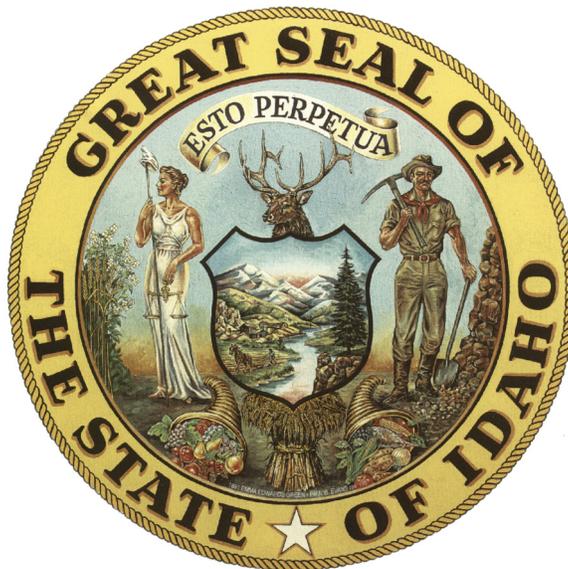


**IDAHO UNIFORM BUSINESS  
ORGANIZATIONS CODE  
(IUBOC)**

**PRELIMINARY PROVISIONS  
AND  
IDAHO MODEL ENTITY TRANSACTIONS ACT**



**Compiled under the authority of  
Lawrence Denney  
Secretary of State**

**July 1, 2015**

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## PART 1. DEFINITIONS, DELIVERY, AND ADMINISTRATIVE RULES

30-21-101.SHORT TITLES. (a) This act may be cited as the “Idaho Uniform Business Organizations Code.”

(b) This chapter may be cited as the “Idaho Uniform Business Organizations Code -- Preliminary Provisions.”

(c) Part 4 of this chapter may be cited as the “Idaho Registered Agent of Entity Act.”

(d) Part 8 of this chapter may be cited as the “Idaho Assumed Business Names Act.”

30-21-102.DEFINITIONS. In this act, except as otherwise provided in definitions of the same terms in other articles of this act:

(1) “Act” means the Idaho uniform business organizations code.

(2) “Annual report” means the report required by section 30-21-213, Idaho Code.

(3) “Business corporation” means a domestic business corporation incorporated under or subject to chapter 29, title 30, Idaho Code, or a foreign business corporation.

(4) “Business trust” means a trust formed under the statutory law of another state that is not a foreign statutory trust and does not have a predominately donative purpose.

(5) “Commercial registered agent” means a person listed under section 30-21-405, Idaho Code.

(6) “Common-law business trust” means a common-law trust that does not have a predominately donative purpose.

(7) “Debtor in bankruptcy” means a person that is the subject of:

(A) An order for relief under 11 U.S.C. or a comparable order under a successor statute of general application; or

(B) A comparable order under federal, state or foreign law governing insolvency.

(8) “Distributional interest” means the right under an unincorporated entity’s organic law and organic rules to receive distributions from the entity.

(9) “Domestic,” with respect to an entity, means governed as to its internal affairs by the law of this state.

(10) “Effective date,” when referring to a record filed by the secretary of state, means the time and date determined in accordance with section 30-21-203, Idaho Code.

(11) “Entity”:

(A) Means:

(i) A business corporation;

(ii) A nonprofit corporation;

(iii) A general partnership, including a limited liability partnership;

(iv) A limited partnership, including a limited liability limited partnership;

(v) A limited liability company;

(vi) A general cooperative association;

(vii) A limited cooperative association;

(viii) An unincorporated nonprofit association;

(ix) A statutory trust, business trust, or common-law business trust; or

(x) Any other person that has:

(I) A legal existence separate from any interest holder of that person; or

(II) The power to acquire an interest in real property in its own name; and

(B) Does not include:

(i) An individual;

(ii) A trust with a predominately donative purpose or a charitable trust;

(iii) An association or relationship that is not listed in paragraph (A) of this subsection and is not a partnership under the rules stated in section 30-23-202(c), Idaho Code, or a similar provision of the law of another jurisdiction;

(iv) A decedent’s estate; or

(v) A government or a governmental subdivision, agency or instrumentality.

(12) “Entity filing” means a record delivered to the secretary of state for filing pursuant to this act.

(13) “Filed record” means a record filed by the secretary of state pursuant to this act.

(14) “Filing entity” means an entity whose formation requires the filing of a public organic record. The term does not include a limited liability partnership.

(15) “Foreign,” with respect to an entity, means governed as to its internal affairs by the law of a jurisdiction other

than this state.

(16) "General cooperative association" means a foreign general cooperative association.

(17) "General partnership" means a domestic general partnership formed under or subject to chapter 23 of this act or a foreign general partnership. The term includes a limited liability partnership.

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

(A) Receive or demand access to information concerning, or the books and records of, the entity;

(B) Vote for or consent to the election of the governors of the entity; or

(C) Receive notice of or vote on or consent to an issue involving the internal affairs of the entity.

(19) "Governor" means:

(A) A director of a business corporation;

(B) A director or trustee of a nonprofit corporation;

(C) A general partner of a general partnership;

(D) A general partner of a limited partnership;

(E) A manager of a manager-managed limited liability company;

(F) A member of a member-managed limited liability company;

(G) A director of a general cooperative association;

(H) A director of a limited cooperative association;

(I) A manager of an unincorporated nonprofit association;

(J) A trustee of a statutory trust, business trust or common-law business trust; or

(K) Any other person under whose authority the powers of an entity are exercised and under whose direction the activities and affairs of the entity are managed pursuant to the organic law and organic rules of the entity.

(20) "Interest" means:

(A) A share in a business corporation;

(B) A membership in a nonprofit corporation;

(C) A governance interest in a general partnership;

(D) A governance interest in a limited partnership;

(E) A governance interest in a limited liability company;

(F) A share in a general cooperative association;

(G) A member's interest in a limited cooperative association;

(H) A membership in an unincorporated nonprofit association;

(I) A beneficial interest in a statutory trust, business trust or common-law business trust; or

(J) A governance interest or distributional interest in any other type of unincorporated entity.

(21) "Interest holder" means:

(A) A shareholder of a business corporation;

(B) A member of a nonprofit corporation;

(C) A general partner of a general partnership;

(D) A general partner of a limited partnership;

(E) A limited partner of a limited partnership;

(F) A member of a limited liability company;

(G) A shareholder of a general cooperative association;

(H) A member of a limited cooperative association;

(I) A member of an unincorporated nonprofit association;

(J) A beneficiary or beneficial owner of a statutory trust, business trust or common-law business trust; or

(K) Any other direct holder of an interest.

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

(23) "Jurisdiction of formation" means the jurisdiction whose law includes the organic law of an entity.

(24) "Limited cooperative association" means a foreign limited cooperative association.

(25) "Limited liability company" means a domestic limited liability company formed under or subject to chapter 25, title 30, Idaho Code, or a foreign limited liability company.

(26) "Limited liability limited partnership" means a domestic limited liability limited partnership formed under or subject to chapter 24, title 30, Idaho Code, or a foreign limited liability limited partnership.

- (27) "Limited liability partnership" means a domestic limited liability partnership registered under or subject to chapter 23, title 30, Idaho Code, or a foreign limited liability partnership.
- (28) "Limited partnership" means a domestic limited partnership formed under or subject to chapter 24, title 30, Idaho Code, or a foreign limited partnership. The term includes a limited liability limited partnership.
- (29) "Noncommercial registered agent" means a person that is not a commercial registered agent and is:
- (A) An individual or domestic or foreign entity that serves in this state as the registered agent of an entity; or
  - (B) An individual who holds the office or other position in an entity which is designated as the registered agent pursuant to section 30-21-404(a)(2)(B), Idaho Code.
- (30) "Nonfiling entity" means an entity whose foundation does not require the filing of a public organic record.
- (31) "Nonprofit corporation" means a domestic nonprofit corporation incorporated under or subject to chapter 30, title 30, Idaho Code, or a foreign nonprofit corporation.
- (32) "Nonregistered foreign entity" means a foreign entity that is not registered to do business in this state pursuant to a statement of registration filed by the secretary of state.
- (33) "Organic law" means the law of an entity's jurisdiction of formation governing the internal affairs of the entity.
- (34) "Organic rules" means the public organic record and private organic rules of an entity.
- (35) "Person" means an individual, business corporation, nonprofit corporation, partnership, limited partnership, limited liability company, general cooperative association, limited cooperative association, unincorporated nonprofit association, statutory trust, business trust, common-law business trust, estate trust, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.
- (36) "Principal office" means the principal executive office of an entity, whether or not the office is located in this state.
- (37) "Private organic rules" means the rules, whether or not in a record, that govern the internal affairs of an entity, are binding on all its interest holders, and are not part of its public organic record, if any. The term includes:
- (A) The bylaws of a business corporation;
  - (B) The bylaws of a nonprofit corporation;
  - (C) The partnership agreement of a general partnership;
  - (D) The partnership agreement of a limited partnership;
  - (E) The operating agreement of a limited liability company;
  - (F) The bylaws of a general cooperative association;
  - (G) The bylaws of a limited cooperative association;
  - (H) The governing principles of an unincorporated nonprofit association; and
  - (I) The trust instrument of a statutory trust or similar rules of a business trust or common-law business trust.
- (38) "Proceeding" includes a civil action, arbitration, mediation, administrative proceeding, criminal prosecution and investigatory action.
- (39) "Professional entity" means an entity formed for the sole and specific purpose of rendering professional services, allied professional services, and services ancillary to the professional services and that has as its interest holders only:
- (A) Natural persons who themselves are duly licensed or otherwise legally authorized to render one (1) or more of the same professional services as the professional entity; and
  - (B) Other professional entities.
- (40) "Professional service" means any type of service to the public that can be rendered by a member of any profession within the purview of the member's profession.
- (41) "Property" means all property, whether real, personal, or mixed or tangible or intangible, or any right or interest therein.
- (42) "Public organic record" means the record, the filing of which by the secretary of state is required to form an entity, and any amendment to or restatement of that record. The term includes:
- (A) The articles of incorporation of a business corporation;
  - (B) The articles of incorporation of a nonprofit corporation;
  - (C) The certificate of limited partnership of a limited partnership;
  - (D) The certificate of organization of a limited liability company;
  - (E) The articles of incorporation of a general cooperative association;

- (F) The articles of organization of a limited cooperative association; and
- (G) The certificate of trust of a statutory trust or similar record of a business trust.
- (43) “Receipt,” as used in this chapter, means actual receipt. “Receive” has a corresponding meaning.
- (44) “Record,” used as a noun, means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
- (45) “Registered agent” means an agent of an entity that is authorized to receive service of any process, notice, or demand required or permitted by law to be served on the entity. The term includes a commercial registered agent and a noncommercial registered agent.
- (46) “Registered foreign entity” means a foreign entity that is registered to do business in this state pursuant to a statement of registration filed by the secretary of state.
- (47) “Sign” means with present intent to authenticate or adopt a record:
  - (A) To execute or adopt a tangible symbol; or
  - (B) To attach to or logically associate with the record an electronic symbol, sound or process.
- (48) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.
- (49) “Statutory trust” means a trust formed under the statutory law of a jurisdiction other than this state.
- (50) “Transfer” includes:
  - (A) An assignment;
  - (B) A conveyance;
  - (C) A sale;
  - (D) A lease;
  - (E) An encumbrance, including a mortgage or security interest;
  - (F) A gift; and
  - (G) A transfer by operation of law.
- (51) “Type of entity” means a generic form of entity:
  - (A) Recognized at common law; or
  - (B) Formed under an organic law, whether or not some entities formed under that law are subject to provisions of that law that create different categories of the form of entity.
- (52) “Unincorporated nonprofit association” means a domestic unincorporated nonprofit association formed under or subject to chapter 27, title 30, Idaho Code, or a nonprofit association formed under or subject to the law of a jurisdiction other than this state that would be an unincorporated nonprofit association if formed under or subject to the law of this state.
- (53) “Written” means inscribed on a tangible medium. “Writing” has a corresponding meaning.

30-21-103.APPLICABILITY OF PART. This part applies to an entity formed under or subject to this act.

30-21-104.DELIVERY OF RECORD. (a) Except as otherwise provided in this act, permissible means of delivery of a record includes delivery by hand, mail, conventional commercial practice, and electronic transmission.  
 (b) Delivery to the secretary of state is effective only when a record is received by the secretary of state.

30-21-105.RULES AND PROCEDURES. The secretary of state may:

- (1) Adopt rules to administer this act in accordance with the administrative procedure act; and
- (2) Prescribe procedures that are reasonably necessary to perform the duties required of the secretary of state under this act and are not required by the administrative procedure act to be adopted as rules.

## **PART 2. FILING REQUIREMENTS AND FEES**

30-21-201.ENTITY FILING REQUIREMENTS. (a) To be filed by the secretary of state pursuant to this act, an entity filing must be received by the secretary of state, comply with this act, and satisfy the following:

- (1) The entity filing must be required or permitted by this act.
- (2) The entity filing must be physically delivered in written form unless and to the extent the secretary of state permits electronic delivery of entity filings.
- (3) The words in the entity filing must be in English, and numbers must be in Arabic or Roman numerals, but the name of the entity need not be in English if written in English letters or Arabic or Roman numerals.

- (4) The entity filing must be signed by or on behalf of a person authorized or required under this chapter to sign the filing.
- (5) The entity filing must state the name and capacity, if any, of each individual who signed it, either on behalf of the individual or the person authorized or required to sign the filing, but need not contain a seal, attestation, acknowledgment or verification.
- (b) If law other than this chapter prohibits the disclosure by the secretary of state of information contained in an entity filing, the secretary of state shall file the entity filing if the filing otherwise complies with this chapter but may redact the information.
- (c) When an entity filing is delivered to the secretary of state for filing, any fee required under this part and any fee, tax, interest, or penalty required to be paid under this part or law other than this act must be paid in a manner permitted by the secretary of state.
- (d) The secretary of state may require that an entity filing delivered in written form be accompanied by an identical or conformed copy.

30-21-202.FORMS. (a) The secretary of state may provide forms for entity filings required or permitted to be made by this act, but, except as otherwise provided in subsection (b) of this section, their use is not required.

(b) The secretary of state may require that a cover sheet for an entity filing and an annual report be on forms prescribed by the secretary of state.

30-21-203.EFFECTIVE DATES AND TIMES. Except as otherwise provided in this act and subject to section 30-21-205(d), Idaho Code, an entity filing is effective:

- (1) On the date and at the time of its filing by the secretary of state as provided in section 30-21-206, Idaho Code;
- (2) On the date of filing and at the time specified in the entity filing as its effective time, if later than the time under subsection (1) of this section;
- (3) If permitted by this act, at a specified delayed effective date and time, which may not be more than ninety (90) days after the date of filing; or
- (4) If a delayed effective date as permitted by this act is specified, but no time is specified, at 12:01 a.m. on the date specified, which may not be more than ninety (90) days after the date of filing.

30-21-204.WITHDRAWAL OF FILED RECORD BEFORE EFFECTIVENESS. (a) Except as otherwise provided in this act, a record delivered to the secretary of state for filing may be withdrawn before it takes effect by delivering to the secretary of state for filing a statement of withdrawal.

(b) A statement of withdrawal must:

- (1) Be signed by each person that signed the record being withdrawn, except as otherwise agreed by those persons;
- (2) Identify the record to be withdrawn; and
- (3) If signed by fewer than all the persons that signed the record being withdrawn, state that the record is withdrawn in accordance with the agreement of all the persons that signed the record.

(c) On filing by the secretary of state of a statement of withdrawal, the action or transaction evidenced by the original filed record does not take effect.

30-21-205.CORRECTING FILED RECORD. (a) A person on whose behalf a filed record was delivered to the secretary of state for filing may correct the record if:

- (1) The record at the time of filing was inaccurate;
- (2) The record was defectively signed; or
- (3) The electronic transmission of the record to the secretary of state was defective.

(b) To correct a filed record, a person on whose behalf the record was delivered to the secretary of state must deliver to the secretary of state for filing a statement of correction.

(c) A statement of correction:

- (1) May not state a delayed effective date;
- (2) Must be signed by the person correcting the filed record;
- (3) Must identify the filed record to be corrected;
- (4) Must specify the inaccuracy or defect to be corrected; and
- (5) Must correct the inaccuracy or defect.

(d) A statement of correction is effective as of the effective date of the filed record that it corrects except as to persons relying on the uncorrected filed record and adversely affected by the correction. As to those persons, the statement of correction is effective when filed.

30-21-206.DUTY OF SECRETARY OF STATE TO FILE -- REVIEW OF REFUSAL TO FILE. (a) The secretary of state shall file an entity filing delivered to the secretary of state for filing that satisfies this act. The duty of the secretary of state under this section is ministerial.

(b) When the secretary of state files an entity filing, the secretary of state shall record it as filed on the date and at the time of its delivery. After filing an entity filing, the secretary of state shall deliver to the person that submitted the filing a copy of the filing with an acknowledgment of the date and time of filing.

(c) If the secretary of state refuses to file an entity filing, the secretary of state, not later than five (5) business days after the filing is delivered, shall:

(1) Return the entity filing or notify the person that submitted the filing of the refusal; and

(2) Provide a brief explanation in a record of the reason for the refusal.

(d) If the secretary of state refuses to file an entity filing, the person that submitted the filing may petition the district court to compel its filing. The filing and the explanation of the secretary of state of the refusal to file must be attached to the petition. The court may decide the matter in a summary proceeding.

(e) The filing of or refusal to file an entity filing does not:

(1) Affect the validity or invalidity of the filing in whole or in part; or

(2) Create a presumption that the information contained in the filing is correct or incorrect.

30-21-207.EVIDENTIARY EFFECT OF COPY OF FILED RECORD. A certification from the secretary of state accompanying a copy of a filed record is conclusive evidence that the copy is an accurate representation of the original record on file with the secretary of state.

30-21-208.CERTIFICATE OF GOOD STANDING OR REGISTRATION. (a) On request of any person, the secretary of state shall issue a certificate of good standing for a domestic filing entity or a certificate of registration for a registered foreign entity.

(b) A certificate under subsection (a) of this section must state:

(1) The domestic filing entity's name or the registered foreign entity's name used in this state;

(2) In the case of a domestic filing entity:

(A) That its public organic record has been filed and has taken effect;

(B) The date the public organic record became effective;

(C) That the records of the secretary of state do not reflect that the entity has been dissolved;

(3) In the case of a registered foreign entity, that it is registered to do business in this state.

(c) Subject to any qualification stated in the certificate, a certificate issued by the secretary of state under subsection (a) of this section may be relied upon as conclusive evidence of the facts stated in the certificate.

30-21-209.SIGNING OF ENTITY FILING. (a) Signing an entity filing is an affirmation under the penalties of perjury that the facts stated in the filing are true in all material respects.

(b) A record filed under this act may be signed by an agent. Whenever this act requires a particular individual to sign an entity filing and the individual is deceased or incompetent, the filing may be signed by a legal representative of the individual.

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

30-21-210.SIGNING AND FILING PURSUANT TO JUDICIAL ORDER. (a) If a person required by this act to sign or deliver a record to the secretary of state for filing under this act does not do so, any other person that is aggrieved may petition the district court to order:

(1) The person to sign the record;

(2) The person to deliver the record to the secretary of state for filing; or

(3) The secretary of state to file the record unsigned.

(b) If the petitioner under subsection (a) of this section is not the entity to which the record pertains, the

petitioner shall make the entity a party to the action.

(c) A record filed under subsection (a)(3) of this section is effective without being signed.

30-21-211.LIABILITY FOR INACCURATE INFORMATION IN FILED RECORD. If a record delivered to the secretary of state for filing under this act and filed by the secretary of state contains inaccurate information, a person that suffers a loss by reliance on the information may recover damages for the loss from a person that signed the record or caused another to sign it on the person's behalf and knew at the time the record was signed that the information was inaccurate.

30-21-212.DELIVERY BY SECRETARY OF STATE. Except as otherwise provided by section 30-21-412, Idaho Code, or by law of this state other than this chapter, the secretary of state may deliver a record to a person by delivering it:

- (1) In person to the person that submitted it for filing;
- (2) To the principal office address of the person;
- (3) To another address the person provides to the secretary of state for delivery; or
- (4) To the address of the person's registered agent.

30-21-213.ANNUAL REPORT FOR SECRETARY OF STATE. (a) A domestic filing entity, domestic limited liability partnership, or registered foreign entity shall deliver to the secretary of state for filing an annual report that states:

- (1) The name of the entity and its jurisdiction of formation;
  - (2) The information required by section 30-21-404(a), Idaho Code;
  - (3) The street and mailing addresses of the entity's principal office; and
  - (4) The name of at least one (1) governor.
- (b) Information in an annual report must be current as of the date the report is signed by the entity.
- (c) The annual report must be delivered to the secretary of state for filing each year before the end of the month during which the public organic record of a domestic filing entity became effective, the statement of qualification of a domestic limited liability partnership became effective, or a foreign filing entity registered to do business in this state. Beginning one (1) year after the public organic record of a domestic filing entity became effective, the statement of qualification of a domestic limited liability partnership became effective, or a foreign filing entity registered to do business in this state, and each year thereafter, the annual report must be received in the office of the secretary of state not later than the close of business on the final day of the applicable month. If the secretary of state finds that such report conforms to the requirements of this chapter, he shall file the same.
- (d) If an annual report does not contain the information required by this section, the secretary of state shall promptly notify the reporting entity in a record and return the report for correction.
- (e) If an annual report contains the name or address of a registered agent that differs from the information shown in the records of the secretary of state immediately before the report becomes effective, the differing information is considered a statement of change under section 30-21-407, Idaho Code.

30-21-214.FEES. (a) The secretary of state shall collect the following fees for copying and certifying the copy of any filed record:

- (1) Twenty-five cents (25¢) per page for copying; and
  - (2) Ten dollars (\$10.00) for the certification.
- (b) The secretary of state shall collect the following fees when an entity filing is delivered for filing:
- (1) Statement of merger \$30.00
  - (2) Statement of withdrawal \$30.00
  - (3) Statement of interest exchange \$30.00
  - (4) Statement of abandonment \$30.00
  - (5) Statement of conversion \$30.00
  - (6) Statement of domestication \$30.00
  - (7) Annual report No fee
  - (8) Articles of incorporation of a business corporation \$100.00
  - (9) Articles of incorporation of a nonprofit corporation \$30.00

- (10) Statement of qualification of a limited liability partnership  
\$100.00
- (11) Certificate of amendment to certificate of assumed business name  
\$10.00
- (12) Certificate of amendment to certificate of assumed business name with only an address change No fee
- (13) Certificate of assumed business name \$25.00
- (14) Certificate of cancellation of a certificate of assumed business name No fee
- (15) Certificate of limited partnership of a limited partnership  
\$100.00
- (16) Certificate of organization of a limited liability company  
\$100.00
- (17) Other public organic documents or a statement not otherwise specified herein \$30.00
- (18) Commercial registered agent listing statement \$100.00
- (19) Commercial registered agent termination statement \$20.00
- (20) Commercial registered agent statement of change \$30.00
- (21) Registered agent statement of resignation No fee
- (22) Statement designating a registered agent \$20.00
- (23) Foreign entity registration statement \$100.00
- (24) Amendment of foreign entity registration statement \$30.00
- (25) Notice of cancellation of foreign entity registration statement  
No fee
- (26) Statement of withdrawal of foreign entity registration statement  
\$20.00
- (27) Statement of correction \$30.00
- (28) Application for reinstatement following administrative dissolution \$30.00
- (29) Statement of dissolution of a limited liability company No fee
- (30) Statement of authority \$100.00
- (31) Combined statement of partnership authority and qualification of limited liability partnership \$100.00
- (32) Certificate of existence \$10.00
- (33) Application for use of deceptively similar name \$20.00
- (34) Application for reserved name \$20.00
- (35) Notice of transfer of reserved name \$20.00
- (36) Application for registered name \$60.00
- (37) Application for renewal of registered name \$60.00
- (38) Amendment of articles of incorporation \$30.00
- (39) Restatement of articles of incorporation with amendment of articles \$30.00
- (40) Articles of dissolution \$30.00
- (41) Articles of revocation of dissolution \$30.00
- (42) Certificate of administrative dissolution No fee
- (43) Certificate of reinstatement No fee
- (44) Certificate of judicial dissolution No fee
- (45) Statement of termination \$30.00
- (c) The withdrawal under section 30-21-204, Idaho Code, of a filed record before it is effective or the correction of a filed record under section 30-21-205, Idaho Code, does not entitle the person on whose behalf the record was filed to a refund of the filing fee.
- (d) The secretary of state shall collect a surcharge of twenty dollars (\$20.00) for providing evidence of filing an entity filing within eight (8) working hours after the entity filing is delivered for filing.
- (e) The secretary of state shall collect a surcharge of twenty dollars (\$20.00) for filing any non-typed record or any record that is not on a standard form proscribed by the secretary of state, except no surcharge will be collected for a non-typed certificate of assumed business name or a certificate of amendment to certificate of assumed business name.

### PART 3. ENTITY NAMES

30-21-301.PERMITTED NAMES. (a) Except as otherwise provided in subsection (d) or (f) of this section, the name of a domestic filing entity or domestic limited liability partnership, and the name under which a foreign entity may register to do business in this state, must be distinguishable on the records of the secretary of state from any:

- (1) Name of an existing domestic filing entity which at the time is not administratively dissolved for more than six (6) months;
- (2) Name of a limited liability partnership whose statement of qualification is in effect;
- (3) Name under which a foreign entity registered to do business in this state under part 5 of this chapter;
- (4) Name reserved under section 30-21-303, Idaho Code; or
- (5) Name registered under section 30-21-304, Idaho Code.

(b) If an entity consents in a record to the use of its name and submits an undertaking in a form satisfactory to the secretary of state to change its name to a name that is distinguishable on the records of the secretary of state from any name in any category of names in subsection (a) of this section, the name of the consenting entity may be used by the person to which the consent was given.

(c) Except as otherwise provided in subsection (d) of this section, in determining whether a name is the same as or not distinguishable on the records of the secretary of state from the name of another entity, words, phrases, or abbreviations indicating the type of entity, such as "corporation," "corp.," "incorporated," "Inc.," "professional corporation," "PC," "P.C.," "professional association," "PA," "P.A.," "limited," "Ltd.," "limited partnership," "LP," "L.P.," "limited liability partnership," "LLP," "L.L.P.," "registered limited liability partnership," "RLLP," "R.L.L.P.," "limited liability limited partnership," "LLL," "L.L.L.P.," "registered limited liability limited partnership," "RLLL," "R.L.L.L.P.," "limited liability company," "LLC" or "L.L.C." may not be taken into account.

(d) An entity may consent in a record to the use of a name that is not distinguishable on the records of the secretary of state from its name except for the addition of a word, phrase, or abbreviation indicating the type of entity or as provided in subsection (c) of this section. In such a case, the entity need not change its name pursuant to subsection (b) of this section.

(e) An entity name may not contain language falsely stating or implying government affiliation or stating or implying that the entity is organized for a purpose other than that permitted by this act.

(f) An entity may use a name that is not distinguishable from a name described in subsection (a)(1) through (5) of this section if the entity delivers to the secretary of state a certified copy of a final judgment of a court of competent jurisdiction establishing the right of the entity to use the name in this state.

(g) Nothing in this section shall abrogate or limit the law as to unfair competition or unfair practice in the use of trade names, nor derogate from the common law, the principles of equity, or the statutes of this state or of the United States with respect to the right to acquire and protect trade names.

(h) The use of a name in violation of this part shall not affect or vitiate the entity existence, but the courts of this state, having equity jurisdiction, may, upon the application of the state, or of any person interested or affected, enjoin such entity in violation from doing business under any name assumed in violation of this part.

30-21-302.NAME REQUIREMENTS FOR CERTAIN TYPES OF ENTITIES. (a) The name of a business corporation must contain the word "corporation," "incorporated," "company," or "limited," or the abbreviation "Corp.," "Inc.," "Co.," or "Ltd.," or words or abbreviations of similar import in another language; provided however, that if the word "company" or its abbreviation is used it shall not be immediately preceded by the word "and" or by an abbreviation of or symbol representing the word "and." If the business corporation is a professional entity, the name may alternatively contain the word "chartered," "professional association," or "professional corporation," or the abbreviation "P.A.," "P.C.," or "CHTD" or words or abbreviations of similar import in another language.

(b) The name of a limited partnership may contain the name of any partner. The name of a limited partnership that is not a limited liability limited partnership must contain the phrase "limited partnership" or the abbreviation "L.P." or "LP" and may not contain the phrase "limited liability limited partnership" or "registered limited liability limited partnership" or the abbreviation "L.L.L.P.," "LLL," "R.L.L.L.P.," or "RLLL." If the limited partnership is a limited liability limited partnership, the name must contain the phrase "limited liability limited partnership" or the abbreviation "L.L.L.P.," "LLL," "R.L.L.L.P.," or "RLLL" and may not contain the abbreviation "L.P." or "LP."

If the limited partnership is a professional entity, the name may include the word “professional” before the word “limited” or the letter “P” at the beginning of any of the permitted abbreviations.

(c) The name of a limited liability partnership must contain the words “limited liability partnership” or “registered limited liability partnership” or the abbreviation “L.L.P.,” “R.L.L.P.,” “LLP,” or “RLLP.” If the limited liability partnership is a professional entity, the name may include the word “professional” before the word “limited” or the letter “P” at the beginning of any of the permitted abbreviations.

(d) The name of a limited liability company must contain the phrase “limited liability company” or “limited company” or the abbreviation “L.L.C.,” “LLC,” “L.C.,” or “LC.” “Limited” may be abbreviated as “Ltd.,” and “company” may be abbreviated as “Co.” If the limited liability company is a professional entity, the name may include the word “professional” before the word “limited” or the letter “P” at the beginning of any of the permitted abbreviations.

(e) The name of a limited cooperative association must contain the words “limited cooperative association” or “limited cooperative” or the abbreviation “L.C.A.” or “LCA.” “Limited” may be abbreviated as “Ltd.” “Cooperative” may be abbreviated as “Co-op.,” “Coop.,” “Co op.,” or “Coop.” “Association” may be abbreviated as “Assoc.,” “Assoc.,” “Assn.,” or “Assn.”

(f) The name of a statutory trust may contain the words “company,” “association,” “club,” “foundation,” “fund,” “institute,” “society,” “union,” “syndicate,” “limited,” or “trust,” or words or abbreviations of similar import, and may contain the name of a beneficial owner, a trustee, or any other person.

30-21-303.RESERVATION OF NAME. (a) A person may reserve the exclusive use of an entity name by delivering an application to the secretary of state for filing. The application must state the name and address of the applicant and the name to be reserved. If the secretary of state finds that the entity name is available, the secretary of state shall reserve the name for the applicant’s exclusive use for one hundred twenty (120) days.

(b) The owner of a reserved entity name may transfer the reservation to another person by delivering to the secretary of state a signed notice in a record of the transfer that states the name and address of the transferee.

30-21-304.REGISTRATION OF NAME. (a) A foreign filing entity or foreign limited liability partnership not registered to do business in this state under part 5 of this chapter may register its name, or an alternate name adopted pursuant to section 30-21-506, Idaho Code, if the name is distinguishable on the records of the secretary of state from the names that are not available under section 30-21-301, Idaho Code.

(b) To register its name or an alternate name adopted pursuant to section 30-21-506, Idaho Code, a foreign filing entity or foreign limited liability partnership must deliver to the secretary of state for filing an application stating the entity’s name, the jurisdiction and date of its formation, and any alternate name adopted pursuant to section 30-21-506, Idaho Code. If the secretary of state finds that the name applied for is available, the secretary of state shall register the name for the applicant’s exclusive use.

(c) The registration of a name under this section is effective for one (1) year after the date of registration.

(d) A foreign filing entity or foreign limited liability partnership whose name registration is effective may renew the registration for successive one (1) year periods by delivering, not earlier than three (3) months before the expiration of the registration, to the secretary of state for filing a renewal application that complies with this section. When filed, the renewal application renews the registration for a succeeding one (1) year period.

(e) A foreign filing entity or foreign limited liability partnership whose name registration is effective may register as a foreign filing entity or foreign limited liability partnership under the registered name or consent in a signed record to the use of that name by another entity.

#### **PART 4. IDAHO REGISTERED AGENT OF ENTITY ACT**

30-21-401.DEFINITIONS. In this part:

(1) “Designation of agent” means a statement designating a registered agent delivered to the secretary of state for filing under:

- (A) Section 30-27-129, Idaho Code, the “Uniform Unincorporated Nonprofit Association Act”; or
- (B) Section 30-21-411, Idaho Code, by a nonregistered foreign entity or domestic nonfiling entity.

(2) “Registered agent filing” means:

- (A) The public organic record of a domestic filing entity;

- (B) A statement of qualification of a domestic limited liability partnership;
- (C) A registration statement filed pursuant to section 30-21-503, Idaho Code; or
- (D) A designation of agent.

(3) "Represented entity" means:

- (A) A domestic filing entity;
- (B) A domestic limited liability partnership;
- (C) A registered foreign entity;
- (D) A domestic or foreign unincorporated nonprofit association for which a designation of agent is in effect;
- (E) A domestic nonfiling entity for which a designation of agent is in effect; or
- (F) A nonregistered foreign entity for which a designation of agent is in effect.

30-21-402.ENTITIES REQUIRED TO DESIGNATE AND MAINTAIN REGISTERED AGENT. The following shall designate and maintain a registered agent in this state:

- (1) A domestic filing entity;
- (2) A domestic limited liability partnership; and
- (3) A registered foreign entity.

30-21-403.ADDRESSES IN FILING. If a provision of this part other than section 30-21-410(a)(4), Idaho Code, requires that a record state an address, the record must state:

- (1) A street address in this state; and
- (2) A mailing address in this state if different from the address described in subsection (1) of this section.

30-21-404.DESIGNATION OF REGISTERED AGENT. (a) A registered agent filing must be signed by the represented entity and state:

- (1) The name of the entity's commercial registered agent; or
- (2) If the entity does not have a commercial registered agent:
  - (A) The name and address of the entity's noncommercial registered agent; or
  - (B) The title of an office or other position with the entity, if service of process, notices, and demands are to be sent to whichever individual is holding that office or position, and the address to which process, notices or demands are to be sent.
- (b) The designation of a registered agent pursuant to subsection (a)(1) or (2)(A) of this section is an affirmation of fact by the represented entity that the agent has consented to serve.
- (c) The secretary of state shall make available in a record as soon as practicable a daily list of filings that contain the name of a registered agent. The list must:
  - (1) Be available for at least fourteen (14) calendar days;
  - (2) List in alphabetical order the names of the registered agents; and
  - (3) State the type of filing and name of the represented entity making the filing.

30-21-405.LISTING OF COMMERCIAL REGISTERED AGENT. (a) A person may become listed as a commercial registered agent by delivering to the secretary of state for filing a commercial registered agent listing statement signed by the person which states:

- (1) The name of the individual or the name of the entity, type of entity, and jurisdiction of formation of the entity;
- (2) That the person is in the business of serving as a commercial registered agent in this state; and
- (3) The address of a place of business of the person in this state to which service of process, notices, and demands being served on or sent to entities represented by the person may be delivered.
- (b) A commercial registered agent listing statement may include the information regarding acceptance by the agent of service of process, notices, and demands in a form other than a written record as provided in section 30-21-412(d), Idaho Code.
- (c) If the name of a person delivering to the secretary of state for filing a commercial registered agent listing statement is not distinguishable on the records of the secretary of state from the name of another commercial registered agent listed under this section, the person shall adopt a fictitious name that is distinguishable and use that name in its statement and when it does business in this state as a commercial registered agent.
- (d) The secretary of state shall note the filing of a commercial registered agent listing statement in the index of

filings maintained by the secretary of state for each entity represented by the agent at the time of the filing. The statement has the effect of amending the registered agent filing for each of those entities to:

- (1) Designate the person becoming listed as a commercial registered agent as the commercial registered agent of each of those entities; and
- (2) Delete the name and address of the former agent from the registered agent filing of each of those entities.

30-21-406.TERMINATION OF LISTING OF COMMERCIAL REGISTERED AGENT. (a) A commercial registered agent may terminate its listing as a commercial registered agent by delivering to the secretary of state for filing a commercial registered agent termination statement signed by the agent that states:

- (1) The name of the agent as listed under section 30-21-405, Idaho Code; and
  - (2) That the agent is no longer in the business of serving as a commercial registered agent in this state.
- (b) A commercial registered agent termination statement takes effect at 12:01 a.m. on the thirty-first day after the day on which it is filed by the secretary of state.
- (c) The commercial registered agent promptly shall furnish each entity represented by the agent notice in a record of the filing of the commercial registered agent termination statement.
- (d) When a commercial registered agent termination statement takes effect, the commercial registered agent ceases to be the registered agent for each entity formerly represented by it. Until an entity formerly represented by a terminated commercial registered agent designates a new registered agent, service of process may be made on the entity pursuant to section 30-21-412, Idaho Code. Termination of the listing of a commercial registered agent under this section does not affect any contractual rights a represented entity has against the agent or that the agent has against the entity.

30-21-407.CHANGE OF REGISTERED AGENT BY ENTITY. (a) A represented entity may change the information on file under section 30-21-404(a), Idaho Code, by delivering to the secretary of state for filing a statement of change signed by the entity which states:

- (1) The name of the entity; and
  - (2) The information that is to be in effect as a result of the filing of the statement of change.
- (b) The interest holders or governors of a domestic entity need not approve the filing of:
- (1) A statement of change under this section; or
  - (2) A similar filing changing the registered agent or registered office, if any, of the entity in any other jurisdiction.
- (c) A statement of change under this section designating a new registered agent is an affirmation of fact by the represented entity that the agent has consented to serve.
- (d) As an alternative to using the procedure in this section, a represented entity may change the information on file under section 30-21-404(a), Idaho Code, by amending its most recent registered agent filing in a manner provided by the law of this state other than this act for amending the filing.

30-21-408.CHANGE OF NAME OR ADDRESS BY NONCOMMERCIAL REGISTERED AGENT. (a) If a noncommercial registered agent changes its name or its address in effect with respect to a represented entity under section 30-21-404(a), Idaho Code, the agent shall deliver to the secretary of state for filing, with respect to each entity represented by the agent, a statement of change signed by the agent which states:

- (1) The name of the entity;
  - (2) The name and address of the agent in effect with respect to the entity;
  - (3) If the name of the agent has changed, the new name;
  - (4) If the address of the agent has changed, the new address; and
- (b) A noncommercial registered agent promptly shall furnish the represented entity with notice in a record of the delivery to the secretary of state for filing of a statement of change and the changes made in the statement.

30-21-409.CHANGE OF NAME, ADDRESS, TYPE OF ENTITY, OR JURISDICTION OF FORMATION BY COMMERCIAL REGISTERED AGENT. (a) If a commercial registered agent changes its name, its address as listed under section 30-21-405(a), Idaho Code, its type of entity, or its jurisdiction of formation, the agent shall deliver to the secretary of state for filing a statement of change signed by the agent which states:

- (1) The name of the agent as listed under section 30-21-405(a), Idaho Code;
- (2) If the name of the agent has changed, the new name;

- (3) If the address of the agent has changed, the new address; and
- (4) If the agent is an entity:
  - (i) If the type of entity of the agent has changed, the new type of entity; and
  - (ii) If the jurisdiction of formation of the agent has changed, the new jurisdiction of formation.
- (b) The filing by the secretary of state of a statement of change under subsection (a) of this section is effective to change the information regarding the agent with respect to each entity represented by the agent.
- (c) A commercial registered agent shall promptly furnish to each entity represented by it a notice in a record of the filing by the secretary of state of a statement of change relating to the name or address of the agent and the changes made in the statement.
- (d) If a commercial registered agent changes its address without delivering for filing a statement of change as required by this section, the secretary of state may cancel the listing of the agent under section 30-21-405, Idaho Code. A cancellation under this subsection has the same effect as a termination under section 30-21-406, Idaho Code. Promptly after canceling the listing of an agent, the secretary of state shall serve notice in a record in the manner provided in section 30-21-412(b) or (c), Idaho Code, on:
  - (1) Each entity represented by the agent, stating that the agent has ceased to be the registered agent for the entity and that, until the entity designates a new registered agent, service of process may be made on the entity as provided in section 30-21-412, Idaho Code; and
  - (2) The agent stating that the listing of the agent has been canceled under this section.

30-21-410.RESIGNATION OF REGISTERED AGENT. (a) A registered agent may resign as agent for a represented entity by delivering to the secretary of state for filing a statement of resignation signed by the agent which states:

- (1) The name of the entity;
- (2) The name of the agent;
- (3) That the agent resigns from serving as registered agent for the entity; and
- (4) The address of the entity to which the agent will send the notice required by subsection (c) of this section.
- (b) A statement of resignation takes effect on the earlier of:
  - (1) 12:01 a.m. on the thirty-first day after the day on which it is filed by the secretary of state; or
  - (2) The designation of a new registered agent for the represented entity.
- (c) A registered agent shall promptly furnish to the represented entity notice in a record of the date on which a statement of resignation was filed.
- (d) When a statement of resignation takes effect, the person that resigned ceases to have responsibility under this part for any matter thereafter tendered to it as agent for the represented entity. The resignation does not affect any contractual rights the entity has against the agent or that the agent has against the entity.
- (e) A registered agent may resign with respect to a represented entity whether or not the entity is in good standing.

30-21-411.DESIGNATION OF REGISTERED AGENT BY NONREGISTERED FOREIGN ENTITY OR NONFILING DOMESTIC ENTITY. (a) A nonregistered foreign entity or domestic nonfiling entity may deliver to the secretary of state for filing a statement designating a registered agent signed by the entity that states:

- (1) The name, type of entity, and jurisdiction of formation of the entity; and
- (2) The information required by section 30-21-404(a), Idaho Code.
- (b) A statement under subsection (a) of this section is effective for five (5) years after the date of filing unless canceled or terminated earlier.
- (c) A statement under subsection (a) of this section must be signed by a person authorized to manage the affairs of the nonregistered foreign entity or domestic nonfiling entity. The signing of the statement is an affirmation of fact that the person is authorized to manage the affairs of the entity and that the agent has consented to serve.
- (d) Designation of a registered agent under subsection (a) of this section does not register a nonregistered foreign entity to do business in this state.
- (e) A statement under subsection (a) of this section may not be rejected for filing because the name of the entity signing the statement is not distinguishable on the records of the secretary of state from the name of another entity appearing on those records. The filing of such a statement does not make the name of the entity signing the statement unavailable for use by another entity.
- (f) An entity that delivers to the secretary of state for filing a statement under subsection (a) of this section designating a registered agent may cancel the statement by delivering to the secretary of state for filing a statement

of cancellation that states the name of the entity and that the entity is canceling its designation of a registered agent in this state.

(g) A statement under subsection (a) of this section for a nonregistered foreign entity terminates on the date the entity becomes a registered foreign entity.

30-21-412.SERVICE OF PROCESS, NOTICE OR DEMAND ON ENTITY. (a) A represented entity may be served with any process, notice or demand required or permitted by law by serving its registered agent.

(b) If a represented entity ceases to have a registered agent, or if its registered agent cannot with reasonable diligence be served, the entity may be served by registered or certified mail, return receipt requested, or by similar commercial delivery service, addressed to the entity at the entity's principal office. The address of the principal office of a domestic filing entity, domestic limited liability partnership, or registered foreign entity must be as shown in the entity's most recent annual report filed by the secretary of state. Service is effected under this subsection on the earliest of:

(1) The date the entity receives the mail or delivery by the commercial delivery service;

(2) The date shown on the return receipt, if signed by the entity; or

(3) Five (5) days after its deposit with the United States postal service or commercial delivery service, if correctly addressed and with sufficient postage or payment.

(c) If process, notice or demand cannot be served on an entity pursuant to subsection (a) or (b) of this section, service may be made by handing a copy to the individual in charge of any regular place of business or activity of the entity if the individual served is not a plaintiff in the action.

(d) Service of process, notice, or demand on a registered agent must be in a written record, but service may be made on a commercial registered agent in other forms and subject to such requirements as the agent has stated in its listing under section 30-21-405, Idaho Code, that it will accept.

(e) Service of process, notice or demand may be made by other means under law other than this act.

30-21-413.DUTIES OF REGISTERED AGENT. The only duties under this part of a registered agent that has complied with this part are:

(1) To forward to the represented entity at the address most recently supplied to the agent by the entity any process, notice or demand pertaining to the entity which is served on or received by the agent;

(2) To provide the notices required by this act to the entity at the address most recently supplied to the agent by the entity;

(3) If the agent is a noncommercial registered agent, to keep current the information required by section 30-21-404(a), Idaho Code, in the most recent registered agent filing for the entity; and

(4) If the agent is a commercial registered agent, to keep current the information listed for it under section 30-21-405(a), Idaho Code.

30-21-414.JURISDICTION AND VENUE. The designation or maintenance in this state of a registered agent does not by itself create the basis for personal jurisdiction over the represented entity in this state. The address of the agent does not determine venue in an action or a proceeding involving the entity.

## **PART 5. FOREIGN ENTITIES**

30-21-501.GOVERNING LAW. (a) The law of the jurisdiction of formation of an entity governs:

(1) The internal affairs of the entity;

(2) The liability that a person has as an interest holder or governor for a debt, obligation, or other liability of the entity;

(3) The liability of a series of a limited liability company, a statutory trust, or any other unincorporated entity.

(b) A foreign entity is not precluded from registering to do business in this state because of any difference between the law of the entity's jurisdiction of formation and the law of this state.

(c) Registration of a foreign entity to do business in this state does not authorize the foreign entity to engage in any activities or affairs or exercise any power that the domestic entity of the type to which it most closely corresponds may not engage in or exercise in this state.

(d) A foreign professional entity rendering services in this state shall be subject to the laws of this state and the

code of ethics or professional responsibility that are applicable to the profession in which such professional entity is rendering services in this state.

30-21-502.REGISTRATION TO DO BUSINESS IN THIS STATE. (a) A foreign filing entity or foreign limited liability partnership may not do business in this state until it registers with the secretary of state under this chapter.

(b) A foreign filing entity or foreign limited liability partnership doing business in this state may not maintain an action or proceeding in this state unless it is registered to do business in this state.

(c) The failure of a foreign filing entity or foreign limited liability partnership to register to do business in this state does not impair the validity of a contract or act of the foreign filing entity or foreign limited liability partnership or preclude it from defending an action or proceeding in this state.

(d) A limitation on the liability of a series of foreign unincorporated entity or an interest holder or governor of a foreign filing entity or of a partner of a foreign limited liability partnership is not waived solely because the foreign unincorporated entity or any series thereof, foreign filing entity or foreign limited liability partnership does business in this state without registering.

(e) Section 30-21-501(a) and (b), Idaho Code, applies even if a foreign entity fails to register under this chapter.

30-21-503.FOREIGN REGISTRATION STATEMENT. (a) To register to do business in this state, a foreign filing entity or foreign limited liability partnership must deliver a foreign registration statement to the secretary of state for filing. The statement must be signed by the entity and state:

(1) The name of the foreign filing entity or foreign limited liability partnership and, if the name does not comply with section 30-21-301, Idaho Code, an alternate name adopted pursuant to section 30-21-506(a), Idaho Code;

(2) The type of entity and, if it is a foreign limited partnership, whether it is a foreign limited liability limited partnership;

(3) The entity's jurisdiction of formation;

(4) The street and mailing addresses of the entity's principal office and, if the law of the entity's jurisdiction of formation requires the entity to maintain an office in that jurisdiction, the street and mailing addresses of the office;

(5) The information required by section 30-21-404(a), Idaho Code; and

(6) The name and mailing address of at least one (1) governor.

(b) A foreign filing entity or foreign limited liability partnership must deliver to the secretary of state with a foreign registration statement a certificate of existence or a record of similar import signed by the secretary of state or other official having custody of the entity's public organic record in the entity's jurisdiction of formation.

30-21-504.AMENDMENT OF FOREIGN REGISTRATION STATEMENT. (a) A registered foreign entity shall sign and deliver to the secretary of state for filing an amendment to its foreign registration statement if there is a change in:

(1) The name of the entity;

(2) The type of entity, including, if it is a foreign limited partnership, whether the entity became or ceased to be a foreign limited liability limited partnership;

(3) The entity's jurisdiction of formation;

(4) An address required by section 30-21-503(4), Idaho Code; or

(5) The information required by section 30-21-404(a), Idaho Code.

(b) A registered foreign entity must deliver to the secretary of state with an amendment to its foreign registration statement for a change under subsection (a)(1), (2) or (3) of this section, a certificate of existence or a record of similar import signed by the secretary of state or other official having custody of the entity's public organic record in the entity's jurisdiction of formation.

30-21-505.ACTIVITIES NOT CONSTITUTING DOING BUSINESS. (a) Activities of a foreign filing entity or foreign limited liability partnership that do not constitute doing business in this state under this chapter include:

(1) Maintaining, defending, mediating, arbitrating, or settling an action or proceeding;

(2) Carrying on any activity concerning its internal affairs, including holding meetings of its interest holders or governors;

(3) Maintaining accounts in financial institutions;

- (4) Maintaining offices or agencies for the transfer, exchange and registration of securities of the entity or maintaining trustees or depositories with respect to those securities;
  - (5) Selling through independent contractors;
  - (6) Soliciting or obtaining orders by any means if the orders require acceptance outside this state before they become contracts;
  - (7) Creating or acquiring indebtedness, mortgages or security interests in property;
  - (8) Securing or collecting debts or enforcing mortgages or security interests in property securing the debts, and holding, protecting or maintaining property so acquired;
  - (9) Conducting an isolated transaction that is not in the course of similar transactions;
  - (10) Owning, without more, property; and
  - (11) Doing business in interstate commerce.
- (b) A person does not do business in this state solely by being an interest holder or governor of a foreign entity that does business in this state.
- (c) This section does not apply in determining the contacts or activities that may subject a foreign filing entity or foreign limited liability partnership to service of process, taxation or regulation under the law of this state other than this act.

30-21-506. NONCOMPLYING NAME OF FOREIGN ENTITY. (a) A foreign filing entity or foreign limited liability partnership whose name does not comply with section 30-21-301, Idaho Code, for an entity of its type may not register to do business in this state until it adopts, for the purpose of doing business in this state, an alternate name that complies with section 30-21-301, Idaho Code. A foreign entity that registers under an alternate name under this subsection need not comply with this state's assumed or fictitious name statute. After registering to do business in this state with an alternate name, a foreign entity shall do business in this state under:

- (1) The alternate name;
  - (2) The foreign entity's name with the addition of its jurisdiction of formation; or
  - (3) Name the foreign entity is authorized to use under this state's assumed or fictitious name statute.
- (b) If a registered foreign entity changes its name to one that does not comply with section 30-21-301, Idaho Code, it may not do business in this state until it complies with subsection (a) of this section by amending its registration to adopt an alternate name that complies with section 30-21-301, Idaho Code.

30-21-507. WITHDRAWAL OF REGISTRATION OF REGISTERED FOREIGN ENTITY. (a) A registered foreign entity may withdraw its registration by delivering a statement of withdrawal to the secretary of state for filing. The statement of withdrawal must be signed by the entity and state:

- (1) The name of the entity and its jurisdiction of formation;
  - (2) That the entity is not doing business in this state and that it withdraws its registration to do business in this state;
  - (3) That the entity revokes the authority of its registered agent to accept service on its behalf in this state; and
  - (4) An address to which service of process may be made under subsection (b) of this section.
- (b) After the withdrawal of the registration of an entity, service of process in any action or proceeding based on a cause of action arising during the time the entity was registered to do business in this state may be made pursuant to section 30-21-412, Idaho Code.

30-21-508. WITHDRAWAL DEEMED ON CONVERSION OR DOMESTICATION TO DOMESTIC FILING ENTITY OR DOMESTIC LIMITED LIABILITY PARTNERSHIP. A registered foreign entity that converts or domesticates to any type of domestic filing entity or to a domestic limited liability partnership is deemed to have withdrawn its registration on the effective date of the conversion or domestication.

30-21-509. WITHDRAWAL ON DISSOLUTION OR CONVERSION TO NONFILING ENTITY OTHER THAN LIMITED LIABILITY PARTNERSHIP. (a) A registered foreign entity that has dissolved and completed winding up or has converted to a domestic or foreign nonfiling entity other than a limited liability partnership shall deliver a statement of withdrawal to the secretary of state for filing. The statement must be signed by the dissolved or converted entity and state:

- (1) In the case of a foreign entity that has completed winding up:

- (A) Its name and jurisdiction of formation; and
- (B) That the foreign entity surrenders its registration to do business in this state; and
- (2) In the case of a foreign entity that has converted to a domestic or foreign nonfiling entity other than a limited liability partnership:
  - (A) The name of the converting foreign entity and its jurisdiction of formation;
  - (B) The type of nonfiling entity to which it has converted and its jurisdiction of formation;
  - (C) That it withdraws its registration to do business in this state and revokes the authority of its registered agent to accept service on its behalf; and
  - (D) A mailing address to which service of process may be made under subsection (b) of this section.
- (b) After a withdrawal under this section is effective, service of process in any action or proceeding based on a cause of action arising during the time the foreign filing entity was registered to do business in this state may be made pursuant to section 30-21-412, Idaho Code.

30-21-510. TRANSFER OF REGISTRATION. (a) If a registered foreign entity merges into a nonregistered foreign entity or converts to a foreign entity required to register with the secretary of state to do business in this state, the foreign entity shall deliver to the secretary of state for filing an application for transfer of registration. The application must be signed by the surviving or converted entity and state:

- (1) The name of the registered foreign entity before the merger or conversion;
- (2) The type of entity it was before the merger or conversion;
- (3) The name of the applicant entity and, if the name does not comply with section 30-21-301, Idaho Code, an alternate name adopted pursuant to section 30-21-506(a), Idaho Code;
- (4) The type of entity of the applicant entity and its jurisdiction of formation; and
- (5) The following information regarding the applicant entity, if different than the information for the foreign entity before the merger or conversion:
  - (A) The street and mailing addresses of the principal office of the entity and, if the law of the entity's jurisdiction of formation requires it to maintain an office in that jurisdiction, the street and mailing addresses of that office; and
  - (B) The information required pursuant to section 30-21-404(a), Idaho Code.
- (b) When an application for transfer of registration takes effect, the registration of the registered foreign entity to do business in this state is transferred without interruption to the entity into which it has merged or to which it has been converted.

30-21-511. TERMINATION OF REGISTRATION. (a) The secretary of state may terminate the registration of a registered foreign entity in the manner provided in subsections (b) and (c) of this section if the entity does not:

- (1) Deliver its annual report to the secretary of state for filing not later than the date it is due;
- (2) Have a registered agent as required by section 30-21-402, Idaho Code; or
- (3) Deliver to the secretary of state for filing a statement of change under section 30-21-407, Idaho Code, not later than thirty (30) days after a change occurs in the name or address of the entity's registered agent.
- (b) The secretary of state may terminate the registration of a registered foreign entity by:
  - (1) Filing a notice of termination or noting the termination in the records of the secretary of state; and
  - (2) Delivering a copy of the notice or the information in the notation to the entity's registered agent or, if the entity does not have a registered agent, to the entity's principal office.
- (c) The notice must state or the information in the notation under subsection (b) of this section must include:
  - (1) The effective date of the termination, which must be at least sixty (60) days after the date the secretary of state delivers the copy; and
  - (2) The grounds for termination under subsection (a) of this section.
- (d) The registration of a registered foreign entity to do business in this state ceases on the effective date of the notice of termination or notation under subsection (b) of this section, unless before that date the entity cures each ground for termination stated in the notice or notation. If the entity cures each ground, the secretary of state shall file a record so stating.

30-21-512. ACTION BY ATTORNEY GENERAL. The attorney general may maintain an action to enjoin a foreign filing entity or foreign limited liability partnership from doing business in this state in violation of this act.

## **PART 6. ADMINISTRATIVE DISSOLUTION AND REINSTATEMENT**

30-21-601.GROUNDS. The secretary of state may commence a proceeding under section 30-21-602, Idaho Code, to dissolve a domestic filing entity administratively if the entity does not:

- (1) Deliver an annual report to the secretary of state by the date it is due;
- (2) Have a registered agent in this state for sixty (60) consecutive days; or
- (3) The secretary of state has credible information that the domestic filing entity has failed to notify the secretary of state within sixty (60) days after the occurrence that its registered agent has been changed or that its registered agent has resigned.

30-21-602.PROCEDURE AND EFFECT. (a) If the secretary of state determines that one (1) or more grounds exist under section 30-21-601, Idaho Code, for administratively dissolving a domestic filing entity, the secretary of state shall serve the entity pursuant to section 30-21-212, Idaho Code, with notice in a record of the secretary of state's determination.

(b) If a domestic filing entity, not later than sixty (60) days after service of the notice required by subsection (a) of this section, does not cure or demonstrate to the satisfaction of the secretary of state the nonexistence of each ground determined by the secretary of state, the secretary of state shall administratively dissolve the entity by signing a statement of administrative dissolution that recites the grounds for dissolution and the effective date of dissolution. The secretary of state shall file the statement and serve a copy on the entity pursuant to section 30-21-212, Idaho Code.

(c) A domestic filing entity that is dissolved administratively continues its existence as the same type of entity but may not carry on any activities except as necessary to wind up its activities and affairs and liquidate its assets in the manner provided in its organic law or to apply for reinstatement under section 30-21-603, Idaho Code.

(d) The administrative dissolution of a domestic filing entity does not terminate the authority of its registered agent.

30-21-603.REINSTATEMENT. (a) A domestic filing entity that is dissolved administratively under section 30-21-602, Idaho Code, may apply to the secretary of state for reinstatement not later than ten (10) years after the effective date of dissolution. The application must be signed by the entity and state:

- (1) The name of the entity at the time of its administrative dissolution and, if needed, a different name that satisfies section 30-21-301, Idaho Code;
- (2) The address of the principal office of the entity and the information required by section 30-21-404(a), Idaho Code;
- (3) The effective date of the entity's administrative dissolution; and
- (4) That the grounds for dissolution did not exist or have been cured.

(b) To be reinstated, an entity must pay all fees, taxes, interest, and penalties that were due to the secretary of state at the time of the entity's administrative dissolution and all fees, taxes, interest, and penalties that would have been due to the secretary of state while the entity was dissolved administratively.

(c) If the secretary of state determines that an application under subsection (a) of this section contains the required information, is satisfied that the information is correct, and determines that all payments required to be made to the secretary of state by subsection (b) of this section have been made, the secretary of state shall:

- (1) Cancel the statement of administrative dissolution and prepare a statement of reinstatement that states the secretary of state's determination and the effective date of reinstatement;
- (2) File the statement of reinstatement; and
- (3) Serve a copy on the entity.

(d) When reinstatement under this section is effective the following rules apply:

- (1) The reinstatement relates back to and takes effect as of the effective date of the administrative dissolution.
- (2) The domestic filing entity resumes carrying on its activities and affairs as if the administrative dissolution had never occurred.
- (3) The rights of a person arising out of an act or omission in reliance on the dissolution before the person knew or had notice of the reinstatement are not affected.

30-21-604.JUDICIAL REVIEW OF DENIAL OF REINSTATEMENT. (a) If the secretary of state denies a domestic filing entity's application for reinstatement following administrative dissolution, the secretary of state shall serve the entity with a notice in a record that explains the reasons for denial.

(b) Within thirty (30) days after service of a notice of denial of reinstatement under subsection (a) of this section, an entity may appeal from the denial by petitioning the district court of Ada county to set aside the dissolution. The petition must be served on the secretary of state and contain a copy of the secretary of state's notice of dissolution, the company's application for reinstatement, and the secretary of state's notice of denial.

(c) The district court may, if grounds exist, order the secretary of state to reinstate a dissolved entity or take other action the court considers appropriate.

## **PART 7. TRANSITION PROVISIONS**

30-21-701.RESERVATION OF POWER TO AMEND OR REPEAL. The legislature of this state has power to amend or repeal all or part of this act at any time, and all domestic and foreign entities subject to this act are governed by the amendment or repeal.

30-21-702.SUPPLEMENTAL PRINCIPLES OF LAW. Unless displaced by particular provisions of this act, the principles of law and equity supplement this act.

30-21-703.UNIFORMITY OR CONSISTENCY OF APPLICATION AND CONSTRUCTION. In applying and construing the chapters of this act based on uniform or model acts, consideration must be given to the need to promote uniformity or consistency of the law with respect to its subject matter among states that enact it.

30-21-704.RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. This act modifies, limits, and supersedes the electronic signatures in global and national commerce act, 15 U.S.C. 7001 et seq., but does not modify, limit, or supersede section 101(c) of that act, 15 U.S.C. 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. 7003(b).

30-21-705.SAVINGS CLAUSE. The repeal of a statute by this act does not affect:

- (1) The operation of the statute or any action taken under it before its repeal;
- (2) Any ratification, right, remedy, privilege, obligation or liability acquired, accrued or incurred under the statute before its repeal;
- (3) Any violation of the statute or any penalty, forfeiture or punishment incurred because of the violation before its repeal; or
- (4) Any proceeding, reorganization or dissolution commenced under the statute before its repeal, and the proceeding, reorganization or dissolution may be completed in accordance with the statute as if it had not been repealed.

30-21-706.SEVERABILITY CLAUSE. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

30-21-708.EFFECTIVE DATE. This act takes effect July 1, 2015, except as otherwise provided.

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END OF PRELIMINARY PROVISIONS

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## CHAPTER 22. IDAHO MODEL ENTITY TRANSACTIONS ACT

### PART 1. GENERAL PROVISIONS

30-22-101.SHORT TITLE. This chapter may be cited as the “Idaho Model Entity Transactions Act.”

30-22-102.DEFINITIONS. (a) As used in this chapter:

- (1) “Acquired entity” means the entity, all of one (1) or more classes or series of interests that are acquired in an interest exchange.
- (2) “Acquiring entity” means the entity that acquires all of one (1) or more classes or series of interests of the acquired entity in an interest exchange.
- (3) “Approve” means, in the case of an entity, for its governors and interest holders to take whatever steps are necessary under the entity’s organic rules, organic law, and other law to:
  - (A) Propose a transaction subject to this part;
  - (B) Adopt and approve the terms and conditions of the transaction; and
  - (C) Conduct any required proceedings or otherwise obtain any required votes or consents of the governors or interest holders.
- (4) “Conversion” means a transaction authorized by part 4 of this chapter.
- (5) “Converted entity” means the converting entity as it continues in existence after a conversion.
- (6) “Converting entity” means the domestic entity that approves a plan of conversion pursuant to section 30-22-403, Idaho Code, or the foreign entity that approves a conversion pursuant to the law of its jurisdiction of formation.
- (7) “Domesticated entity” means the domesticating entity as it continues in existence after a domestication.
- (8) “Domesticating entity” means the domestic entity that approves a plan of domestication pursuant to section 30-22-503, Idaho Code, or the foreign entity that approves a domestication pursuant to the law of its jurisdiction of formation.
- (9) “Domestication” means a transaction authorized by part 5 of this chapter.
- (10) “Interest exchange” means a transaction authorized by part 3 of this chapter.
- (11) “Interest holder liability” means:
  - (A) Personal liability for a liability of an entity which is imposed on a person:
    - (i) Solely by reason of the status of the person as an interest holder; or
    - (ii) By the organic rules of the entity that make one (1) or more specified interest holders or categories of interest holders liable in their capacity as interest holders for all or specified liabilities of the entity; or
  - (B) An obligation of an interest holder under the organic rules of an entity to contribute to the entity.
- (12) “Merger” means a transaction in which two (2) or more merging entities are combined into a surviving entity pursuant to a record filed by the secretary of state.
- (13) “Merging entity” means an entity that is a party to a merger and exists immediately before the merger becomes effective.
- (14) “Plan” means a plan of merger, plan of interest exchange, plan of conversion or plan of domestication.
- (15) “Plan of conversion” means a plan under section 30-22-402, Idaho Code.
- (16) “Plan of domestication” means a plan under section 30-22-502, Idaho Code.
- (17) “Plan of interest exchange” means a plan under section 30-22-302, Idaho Code.
- (18) “Plan of merger” means a plan under section 30-22-202, Idaho Code.
- (19) “Protected agreement” means:
  - (A) A record evidencing indebtedness and any related agreement in effect on July 1, 2007;
  - (B) An agreement that is binding on an entity on July 1, 2007;
  - (C) The organic rules of an entity in effect on July 1, 2007; or
  - (D) An agreement that is binding on any of the governors or interest holders of an entity on July 1, 2007.
- (20) “Statement of conversion” means a statement under section 30-22-405, Idaho Code.
- (21) “Statement of domestication” means a statement under section 30-22-505, Idaho Code.
- (22) “Statement of interest exchange” means a statement under section 30-22-305, Idaho Code.
- (23) “Statement of merger” means a statement under section 30-22-205, Idaho Code.
- (24) “Surviving entity” means the entity that continues in existence after or is created by a merger under part 2 of

this chapter.

(b) The following definitions outside this chapter apply to this chapter:

- (1) “Distributional interest” - section 30-21-102(8), Idaho Code.
- (2) “Domestic” - section 30-21-102(9), Idaho Code.
- (3) “Entity” - section 30-21-102(11), Idaho Code.
- (4) “Filing entity” - section 30-21-102(14), Idaho Code.
- (5) “Foreign” - section 30-21-102(15), Idaho Code.
- (6) “Governance interest” - section 30-21-102(18), Idaho Code.
- (7) “Governor” - section 30-21-102(19), Idaho Code.
- (8) “Interest” - section 30-21-102(20), Idaho Code.
- (9) “Interest holder” - section 30-21-102(21), Idaho Code.
- (10) “Jurisdiction” - section 30-21-102(22), Idaho Code.
- (11) “Jurisdiction of formation” - section 30-21-102(23), Idaho Code.
- (12) “Organic law” - section 30-21-102(33), Idaho Code.
- (13) “Organic rules” - section 30-21-102(34), Idaho Code.
- (14) “Person” - section 30-21-102(35), Idaho Code.
- (15) “Private organic rules” - section 30-21-102(37), Idaho Code.
- (16) “Property” - section 30-21-102(41), Idaho Code.
- (17) “Public organic record” - section 30-21-102(42), Idaho Code.
- (18) “Record” - section 30-21-102(44), Idaho Code.
- (19) “Registered foreign entity” - section 30-21-102(46), Idaho Code.
- (20) “Sign” - section 30-21-102(47), Idaho Code.
- (21) “State” - section 30-21-102(48), Idaho Code.
- (22) “Transfer” - section 30-21-102(50), Idaho Code.
- (23) “Type of entity” - section 30-21-102(51), Idaho Code.

30-22-103.RELATIONSHIP OF CHAPTER TO OTHER LAWS. (a) This chapter does not authorize an act prohibited by, and does not affect the application or requirements of, law other than this chapter.

(b) A transaction effected under this chapter may not create or impair any right or obligation on the part of a person under the statutory law of this state relating to a change in control, takeover, business combination, control-share acquisition, or similar transaction involving a domestic merging, acquired, converting, or domesticating business corporation unless:

- (1) If the corporation does not survive the transaction, the transaction satisfies any requirements of the law; or
- (2) If the corporation survives the transaction, the approval of the plan is by a vote of the shareholders or directors which would be sufficient to create or impair the right, duty or obligation directly under the law.

30-22-104.REQUIRED NOTICE OR APPROVAL. (a) A domestic or foreign entity that is required to give notice to, or obtain the approval of, a governmental agency or officer of this state before engaging in a merger transaction of a type covered by this chapter must give the notice or obtain the approval in order to be a party to an interest exchange, conversion, or domestication.

(b) Property held for a charitable purpose under the law of this state by a domestic or foreign entity immediately before a transaction under this chapter becomes effective may not, as a result of the transaction, be diverted from the objects for which it was donated, granted, devised, or otherwise transferred unless, to the extent required by or pursuant to the law of this state concerning cy pres or other law dealing with nondiversion of charitable assets, the entity obtains an appropriate order of the attorney general specifying the disposition of the property.

(c) A bequest, devise, gift, grant, or promise contained in a will or other instrument of donation, subscription, or conveyance that is made to a merging entity that is not the surviving entity and that takes effect or remains payable after the merger inures to the surviving entity.

(d) A trust obligation that would govern property if transferred to the nonsurviving entity applies to property that is transferred to the surviving entity under this section.

30-22-105.STATUS OF FILINGS. A filing under this chapter signed by a domestic entity becomes part of the public organic record of the entity if the entity’s organic law provides that similar filings under that law become part of

the public organic record of the entity.

30-22-106.NONEXCLUSIVITY. The fact that a transaction under this chapter produces a certain result does not preclude the same result from being accomplished in any other manner permitted by law other than this chapter.

30-22-107.REFERENCE TO EXTERNAL FACTS. A plan may refer to facts ascertainable outside the plan if the manner in which the facts will operate upon the plan is specified in the plan. The facts may include the occurrence of an event or a determination or action by a person, whether or not the event, determination, or action is within the control of a party to the transaction.

30-22-108.ALTERNATIVE MEANS OF APPROVAL OF TRANSACTIONS. Except as otherwise provided in the organic law or organic rules of a domestic entity, approval of a transaction under this chapter by the affirmative vote or consent of all its interest holders satisfies the requirements of this chapter for approval of the transaction.

30-22-109.APPRAISAL RIGHTS. (a) An interest holder of a domestic merging, acquired, converting, or domesticating entity is entitled to appraisal rights in connection with the transaction if the interest holder would have been entitled to appraisal rights under the entity's organic law in connection with a merger in which the interest of the interest holder was changed, converted or exchanged unless:

(1) The organic law permits the organic rules to limit the availability of appraisal rights; and

(2) The organic rules provide such a limit.

(b) An interest holder of a domestic merging, acquired, converting, or domesticating entity is entitled to contractual appraisal rights in connection with a transaction under this chapter to the extent provided in:

(1) The entity's organic rules;

(2) The plan; or

(3) The case of a business corporation by action of its governors.

(c) If an interest holder is entitled to contractual appraisal rights under subsection (b) of this section and the entity's organic law does not provide procedures for the conduct of an appraisal rights proceeding, part 13, chapter 29, title 30, Idaho Code, applies to the extent practicable or as otherwise provided in the entity's organic rules or the plan.

30-22-110.CONFLICT OF LAWS AND EXCLUDED TRANSACTIONS. (a) In the event of any conflict between the provisions of this chapter and the provisions of the following laws, the following laws shall control:

(1) The Idaho bank act, as defined in section 26-101, Idaho Code;

(2) The Idaho credit union act, chapter 21, title 26, Idaho Code;

(3) Chapters 28, 32, 34, 38 and 48, title 41, Idaho Code;

(4) The business and industrial development corporation act, chapter 27, title 26, Idaho Code.

(b) This chapter may not be used to effect a transaction that results in a domestic entity of a type that cannot be formed by the filing of a public organic record with the secretary of state, except for a general partnership and an unincorporated nonprofit association.

## **PART 2. MERGER**

30-22-201.MERGER AUTHORIZED. (a) Except as otherwise provided in this section, by complying with this part:

(1) One (1) or more domestic entities may merge with one (1) or more domestic or foreign entities into a domestic or foreign surviving entity; and

(2) Two (2) or more foreign entities may merge into a domestic entity.

(b) Except as otherwise provided in this section, by complying with the provisions of this part applicable to foreign entities, a foreign entity may be a party to a merger under this part or may be the surviving entity in such a merger if the merger is authorized by the law of the foreign entity's jurisdiction of formation.

30-22-202.PLAN OF MERGER. (a) A domestic entity may become a party to a merger under this part by approving a plan of merger. The plan must be in a record and contain:

(1) As to each merging entity, its name, jurisdiction of formation, and type of entity;

- (2) If the surviving entity is to be created in the merger, a statement to that effect and the entity's name, jurisdiction of formation, and type of entity;
  - (3) The manner of converting the interests in each party to the merger into interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing;
  - (4) If the surviving entity exists before the merger, any proposed amendments to:
    - (A) Its public organic record, if any; and
    - (B) Its private organic rules that are, or are proposed to be, in a record;
  - (5) If the surviving entity is to be created in the merger:
    - (A) Its proposed public organic record, if any; and
    - (B) The full text of its private organic rules that are proposed to be in a record;
  - (6) The other terms and conditions of the merger; and
  - (7) Any other provision required by the law of a merging entity's jurisdiction of formation or the organic rules of a merging entity.
- (b) In addition to the requirements of subsection (a) of this section, a plan of merger may contain any other provision not prohibited by law.

30-22-203.APPROVAL OF MERGER. (a) A plan of merger is not effective unless it has been approved:

- (1) By a domestic merging entity:
    - (A) In accordance with the requirements, if any, in its organic law and organic rules for approval of:
      - (i) In the case of an entity that is not a limited cooperative association, the merger; or
      - (ii) In the case of a limited cooperative association, a transaction under this chapter;
    - (B) By all of the interest holders of the entity entitled to vote on or consent to any matter if:
      - (i) In the case of an entity that is not a business corporation or limited cooperative association, neither its organic law nor organic rules provide for approval of the merger; or
      - (ii) In the case of an entity that is a limited cooperative association, neither its organic law nor organic rules provide for approval of a transaction under this chapter; and
  - (2) In a record, by each interest holder of a domestic merging entity that will have interest holder liability for debts, obligations, and other liabilities that arise after the merger becomes effective, unless, in the case of an entity that is not a business corporation or nonprofit corporation:
    - (A) The organic rules of the entity provide in a record for the approval of a merger in which some or all of its interest holders become subject to interest holder liability by the affirmative vote or consent of fewer than all the interest holders; and
    - (B) The interest holder consented in a record to or voted for that provision of the organic rules or became an interest holder after the adoption of that provision.
- (b) A merger under this part involving a foreign merging entity is not effective unless the merger is approved by the foreign entity in accordance with the law of the foreign entity's jurisdiction of formation.

30-22-204.AMENDMENT OR ABANDONMENT OF PLAN OF MERGER. (a) A plan of merger may be amended only with the consent of each party to the plan, except as otherwise provided in the plan.

- (b) A domestic merging entity may approve an amendment of a plan of merger:
    - (1) In the same manner as the plan was approved, if the plan does not provide for the manner in which it may be amended; or
    - (2) By its governors or interest holders in the manner provided in the plan, but an interest holder that was entitled to vote on or consent to approval of the merger is entitled to vote on or consent to any amendment of the plan that will change:
      - (A) The amount or kind of interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing, to be received by the interest holders of any party to the plan;
      - (B) The public organic record, if any, or private organic rules of the surviving entity that will be in effect immediately after the merger becomes effective, except for changes that do not require approval of the interest holders of the surviving entity under its organic law or organic rules; or
      - (C) Any other terms or conditions of the plan, if the change would adversely affect the interest holder in any material respect.
- (c) After a plan of merger has been approved and before a statement of merger becomes effective, the plan may

be abandoned as provided in the plan. Unless prohibited by the plan, a domestic merging entity may abandon the plan in the same manner as the plan was approved.

(d) If a plan of merger is abandoned after a statement of merger has been delivered to the secretary of state for filing and before the statement becomes effective, a statement of abandonment, signed by a party to the plan, must be delivered to the secretary of state for filing before the statement of merger becomes effective. The statement of abandonment takes effect on filing, and the merger is abandoned and does not become effective. The statement of abandonment must contain:

- (1) The name of each party to the plan of merger;
- (2) The date on which the statement of merger was filed; and
- (3) A statement that the merger has been abandoned in accordance with this section.

30-22-205.STATEMENT OF MERGER -- EFFECTIVE DATE OF MERGER. (a) A statement of merger must be signed by each merging entity and delivered to the secretary of state for filing.

(b) A statement of merger must contain:

- (1) The name, jurisdiction of formation, and type of entity of each merging entity that is not the surviving entity;
- (2) The name, jurisdiction of formation, and type of entity of the surviving entity;
- (3) If the statement of merger is not to be effective upon filing, the later date and time on which it will become effective, which may not be more than ninety (90) days after the date of filing;
- (4) A statement that the merger was approved by each domestic merging entity, if any, in accordance with this part and by each foreign merging entity, if any, in accordance with the law of its jurisdiction of formation;
- (5) If the surviving entity exists before the merger and is a domestic filing entity, any amendment to its public organic record approved as part of the plan of merger;
- (6) If the surviving entity is created by the merger and is a domestic filing entity, its public organic record, as an attachment;
- (7) If the surviving entity is created by the merger and is a domestic limited liability partnership, its statement of qualification, as an attachment; and
- (8) If the surviving entity is a foreign entity that is not a registered foreign entity, a statement designating a registered agent in compliance with section 30-21-411, Idaho Code.

(c) In addition to the requirements of subsection (b) of this section, a statement of merger may contain any other provision not prohibited by law.

(d) If the surviving entity is a domestic entity, its public organic record, if any, must satisfy the requirements of the law of this state, except that the public organic record does not need to be signed and may omit any provision that is not required to be included in a restatement of the public organic record.

(e) A plan of merger that is signed by all the merging entities and meets all the requirements of subsection (b) of this section may be delivered to the secretary of state for filing instead of a statement of merger and on filing has the same effect. If a plan of merger is filed as provided in this subsection, references in this act to a statement of merger refer to the plan of merger filed under this subsection.

(f) A statement of merger is effective on the date and time of filing or the later date and time specified in the statement of merger.

(g) If the surviving entity is a domestic entity, the merger is effective when the statement of merger is effective. If the surviving entity is a foreign entity, the merger is effective on the later of:

- (1) The date and time provided by the organic law of the surviving entity; or
- (2) When the statement is effective.

30-22-206.EFFECT OF MERGER. (a) When a merger under this part becomes effective:

- (1) The surviving entity continues or comes into existence;
- (2) Each merging entity that is not the surviving entity ceases to exist;
- (3) All property of each merging entity vests in the surviving entity without transfer, reversion or impairment;
- (4) All debts, obligations and other liabilities of each merging entity are debts, obligations and other liabilities of the surviving entity;
- (5) Except as otherwise provided by law or the plan of merger, all the rights, privileges, immunities, powers and purposes of each merging entity vest in the surviving entity;
- (6) If the surviving entity exists before the merger:

- (A) All its property continues to be vested in it without transfer, reversion or impairment;
- (B) It remains subject to all its debts, obligations and other liabilities; and
- (C) All its rights, privileges, immunities, powers and purposes continue to be vested in it;
- (7) The name of the surviving entity may be substituted for the name of any merging entity that is a party to any pending action or proceeding;
- (8) If the surviving entity exists before the merger:
  - (A) Its public organic record, if any, is amended to the extent provided in the statement of merger; and
  - (B) Its private organic rules that are to be in a record, if any, are amended to the extent provided in the plan of merger;
- (9) If the surviving entity is created by the merger, its private organic rules are effective and:
  - (A) If it is a filing entity, its public organic record is effective; and
  - (B) If it is a limited liability partnership, its statement of qualification is effective; and
- (10) The interests in each merging entity which are to be converted in the merger are converted, and the interest holders of those interests are entitled only to the rights provided to them under the plan of merger and to any appraisal rights they have under section 30-22-109, Idaho Code, and the merging entity's organic law.
  - (b) Except as otherwise provided in the organic law or organic rules of a merging entity, a merger under this part does not give rise to any rights that an interest holder, governor, or third party would have upon a dissolution, liquidation or winding up of the merging entity.
  - (c) When a merger under this part becomes effective, a person that did not have interest holder liability with respect to any of the merging entities and becomes subject to interest holder liability with respect to a domestic entity as a result of the merger has interest holder liability only to the extent provided by the organic law of that entity and only for those debts, obligations, and other liabilities that arise after the merger becomes effective.
  - (d) When a merger becomes effective, the interest holder liability of a person that ceases to hold an interest in a domestic merging entity with respect to which the person had interest holder liability is subject to the following rules:
    - (1) The merger does not discharge any interest holder liability under the organic law of the domestic merging entity to the extent the interest holder liability arose before the merger became effective.
    - (2) The person does not have interest holder liability under the organic law of the domestic merging entity for any debt, obligation, or other liability that arises after the merger becomes effective.
    - (3) The organic law of the domestic merging entity continues to apply to the release, collection, or discharge of any interest holder liability preserved under paragraph (1) of this subsection as if the merger had not occurred.
    - (4) The person has whatever rights of contribution from any other person as are provided by law other than this chapter or the organic rules of the domestic merging entity with respect to any interest holder liability preserved under paragraph (1) of this subsection as if the merger had not occurred.
  - (e) When a merger under this part becomes effective, a foreign entity that is the surviving entity may be served with process in this state for the collection and enforcement of any debts, obligations, or other liabilities of a domestic merging entity in accordance with applicable law.
  - (f) When a merger under this part becomes effective, registration to do business in this state of any foreign merging entity that is not the surviving entity is canceled.

### **PART 3. INTEREST EXCHANGE**

30-22-301.INTEREST EXCHANGE AUTHORIZED. (a) Except as otherwise provided in this section, by complying with this part:

- (1) A domestic entity may acquire all of one (1) or more classes or series of interests of another domestic entity or a foreign entity in exchange for interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing; or
- (2) All of one (1) or more classes or series of interests of a domestic entity may be acquired by another domestic entity or a foreign entity in exchange for interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing.
- (b) Except as otherwise provided in this section, by complying with the provisions of this part applicable to foreign entities a foreign entity may be the acquiring or acquired entity in an interest exchange under this part if the interest exchange is authorized by the law of the foreign entity's jurisdiction of formation.

(c) If a protected agreement contains a provision that applies to a merger of a domestic entity but does not refer to an interest exchange, the provision applies to an interest exchange in which the domestic entity is the acquired entity as if the interest exchange were a merger until the provision is amended after July 1, 2007.

30-22-302.PLAN OF INTEREST EXCHANGE. (a) A domestic entity may be the acquired entity in an interest exchange under this part by approving a plan of interest exchange. The plan must be in a record and contain:

- (1) The name and type of entity of the acquired entity;
  - (2) The name, jurisdiction of formation, and type of entity of the acquiring entity;
  - (3) The manner of converting the interests in the acquired entity into interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing;
  - (4) Any proposed amendments to:
    - (A) The public organic record, if any, of the acquired entity; and
    - (B) The private organic rules of the acquired entity that are, or are proposed to be, in a record;
  - (5) The other terms and conditions of the interest exchange; and
  - (6) Any other provision required by the law of this state or the organic rules of the acquired entity.
- (b) In addition to the requirements of subsection (a) of this section, a plan of interest exchange may contain any other provision not prohibited by law.

30-22-303.APPROVAL OF INTEREST EXCHANGE. (a) A plan of interest exchange is not effective unless it has been approved:

- (1) By a domestic acquired entity:
    - (A) In accordance with the requirements, if any, in its organic law and organic rules for approval of an interest exchange;
    - (B) If neither its organic law nor organic rules provide for approval of an interest exchange, in accordance with the requirements, if any, in its organic law and organic rules for approval of:
      - (i) In the case of an entity that is not a business corporation or a limited cooperative association, a merger, as if the interest exchange were a merger;
      - (ii) In the case of a business corporation, a merger requiring approval by a vote of the interest holders of the business corporation, as if the interest exchange were that type of merger; or
      - (iii) In the case of a limited cooperative association, a transaction under this chapter; or
    - (C) By all of the interest holders of the entity entitled to vote on or consent to any matter if:
      - (i) In the case of an entity that is not a business corporation or limited cooperative association, neither its organic law nor organic rules provide for approval of an interest exchange or merger; or
      - (ii) In the case of a limited cooperative association, neither its organic law nor organic rules provide for approval of an interest exchange or a transaction under this chapter; and
  - (2) In a record, by each interest holder of a domestic acquired entity that will have interest holder liability for debts, obligations, and other liabilities that arise after the interest exchange becomes effective, unless, in the case of an entity that is not a business corporation or nonprofit corporation:
    - (A) The organic rules of the entity provide in a record for the approval of an interest exchange or a merger in which some or all of its interest holders become subject to interest holder liability by the vote or consent of fewer than all the interest holders; and
    - (B) The interest holder consented in a record to or voted for that provision of the organic rules or became an interest holder after the adoption of that provision.
- (b) An interest exchange involving a foreign acquired entity is not effective unless it is approved by the foreign entity in accordance with the law of the foreign entity's jurisdiction of formation.
- (c) Except as otherwise provided in its organic law or organic rules, the interest holders of the acquiring entity are not required to approve the interest exchange.

30-22-304.AMENDMENT OR ABANDONMENT OF PLAN OF INTEREST EXCHANGE. (a) A plan of interest exchange may be amended only with the consent of each party to the plan, except as otherwise provided in the plan.

(b) A domestic acquired entity may approve an amendment of a plan of interest exchange:

- (1) In the same manner as the plan was approved, if the plan does not provide for the manner in which it may be amended; or
- (2) By its governors or interest holders in the manner provided in the plan, but an interest holder that was entitled to vote on or consent to approval of the interest exchange is entitled to vote on or consent to any amendment of the plan that will change:
  - (A) The amount or kind of interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing, to be received by any of the interest holders of the acquired entity under the plan;
  - (B) The public organic record, if any, or private organic rules of the acquired entity that will be in effect immediately after the interest exchange becomes effective, except for changes that do not require approval of the interest holders of the acquired entity under its organic law or organic rules; or
  - (C) Any other terms or conditions of the plan, if the change would adversely affect the interest holder in any material respect.
- (c) After a plan of interest exchange has been approved and before a statement of interest exchange becomes effective, the plan may be abandoned as provided in the plan. Unless prohibited by the plan, a domestic acquired entity may abandon the plan in the same manner as the plan was approved.
- (d) If a plan of interest exchange is abandoned after a statement of interest exchange has been delivered to the secretary of state for filing and before the statement becomes effective, a statement of abandonment, signed by the acquired entity, must be delivered to the secretary of state for filing before the statement of interest exchange becomes effective. The statement of abandonment takes effect on filing, and the interest exchange is abandoned and does not become effective. The statement of abandonment must contain:
  - (1) The name of the acquired entity;
  - (2) The date on which the statement of interest exchange was filed by the secretary of state; and
  - (3) A statement that the interest exchange has been abandoned in accordance with this section.

30-22-305.STATEMENT OF INTEREST EXCHANGE -- EFFECTIVE DATE OF INTEREST EXCHANGE. (a) A statement of interest exchange must be signed by a domestic acquired entity and delivered to the secretary of state for filing.

(b) A statement of interest exchange must contain:

- (1) The name and type of entity of the acquired entity;
- (2) The name, jurisdiction of formation, and type of entity of the acquiring entity;
- (3) If the statement of interest exchange is not to be effective upon filing, the later date and time on which it will become effective, which may not be more than ninety (90) days after the date of filing;
- (4) A statement that the plan of interest exchange was approved by the acquired entity in accordance with this part; and
- (5) Any amendments to the acquired entity's public organic record, if any, approved as part of the plan of interest exchange.

(c) In addition to the requirements of subsection (b) of this section, a statement of interest exchange may contain any other provision not prohibited by law.

(d) A plan of interest exchange that is signed by a domestic acquired entity and meets all the requirements of subsection (b) of this section may be delivered to the secretary of state for filing instead of a statement of interest exchange and on filing has the same effect. If a plan of interest exchange is filed as provided in this subsection, references in this chapter to a statement of interest exchange refer to the plan of interest exchange filed under this subsection.

(e) A statement of interest exchange becomes effective on the date and time of filing or the later date and time specified in the statement of interest exchange.

(f) An interest exchange in which the acquired entity is a domestic entity is effective when the statement of interest exchange is effective.

30-22-306.EFFECT OF INTEREST EXCHANGE. (a) When an interest exchange in which the acquired entity is a domestic entity becomes effective:

- (1) The interests in the domestic acquired entity that are the subject of the interest exchange are converted, and the

interest holders of those interests are entitled only to the rights provided to them under the plan of interest exchange and to any appraisal rights as provided in section 30-22-109, Idaho Code, and the acquired entity's organic law;

(2) The acquiring entity becomes the interest holder of the interests in the acquired entity stated in the plan of interest exchange to be acquired by the acquiring entity;

(3) The public organic record, if any, of the acquired entity is amended as provided in the statement of interest exchange; and

(4) The private organic rules of the acquired entity that are to be in a record, if any, are amended to the extent provided in the plan of interest exchange.

(b) Except as otherwise provided in the organic law or organic rules of the acquired entity, the interest exchange does not give rise to any rights that an interest holder, governor, or third party would have upon a dissolution, liquidation, or winding up of the acquired entity.

(c) When an interest exchange becomes effective, a person that did not have interest holder liability with respect to the acquired entity and becomes subject to interest holder liability with respect to a domestic entity as a result of the interest exchange has interest holder liability only to the extent provided by the organic law of the entity and only for those debts, obligations, and other liabilities that arise after the interest exchange becomes effective.

(d) When an interest exchange becomes effective, the interest holder liability of a person that ceases to hold an interest in a domestic acquired entity with respect to which the person had interest holder liability is subject to the following rules:

(1) The interest exchange does not discharge any interest holder liability under the organic law of the domestic acquired entity to the extent the interest holder liability arose before the interest exchange became effective.

(2) The person does not have interest holder liability under the organic law of the domestic acquired entity for any debt, obligation, or other liability that arises after the interest exchange becomes effective.

(3) The organic law of the domestic acquired entity continues to apply to the release, collection, or discharge of any interest holder liability preserved under paragraph (1) of this subsection as if the interest exchange had not occurred.

(4) The person has whatever rights of contribution from any other person as are provided by law other than this chapter or the organic law or organic rules of the domestic acquired entity with respect to any interest holder liability preserved under paragraph (1) of this subsection as if the interest exchange had not occurred.

#### **PART 4. CONVERSION**

30-22-401.CONVERSION AUTHORIZED. (a) By complying with this part, a domestic entity may become:

(1) A domestic entity that is a different type of entity; or

(2) A foreign entity that is a different type of entity, if the conversion is authorized by the law of the foreign entity's jurisdiction of formation.

(b) By complying with the provisions of this part applicable to foreign entities, a foreign entity may become a domestic entity that is a different type of entity if the conversion is authorized by the law of the foreign entity's jurisdiction of formation.

(c) If a protected agreement contains a provision that applies to a merger of a domestic entity but does not refer to a conversion, the provision applies to a conversion of the entity as if the conversion were a merger until the provision is amended after July 1, 2007.

30-22-402.PLAN OF CONVERSION. (a) A domestic entity may convert to a different type of entity under this part by approving a plan of conversion. The plan must be in a record and contain:

(1) The name and type of entity of the converting entity;

(2) The name, jurisdiction of formation, and type of entity of the converted entity;

(3) The manner of converting the interests in the converting entity into interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing;

(4) The proposed public organic record of the converted entity if it will be a filing entity;

(5) The full text of the private organic rules of the converted entity that are proposed to be in a record;

(6) The other terms and conditions of the conversion; and

- (7) Any other provision required by the law of this state or the organic rules of the converting entity.
- (b) In addition to the requirements of subsection (a) of this section, a plan of conversion may contain any other provision not prohibited by law.

30-22-403.APPROVAL OF CONVERSION. (a) A plan of conversion is not effective unless it has been approved:

- (1) By a domestic converting entity:
  - (A) In accordance with the requirements, if any, in its organic rules for approval of a conversion;
  - (B) If its organic rules do not provide for approval of a conversion, in accordance with the requirements, if any, in its organic law and organic rules for approval of:
    - (i) In the case of an entity that is not a business corporation or limited cooperative association, a merger, as if the conversion were a merger; or
    - (ii) In the case of a business corporation, a merger requiring approval by a vote of the interest holders of the business corporation, as if the conversion were that type of merger; or
    - (iii) In the case of a limited cooperative association, a transaction under this chapter; or
  - (C) By all of the interest holders of the entity entitled to vote on or consent to any matter if:
    - (i) In the case of any entity that is not a business corporation or limited cooperative association, neither its organic law nor organic rules provide for approval of a conversion or a merger; or
    - (ii) In the case of a limited cooperative association, neither its organic law nor organic rules provide for approval of a conversion or a transaction under this chapter; and
- (2) In a record, by each interest holder of a domestic converting entity that will have interest holder liability for debts, obligations, and other liabilities that arise after the conversion becomes effective, unless, in the case of an entity that is not a business or nonprofit corporation:
  - (A) The organic rules of the entity provide in a record for the approval of a conversion or a merger in which some or all of its interest holders become subject to interest holder liability by the vote or consent of fewer than all the interest holders; and
  - (B) The interest holder voted for or consented in a record to or voted for that provision of the organic rules or became an interest holder after the adoption of that provision.
- (b) A conversion of a foreign converting entity is not effective unless it is approved by the foreign entity in accordance with the law of the foreign entity's jurisdiction of formation.

30-22-404.AMENDMENT OR ABANDONMENT OF PLAN OF CONVERSION. (a) A plan of conversion of a domestic converting entity may be amended:

- (1) In the same manner as the plan was approved, if the plan does not provide for the manner in which it may be amended; or
- (2) By its governors or interest holders in the manner provided in the plan, but an interest holder that was entitled to vote on or consent to approval of the conversion is entitled to vote on or consent to any amendment of the plan that will change:
  - (A) The amount or kind of interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing, to be received by any of the interest holders of the converting entity under the plan;
  - (B) The public organic record, if any, or private organic rules of the converted entity that will be in effect immediately after the conversion becomes effective, except for changes that do not require approval of the interest holders of the converted entity under its organic law or organic rules; or
  - (C) Any other terms or conditions of the plan, if the change would adversely affect the interest holder in any material respect.
- (b) After a plan of conversion has been approved and before a statement of conversion becomes effective, the plan may be abandoned as provided in the plan. Unless prohibited by the plan, a domestic converting entity may abandon the plan in the same manner as the plan was approved.
- (c) If a plan of conversion is abandoned after a statement of conversion has been delivered to the secretary of state for filing and before the statement becomes effective, a statement of abandonment, signed by the converting entity, must be delivered to the secretary of state for filing before the statement of conversion becomes effective. The statement of abandonment takes effect on filing, and the conversion is abandoned and does not become effective. The statement of abandonment must contain:

- (1) The name of the converting entity;
- (2) The date on which the statement of conversion was filed by the secretary of state; and
- (3) A statement that the conversion has been abandoned in accordance with this section.

30-22-405.STATEMENT OF CONVERSION -- EFFECTIVE DATE OF CONVERSION. (a) A statement of conversion must be signed by the converting entity and delivered to the secretary of state for filing.

(b) A statement of conversion must contain:

- (1) The name, jurisdiction of formation, and type of entity of the converting entity;
  - (2) The name, jurisdiction of formation, and type of entity of the converted entity;
  - (3) If the statement of conversion is not to be effective upon filing, the later date and time on which it will become effective, which may not be more than ninety (90) days after the date of filing;
  - (4) If the converting entity is a domestic entity, a statement that the plan of conversion was approved in accordance with this part or, if the converting entity is a foreign entity, a statement that the conversion was approved by the foreign entity in accordance with the law of its jurisdiction of formation;
  - (5) If the converted entity is a domestic filing entity, its public organic record, as an attachment;
  - (6) If the converted entity is a domestic limited liability partnership, its statement of qualification, as an attachment; and
  - (7) If the converted entity is a foreign entity, a statement designating a registered agent in compliance with section 30-21-411, Idaho Code.
- (c) In addition to the requirements of subsection (b) of this section, a statement of conversion may contain any other provision not prohibited by law.
- (d) If the converted entity is a domestic entity, its public organic record, if any, must satisfy the requirements of the law of this state, except that the public organic record does not need to be signed and may omit any provision that is not required to be included in a restatement of the public organic record.
- (e) A plan of conversion that is signed by a domestic converting entity and meets all the requirements of subsection (b) of this section may be delivered to the secretary of state for filing instead of a statement of conversion and on filing has the same effect. If a plan of conversion is filed as provided in this subsection, references in this chapter to a statement of conversion refer to the plan of conversion filed under this subsection.
- (f) A statement of conversion is effective on the date and time of filing or the later date and time specified in the statement of conversion.
- (g) If the converted entity is a domestic entity, the conversion is effective when the statement of conversion is effective. If the converted entity is a foreign entity, the conversion is effective on the later of:
- (1) The date and time provided by the organic law of the converted entity; or
  - (2) When the statement is effective.

30-22-406.EFFECT OF CONVERSION. (a) When a conversion becomes effective:

- (1) The converted entity is:
  - (A) Organized under and subject to the organic law of the converted entity; and
  - (B) The same entity without interruption as the converting entity;
- (2) All property of the converting entity continues to be vested in the converted entity without transfer, reversion or impairment;
- (3) All debts, obligations, and other liabilities of the converting entity continue as debts, obligations, and other liabilities of the converted entity;
- (4) Except as otherwise provided by law or the plan of conversion, all of the rights, privileges, immunities, powers, and purposes of the converting entity remain in the converted entity;
- (5) The name of the converted entity may be substituted for the name of the converting entity in any pending action or proceeding;
- (6) If a converted entity is a filing entity, its public organic record is effective;
- (7) If the converted entity is a limited liability partnership, its statement of qualification is effective;
- (8) The private organic rules of the converted entity that are to be in a record, if any, approved as part of the plan of conversion are effective; and
- (9) The interests in the converting entity are converted, and the interest holders of the converting entity are entitled only to the rights provided to them under the plan of conversion and to any appraisal rights they have under

section 30-22-109, Idaho Code, and the converting entity's organic law.

(b) Except as otherwise provided in the organic law or organic rules of the converting entity, the conversion does not give rise to any rights that an interest holder, governor, or third party would have upon a dissolution, liquidation, or winding up of the converting entity.

(c) When a conversion becomes effective, a person that did not have interest holder liability with respect to the converting entity and becomes subject to interest holder liability with respect to a domestic entity as a result of the conversion has interest holder liability only to the extent provided by the organic law of the entity and only for those debts, obligations, and other liabilities that arise after the conversion becomes effective.

(d) When a conversion becomes effective, the interest holder liability of a person that ceases to hold an interest in a domestic converting entity with respect to which the person had interest holder liability is subject to the following rules:

(1) The conversion does not discharge any interest holder liability under the organic law of the domestic converting entity to the extent the interest holder liability arose before the conversion became effective.

(2) The person does not have interest holder liability under the organic law of the domestic converting entity for any debt, obligation, or other liability that arises after the conversion becomes effective.

(3) The organic law of a domestic converting entity continues to apply to the release, collection, or discharge of any interest holder liability preserved under paragraph (1) of this subsection as if the conversion had not occurred.

(4) The person has whatever rights of contribution from any other person as are provided by other law or the organic rules of the domestic converting entity with respect to any interest holder liability preserved under paragraph (1) of this subsection as if the conversion had not occurred.

(e) When a conversion becomes effective, a foreign entity that is the converted entity may be served with process in this state for the collection and enforcement of any of its debts, obligations, and other liabilities in accordance with applicable law.

(f) If the converting entity is a registered foreign entity, its registration to do business in this state is canceled when the conversion becomes effective.

(g) A conversion does not require the entity to wind up its affairs and does not constitute or cause the dissolution of the entity.

## **PART 5. DOMESTICATION**

30-22-501.DOMESTICATION AUTHORIZED. (a) Except as otherwise provided in this section, by complying with this part, a domestic entity may become a domestic entity of the same type of entity in a foreign jurisdiction if the domestication is authorized by the law of the foreign jurisdiction.

(b) Except as otherwise provided in this section, by complying with the provisions of this part applicable to foreign entities a foreign entity may become a domestic entity of the same type of entity in this state if the domestication is authorized by the law of the foreign entity's jurisdiction of formation.

(c) If a protected agreement contains a provision that applies to a merger of a domestic entity but does not refer to a domestication, the provision applies to a domestication of the entity as if the domestication were a merger until the provision is amended after July 1, 2007.

30-22-502.PLAN OF DOMESTICATION. (a) A domestic entity may become a foreign entity in a domestication by approving a plan of domestication. The plan must be in a record and contain:

(1) The name and type of entity of the domesticating entity;

(2) The name and jurisdiction of formation of the domesticated entity;

(3) The manner of converting the interests in the domesticating entity into interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing;

(4) The proposed public organic record of the domesticated entity if it is a filing entity;

(5) The full text of the private organic rules of the domesticated entity that are proposed to be in a record;

(6) The other terms and conditions of the domestication; and

(7) Any other provision required by the law of this state or the organic rules of the domesticating entity.

(b) In addition to the requirements of subsection (a) of this section, a plan of domestication may contain any other provision not prohibited by law.

30-22-503.APPROVAL OF DOMESTICATION. (a) A plan of domestication is not effective unless it has been approved:

(1) By a domestic domesticating entity:

(A) In accordance with the requirements, if any, in its organic rules for approval of a domestication;

(B) If its organic rules do not provide for approval of a domestication, in accordance with the requirements, if any, in its organic law and organic rules for approval of:

(i) In the case of an entity that is not a business corporation or limited cooperative association, a merger, as if the domestication were a merger;

(ii) In the case of a business corporation, a merger requiring approval by a vote of the interest holders of the business corporation, as if the domestication were that type of merger; or

(iii) In the case of a limited cooperative association, a transaction under this chapter;

(C) By all of the interest holders of the entity entitled to vote on or consent to any matter if:

(i) In the case of an entity that is not a business corporation or limited cooperative association, neither its organic law nor organic rules provide for approval of a domestication or a merger; or

(ii) In the case of a limited cooperative association, neither its organic law nor organic rules provide for approval of a domestication or a transaction under this chapter; and

(2) In a record, by each interest holder of a domestic domesticating entity that will have interest holder liability for debts, obligations, and other liabilities that arise after the domestication becomes effective, unless, in the case of an entity that is not a business corporation or nonprofit corporation:

(A) The organic rules of the entity in a record provide for the approval of a domestication or merger in which some or all of its interest holders become subject to interest holder liability by the vote or consent of fewer than all of the interest holders; and

(B) The interest holder consented in a record to or voted for that provision of the organic rules or became an interest holder after the adoption of that provision.

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

30-22-504.AMENDMENT OR ABANDONMENT OF PLAN OF DOMESTICATION. (a) A plan of domestication of a domestic domesticating entity may be amended:

(1) In the same manner as the plan was approved, if the plan does not provide for the manner in which it may be amended; or

(2) By its governors or interest holders in the manner provided in the plan, but an interest holder that was entitled to vote on or consent to approval of the domestication is entitled to vote on or consent to any amendment of the plan that will change:

(A) The amount or kind of interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing, to be received by any of the interest holders of the domesticating entity under the plan;

(B) The public organic record, if any, or private organic rules of the domesticated entity that will be in effect immediately after the domestication becomes effective, except for changes that do not require approval of the interest holders of the domesticated entity under its organic law or organic rules; or

(C) Any other terms or conditions of the plan, if the change would adversely affect the interest holder in any material respect.

(b) After a plan of domestication has been approved by a domestic domesticating entity and before a statement of domestication becomes effective, the plan may be abandoned as provided in the plan. Unless prohibited by the plan, a domestic domesticating entity may abandon the plan in the same manner as the plan was approved.

(c) If a plan of domestication is abandoned after a statement of domestication has been delivered to the secretary of state for filing and before the statement becomes effective, a statement of abandonment, signed by the entity, must be delivered to the secretary of state for filing before the statement of domestication becomes effective. The statement of abandonment takes effect on filing, and the domestication is abandoned and does not become effective. The statement of abandonment must contain:

(1) The name of the domesticating entity;

(2) The date on which the statement of domestication was filed by the secretary of state; and

(3) A statement that the domestication has been abandoned in accordance with this section.

30-22-505.STATEMENT OF DOMESTICATION -- EFFECTIVE DATE OF DOMESTICATION. (a) A statement of domestication must be signed by the domesticating entity and delivered to the secretary of state for filing.

(b) A statement of domestication must contain:

- (1) The name, jurisdiction of formation, and type of entity of the domesticating entity;
- (2) The name and jurisdiction of formation of the domesticated entity;
- (3) If the statement of domestication is not to be effective upon filing, the later date and time on which it will become effective, which may not be more than ninety (90) days after the date of filing;
- (4) If the domesticating entity is a domestic entity, a statement that the plan of domestication was approved in accordance with this part or, if the domesticating entity is a foreign entity, a statement that the domestication was approved in accordance with the law of its jurisdiction of formation;
- (5) If the domesticated entity is a domestic filing entity, its public organic record, as an attachment;
- (6) If the domesticated entity is a domestic limited liability partnership, its statement of qualification, as an attachment; and
- (7) If the domesticated entity is a foreign entity that is not a registered foreign entity, a statement designating a registered agent in compliance with section 30-21-411, Idaho Code.

(c) In addition to the requirements of subsection (b) of this section, a statement of domestication may contain any other provision not prohibited by law.

(d) If the domesticated entity is a domestic entity, its public organic record, if any, must satisfy the requirements of the law of this state, but the public organic record does not need to be signed and may omit any provision that is not required to be included in a restatement of the public organic record.

(e) A plan of domestication that is signed by a domesticating domestic entity and meets all the requirements of subsection (b) of this section may be delivered to the secretary of state for filing instead of a statement of domestication and on filing has the same effect. If a plan of domestication is filed as provided in this subsection, references in this chapter to a statement of domestication refer to the plan of domestication filed under this subsection.

(f) A statement of domestication is effective on the date and time of filing or the later date and time specified in the statement of domestication.

(g) A domestication in which the domesticated entity is a domestic entity is effective when the statement of domestication is effective. A domestication in which the domesticated entity is a foreign entity is effective on the later of:

- (1) The date and time provided by the organic law of the domesticated entity; or
- (2) When the statement is effective.

30-22-506.EFFECT OF DOMESTICATION. (a) When a domestication becomes effective:

(1) The domesticated entity is:

- (A) Organized under and subject to the organic law of the domesticated entity; and
- (B) The same entity without interruption as the domesticating entity;

(2) All property of the domesticating entity continues to be vested in the domesticated entity without transfer, reversion or impairment;

(3) All debts, obligations, and other liabilities of the domesticating entity continue as debts, obligations, and other liabilities of the domesticated entity;

(4) Except as otherwise provided by law or the plan of domestication, all of the rights, privileges, immunities, powers, and purposes of the domesticating entity remain in the domesticated entity;

(5) The name of the domesticated entity may be substituted for the name of the domesticating entity in any pending action or proceeding;

(6) If the domesticated entity is a filing entity, its public organic record is effective;

(7) If the domesticated entity is a limited liability partnership, its statement of qualification is effective simultaneously;

(8) The private organic rules of the domesticated entity that are to be in a record, if any, approved as part of the plan of domestication are effective; and

(9) The interests in the domesticating entity are converted to the extent and as approved in connection with the domestication, and the interest holders of the domesticating entity are entitled only to the rights provided to them

under the plan of domestication and to any appraisal rights as provided in section 30-22-109, Idaho Code, and the domesticating entity's organic law.

(b) Except as otherwise provided in the organic law or organic rules of the domesticating entity, the domestication does not give rise to any rights that an interest holder, governor, or third party would have upon a dissolution, liquidation, or winding up of the domesticating entity.

(c) When a domestication becomes effective, a person that did not have interest holder liability with respect to the domesticating entity and becomes subject to interest holder liability with respect to a domestic entity as a result of the domestication has interest holder liability only to the extent provided by the organic law of the entity and only for those debts, obligations, and other liabilities that arise after the domestication becomes effective.

(d) When a domestication becomes effective, the interest holder liability of a person that ceases to hold an interest in a domestic domesticating entity with respect to which the person had interest holder liability is subject to the following rules:

(1) The domestication does not discharge any interest holder liability under the organic law of the domesticating domestic entity to the extent the interest holder liability arose before the domestication became effective.

(2) A person does not have interest holder liability under the organic law of the domestic domesticating entity for any debt, obligation, or other liability that arises after the domestication becomes effective.

(3) The organic law of the domestic domesticating entity continues to apply to the release, collection, or discharge of any interest holder liability preserved under paragraph (1) of this subsection as if the domestication had not occurred.

(4) A person has whatever rights of contribution from any other person as are provided by other law or the organic rules of the domestic domesticating entity with respect to any interest holder liability preserved under paragraph (1) of this subsection as if the domestication had not occurred.

(e) When a domestication becomes effective, a foreign entity that is the domesticated entity may be served with process in this state for the collection and enforcement of any of its debts, obligations, and other liabilities in accordance with applicable law.

(f) If a domesticating entity is a registered foreign entity, the registration to do business in this state of the domesticating entity is canceled when the domestication becomes effective.

(g) A domestication does not require the entity to wind up its affairs and does not constitute or cause the dissolution of the entity.