207 Section **48-2d-201 (Effective 07/01/13), Formation of limited partnership --**
- 11208 **Certificate of limited partnership.**
- 11209 Section **48-2d-202 (Effective 07/01/13), Amendment or restatement of certificate.**
- 11210 Section **48-2d-203 (Effective 07/01/13), Statement of termination.**
- 11211 Section **48-2d-204 (Effective 07/01/13), Signing of records.**
- 11212 Section **48-2d-205 (Effective 07/01/13), Signing and filing pursuant to judicial**
- 11213 **order.**
- 11214 Section **48-2d-206 (Effective 07/01/13), Delivery to and filing of records by division**
- 11215 **-- Effective time and date.**
- 11216 Section **48-2d-207 (Effective 07/01/13), Correcting filed record.**
- 11217 Section **48-2d-208 (Effective 07/01/13), Liability for false information in filed**
- 11218 **record.**

- 11219 Section **48-2d-209** (Effective 07/01/13), **Certificate of existence or authorization.**
- 11220 Section **48-2d-210** (Effective 07/01/13), **Annual report for division.**
- 11221 Section **48-2d-301** (Effective 07/01/13), **Becoming limited partner.**
- 11222 Section **48-2d-302** (Effective 07/01/13), **No right or power as limited partner to**
- 11223 **bind limited partnership.**
- 11224 Section **48-2d-303** (Effective 07/01/13), **No liability as limited partner for limited**
- 11225 **partnership obligations.**
- 11226 Section **48-2d-304** (Effective 07/01/13), **Right of limited partner and former limited**
- 11227 **partner to information.**
- 11228 Section **48-2d-305** (Effective 07/01/13), **Limited duties of limited partners.**
- 11229 Section **48-2d-306** (Effective 07/01/13), **Person erroneously believing self to be**
- 11230 **limited partner.**
- 11231 Section **48-2d-401** (Effective 07/01/13), **Becoming general partner.**
- 11232 Section **48-2d-402** (Effective 07/01/13), **General partner agent of limited**
- 11233 **partnership.**
- 11234 Section **48-2d-403** (Effective 07/01/13), **Limited partnership liable for general**
- 11235 **partner's actionable conduct.**
- 11236 Section **48-2d-404** (Effective 07/01/13), **General partner's liability.**
- 11237 Section **48-2d-405** (Effective 07/01/13), **Actions by and against partnership and**
- 11238 **partners.**
- 11239 Section **48-2d-406** (Effective 07/01/13), **Management rights of general partner.**
- 11240 Section **48-2d-407** (Effective 07/01/13), **Right of general partner and former**
- 11241 **general partner to information.**
- 11242 Section **48-2d-408** (Effective 07/01/13), **General standards of general partner's**
- 11243 **conduct.**
- 11244 Section **48-2d-501** (Effective 07/01/13), **Form of contribution.**
- 11245 Section **48-2d-502** (Effective 07/01/13), **Liability for contribution.**
- 11246 Section **48-2d-503** (Effective 07/01/13), **Sharing of distributions.**
- 11247 Section **48-2d-504** (Effective 07/01/13), **Interim distributions.**
- 11248 Section **48-2d-505** (Effective 07/01/13), **No distribution on account of dissociation.**
- 11249 Section **48-2d-506** (Effective 07/01/13), **Distribution in kind.**

- 11250 Section **48-2d-507 (Effective 07/01/13), Right to distribution.**
- 11251 Section **48-2d-508 (Effective 07/01/13), Limitations on distribution.**
- 11252 Section **48-2d-509 (Effective 07/01/13), Liability for improper distributions.**
- 11253 Section **48-2d-601 (Effective 07/01/13), Dissociation as limited partner.**
- 11254 Section **48-2d-602 (Effective 07/01/13), Effect of dissociation as limited partner.**
- 11255 Section **48-2d-603 (Effective 07/01/13), Dissociation as general partner.**
- 11256 Section **48-2d-604 (Effective 07/01/13), Person's power to dissociate as general**
- 11257 **partner -- Wrongful dissociation.**
- 11258 Section **48-2d-605 (Effective 07/01/13), Effect of dissociation as general partner.**
- 11259 Section **48-2d-606 (Effective 07/01/13), Power to bind and liability to limited**
- 11260 **partnership before dissolution of partnership of person dissociated as general partner.**
- 11261 Section **48-2d-607 (Effective 07/01/13), Liability to other persons of person**
- 11262 **dissociated as general partner.**
- 11263 Section **48-2d-701 (Effective 07/01/13), Partner's transferable interest.**
- 11264 Section **48-2d-702 (Effective 07/01/13), Transfer of partner's transferable interest.**
- 11265 Section **48-2d-703 (Effective 07/01/13), Rights of creditor of partner or transferee.**
- 11266 Section **48-2d-704 (Effective 07/01/13), Power of estate of deceased partner.**
- 11267 Section **48-2d-801 (Effective 07/01/13), Nonjudicial dissolution.**
- 11268 Section **48-2d-802 (Effective 07/01/13), Judicial dissolution.**
- 11269 Section **48-2d-803 (Effective 07/01/13), Winding up.**
- 11270 Section **48-2d-804 (Effective 07/01/13), Power of general partner and person**
- 11271 **dissociated as general partner to bind partnership after dissolution.**
- 11272 Section **48-2d-805 (Effective 07/01/13), Liability after dissolution of general**
- 11273 **partner and person dissociated as general partner to limited partnership, other general**
- 11274 **partners, and persons dissociated as general partner.**
- 11275 Section **48-2d-806 (Effective 07/01/13), Known claims against dissolved limited**
- 11276 **partnership.**
- 11277 Section **48-2d-807 (Effective 07/01/13), Other claims against dissolved limited**
- 11278 **partnership.**
- 11279 Section **48-2d-808 (Effective 07/01/13), Liability of general partner and person**
- 11280 **dissociated as general partner when claim against limited partnership barred.**

- 11281 Section 48-2d-809 (Effective 07/01/13), Administrative dissolution.
- 11282 Section 48-2d-810 (Effective 07/01/13), Reinstatement following administrative
11283 dissolution.
- 11284 Section 48-2d-811 (Effective 07/01/13), Appeal from denial of reinstatement.
- 11285 Section 48-2d-812 (Effective 07/01/13), Disposition of assets -- When contributions
11286 required.
- 11287 Section 48-2d-901 (Effective 07/01/13), Governing law.
- 11288 Section 48-2d-902 (Effective 07/01/13), Application for certificate of authority.
- 11289 Section 48-2d-903 (Effective 07/01/13), Activities not constituting transacting
11290 business.
- 11291 Section 48-2d-904 (Effective 07/01/13), Filing of certificate of authority.
- 11292 Section 48-2d-905 (Effective 07/01/13), Noncomplying name of foreign limited
11293 partnership.
- 11294 Section 48-2d-906 (Effective 07/01/13), Revocation of certificate of authority.
- 11295 Section 48-2d-907 (Effective 07/01/13), Cancellation of certificate of authority --
11296 Effect of failure to have certificate.
- 11297 Section 48-2d-908 (Effective 07/01/13), Action by attorney general.
- 11298 Section 48-2d-1001 (Effective 07/01/13), Direct action by partner.
- 11299 Section 48-2d-1002 (Effective 07/01/13), Derivative action.
- 11300 Section 48-2d-1003 (Effective 07/01/13), Proper plaintiff.
- 11301 Section 48-2d-1004 (Effective 07/01/13), Pleading.
- 11302 Section 48-2d-1005 (Effective 07/01/13), Proceeds and expenses.
- 11303 Section 48-2d-1101 (Effective 07/01/13), Definitions.
- 11304 Section 48-2d-1102 (Effective 07/01/13), Merger.
- 11305 Section 48-2d-1103 (Effective 07/01/13), Action on plan of merger by constituent
11306 partnership.
- 11307 Section 48-2d-1104 (Effective 07/01/13), Filings required and permitted for merger
11308 -- Effective date.
- 11309 Section 48-2d-1105 (Effective 07/01/13), Effect of merger.
- 11310 Section 48-2d-1106 (Effective 07/01/13), Conversion.
- 11311 Section 48-2d-1107 (Effective 07/01/13), Action on plan of conversion by

- 11312 **converting partnership.**
- 11313 Section 48-2d-1108 (Effective 07/01/13), Filings required for conversion -- Effective
- 11314 **date.**
- 11315 Section 48-2d-1109 (Effective 07/01/13), Effect of conversion.
- 11316 Section 48-2d-1110 (Effective 07/01/13), Domestication.
- 11317 Section 48-2d-1111 (Effective 07/01/13), Action on plan of domestication by
- 11318 **domesticating partnership.**
- 11319 Section 48-2d-1112 (Effective 07/01/13), Filings required for domestication --
- 11320 **Effective date.**
- 11321 Section 48-2d-1113 (Effective 07/01/13), Effect of domestication.
- 11322 Section 48-2d-1114 (Effective 07/01/13), Restrictions on approval of mergers,
- 11323 **conversions, and domestications -- Relinquishing limited liability partnership status.**
- 11324 Section 48-2d-1115 (Effective 07/01/13), Liability of general partner after
- 11325 **conversion or merger.**
- 11326 Section 48-2d-1116 (Effective 07/01/13), Power of general partners and persons
- 11327 **dissociated as general partners to bind organization after conversion or merger.**
- 11328 Section 48-2d-1117 (Effective 07/01/13), Part not exclusive.
- 11329 Section 48-2d-1201 (Effective 07/01/13), Uniformity of application and
- 11330 **construction.**
- 11331 Section 48-2d-1202 (Effective 07/01/13), Relation to electronic signatures in global
- 11332 **and national commerce act.**
- 11333 Section 48-2d-1203 (Effective 07/01/13), Severability clause.
- 11334 Section 48-2d-1204 (Effective 07/01/13), Savings clause.
- 11335 Section 48-2d-1205 (Effective 07/01/13), Application to existing relationships.
- 11336 Section 48-3-101 (Effective 07/01/13), Title.
- 11337 Section 48-3-102 (Effective 07/01/13), Definitions.
- 11338 Section 48-3-103 (Effective 07/01/13), Knowledge -- Notice.
- 11339 Section 48-3-104 (Effective 07/01/13), Nature, purpose, and duration of limited
- 11340 **liability company.**
- 11341 Section 48-3-105 (Effective 07/01/13), Powers.
- 11342 Section 48-3-106 (Effective 07/01/13), Governing law.

- 11343 Section **48-3-107 (Effective 07/01/13), Supplemental principles of law.**
- 11344 Section **48-3-108 (Effective 07/01/13), Name.**
- 11345 Section **48-3-109 (Effective 07/01/13), Reservation of name.**
- 11346 Section **48-3-110 (Effective 07/01/13), Operating agreement -- Scope, function, and**
- 11347 **limitations.**
- 11348 Section **48-3-111 (Effective 07/01/13), Operating agreement -- Effect on limited**
- 11349 **liability company and persons becoming members -- Preformation agreement.**
- 11350 Section **48-3-112 (Effective 07/01/13), Operating agreement -- Effect on third**
- 11351 **parties and relationship to records effective on behalf of limited liability company.**
- 11352 Section **48-3-201 (Effective 07/01/13), Formation of limited liability company --**
- 11353 **Certificate of organization.**
- 11354 Section **48-3-202 (Effective 07/01/13), Amendment or restatement of certificate of**
- 11355 **organization.**
- 11356 Section **48-3-203 (Effective 07/01/13), Signing of records to be delivered for filing**
- 11357 **to division.**
- 11358 Section **48-3-204 (Effective 07/01/13), Signing and filing pursuant to judicial order.**
- 11359 Section **48-3-205 (Effective 07/01/13), Delivery to and filing of records by division**
- 11360 **-- Effective time and date.**
- 11361 Section **48-3-206 (Effective 07/01/13), Correcting filed record.**
- 11362 Section **48-3-207 (Effective 07/01/13), Liability for inaccurate information in filed**
- 11363 **record.**
- 11364 Section **48-3-208 (Effective 07/01/13), Certificate of existence or authorization.**
- 11365 Section **48-3-209 (Effective 07/01/13), Annual report for division.**
- 11366 Section **48-3-301 (Effective 07/01/13), No agency power of member as member.**
- 11367 Section **48-3-302 (Effective 07/01/13), Statement of authority.**
- 11368 Section **48-3-303 (Effective 07/01/13), Statement of denial.**
- 11369 Section **48-3-304 (Effective 07/01/13), Liability of members and managers.**
- 11370 Section **48-3-401 (Effective 07/01/13), Becoming a member.**
- 11371 Section **48-3-402 (Effective 07/01/13), Form of contribution.**
- 11372 Section **48-3-403 (Effective 07/01/13), Liability for contributions.**
- 11373 Section **48-3-404 (Effective 07/01/13), Sharing of and right to distributions before**

- 11374 **dissolution.**
- 11375 Section **48-3-405** (Effective 07/01/13), **Limitations on distribution.**
- 11376 Section **48-3-406** (Effective 07/01/13), **Liability for improper distributions.**
- 11377 Section **48-3-407** (Effective 07/01/13), **Management of limited liability company.**
- 11378 Section **48-3-408** (Effective 07/01/13), **Indemnification and insurance.**
- 11379 Section **48-3-409** (Effective 07/01/13), **Standards of conduct for members and**
- 11380 **managers.**
- 11381 Section **48-3-410** (Effective 07/01/13), **Right of members, managers, and**
- 11382 **dissociated members to information.**
- 11383 Section **48-3-501** (Effective 07/01/13), **Nature of transferable interest.**
- 11384 Section **48-3-502** (Effective 07/01/13), **Transfer of transferable interest.**
- 11385 Section **48-3-503** (Effective 07/01/13), **Charging order.**
- 11386 Section **48-3-504** (Effective 07/01/13), **Power of personal representative of deceased**
- 11387 **member.**
- 11388 Section **48-3-601** (Effective 07/01/13), **Member's power to dissociate -- Wrongful**
- 11389 **dissociation.**
- 11390 Section **48-3-602** (Effective 07/01/13), **Events causing dissociation.**
- 11391 Section **48-3-603** (Effective 07/01/13), **Effect of person's dissociation as member.**
- 11392 Section **48-3-701** (Effective 07/01/13), **Events causing dissolution.**
- 11393 Section **48-3-702** (Effective 07/01/13), **Election to purchase in lieu of dissolution.**
- 11394 Section **48-3-703** (Effective 07/01/13), **Winding up.**
- 11395 Section **48-3-704** (Effective 07/01/13), **Known claims against dissolved limited**
- 11396 **liability company.**
- 11397 Section **48-3-705** (Effective 07/01/13), **Other claims against dissolved limited**
- 11398 **liability company.**
- 11399 Section **48-3-706** (Effective 07/01/13), **Administrative dissolution.**
- 11400 Section **48-3-707** (Effective 07/01/13), **Reinstatement following administrative**
- 11401 **dissolution.**
- 11402 Section **48-3-708** (Effective 07/01/13), **Appeal from rejection of reinstatement.**
- 11403 Section **48-3-709** (Effective 07/01/13), **Distribution of assets in winding up limited**
- 11404 **liability company's activities.**

- 11405 Section 48-3-801 (Effective 07/01/13), Governing law.
- 11406 Section 48-3-802 (Effective 07/01/13), Application for certificate of authority.
- 11407 Section 48-3-803 (Effective 07/01/13), Activities not constituting transacting
11408 **business.**
- 11409 Section 48-3-804 (Effective 07/01/13), Filing of certificate of authority.
- 11410 Section 48-3-805 (Effective 07/01/13), Noncomplying name of foreign limited
11411 **liability company.**
- 11412 Section 48-3-806 (Effective 07/01/13), Revocation of certificate of authority.
- 11413 Section 48-3-807 (Effective 07/01/13), Cancellation of certificate of authority.
- 11414 Section 48-3-808 (Effective 07/01/13), Effect of failure to have certificate of
11415 **authority.**
- 11416 Section 48-3-809 (Effective 07/01/13), Action by attorney general.
- 11417 Section 48-3-901 (Effective 07/01/13), Direct action by member.
- 11418 Section 48-3-902 (Effective 07/01/13), Derivative action.
- 11419 Section 48-3-903 (Effective 07/01/13), Proper plaintiff.
- 11420 Section 48-3-904 (Effective 07/01/13), Pleading.
- 11421 Section 48-3-905 (Effective 07/01/13), Special litigation committee.
- 11422 Section 48-3-906 (Effective 07/01/13), Proceeds and expenses.
- 11423 Section 48-3-1001 (Effective 07/01/13), Definitions.
- 11424 Section 48-3-1002 (Effective 07/01/13), Merger.
- 11425 Section 48-3-1003 (Effective 07/01/13), Action on plan of merger by constituent
11426 **limited liability company.**
- 11427 Section 48-3-1004 (Effective 07/01/13), Filings required for merger -- Effective
11428 **date.**
- 11429 Section 48-3-1005 (Effective 07/01/13), Effect of merger.
- 11430 Section 48-3-1006 (Effective 07/01/13), Conversion.
- 11431 Section 48-3-1007 (Effective 07/01/13), Action on plan of conversion by converting
11432 **limited liability company.**
- 11433 Section 48-3-1008 (Effective 07/01/13), Filings required for conversion -- Effective
11434 **date.**
- 11435 Section 48-3-1009 (Effective 07/01/13), Effect of conversion.

- 11436 Section **48-3-1010 (Effective 07/01/13), Domestication.**
- 11437 Section **48-3-1011 (Effective 07/01/13), Action on plan of domestication by**
11438 **domesticating limited liability company.**
- 11439 Section **48-3-1012 (Effective 07/01/13), Filings required for domestication --**
11440 **Effective date.**
- 11441 Section **48-3-1013 (Effective 07/01/13), Effect of domestication.**
- 11442 Section **48-3-1014 (Effective 07/01/13), Restrictions on approval of mergers,**
11443 **conversions, and domestications.**
- 11444 Section **48-3-1015 (Effective 07/01/13), Part not exclusive.**
- 11445 Section **48-3-1101 (Effective 07/01/13), Definitions.**
- 11446 Section **48-3-1102 (Effective 07/01/13), Application of this part.**
- 11447 Section **48-3-1103 (Effective 07/01/13), Additional requirements for certificate of**
11448 **organization.**
- 11449 Section **48-3-1104 (Effective 07/01/13), Name limitations.**
- 11450 Section **48-3-1105 (Effective 07/01/13), Providing a professional service.**
- 11451 Section **48-3-1106 (Effective 07/01/13), Limit of one profession.**
- 11452 Section **48-3-1107 (Effective 07/01/13), Activity limitations.**
- 11453 Section **48-3-1108 (Effective 07/01/13), Part does not limit regulating board.**
- 11454 Section **48-3-1109 (Effective 07/01/13), Member or manager of a professional**
11455 **services company.**
- 11456 Section **48-3-1110 (Effective 07/01/13), Restriction on transfer by member.**
- 11457 Section **48-3-1111 (Effective 07/01/13), Purchase of interest upon death, incapacity,**
11458 **or disqualification of member.**
- 11459 Section **48-3-1112 (Effective 07/01/13), Conversion to nonprofessional company.**
- 11460 Section **48-3-1201 (Effective 07/01/13), Application of this part.**
- 11461 Section **48-3-1202 (Effective 07/01/13), Series of transferable interests.**
- 11462 Section **48-3-1203 (Effective 07/01/13), Notice of series -- Certificate of**
11463 **organization.**
- 11464 Section **48-3-1204 (Effective 07/01/13), Agreement to be liable.**
- 11465 Section **48-3-1205 (Effective 07/01/13), Series related provisions in operating**
11466 **agreement.**

- 11467 Section **48-3-1206** (Effective 07/01/13), **Management of a series.**
- 11468 Section **48-3-1207** (Effective 07/01/13), **Distribution concerning a series.**
- 11469 Section **48-3-1208** (Effective 07/01/13), **Events causing dissociation from a series.**
- 11470 Section **48-3-1209** (Effective 07/01/13), **Termination of a series.**
- 11471 Section **48-3-1210** (Effective 07/01/13), **Foreign limited liability company -- Series.**
- 11472 Section **48-3-1301** (Effective 07/01/13), **Application of this part.**
- 11473 Section **48-3-1302** (Effective 07/01/13), **Requirements.**
- 11474 Section **48-3-1303** (Effective 07/01/13), **Ceasing to be a low-profit limited liability**
- 11475 **company.**
- 11476 Section **48-3-1304** (Effective 07/01/13), **Conversion or merger of a low-profit**
- 11477 **limited liability company.**
- 11478 Section **48-3-1401** (Effective 07/01/13), **Uniformity of application and construction.**
- 11479 Section **48-3-1402** (Effective 07/01/13), **Relation to Electronic Signatures in Global**
- 11480 **and National Commerce Act.**
- 11481 Section **48-3-1403** (Effective 07/01/13), **Severability clause.**
- 11482 Section **48-3-1404** (Effective 07/01/13), **Savings clause.**
- 11483 Section **48-3-1405** (Effective 07/01/13), **Application to existing relationships.**
- 11484 Section 424. **Effective date.**
- 11485 (1) The amended sections in this bill take effect on July 1, 2013.
- 11486 (2) The sections enacted in this bill take effect on July 1, 2014.
- 11487 (3) Section 422, Repealer, in this bill of the uncodified repealer Laws of Utah 2011,
- 11488 Chapter 353, Section 310, takes effect on July 1, 2013.
- 11489 (4) Section 423, Repealer, for Title 48, Chapters 1a, 1b, 2d, and 3 of the codified
- 11490 sections listed to be repealed July 1, 2013, takes effect on July 1, 2013.

Legislative Review Note
as of **10-24-12 9:45 AM**

Office of Legislative Research and General Counsel