



# House of Representatives

General Assembly

**File No. 843**

January Session, 2011

Substitute House Bill No. 6497

*House of Representatives, May 24, 2011*

The Committee on Appropriations reported through REP. WALKER of the 93rd Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT CREATING JOBS BY ENHANCING CONNECTICUT'S CORPORATE AND SECURITIES LAWS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2011*) As used in this section  
2 and sections 2 to 33, inclusive, of this act:

3 (1) "Acquired entity" means the entity, all of one or more classes or  
4 series of interests of which are acquired in an interest exchange.

5 (2) "Acquiring entity" means the entity that acquires all of one or  
6 more classes or series of interests of the acquired entity in an interest  
7 exchange.

8 (3) "Approve" means, in the case of an entity, for its governors and  
9 interest holders to take whatever steps are necessary under its organic  
10 rules, organic law and other law to (A) propose a transaction subject to  
11 this section and sections 2 to 33, inclusive, of this act; (B) adopt and  
12 approve the terms and conditions of the transaction; and (C) conduct

13 any required proceedings or otherwise obtain any required votes or  
14 consents of the governors or interest holders.

15 (4) "Business corporation" means a corporation whose internal  
16 affairs are governed by chapter 601 of the general statutes or a  
17 professional service corporation governed by chapter 594a of the  
18 general statutes.

19 (5) "Conversion" means a transaction authorized by sections 22 to  
20 27, inclusive, of this act.

21 (6) "Converted entity" means the converting entity as it continues in  
22 existence after a conversion.

23 (7) "Converting entity" means the domestic entity that approves a  
24 plan of conversion pursuant to section 24 of this act or the foreign  
25 entity that approves a conversion pursuant to the law of its jurisdiction  
26 of organization.

27 (8) "Domestic entity", unless the context otherwise requires, means  
28 an entity whose internal affairs are governed by the law of this state.

29 (9) "Domesticated entity" means the domesticating entity as it  
30 continues in existence after a domestication.

31 (10) "Domesticating entity" means the domestic entity that approves  
32 a plan of domestication pursuant to section 30 of this act or the foreign  
33 entity that approves a domestication pursuant to the law of its  
34 jurisdiction of organization.

35 (11) "Domestication" means a transaction authorized by sections 28  
36 to 33, inclusive, of this act.

37 (12) "Entity", unless the context otherwise requires, means (A) a  
38 business corporation; (B) a nonprofit corporation; (C) a general  
39 partnership, including a limited liability partnership; (D) a limited  
40 partnership, including a limited liability limited partnership; (E) a  
41 limited liability company; (F) a business trust or statutory trust entity;

42 (G) an unincorporated nonprofit association; (H) a cooperative; or (I)  
43 any other person who has a separate legal existence or the power to  
44 acquire an interest in real property in his or her own name other than  
45 (i) an individual; (ii) a testamentary, inter vivos or charitable trust,  
46 with the exception of a business trust, statutory trust entity or similar  
47 trust; (iii) an association or relationship that is not a partnership solely  
48 by reason of the law of any other jurisdiction; (iv) a decedent's estate;  
49 or (v) a government, a governmental subdivision, agency or  
50 instrumentality, or a quasi-governmental instrumentality.

51 (13) "Filing entity" means an entity that is created by the filing of a  
52 public organic document.

53 (14) "Foreign entity" means an entity other than a domestic entity.

54 (15) "Governance interest" means the right under the organic law or  
55 organic rules of an entity, other than as a governor, agent, assignee or  
56 proxy, to (A) receive or demand access to information concerning, or  
57 the books and records of, the entity; (B) vote for the election of the  
58 governors of the entity; or (C) receive notice of or vote on any or all  
59 issues involving the internal affairs of the entity.

60 (16) "Governor" means a person by or under whose authority the  
61 powers of an entity are exercised and under whose direction the  
62 business and affairs of the entity are managed pursuant to the organic  
63 law and organic rules of the entity.

64 (17) "Interest", unless the context otherwise requires, means (A) a  
65 governance interest in an unincorporated entity; (B) a transferable  
66 interest in an unincorporated entity; or (C) a share or membership in a  
67 corporation.

68 (18) "Interest exchange" means a transaction authorized by sections  
69 16 to 21, inclusive, of this act.

70 (19) "Interest holder" means a direct holder of an interest.

71 (20) "Interest holder liability" means (A) personal liability for a

72 liability of an entity that is imposed on a person (i) solely by reason of  
73 the status of the person as an interest holder, or (ii) by the organic rules  
74 of the entity pursuant to a provision of the organic law authorizing the  
75 organic rules to make one or more specified interest holders or  
76 categories of interest holders liable in their capacity as interest holders  
77 for all or specified liabilities of the entity; or (B) an obligation of an  
78 interest holder under the organic rules of an entity to contribute to the  
79 entity.

80 (21) "Jurisdiction of organization" of an entity means the jurisdiction  
81 under which the law includes the organic law of the entity.

82 (22) "Liability" means a debt, obligation or any other liability arising  
83 in any manner, regardless of whether it is secured or contingent.

84 (23) "Merger" means a transaction in which two or more merging  
85 entities are combined into a surviving entity pursuant to a filing with  
86 the Secretary of the State.

87 (24) "Merging entity" means an entity that is a party to a merger and  
88 exists immediately before the merger becomes effective.

89 (25) "Nonprofit corporation" means a corporation whose internal  
90 affairs are governed by chapter 602 of the general statutes.

91 (26) "Organic law" means the section of the general statutes, if any,  
92 other than this section and sections 2 to 33, inclusive, of this act,  
93 governing the internal affairs of an entity.

94 (27) "Organic rules" means the public organic document and private  
95 organic rules of an entity.

96 (28) "Person" means an individual, corporation, estate, trust,  
97 partnership, limited liability company, business or similar trust,  
98 association, joint venture, public corporation, government or  
99 governmental subdivision, agency or instrumentality, or any other  
100 legal or commercial entity.

101 (29) "Plan" means a plan of merger, interest exchange, conversion or  
102 domestication.

103 (30) "Private organic rules" means the rules, whether or not in a  
104 record, that govern the internal affairs of an entity are binding on all of  
105 its interest holders and are not part of its public organic document, if  
106 any.

107 (31) "Protected agreement" means (A) a record evidencing  
108 indebtedness and any related agreement in effect on or after October 1,  
109 2011; (B) an agreement that is binding on an entity on or after October  
110 1, 2011; (C) the organic rules of an entity in effect on or after October 1,  
111 2011; or (D) an agreement that is binding on any of the governors or  
112 interest holders of an entity on or after October 1, 2011.

113 (32) "Public organic document" means the public record, the filing of  
114 which creates an entity and any amendment to or restatement of such  
115 record.

116 (33) "Qualified foreign entity" means a foreign entity that is  
117 authorized to transact business in this state pursuant to a filing with  
118 the Secretary of the State.

119 (34) "Record" means information that is inscribed on a tangible  
120 medium or that is stored in an electronic or other medium and is  
121 retrievable in perceivable form.

122 (35) "Sign" or "signature" includes any manual, facsimile, conformed  
123 or electronic signature.

124 (36) "Surviving entity" means the entity that continues in existence  
125 after a merger or that is created by a merger.

126 (37) "Transferable interest" means the right under an entity's organic  
127 law to receive distributions from the entity.

128 (38) "Type", with regard to an entity, means a generic form of entity  
129 (A) recognized at common law, or (B) organized under an organic law,

130 whether or not an entity organized under such organic law subject to  
131 the provisions of such organic law creating different categories of the  
132 form of entity.

133 Sec. 2. (NEW) (*Effective October 1, 2011*) (a) Unless displaced by the  
134 particular provisions of sections 1 to 33, inclusive, of this act, the  
135 principles of law and equity shall supplement sections 1 to 33,  
136 inclusive, of this act.

137 (b) Sections 1 to 33, inclusive, of this act shall not authorize any  
138 action prohibited by law or affect the application or requirements of  
139 law.

140 (c) A transaction effected under sections 1 to 33, inclusive, of this act  
141 shall not create or impair any right or obligation on the part of a  
142 person under a provision of the law of this state relating to a change in  
143 control, takeover, business combination, control-share acquisition or  
144 similar transaction involving a domestic merging, acquired, converting  
145 or domesticating corporation unless (1) the transaction satisfies any  
146 requirements of such provision, provided the corporation does not  
147 survive the transaction, or (2) the approval of the plan is by a vote of  
148 the shareholders or directors that is sufficient to create or impair the  
149 right or obligation directly under such provision, provided the  
150 corporation survives the transaction.

151 Sec. 3. (NEW) (*Effective October 1, 2011*) (a) A domestic or foreign  
152 entity that is required to give notice to or obtain the approval of a  
153 governmental agency or officer in order to be a party to a merger shall  
154 give such notice or obtain such approval in order to be a party to an  
155 interest exchange, conversion or domestication.

156 (b) Property held for a charitable purpose under the law of this state  
157 by a domestic or foreign entity immediately before a transaction under  
158 sections 1 to 33, inclusive, of this act becomes effective shall not, as a  
159 result of the transaction, be diverted from the objects for which it was  
160 donated, granted or devised, unless, to the extent required by or  
161 pursuant to the law of this state concerning cy pres or other law

162 concerning nondiversion of charitable assets, the entity obtains an  
163 appropriate order of the Attorney General specifying the disposition of  
164 the property.

165 Sec. 4. (NEW) (*Effective October 1, 2011*) A filing under sections 1 to  
166 33, inclusive, of this act signed by a domestic entity shall become part  
167 of the public organic document of the entity, provided the organic law  
168 of the entity provides that similar filings under such law become part  
169 of the public organic document of the entity.

170 Sec. 5. (NEW) (*Effective October 1, 2011*) The fact that a transaction  
171 under sections 1 to 33, inclusive, of this act produces a certain result  
172 shall not preclude the same result from being accomplished in any  
173 other manner permitted by law.

174 Sec. 6. (NEW) (*Effective October 1, 2011*) A plan may refer to facts  
175 ascertainable outside of the plan, provided the manner in which the  
176 facts shall operate upon the plan is specified in the plan. The facts may  
177 include the occurrence of an event or a determination or action by a  
178 person, whether or not the event, determination or action is within the  
179 control of a party to the transaction.

180 Sec. 7. (NEW) (*Effective October 1, 2011*) Except as otherwise  
181 provided in the organic law or organic rules of a domestic entity,  
182 approval of a transaction under sections 1 to 33, inclusive, of this act by  
183 the unanimous vote or consent of such entity's interest holders shall  
184 satisfy the requirements of sections 1 to 33, inclusive, of this act for  
185 approval of the transaction.

186 Sec. 8. (NEW) (*Effective October 1, 2011*) (a) An interest holder of a  
187 domestic merging, acquired, converting or domesticating corporation  
188 shall be entitled to appraisal rights in connection with the transaction,  
189 provided the interest holder would have been entitled to appraisal  
190 rights under the entity's organic law in connection with a merger in  
191 which the interest of the interest holder was changed, converted or  
192 exchanged unless (1) the organic law permits the organic rules to limit  
193 the availability of appraisal rights, and (2) the organic rules provide

194 such a limit.

195 (b) An interest holder of a domestic merging, acquired, converting  
196 or domesticating entity shall be entitled to contractual appraisal rights  
197 in connection with a transaction under sections 1 to 33, inclusive, of  
198 this act to the extent provided (1) in the entity's organic rules; (2) in the  
199 plan; or (3) in the case of a business corporation, by action of its  
200 governors.

201 (c) If an interest holder is entitled to contractual appraisal rights  
202 under subsection (b) of this section and the entity's organic law does  
203 not provide procedures for the conduct of an appraisal rights  
204 proceeding, sections 33-855 to 33-868, inclusive, of the general statutes  
205 shall apply to the extent practicable or as otherwise provided in the  
206 entity's organic rules or the plan.

207 Sec. 9. (NEW) (*Effective October 1, 2011*) (a) The following entities  
208 shall not participate in a transaction under sections 1 to 33, inclusive, of  
209 this act:

210 (1) A business corporation formed under special act;

211 (2) Cooperative associations formed under chapter 595 of the  
212 general statutes;

213 (3) Cooperative marketing corporations formed under chapter 596  
214 of the general statutes;

215 (4) Electric cooperative corporations formed under chapter 597 of  
216 the general statutes;

217 (5) Worker cooperative corporations formed under chapter 599a of  
218 the general statutes;

219 (6) Insurance companies, health care centers and other corporations  
220 formed under chapters 697 and 698 of the general statutes;

221 (7) Health care centers, related service groups, hospital service  
222 corporations, medical service corporations and other corporations

- 223 formed under chapter 698a of the general statutes;
- 224 (8) Prepaid legal service corporations formed under chapter 698b of  
225 the general statutes;
- 226 (9) Risk retention groups formed and organized under chapter 698  
227 of the general statutes;
- 228 (10) Fraternal benefit societies formed under chapter 700d of the  
229 general statutes;
- 230 (11) Banks, related organizations and other corporations formed  
231 under chapters 664, 664b and 666 of the general statutes;
- 232 (12) Credit unions formed under chapter 667 of the general statutes;
- 233 (13) Public service companies formed under chapter 277 of the  
234 general statutes;
- 235 (14) Title insurance companies formed under chapter 700a of the  
236 general statutes;
- 237 (15) Out-of-state banks formed under chapter 666 of the general  
238 statutes;
- 239 (16) Nondepository institutions formed under chapter 668 of the  
240 general statutes;
- 241 (17) Nonprofit or not-for-profit corporations;
- 242 (18) Religious corporations and societies formed under chapter 598  
243 of the general statutes;
- 244 (19) Nonstock corporations formed under chapter 602 of the general  
245 statutes;
- 246 (20) Unincorporated nonprofit associations;
- 247 (21) Cooperatives;

248 (22) A business trust or statutory trust entity; and

249 (23) Any entity described in subparagraph (B), (F), (G), (H) or (I) of  
250 subdivision (12) of section 1 of this act.

251 (b) Sections 1 to 33, inclusive, of this act shall not be used to effect a  
252 transaction that (1) involves any entity referenced in subsection (a) of  
253 this section, or (2) is a conversion, merger, consolidation, interest  
254 exchange, division or any other transaction governed by sections 1 to  
255 33, inclusive, of this act between or among entities of the same type.

256 Sec. 10. (NEW) (*Effective October 1, 2011*) (a) Except as provided in  
257 subsection (c) of this section, by complying with this section and  
258 sections 11 to 15, inclusive, of this act, (1) one or more domestic entities  
259 may merge with one or more domestic or foreign entities into a  
260 domestic or foreign surviving entity, and (2) two or more foreign  
261 entities may merge into a domestic entity.

262 (b) Except as provided in subsection (c) of this section, by  
263 complying with the provisions of this section and sections 11 to 15,  
264 inclusive, of this act applicable to foreign entities, a foreign entity may  
265 be a party to a merger under this article or may be the surviving entity  
266 in such a merger, provided the merger is authorized by the law of the  
267 foreign entity's jurisdiction of organization.

268 (c) The provisions of this section and sections 11 to 15, inclusive, of  
269 this act shall not apply to a transaction involving:

270 (1) A merger between any two or more domestic corporations or  
271 one or more domestic corporations and one or more foreign  
272 corporations pursuant to chapter 601 of the general statutes;

273 (2) A merger between any two or more domestic limited  
274 partnerships or one or more domestic limited partnerships and one or  
275 more foreign limited partnerships pursuant to chapter 610 of the  
276 general statutes;

277 (3) A merger between two or more partnerships or limited liability

278 partnerships pursuant to chapter 614 of the general statutes;

279 (4) A merger between any two or more domestic limited liability  
280 companies or one or more domestic limited liability companies and  
281 one or more foreign limited liability companies pursuant to the chapter  
282 613 of the general statutes; or

283 (5) A merger involving any entity referenced in section 9 of this act.

284 Sec. 11. (NEW) (*Effective October 1, 2011*) (a) A domestic entity may  
285 become a party to a merger under sections 10 to 15, inclusive, of this  
286 act by approving a plan of merger. Such plan shall be in a record and  
287 contain:

288 (1) As to each merging entity, the entity's name, jurisdiction of  
289 organization and type;

290 (2) If the surviving entity is to be created in the merger, a statement  
291 to that effect and such entity's name, jurisdiction of organization and  
292 type;

293 (3) The manner of converting the interests in each party to the  
294 merger into interests, securities, obligations, rights to acquire interests  
295 or securities, cash or other property, or any combination thereof;

296 (4) If the surviving entity exists before the merger, any proposed  
297 amendments to such entity's public organic document or to such  
298 entity's private organic rules that are, or are proposed to be, in a  
299 record;

300 (5) If the surviving entity is to be created in the merger, such entity's  
301 proposed public organic document, if any, and the full text of such  
302 entity's private organic rules that are proposed to be in a record;

303 (6) The other terms and conditions of the merger; and

304 (7) Any other provision required by the law of a merging entity's  
305 jurisdiction of organization or the organic rules of a merging entity.

306 (b) A plan of merger may contain any other provision not  
307 prohibited by law.

308 Sec. 12. (NEW) (*Effective October 1, 2011*) (a) A plan of merger is not  
309 effective unless it has been approved:

310 (1) By a domestic merging entity (A) in accordance with the  
311 requirements, if any, in its organic law and organic rules for approval  
312 of (i) in the case of an entity that is not a business corporation, a  
313 merger, or (ii) in the case of a business corporation, a merger requiring  
314 approval by a vote of the interest holders of the business corporation;  
315 or (B) if neither its organic law nor organic rules provide for approval  
316 of a merger described in subparagraph (A)(ii) of this subsection, by all  
317 of the interest holders of the entity entitled to vote on or consent to any  
318 matter; and

319 (2) In a record, by each interest holder of a domestic merging entity  
320 that shall have interest holder liability for liabilities that arise after the  
321 merger becomes effective, unless, in the case of an entity that is not a  
322 business corporation or nonprofit corporation, (A) the organic rules of  
323 the entity provide in a record for the approval of a merger in which  
324 some or all of such entity's interest holders become subject to interest  
325 holder liability by the vote or consent of fewer than all of the interest  
326 holders; and (B) the interest holder voted for or consented in a record  
327 to such provision of the organic rules or became an interest holder  
328 after the adoption of such provision.

329 (b) A merger involving a foreign merging entity shall not be  
330 effective unless it is approved by the foreign entity in accordance with  
331 the law of the foreign entity's jurisdiction of organization.

332 Sec. 13. (NEW) (*Effective October 1, 2011*) (a) A plan of merger of a  
333 domestic merging entity may be amended (1) in the same manner as  
334 the plan was approved, provided the plan does not otherwise specify  
335 the manner in which it may be amended, or (2) by the governors or  
336 interest holders of the entity in the manner provided in the plan,  
337 except an interest holder that was entitled to vote on or consent to

338 approval of the merger is entitled to vote on or consent to any  
339 amendment of the plan that shall change (A) the amount or kind of  
340 interests, securities, obligations, rights to acquire interests or securities,  
341 cash, or other property, or any combination thereof, to be received by  
342 the interest holders of any party to the plan; (B) the public organic  
343 document or private organic rules of the surviving entity that shall be  
344 in effect immediately after the merger becomes effective, except for  
345 changes that do not require approval of the interest holders of the  
346 surviving entity under its organic law or organic rules; or (C) any other  
347 terms or conditions of the plan, provided the change would adversely  
348 affect the interest holder in any material respect.

349 (b) After a plan of merger has been approved by a domestic  
350 merging entity and before a statement of merger becomes effective, the  
351 plan may be abandoned (1) as provided in the plan, or (2) unless  
352 prohibited by the plan, in the same manner as the plan was approved.

353 (c) If a plan of merger is abandoned after a statement of merger has  
354 been filed with the Secretary of the State but before the filing becomes  
355 effective, a statement of abandonment, signed on behalf of a merging  
356 entity, shall be filed with the Secretary of the State before the statement  
357 of merger becomes effective. The statement of abandonment shall take  
358 effect upon its filing, and the merger shall be deemed abandoned and  
359 shall not become effective. The statement of abandonment shall  
360 contain (1) the name of each merging or surviving entity that is a  
361 domestic entity or a qualified foreign entity; (2) the date on which the  
362 statement of merger was filed; and (3) a statement that the merger has  
363 been abandoned in accordance with this section.

364 Sec. 14. (NEW) (*Effective October 1, 2011*) (a) A certificate of merger  
365 shall be signed on behalf of each merging entity and filed with the  
366 Secretary of the State.

367 (b) A certificate of merger shall contain:

368 (1) The name, jurisdiction of organization and type of each merging  
369 entity that is not the surviving entity;

370 (2) The name, jurisdiction of organization and type of the surviving  
371 entity;

372 (3) If the certificate of merger is not to be effective upon filing, the  
373 date and time when it shall become effective, which shall not be later  
374 than ninety days after the date of filing;

375 (4) A statement that the merger was approved by each domestic  
376 merging entity, if any, in accordance with sections 10 to 15, inclusive,  
377 of this act, and by each foreign merging entity, if any, in accordance  
378 with the law of its jurisdiction of organization;

379 (5) If the surviving entity exists before the merger and is a domestic  
380 filing entity, any amendment to its public organic document approved  
381 as part of the plan of merger;

382 (6) If the surviving entity is created by the merger and is a domestic  
383 filing entity, its public organic document, as an attachment;

384 (7) If the surviving entity is created by the merger and is a domestic  
385 limited liability partnership, its certificate of limited liability  
386 partnership, as an attachment; and

387 (8) If the surviving entity is a foreign entity that is not a qualified  
388 foreign entity, a mailing address to which the Secretary of the State  
389 may send any process served on the Secretary of the State pursuant to  
390 subsection (e) of section 15 of this act.

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

394 (d) If the surviving entity is a domestic entity, its public organic  
395 document, if any, shall satisfy the requirements of the law of this state,  
396 except it does not need to be signed and may omit any provision that is  
397 not required to be included in a restatement of the public organic  
398 document.

399 (e) A certificate of merger becomes effective upon the date and time  
400 of its filing or the date and time specified in the certificate of merger.

401 Sec. 15. (NEW) (*Effective October 1, 2011*) (a) When a merger becomes  
402 effective:

403 (1) The surviving entity shall continue to exist or come into  
404 existence;

405 (2) Each merging entity that is not the surviving entity shall cease to  
406 exist;

407 (3) All property of each merging entity shall vest in the surviving  
408 entity without assignment, reversion or impairment;

409 (4) All liabilities of each merging entity shall be liabilities of the  
410 surviving entity;

411 (5) Except as otherwise provided by law, other than as provided in  
412 sections 1 to 33, inclusive, of this act or the plan of merger, all of the  
413 rights, privileges, immunities, powers and purposes of each merging  
414 entity shall vest in the surviving entity;

415 (6) If the surviving entity exists before the merger (A) all of its  
416 property shall continue to be vested in it without reversion or  
417 impairment; (B) it shall remain subject to all of its liabilities; and (C) all  
418 of its rights, privileges, immunities, powers and purposes shall  
419 continue to be vested in it;

420 (7) The name of the surviving entity may be substituted for the  
421 name of any merging entity that is a party to any pending action or  
422 proceeding;

423 (8) If the surviving entity exists before the merger (A) its public  
424 organic document, if any, shall be amended as provided in the  
425 statement of merger and shall be binding on its interest holders; and  
426 (B) its private organic rules that are to be in a record, if any, shall be  
427 amended to the extent provided in the plan of merger and shall be

428 binding on and enforceable by (i) its interest holders; and (ii) in the  
429 case of a surviving entity that is not a business corporation, any other  
430 person that is a party to an agreement that is part of the surviving  
431 entity's private organic rules;

432 (9) If the surviving entity is created by the merger (A) its public  
433 organic document, if any, shall be effective and binding on its interest  
434 holders; and (B) its private organic rules shall be effective and binding  
435 on and enforceable by (i) its interest holders; and (ii) in the case of a  
436 surviving entity that is not a business corporation, any other person  
437 that was a party to an agreement that was part of the organic rules of a  
438 merging entity if such person has agreed to be a party to an agreement  
439 that is part of the surviving entity's private organic rules; and

440 (10) The interests in each merging entity that are to be converted in  
441 the merger shall be converted, and the interest holders of those  
442 interests shall be entitled only to the rights provided to them under the  
443 plan of merger and to any appraisal rights they have under section 8 of  
444 this act and the merging entity's organic law.

445 (b) Except as otherwise provided in the organic law or organic rules  
446 of a merging entity, the merger shall not give rise to any rights that an  
447 interest holder, governor or third party would otherwise have upon a  
448 dissolution, liquidation or winding-up of the merging entity.

449 (c) When a merger becomes effective, a person that did not have  
450 interest holder liability with respect to any of the merging entities and  
451 that becomes subject to interest holder liability with respect to a  
452 domestic entity as a result of a merger shall have interest holder  
453 liability only to the extent provided by the organic law of the entity  
454 and only for those liabilities that arise after the merger becomes  
455 effective.

456 (d) When a merger becomes effective, the interest holder liability of  
457 a person that ceases to hold an interest in a domestic merging entity  
458 with respect to which such person had interest holder liability shall be  
459 as follows:

460 (1) The merger shall not discharge any interest holder liability under  
461 the organic law of the domestic merging entity to the extent the  
462 interest holder liability arose before the merger became effective;

463 (2) Such person shall not have interest holder liability under the  
464 organic law of the domestic merging entity for any liability that arises  
465 after the merger becomes effective;

466 (3) The organic law of the domestic merging entity shall continue to  
467 apply to the release, collection or discharge of any interest holder  
468 liability preserved under subdivision (1) of this subsection as if the  
469 merger had not occurred and the surviving entity were the domestic  
470 merging entity; and

471 (4) Such person shall have whatever rights of contribution from any  
472 other person are provided by the organic law or organic rules of the  
473 domestic merging entity with respect to any interest holder liability  
474 preserved under subdivision (1) of this subsection as if the merger had  
475 not occurred.

476 (e) When a merger becomes effective, a foreign entity that is the  
477 surviving entity (1) may be served with process in this state for the  
478 collection and enforcement of any liabilities of a domestic merging  
479 entity; and (2) shall appoint the Secretary of the State as its agent for  
480 service of process for collecting or enforcing such liabilities.

481 (f) When a merger becomes effective, the certificate of authority or  
482 other foreign qualification of any foreign merging entity that is not the  
483 surviving entity shall be canceled.

484 Sec. 16. (NEW) (*Effective October 1, 2011*) (a) Except as otherwise  
485 provided in this section, by complying with this section and sections  
486 17 to 21, inclusive, of this act (1) a domestic entity may acquire all of  
487 one or more classes or series of interests of another domestic or foreign  
488 entity in exchange for interests, securities, obligations, rights to acquire  
489 interests or securities, cash, or other property, or any combination  
490 thereof; or (2) all of one or more classes or series of interests of a

491 domestic entity may be acquired by another domestic or foreign entity  
492 in exchange for interests, securities, obligations, rights to acquire  
493 interests or securities, cash, or other property, or any combination  
494 thereof.

495 (b) Except as otherwise provided in this section, by complying with  
496 the provisions of this section and sections 17 to 21, inclusive, of this act  
497 applicable to foreign entities, a foreign entity may be the acquiring or  
498 acquired entity in an interest exchange, provided the interest exchange  
499 is authorized by the law of the foreign entity's jurisdiction of  
500 organization.

501 (c) If a protected agreement contains a provision that applies to a  
502 merger of a domestic entity but does not refer to an interest exchange,  
503 such provision shall apply to an interest exchange in which the  
504 domestic entity is the acquired entity as if the interest exchange were a  
505 merger until such time after October 1, 2011, as the provision is  
506 amended.

507 Sec. 17. (NEW) (*Effective October 1, 2011*) (a) A domestic entity may  
508 be the acquired entity in an interest exchange by approving a plan of  
509 interest exchange. The plan shall be in a record and contain:

510 (1) The name and type of the acquired entity;

511 (2) The name, jurisdiction of organization and type of the acquiring  
512 entity;

513 (3) The manner of converting the interests in the acquired entity into  
514 interests, securities, obligations, rights to acquire interests or securities,  
515 cash, or other property, or any combination thereof;

516 (4) Any proposed amendments to the public organic document or  
517 private organic rules that are, or are proposed to be, in a record of the  
518 acquired entity;

519 (5) The other terms and conditions of the interest exchange; and

520 (6) Any other provision required by the law of this state or the  
521 organic rules of the acquired entity.

522 (b) A plan of interest exchange may contain any other provision not  
523 prohibited by law.

524 Sec. 18. (NEW) (*Effective October 1, 2011*) (a) A plan of interest  
525 exchange shall not be effective unless it has been approved:

526 (1) By a domestic acquired entity (A) in accordance with the  
527 requirements, if any, in its organic law and organic rules for approval  
528 of an exchange of interests; (B) except as otherwise provided in  
529 subsection (c) of this section, if neither its organic law nor organic rules  
530 provide for approval of an exchange of interests, then in accordance  
531 with the requirements, if any, in its organic law and organic rules for  
532 approval of a merger, as if the interest exchange were a merger; or (C)  
533 if neither its organic law nor organic rules provide for approval of an  
534 exchange of interests or a merger, by all of the interest holders of the  
535 entity entitled to vote on or consent to any matter; and

536 (2) In a record, by each interest holder of a domestic acquired entity  
537 that shall have interest holder liability for liabilities that arise after the  
538 interest exchange becomes effective, unless, in the case of an entity that  
539 is not a business corporation, (A) the organic rules of the entity  
540 provide in a record for the approval of an interest exchange or a  
541 merger in which some or all of its interest holders become subject to  
542 interest holder liability by the vote or consent of fewer than all of the  
543 interest holders; and (B) the interest holder voted for or consented in a  
544 record to such provision of the organic rules or became an interest  
545 holder after the adoption of such provision.

546 (b) An interest exchange involving a foreign acquired entity shall  
547 not be effective unless it is approved by the foreign entity in  
548 accordance with the law of the foreign entity's jurisdiction of  
549 organization.

550 (c) Except as otherwise provided in its organic law or organic rules,

551 the interest holders of the acquiring entity shall not be required to  
552 approve the interest exchange.

553 Sec. 19. (NEW) (*Effective October 1, 2011*) (a) A plan of interest  
554 exchange of a domestic acquired entity may be amended:

555 (1) In the same manner as the plan was approved, provided the plan  
556 does not otherwise specify the manner in which it may be amended; or

557 (2) By the governors or interest holders of the entity in the manner  
558 provided in the plan, except an interest holder that was entitled to vote  
559 on or consent to approval of the interest exchange shall be entitled to  
560 vote on or consent to any amendment of the plan that will change (A)  
561 the amount or kind of interests, securities, obligations, rights to acquire  
562 interests or securities, cash, or other property, or any combination  
563 thereof, to be received by any of the interest holders of the acquired  
564 entity under the plan; (B) the public organic document or private  
565 organic rules of the acquired entity that will be in effect immediately  
566 after the interest exchange becomes effective, except for changes that  
567 do not require approval of the interest holders of the acquired entity  
568 under its organic law or organic rules; or (C) any other terms or  
569 conditions of the plan, provided the change would adversely affect the  
570 interest holder in any material respect.

571 (b) After a plan of interest exchange has been approved by a  
572 domestic acquired entity and before a certificate of interest exchange  
573 becomes effective, the plan may be abandoned (1) as provided in the  
574 plan; or (2) unless prohibited by the plan, in the same manner as the  
575 plan was approved.

576 (c) If a plan of interest exchange is abandoned after a certificate of  
577 interest exchange has been filed with the Secretary of the State but  
578 before the filing becomes effective, a certificate of abandonment,  
579 signed on behalf of the acquired entity, shall be filed with the Secretary  
580 of the State before such time as the certificate of interest exchange  
581 becomes effective. The certificate of abandonment shall take effect  
582 upon its filing and the interest exchange shall be abandoned and shall

583 not become effective. The certificate of abandonment shall contain (1)  
584 the name of the acquired entity; (2) the date on which the certificate of  
585 interest exchange was filed; and (3) a statement that the interest  
586 exchange has been abandoned in accordance with this section.

587 Sec. 20. (NEW) (*Effective October 1, 2011*) (a) A certificate of interest  
588 exchange shall be signed on behalf of a domestic acquired entity and  
589 filed with the Secretary of the State.

590 (b) A certificate of interest exchange shall contain:

591 (1) The name and type of the acquired entity;

592 (2) The name, jurisdiction of organization and type of the acquiring  
593 entity;

594 (3) If the certificate of interest exchange is not to be effective upon  
595 filing, the date and time on which it will become effective, which may  
596 not be more than ninety days after the date of filing;

597 (4) A statement that the plan of interest exchange was approved by  
598 the acquired entity in accordance with sections 16 to 21, inclusive, of  
599 this act; and

600 (5) Any amendments to the acquired entity's public organic  
601 document approved as part of the plan of interest exchange.

602 (c) A certificate of interest exchange may contain any other  
603 provision not prohibited by law.

604 (d) A certificate of interest exchange shall become effective on the  
605 date and time of its filing or on the date and time specified in the  
606 certificate of interest exchange.

607 Sec. 21. (NEW) (*Effective October 1, 2011*) (a) When an interest  
608 exchange becomes effective:

609 (1) The interests in the acquired entity that are the subject of the  
610 interest exchange shall cease to exist or shall be converted or

611 exchanged, and the interest holders of those interests shall be entitled  
612 only to the rights provided to them under the plan of interest exchange  
613 and to any appraisal rights they have under section 8 of this act and  
614 the acquired entity's organic law;

615 (2) The acquiring entity shall become the interest holder of the  
616 interests in the acquired entity stated in the plan of interest exchange  
617 to be acquired by the acquiring entity;

618 (3) The public organic document, if any, of the acquired entity shall  
619 be amended as provided in the certificate of interest exchange and  
620 shall be binding on its interest holders; and

621 (4) The private organic rules of the acquired entity that are to be in a  
622 record, if any, shall be amended to the extent provided in the plan of  
623 interest exchange and be binding on and enforceable by (A) its interest  
624 holders; and (B) in the case of an acquired entity that is not a  
625 corporation, any other person that is a party to an agreement that is  
626 part of the acquired entity's private organic rules.

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

632 (c) When an interest exchange becomes effective, a person that did  
633 not have interest holder liability with respect to the acquired entity  
634 and that becomes subject to interest holder liability with respect to a  
635 domestic entity as a result of the interest exchange shall have interest  
636 holder liability only to the extent provided by the organic law of the  
637 entity and only for those liabilities that arise after the interest exchange  
638 becomes effective.

639 (d) When an interest exchange becomes effective, the interest holder  
640 liability of a person that ceases to hold an interest in a domestic  
641 acquired entity with respect to which such person had interest holder

642 liability shall be as follows:

643 (1) The interest exchange shall not discharge any interest holder  
644 liability under the organic law of the domestic acquired entity to the  
645 extent the interest holder liability arose before the interest exchange  
646 became effective;

647 (2) Such person shall not have interest holder liability under the  
648 organic law of the domestic acquired entity for any liability that arises  
649 after the interest exchange becomes effective;

650 (3) The organic law of the domestic acquired entity shall continue to  
651 apply to the release, collection or discharge of any interest holder  
652 liability preserved under subdivision (1) of this subsection as if the  
653 interest exchange had not occurred; and

654 (4) Such person shall have whatever rights of contribution from any  
655 other person are provided by the organic law or organic rules of the  
656 domestic acquired entity with respect to any interest holder liability  
657 preserved under subdivision (1) of this subsection as if the interest  
658 exchange had not occurred.

659 Sec. 22. (NEW) (*Effective October 1, 2011*) (a) Except as otherwise  
660 provided in this section, by complying with sections 1 to 33, inclusive,  
661 of this act, a domestic entity may become (1) a domestic entity of a  
662 different type; or (2) a foreign entity of a different type, provided the  
663 conversion is authorized by the law of the foreign jurisdiction.

664 (b) Except as otherwise provided in this section, by complying with  
665 the provisions of this section and sections 23 to 27, inclusive, of this act  
666 applicable to foreign entities, a foreign entity may become a domestic  
667 entity of a different type, provided the conversion is authorized by the  
668 law of the foreign entity's jurisdiction of organization or the foreign  
669 entity's organic rules.

670 (c) If a protected agreement contains a provision that applies to a  
671 merger of a domestic entity but does not refer to a conversion, such  
672 provision shall apply to a conversion of the entity as if the conversion

673 were a merger until such time after October 1, 2011, as the provision is  
674 amended.

675 Sec. 23. (NEW) (*Effective October 1, 2011*) (a) A domestic entity may  
676 convert to a different type of entity under sections 22 to 27, inclusive,  
677 of this act by approving a plan of conversion. The plan shall be in a  
678 record and contain:

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

680 (2) The name, jurisdiction of organization and type of the converted  
681 entity;

682 (3) The manner of converting the interests in the converting entity  
683 into interests, securities, obligations, rights to acquire interests or  
684 securities, cash, or other property, or any combination thereof;

685 (4) The proposed public organic document of the converted entity if  
686 it shall be a filing entity;

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

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

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

692 (b) A plan of conversion may contain any other provision not  
693 prohibited by law.

694 Sec. 24. (NEW) (*Effective October 1, 2011*) (a) A plan of conversion  
695 shall not be effective unless it has been approved:

696 (1) By a domestic converting entity (A) in accordance with the  
697 requirements, if any, in its organic rules for approval of a conversion;  
698 (B) if its organic rules do not provide for approval of a conversion, in  
699 accordance with the requirements, if any, in its organic law and  
700 organic rules for approval of (i) in the case of an entity that is not a

701 business corporation, a merger, as if the conversion were a merger; or  
702 (ii) in the case of a corporation, a merger requiring approval by a vote  
703 of the interest holders of the business corporation, as if the conversion  
704 were that type of merger; or (C) if neither its organic law nor organic  
705 rules provide for approval of a conversion or a merger described in  
706 subparagraph (A) or (B) of this subdivision, by all of the interest  
707 holders of the entity entitled to vote on or consent to any matter; and

708 (2) In a record, by each interest holder of a domestic converting  
709 entity that shall have interest holder liability for liabilities that arise  
710 after the conversion becomes effective, unless, in the case of an entity  
711 that is not a business or nonprofit corporation, (A) the organic rules of  
712 the entity provide in a record for the approval of a conversion or a  
713 merger in which some or all of its interest holders become subject to  
714 interest holder liability by the vote or consent of fewer than all of the  
715 interest holders; and (B) the interest holder voted for or consented in a  
716 record to such provision of the organic rules or became an interest  
717 holder after the adoption of such provision.

718 (b) A conversion of a foreign converting entity shall not be effective  
719 unless it is approved by the foreign entity in accordance with the law  
720 of the foreign entity's jurisdiction of organization or the foreign entity's  
721 organic rules.

722 Sec. 25. (NEW) (*Effective October 1, 2011*) (a) A plan of conversion of  
723 a domestic converting entity may be amended (1) in the same manner  
724 as the plan was approved, provided the plan does not otherwise  
725 specify the manner in which it may be amended; or (2) by the  
726 governors or interest holders of the entity in the manner provided in  
727 the plan, except an interest holder that was entitled to vote on or  
728 consent to approval of the conversion shall be entitled to vote on or  
729 consent to any amendment of the plan that shall change (A) the  
730 amount or kind of interests, securities, obligations, rights to acquire  
731 interests or securities, cash, or other property, or any combination  
732 thereof, to be received by any of the interest holders of the converting  
733 entity under the plan; (B) the public organic document or private

734 organic rules of the converted entity that shall be in effect immediately  
735 after the conversion becomes effective, except for changes that do not  
736 require approval of the interest holders of the converted entity under  
737 its organic law or organic rules; or (C) any other terms or conditions of  
738 the plan, provided the change would adversely affect the interest  
739 holder in any material respect.

740 (b) After a plan of conversion has been approved by a domestic  
741 converting entity and before a certificate of conversion becomes  
742 effective, the plan may be abandoned (1) as provided in the plan; or (2)  
743 unless prohibited by the plan, in the same manner as the plan was  
744 approved.

745 (c) If a plan of conversion is abandoned after a certificate of  
746 conversion has been filed with the Secretary of the State but before the  
747 filing becomes effective, a certificate of abandonment, signed on behalf  
748 of the entity, shall be filed with the Secretary of the State before such  
749 time as the certificate of conversion becomes effective. The certificate of  
750 abandonment shall take effect upon its filing and the conversion shall  
751 be abandoned and shall not become effective. The certificate of  
752 abandonment shall contain (1) the name of the converting entity; (2)  
753 the date on which the certificate of conversion was filed; and (3) a  
754 statement that the conversion has been abandoned in accordance with  
755 this section.

756 Sec. 26. (NEW) (*Effective October 1, 2011*) (a) A certificate of  
757 conversion shall be signed on behalf of the converting entity and filed  
758 with the Secretary of the State.

759 (b) A certificate of conversion shall contain:

760 (1) The name, jurisdiction of organization and type of the converting  
761 entity;

762 (2) The name, jurisdiction of organization and type of the converted  
763 entity;

764 (3) If the certificate of conversion is not to be effective upon its filing,

765 the date and time on which it shall become effective;

766 (4) If the converting entity is a domestic entity, a statement that the  
767 plan of conversion was approved in accordance with sections 22 to 27,  
768 inclusive, of this act or, if the converting entity is a foreign entity, a  
769 statement that the conversion was approved by the foreign converting  
770 entity in accordance with the law of its jurisdiction of organization;

771 (5) If the converted entity is a domestic filing entity, the text of its  
772 public organic document, as an attachment;

773 (6) If the converted entity is a domestic limited liability partnership,  
774 the text of its certificate of limited liability partnership, as an  
775 attachment; and

776 (7) If the converted entity is a foreign entity that is not a qualified  
777 foreign entity, a mailing address to which the Secretary of the State  
778 may send any process served on the Secretary of the State pursuant to  
779 subsection (e) of section 27 of this act.

780 (c) In addition to the requirements of subsection (b) of this section, a  
781 certificate of conversion may contain any other provision not  
782 prohibited by law.

783 (d) If the converted entity is a domestic entity, its public organic  
784 document, if any, shall satisfy the requirements of the law of this state,  
785 except it does not need to be signed and may omit any provision that is  
786 not required to be included in a restatement of the public organic  
787 document.

788 (e) A certificate of conversion shall become effective upon the date  
789 and time of its filing or the date and time specified in the certificate of  
790 conversion.

791 Sec. 27. (NEW) (*Effective October 1, 2011*) (a) When a conversion  
792 becomes effective:

793 (1) The converted entity shall be (A) organized under and subject to

794 the organic law of the converted entity; and (B) the same entity  
795 without interruption as the converting entity;

796 (2) All property of the converting entity shall continue to be vested  
797 in the converted entity without assignment, reversion or impairment;

798 (3) All liabilities of the converting entity shall continue as liabilities  
799 of the converted entity;

800 (4) Except as provided by law, other than sections 1 to 33, inclusive,  
801 of this act or the plan of conversion, all of the rights, privileges,  
802 immunities, powers and purposes of the converting entity shall remain  
803 in the converted entity;

804 (5) The name of the converted entity may be substituted for the  
805 name of the converting entity in any pending action or proceeding;

806 (6) If a converted entity is a filing entity, its public organic  
807 document shall be effective and binding on its interest holders;

808 (7) If the converted entity is a limited liability partnership, its  
809 certificate of limited liability partnership shall be effective  
810 simultaneously;

811 (8) The private organic rules of the converted entity that are to be in  
812 a record, if any, approved as part of the plan of conversion shall be  
813 effective and binding on and enforceable by (A) its interest holders;  
814 and (B) in the case of a converted entity that is not a business  
815 corporation or nonprofit corporation, any other person that is a party  
816 to an agreement that is part of the entity's private organic rules; and

817 (9) The interests in the converting entity shall be converted, and the  
818 interest holders of the converting entity shall be entitled only to the  
819 rights provided to them under the plan of conversion and to any  
820 appraisal rights they have under section 8 of this act and the  
821 converting entity's organic law.

822 (b) Except as otherwise provided in the organic law or organic rules

823 of the converting entity, the conversion shall not give rise to any rights  
824 that an interest holder, governor or third party would otherwise have  
825 upon a dissolution, liquidation or winding-up of the converting entity.

826 (c) When a conversion becomes effective, a person that did not have  
827 interest holder liability with respect to the converting entity and that  
828 becomes subject to interest holder liability with respect to a domestic  
829 entity as a result of a conversion shall have interest holder liability  
830 only to the extent provided by the organic law of the entity and only  
831 for those liabilities that arise after the conversion becomes effective.

832 (d) When a conversion becomes effective:

833 (1) The conversion shall not discharge any interest holder liability  
834 under the organic law of a domestic converting entity to the extent the  
835 interest holder liability arose before the conversion became effective;

836 (2) A person shall not have interest holder liability under the  
837 organic law of a domestic converting entity for any liability that arises  
838 after the conversion becomes effective;

839 (3) The organic law of a domestic converting entity shall continue to  
840 apply to the release, collection or discharge of any interest holder  
841 liability preserved under subdivision (1) of this subsection as if the  
842 conversion had not occurred; and

843 (4) A person shall have whatever rights of contribution from any  
844 other person are provided by the organic law or organic rules of the  
845 domestic converting entity with respect to any interest holder liability  
846 preserved under subdivision (1) of this subsection as if the conversion  
847 had not occurred.

848 (e) When a conversion becomes effective, a foreign entity that is the  
849 converted entity (1) may be served with process in this state for the  
850 collection and enforcement of any of its liabilities; and (2) shall appoint  
851 the Secretary of the State as its agent for service of process for  
852 collecting or enforcing those liabilities.

853 (f) If the converting entity is a qualified foreign entity, the certificate  
854 of authority or other foreign qualification of the converting entity shall  
855 be canceled when the conversion becomes effective.

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

858 Sec. 28. (NEW) (*Effective October 1, 2011*) (a) As used in this section  
859 and sections 29 to 33, inclusive, of this act, "domestic entity" means,  
860 with respect to a foreign jurisdiction, an entity whose internal affairs  
861 are governed by the law of the foreign jurisdiction.

862 (b) Except as otherwise provided in this section, by complying with  
863 this section and sections 29 to 33, inclusive, of this act, a domestic  
864 entity may become a domestic entity of the same type in a foreign  
865 jurisdiction, provided the domestication is authorized by the law of the  
866 foreign jurisdiction.

867 (c) Except as otherwise provided in this section, by complying with  
868 the provisions of this section and sections 29 to 33, inclusive, of this act,  
869 applicable to foreign entities, a foreign entity may become a domestic  
870 entity of the same type in this state if the domestication is authorized  
871 by the law of the foreign entity's jurisdiction of organization.

872 (d) If a protected agreement contains a provision that applies to a  
873 merger of a domestic entity but does not refer to a domestication, the  
874 provision shall apply to a domestication of the entity as if the  
875 domestication were a merger until such time after October 1, 2011, as  
876 the provision is amended.

877 Sec. 29. (NEW) (*Effective October 1, 2011*) (a) A domestic entity may  
878 become a foreign entity in a domestication by approving a plan of  
879 domestication. The plan shall be in a record and contain:

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

881 (2) The name and jurisdiction of organization of the domesticated  
882 entity;

883 (3) The manner of converting the interests in the domesticating  
884 entity into interests, securities, obligations, rights to acquire interests or  
885 securities, cash, or other property, or any combination thereof;

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

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

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

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

893 (b) A plan of domestication may contain any other provision not  
894 prohibited by law.

895 Sec. 30. (NEW) (*Effective October 1, 2011*) (a) A plan of domestication  
896 shall not be effective unless it has been approved:

897 (1) By a domestic domesticating entity (A) in accordance with the  
898 requirements, if any, in its organic rules for approval of a  
899 domestication; (B) if its organic rules do not provide for approval of a  
900 domestication, in accordance with the requirements, if any, in its  
901 organic law and organic rules for approval of (i) in the case of an entity  
902 that is not a business corporation, a merger, as if the domestication  
903 were a merger; or (ii) in the case of a business corporation, a merger  
904 requiring approval by a vote of the interest holders of the business  
905 corporation, as if the domestication were that type of merger; or (C) if  
906 neither its organic law nor organic rules provide for approval of a  
907 domestication or a merger described in subparagraph (B)(ii) of this  
908 subdivision, by all of the interest holders of the entity entitled to vote  
909 on or consent to any matter; and

910 (2) In a record, by each interest holder of a domestic domesticating  
911 entity that shall have interest holder liability for liabilities that arise  
912 after the domestication becomes effective, unless, in the case of an

913 entity that is not a business corporation or nonprofit corporation, (A)  
914 the organic rules of the entity in a record provide for the approval of a  
915 domestication or merger in which some or all of its interest holders  
916 become subject to interest holder liability by the vote or consent of  
917 fewer than all of the interest holders; and (B) the interest holder voted  
918 for or consented in a record to that provision of the organic rules or  
919 became an interest holder after the adoption of that provision.

920 (b) A domestication of a foreign domesticating entity shall not be  
921 effective unless it is approved in accordance with the law of the foreign  
922 entity's jurisdiction of organization.

923 Sec. 31. (NEW) (*Effective October 1, 2011*) (a) A plan of domestication  
924 of a domestic domesticating entity may be amended (1) in the same  
925 manner as the plan was approved, provided the plan does not  
926 otherwise specify the manner in which it may be amended; or (2) by  
927 the governors or interest holders of the entity in the manner provided  
928 in the plan, except an interest holder that was entitled to vote on or  
929 consent to approval of the domestication is entitled to vote on or  
930 consent to any amendment of the plan that shall change (A) the  
931 amount or kind of interests, securities, obligations, rights to acquire  
932 interests or securities, cash, or other property, or any combination  
933 thereof, to be received by any of the interest holders of the  
934 domesticating entity under the plan; (B) the public organic document  
935 or private organic rules of the domesticated entity that shall be in effect  
936 immediately after the domestication becomes effective, except for  
937 changes that do not require approval of the interest holders of the  
938 domesticated entity under its organic law or organic rules; or (C) any  
939 other terms or conditions of the plan, provided the change would  
940 adversely affect the interest holder in any material respect.

941 (b) After a plan of domestication has been approved by a domestic  
942 domesticating entity and before a statement of domestication becomes  
943 effective, the plan may be abandoned (1) as provided in the plan; or (2)  
944 unless prohibited by the plan, in the same manner as the plan was  
945 approved.

946 (c) If a plan of domestication is abandoned after a statement of  
947 domestication has been filed with the Secretary of the State but before  
948 the filing becomes effective, a statement of abandonment, signed on  
949 behalf of the entity, shall be filed with the Secretary of the State before  
950 the time when the statement of domestication becomes effective. The  
951 statement of abandonment shall take effect upon its filing, and the  
952 domestication shall be abandoned and shall not become effective. The  
953 statement of abandonment shall contain (1) the name of the  
954 domesticating entity; (2) the date on which the statement of  
955 domestication was filed; and (3) a statement that the domestication has  
956 been abandoned in accordance with this section.

957 Sec. 32. (NEW) (*Effective October 1, 2011*) (a) A statement of  
958 domestication shall be signed on behalf of the domesticating entity and  
959 filed with the Secretary of the State.

960 (b) A statement of domestication shall contain:

961 (1) The name, jurisdiction of organization and type of the  
962 domesticating entity;

963 (2) The name and jurisdiction of organization of the domesticated  
964 entity;

965 (3) If the statement of domestication is not effective upon its filing,  
966 the date and time when it shall become effective, which may not be  
967 later than ninety days after the date of such filing;

968 (4) If the domesticating entity is a domestic entity, a statement that  
969 the plan of domestication was approved in accordance with sections 28  
970 to 33, inclusive, of this act or, if the domesticating entity is a foreign  
971 entity, a statement that the domestication was approved in accordance  
972 with the law of its jurisdiction of organization;

973 (5) If the domesticated entity is a domestic filing entity, its public  
974 organic document, as an attachment;

975 (6) If the domesticated entity is a domestic limited liability

976 partnership, its certificate of limited liability partnership as an  
977 attachment; and

978 (7) If the domesticated entity is a foreign entity that is not a qualified  
979 foreign entity, a mailing address to which the Secretary of the State  
980 may send any process served on the Secretary of State pursuant to  
981 subsection (e) of section 33 of this act.

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

985 (d) If the domesticated entity is a domestic entity, its public organic  
986 document, if any, shall satisfy the requirements of the law of this state,  
987 except it does not need to be signed and may omit any provision that is  
988 not required to be included in a restatement of the public organic  
989 document.

990 (e) A statement of domestication shall become effective upon the  
991 date and time of its filing or the date and time specified in the  
992 statement of domestication.

993 Sec. 33. (NEW) (*Effective October 1, 2011*) (a) When a domestication  
994 becomes effective:

995 (1) The domesticated entity shall be (A) organized under and subject  
996 to the organic law of the domesticated entity; and (B) the same entity  
997 without interruption as the domesticating entity;

998 (2) All property of the domesticating entity shall continue to be  
999 vested in the domesticated entity without assignment, reversion or  
1000 impairment;

1001 (3) All liabilities of the domesticating entity shall continue as  
1002 liabilities of the domesticated entity;

1003 (4) Except as provided by law, other than sections 1 to 32, inclusive,  
1004 of this act and this section or the plan of domestication, all of the

1005 rights, privileges, immunities, powers and purposes of the  
1006 domesticating entity shall remain in the domesticated entity;

1007 (5) The name of the domesticated entity may be substituted for the  
1008 name of the domesticating entity in any pending action or proceeding;

1009 (6) If the domesticated entity is a filing entity, its public organic  
1010 document shall be effective and binding on its interest holders;

1011 (7) If the domesticated entity is a limited liability partnership, its  
1012 certificate of limited partnership shall be effective simultaneously;

1013 (8) The private organic rules of the domesticated entity that are to be  
1014 in a record, if any, approved as part of the plan of domestication shall  
1015 be effective and binding on and enforceable by (A) its interest holders;  
1016 and (B) in the case of a domesticated entity that is not a business  
1017 corporation, any other person that is a party to an agreement that is  
1018 part of the domesticated entity's private organic rules; and

1019 (9) The interests in the domesticating entity shall be converted to the  
1020 extent and in the manner approved in connection with the  
1021 domestication, and the interest holders of the domesticating entity  
1022 shall be entitled only to the rights provided to them under the plan of  
1023 domestication and to any appraisal rights they have under section 8 of  
1024 this act and the domesticating entity's organic law.

1025 (b) Except as otherwise provided in the organic law or organic rules  
1026 of the domesticating entity, the domestication shall not give rise to any  
1027 rights that an interest holder, governor or third party would otherwise  
1028 have upon a dissolution, liquidation or winding-up of the  
1029 domesticating entity.

1030 (c) When a domestication becomes effective, a person that did not  
1031 have interest holder liability with respect to the domesticating entity  
1032 and that becomes subject to interest holder liability with respect to a  
1033 domestic entity as a result of the domestication shall have interest  
1034 holder liability only to the extent provided by the organic law of the  
1035 entity and only for those liabilities that arise after the domestication

1036 becomes effective.

1037 (d) When a domestication becomes effective:

1038 (1) The domestication shall not discharge any interest holder  
1039 liability under the organic law of a domesticating domestic entity to  
1040 the extent the interest holder liability arose before the domestication  
1041 became effective;

1042 (2) A person shall not have interest holder liability under the  
1043 organic law of a domestic domesticating entity for any liability that  
1044 arises after the domestication becomes effective;

1045 (3) The organic law of a domestic domesticating entity shall  
1046 continue to apply to the release, collection or discharge of any interest  
1047 holder liability preserved under subdivision (1) of this subsection as if  
1048 the domestication had not occurred; and

1049 (4) A person shall have whatever rights of contribution from any  
1050 other person are provided by the organic law or organic rules of a  
1051 domestic domesticating entity with respect to any interest holder  
1052 liability preserved under subdivision (1) of this subsection as if the  
1053 domestication had not occurred.

1054 (e) When a domestication becomes effective, a foreign entity that is  
1055 the domesticated entity (1) may be served with process in this state for  
1056 the collection and enforcement of any of its liabilities; and (2) shall  
1057 appoint the Secretary of the State as its agent for service of process for  
1058 collecting or enforcing those liabilities.

1059 (f) If the domesticating entity is a qualified foreign entity, the  
1060 certificate of authority or other foreign qualification of the  
1061 domesticating entity shall be canceled when the domestication  
1062 becomes effective.

1063 (g) A domestication shall not require the entity to wind up its affairs  
1064 and shall not constitute or cause the dissolution of the entity.

1065 Sec. 34. Section 33-182i of the general statutes is repealed and the  
1066 following is substituted in lieu thereof (*Effective October 1, 2011*):

1067 Chapter 601 is applicable to a corporation organized pursuant to  
1068 this chapter except to the extent that any of the provisions of this  
1069 chapter are interpreted to be in conflict with the provisions of chapter  
1070 601, in which event the provisions of this chapter shall take precedence  
1071 with respect to a corporation organized pursuant to the provisions of  
1072 this chapter. A professional corporation organized under this chapter  
1073 may consolidate or merge [only] with another professional corporation  
1074 organized under this chapter, [a limited liability company organized  
1075 under chapter 613, a partnership or limited liability partnership  
1076 organized under chapter 614 or a medical foundation organized under  
1077 chapter 594b,] only if such corporation [, company, partnership or  
1078 medical foundation] is organized to render the same specific  
1079 professional service. A merger or consolidation of any professional  
1080 corporation organized under this chapter with any foreign corporation  
1081 [, foreign limited liability company, foreign partnership or foreign  
1082 limited liability partnership] is prohibited.

1083 Sec. 35. Section 33-815 of the general statutes is repealed and the  
1084 following is substituted in lieu thereof (*Effective October 1, 2011*):

1085 (a) One or more domestic corporations may, in accordance with the  
1086 provisions of this section, merge with one or more domestic or foreign  
1087 corporations [or other entities] pursuant to a plan of merger.

1088 (b) A foreign corporation [, or a domestic or foreign other entity,]  
1089 may be a party to a merger, or may be created by the terms of a plan of  
1090 merger, only if: (1) The merger is permitted by the law of the state or  
1091 country under which such corporation [or other entity] is organized or  
1092 by which it is governed; and (2) in effecting the merger, such  
1093 corporation [or other entity] complies with such law and with its  
1094 certificate of incorporation, [or organizational documents.]

1095 (c) The plan of merger [must] shall include: (1) The name of each  
1096 corporation [or other entity] that will merge and the name of the

1097 corporation [or other entity] that will be the survivor of the merger; (2)  
1098 the terms and conditions of the merger; (3) the manner and basis of  
1099 converting the shares of each merging corporation [and interests of  
1100 each merging other entity] into shares or other securities, interests,  
1101 obligations, rights to acquire shares or other securities, cash or other  
1102 property, or any combination thereof; (4) the certificate of  
1103 incorporation of any corporation [, or the organizational documents of  
1104 any other entity,] to be created by the merger or, if a new corporation  
1105 [or other entity] is not to be created by the merger, any amendments to  
1106 the survivor's certificate of incorporation; [or organizational  
1107 documents;] and (5) any other provisions required by the law of the  
1108 state or country under which any party to the merger is organized or  
1109 by which it is governed, or by the certificate of incorporation or  
1110 organizational documents of any such party.

1111 (d) Terms of a plan of merger may be made dependent on facts  
1112 objectively ascertainable outside the plan in accordance with  
1113 subsection (l) of section 33-608.

1114 (e) The plan of merger may also include a provision that the plan  
1115 may be amended prior to filing a certificate of merger with the  
1116 Secretary of the State, provided, if the shareholders of a domestic  
1117 corporation that is a party to the merger are required or permitted to  
1118 vote on the plan, the plan [must] shall provide that, subsequent to  
1119 approval of the plan by such shareholders, the plan may not be  
1120 amended to: (1) Change the amount or kind of shares or other  
1121 securities, interests, obligations, rights to acquire shares or other  
1122 securities, cash or other property to be received by the shareholders of  
1123 or owners of interests in any party to the merger upon conversion of  
1124 their shares or interests under the plan; (2) change the certificate of  
1125 incorporation of any corporation [, or the organizational documents of  
1126 any other entity,] that will survive or be created as a result of the  
1127 merger, except for changes permitted by section 33-796 or by  
1128 comparable provisions of the law of the state or country under which  
1129 the foreign corporation [or foreign other entity] is organized or by  
1130 which it is governed; or (3) change any of the other terms or conditions

1131 of the plan if the change would adversely affect such shareholders in  
1132 any material respect.

1133 Sec. 36. Section 33-816 of the general statutes is repealed and the  
1134 following is substituted in lieu thereof (*Effective October 1, 2011*):

1135 (a) Through a share exchange: (1) A domestic corporation may  
1136 acquire all of the shares of one or more classes or series of shares of  
1137 another domestic corporation or of a foreign corporation, [or all of the  
1138 interests of one or more classes or series of interests of a domestic or  
1139 foreign other entity,] in exchange for shares or other securities,  
1140 interests, obligations, rights to acquire shares or other securities, cash  
1141 or other property, or any combination thereof, pursuant to a plan of  
1142 share exchange; or (2) all of the shares of one or more classes or series  
1143 of shares of a domestic corporation may be acquired by another  
1144 domestic corporation or by a foreign corporation, [or other entity,] in  
1145 exchange for shares or other securities, interests, obligations, rights to  
1146 acquire shares or other securities, cash or other property, or any  
1147 combination thereof, pursuant to a plan of share exchange.

1148 (b) A foreign corporation [, or a domestic or foreign other entity,]  
1149 may be a party to a share exchange only if: (1) The share exchange is  
1150 permitted by the law of the state or country under which such  
1151 corporation [or other entity] is organized or by which it is governed;  
1152 and (2) in effecting the share exchange, such corporation [or other  
1153 entity] complies with such law and with its certificate of incorporation  
1154 or organizational documents.

1155 (c) The plan of share exchange [must] shall include: (1) The name of  
1156 each corporation [or other entity] whose shares [or interests] will be  
1157 acquired and the name of the corporation or other entity that will  
1158 acquire such shares; [or interests;] (2) the terms and conditions of the  
1159 share exchange; (3) the manner and basis of exchanging shares of a  
1160 corporation [or interests in an other entity] whose shares [or interests]  
1161 will be acquired under the share exchange into shares or other  
1162 securities, interests, obligations, rights to acquire shares or other  
1163 securities, cash or other property, or any combination thereof; and (4)

1164 any other provisions required by the law of the state or country under  
1165 which any party to the share exchange is organized or by which it is  
1166 governed or by the certificate of incorporation or organizational  
1167 documents of any such party.

1168 (d) Terms of a plan of share exchange may be made dependent on  
1169 facts objectively ascertainable outside the plan in accordance with  
1170 subsection (l) of section 33-608.

1171 (e) The plan of share exchange may also include a provision that the  
1172 plan may be amended prior to the filing of a certificate of share  
1173 exchange with the Secretary of the State, provided, if the shareholders  
1174 of a domestic corporation that is a party to the share exchange are  
1175 required or permitted to vote on the plan, the plan [must] shall  
1176 provide that, subsequent to approval of the plan by such shareholders,  
1177 the plan may not be amended to: (1) Change the amount or kind of  
1178 shares or other securities, interests, obligations, rights to acquire shares  
1179 or other securities, cash or other property to be issued by the  
1180 corporation or to be received by the shareholders of [or owners of  
1181 interests] in any party to the share exchange in exchange for their  
1182 shares [or interests] under the plan; or (2) change any of the terms or  
1183 conditions of the plan if the change would adversely affect such  
1184 shareholders in any material respect.

1185 (f) This section does not limit the power of a domestic corporation to  
1186 acquire shares of another corporation or interests in an other entity in a  
1187 transaction other than a share exchange.

1188 Sec. 37. Subdivision (4) of section 33-817 of the general statutes is  
1189 repealed and the following is substituted in lieu thereof (*Effective*  
1190 *October 1, 2011*):

1191 (4) If the plan of merger or share exchange is required to be  
1192 approved by the shareholders, and if the approval is to be given at a  
1193 meeting, the corporation [must] shall notify each shareholder, whether  
1194 or not entitled to vote, of the meeting of shareholders at which the plan  
1195 is to be submitted for approval. The notice [must] shall also state that

1196 the purpose, or one of the purposes, of the meeting is to consider the  
1197 plan and [must] shall contain or be accompanied by a copy or  
1198 summary of the plan. If the corporation is to be merged into an  
1199 existing corporation, [or other entity,] the notice shall also include or  
1200 be accompanied by a copy or summary of the certificate of  
1201 incorporation [or organizational documents] of such existing  
1202 corporation, [or other entity.] If the corporation is to be merged into a  
1203 corporation [or other entity] that is to be created pursuant to the  
1204 merger, the notice shall include or be accompanied by a copy or a  
1205 summary of the certificate of incorporation [or organizational  
1206 documents] of the new corporation, [or other entity.]

1207 Sec. 38. Subsection (a) of section 33-819 of the general statutes is  
1208 repealed and the following is substituted in lieu thereof (*Effective*  
1209 *October 1, 2011*):

1210 (a) After a plan of merger or share exchange has been adopted and  
1211 approved as required by sections 33-600 to 33-998, inclusive, as  
1212 amended by this act, a certificate of merger or share exchange shall be  
1213 executed on behalf of each party to the merger or the share exchange  
1214 by any officer or other duly authorized representative of such party.  
1215 The certificate of merger or share exchange shall set forth: (1) The  
1216 names of the parties to the merger or the share exchange; (2) the name  
1217 of the corporation [or other entity] that will be the survivor of the  
1218 merger or that will acquire the shares [or interests] of the other party to  
1219 the share exchange; (3) the date on which the merger or the share  
1220 exchange is to be effective; (4) if the certificate of incorporation of the  
1221 survivor of a merger is amended, or if a new corporation is created as a  
1222 result of a merger, the amendments to the survivor's certificate of  
1223 incorporation or the certificate of incorporation of the new corporation;  
1224 (5) if the plan of merger or share exchange required approval by the  
1225 shareholders of a domestic corporation that was a party to the merger  
1226 or the share exchange, a statement that the plan was duly approved by  
1227 the shareholders and, if voting by any separate voting group was  
1228 required, by each such separate voting group, in the manner required  
1229 by sections 33-600 to 33-998, inclusive, as amended by this act, and the

1230 certificate of incorporation; (6) if the plan of merger or share exchange  
1231 did not require approval by the shareholders of a domestic corporation  
1232 that was a party to the merger or the share exchange, a statement to  
1233 that effect; and (7) as to each foreign corporation [and each other  
1234 entity] that was a party to the merger or the share exchange, a  
1235 statement that the plan and the performance of its terms were duly  
1236 authorized by all action required by the law of the state or country  
1237 under which the corporation [or other entity] is organized or by which  
1238 it is governed, and by its certificate of incorporation, [or organizational  
1239 documents.]

1240 Sec. 39. Subsection (a) of section 33-820 of the general statutes is  
1241 repealed and the following is substituted in lieu thereof (*Effective*  
1242 *October 1, 2011*):

1243 (a) When a merger becomes effective:

1244 (1) The corporation [or other entity] that is designated in the  
1245 certificate of merger as the survivor continues or comes into existence,  
1246 as the case may be;

1247 (2) The separate existence of every corporation [or other entity] that  
1248 is merged into the survivor ceases;

1249 (3) All liabilities of each corporation [or other entity] that is merged  
1250 into the survivor are vested in the survivor;

1251 (4) All property owned by, and every contract right possessed by,  
1252 each corporation [or other entity] that merges into the survivor is  
1253 vested in the survivor without reversion or impairment;

1254 (5) The name of the survivor may, but need not be, substituted in  
1255 any pending proceeding for the name of any party to the merger  
1256 whose separate existence ceased in the merger;

1257 (6) The certificate of incorporation [or organizational documents] of  
1258 the survivor are amended to the extent provided in the certificate of  
1259 merger;

1260 (7) The certificate of incorporation [or organizational documents] of  
1261 a survivor that is created by the merger become effective; and

1262 (8) The shares of each corporation that is a party to the merger [, and  
1263 the interests in an other entity that is a party to a merger,] that are to be  
1264 converted under the plan of merger into shares or other securities,  
1265 interests, obligations, rights to acquire shares or other securities, cash  
1266 or other property, or any combination thereof, are converted, and the  
1267 former holders of such shares or interests are entitled only to the rights  
1268 provided to them in the plan of merger or to any rights they may have  
1269 under sections 33-855 to 33-879, inclusive.

1270 Sec. 40. Subsection (d) of section 33-820 of the general statutes is  
1271 repealed and the following is substituted in lieu thereof (*Effective*  
1272 *October 1, 2011*):

1273 (d) Upon a merger becoming effective, a foreign corporation [, or a  
1274 foreign other entity,] that is the survivor of the merger is deemed to:  
1275 (1) Appoint the Secretary of the State as its agent for service of process  
1276 in a proceeding to enforce the rights of shareholders of each domestic  
1277 corporation that is a party to the merger who exercise appraisal rights;  
1278 and (2) agree that it [will] shall promptly pay the amount, if any, to  
1279 which such shareholders are entitled under sections 33-855 to 33-879,  
1280 inclusive.

1281 Sec. 41. Section 34-33a of the general statutes is repealed and the  
1282 following is substituted in lieu thereof (*Effective October 1, 2011*):

1283 (a) Pursuant to a plan of merger, approved in the manner provided  
1284 by section 34-33c, one or more domestic limited partnerships may  
1285 merge with or into any one or more domestic or foreign limited  
1286 partnerships [or any one or more other entities] formed or organized  
1287 under the laws of this state or any other state or any foreign country or  
1288 other foreign jurisdiction, or any combination thereof, and the plan  
1289 shall name the survivor.

1290 (b) The plan of merger, which may be embodied in an agreement,

1291 shall set forth: (1) The name and jurisdiction of organization of each  
1292 party to the merger and the name of the limited partnership [or other  
1293 entity] which is to be the survivor; (2) the terms and conditions of the  
1294 merger, including the manner and basis of converting the [shares or]  
1295 interests of each party to the merger into [shares or] other securities,  
1296 interests, obligations, rights to acquire, [shares or other securities]  
1297 interests, securities, cash or other property, or any combination  
1298 thereof, and which may include provision for the distribution by any  
1299 merging limited partnership [or other entity] of cash, securities of any  
1300 limited partnership [or other entity] or other property in lieu of, in  
1301 addition to, in exchange for or upon conversion of all or part of the  
1302 interests in a limited partnership [or other entity] which is not the  
1303 survivor in the merger; (3) any changes in the certificate of limited  
1304 partnership [or the organizational documents] of the survivor; (4) the  
1305 effective date or time, which shall be a date or time certain, of the  
1306 merger if it is not to be effective upon the filing of the certificate of  
1307 merger; and (5) such other provisions with respect to the merger as are  
1308 deemed necessary or desirable. [If the merger involves one or more  
1309 other entities, a written plan of merger which meets the requirements  
1310 for merger of the statutes under which such other entity is organized  
1311 or by which it is governed shall be deemed to meet the requirements of  
1312 this section.]

1313 Sec. 42. Section 34-33b of the general statutes is repealed and the  
1314 following is substituted in lieu thereof (*Effective October 1, 2011*):

1315 (a) Pursuant to a plan of consolidation, approved in the manner  
1316 provided by section 34-33c, any domestic limited partnerships may  
1317 consolidate with one or more limited partnerships [or with one or  
1318 more other entities] formed or organized under the laws of this state or  
1319 any other state or any foreign country or other foreign jurisdiction, or  
1320 any combination thereof, into a new limited partnership. [or other  
1321 entity.]

1322 (b) The plan of consolidation, which may be embodied in an  
1323 agreement, shall set forth: (1) The name and jurisdiction of

1324 organization of each of the consolidating limited partnerships [or other  
1325 entities] and the name and jurisdiction of organization of the new  
1326 limited partnership, [or other entity,] which name may be that of any  
1327 of the consolidating limited partnerships [or other entities] or any  
1328 other available name pursuant to this chapter; (2) the terms and  
1329 conditions of the consolidation, including the manner and basis of  
1330 converting the [shares or] interests of each party to the consolidation  
1331 into [shares or other securities,] interests, securities, obligations, rights  
1332 to acquire [shares or] other securities, cash or other property, or any  
1333 combination thereof, and which may include provision for the  
1334 distribution by any consolidating limited partnership of cash,  
1335 securities of any limited partnership, or other property in lieu of, in  
1336 addition to, in exchange for or upon conversion of all or part of the  
1337 interests in any consolidating limited partnership [or other entity] or of  
1338 the new limited partnership; [or other entity;] (3) [if the survivor is a  
1339 limited partnership,] a certificate of limited partnership complying  
1340 with section 34-10; (4) the effective date or time, which shall be a date  
1341 or time certain, of a consolidation if it is not to be effective upon the  
1342 filing of the certificate of consolidation; and (5) such other provisions  
1343 with respect to the consolidation as are deemed necessary or desirable.  
1344 [If the consolidation involves one or more other entities, a written plan  
1345 of consolidation which meets the requirements for consolidation of the  
1346 statutes under which such other entity is organized or by which it is  
1347 governed shall be deemed to meet the requirements of this section.]

1348 Sec. 43. Section 34-33d of the general statutes is repealed and the  
1349 following is substituted in lieu thereof (*Effective October 1, 2011*):

1350 (a) After a plan of merger or consolidation is approved pursuant to  
1351 section 34-33c, the survivor shall file a certificate of merger or  
1352 consolidation, as the case may be, in the following manner: (1) A  
1353 certificate of merger by any merging limited partnership that is a party  
1354 thereto, executed as provided in section 34-10a, shall be filed as  
1355 provided in section 34-10b with respect to the survivor; (2) a certificate  
1356 of consolidation by any consolidating limited partnership that is a  
1357 party thereto, executed as provided in section 34-10a, shall be filed as

1358 provided in section 34-10b in respect of the new limited partnership  
1359 [or other entity] together with an appointment of statutory agent for  
1360 service as provided in section 34-13b or other applicable law; and (3)  
1361 general partners executing a certificate of merger or consolidation need  
1362 not sign or swear as to facts set forth therein not pertaining to the  
1363 limited partnership of which they are general partners.

1364 (b) The certificate of merger or consolidation [, in addition to the  
1365 requirements for a certificate of merger or consolidation of the statutes  
1366 under which any other entity that is a party to the merger or  
1367 consolidation is organized or by which it is governed,] shall set forth:  
1368 (1) The plan of merger or consolidation; and (2) as to each merging or  
1369 consolidating limited partnership, a statement of the vote of limited  
1370 partners required to adopt the plan of merger or consolidation and the  
1371 vote for the plan; and (3) if the survivor is a foreign limited  
1372 partnership, and is to transact business in this state, a statement that  
1373 such survivor shall comply with the provisions of this chapter  
1374 respecting such limited partnerships, and in every case a statement  
1375 irrevocably appointing the Secretary of the State as its attorney to  
1376 accept service of process in any action, suit or proceeding for the  
1377 enforcement of any obligations of any domestic merging or  
1378 consolidating limited partnership for which it is liable pursuant to  
1379 subsection (c) of section 34-33f, as amended by this act, to the plan of  
1380 merger or consolidation, or to the laws governing such foreign limited  
1381 partnership. If such appointment is not made, legal process in any  
1382 such action, suit or proceeding may be served upon the Secretary of  
1383 the State as provided in subsection (b) of section 34-38q as attorney for  
1384 such survivor.

1385 (c) The copy of the certificate of merger or consolidation, certified by  
1386 the Secretary of the State, may also be filed for record in the records of  
1387 deeds in the office of the town clerk in any town in this state. For such  
1388 recording, the town clerk shall charge and collect the same fee as in the  
1389 case of deeds.

1390 (d) A certificate of merger or consolidation shall act as a certificate

1391 of cancellation for a domestic limited partnership which is not the  
1392 survivor in the merger or consolidation. A certificate of merger shall  
1393 act as a certificate of amendment for a domestic limited partnership  
1394 which survives such merger, to the extent provided by the plan of  
1395 merger. In the case of a consolidation, [if the new entity is a limited  
1396 partnership,] the certificate of limited partnership set forth in the  
1397 certificate of consolidation shall be the certificate of limited partnership  
1398 of the new limited partnership.

1399 Sec. 44. Section 34-33f of the general statutes is repealed and the  
1400 following is substituted in lieu thereof (*Effective October 1, 2011*):

1401 (a) The survivor shall be a single limited partnership, [or other  
1402 entity,] which, in the case of a merger shall be that limited partnership  
1403 [or other entity] designated in the plan of merger as the survivor and,  
1404 in the case of a consolidation shall be the new limited partnership [or  
1405 other entity] provided for in the plan of consolidation.

1406 (b) The separate existence of each party to the merger or the  
1407 consolidation, except the survivor, shall cease.

1408 (c) For the purposes of the laws of this state, the survivor shall  
1409 thereupon and thereafter, to the extent consistent with its certificate of  
1410 limited partnership [or other organizational documents] as in effect  
1411 upon effecting the merger or consolidation, possess all of the rights,  
1412 privileges and powers of each of the limited partnerships [and other  
1413 entities] that have merged or consolidated, and all property, real,  
1414 personal and mixed, and all debts due to any of such limited  
1415 partnerships [and other entities] as well as all other things and choses  
1416 in action belonging to each of such limited partnerships, [and other  
1417 entities,] and all and every other interests, of or belonging to or due to  
1418 each of the limited partnerships [and other entities] so merged or  
1419 consolidated, shall be vested in such single limited partnership [or  
1420 other entity] without further act or deed; and the title to any real estate,  
1421 or any interest therein, vested in any of such limited partnerships [and  
1422 other entities] shall not revert or be in any way impaired by reason of  
1423 such merger or consolidation.

1424 (d) Any devise, bequest, gift or grant, contained in any will or in  
1425 any other instrument, made before or after the merger or  
1426 consolidation, to or for the benefit of any party to the merger or the  
1427 consolidation shall inure to the benefit of the survivor. So far as is  
1428 necessary for that purpose, the existence of each party to the merger or  
1429 the consolidation shall be deemed to continue in and through the  
1430 survivor.

1431 (e) The survivor shall be liable for all the liabilities, obligations and  
1432 penalties of each party to the merger or the consolidation; and any  
1433 claim existing or action or proceeding, civil or criminal, pending by or  
1434 against any such limited partnership [or other entity] may be  
1435 prosecuted as if such merger or consolidation had not taken place, or  
1436 such survivor may be substituted in its place; and any judgment  
1437 rendered against any party to the merger or the consolidation may be  
1438 enforced against the survivor. Neither the rights of creditors nor any  
1439 liens upon the property of any merging or consolidating limited  
1440 partnership shall be impaired by the merger or consolidation.

1441 (f) Any general partner of a limited partnership [or holder of an  
1442 interest in any other entity] that is a party to a merger or a  
1443 consolidation who, prior to the merger or the consolidation, was  
1444 obligated for any of the liabilities or obligations of the limited  
1445 partnership [or other entity] shall not be released by reason of the  
1446 merger or the consolidation from any such liabilities or obligations  
1447 arising prior to the effective time of the merger or the consolidation.

1448 Sec. 45. Section 34-82 of the general statutes is repealed and the  
1449 following is substituted in lieu thereof (*Effective October 1, 2011*):

1450 [(1)] (a) Notwithstanding the provisions of sections 34-300 to 34-434,  
1451 inclusive, as amended by this act, any three or more persons, licensed  
1452 or authorized to practice a profession by the state of Connecticut, may  
1453 associate to practice such profession for profit, if the articles of  
1454 association of the members provide that the association thereby  
1455 formed and hereby authorized shall have at least three of the following  
1456 four attributes: [(a)] (1) Continuity of life so that the death, insanity,

1457 bankruptcy, retirement, resignation or expulsion of any member [will]  
1458 shall not cause a dissolution of the association; [(b)] (2) centralized  
1459 management so that any one or more but less than all of the members  
1460 has continuing exclusive authority to make management decisions  
1461 necessary to the conduct of the professional business for which the  
1462 association was formed, and so that no member of the association,  
1463 acting without the authority of the managing member or members,  
1464 shall have the power to bind the association by his act; [(c)] (3) limited  
1465 liability so that the individual members of the association shall not be  
1466 individually or severally liable for its debts; provided, however, the  
1467 members shall in no way limit their individual or several liability in  
1468 the articles of association, or otherwise, for any acts of reckless or  
1469 wanton misconduct, negligence, malpractice, professional misconduct  
1470 or tort; and [(d)] (4) free transferability of interests so that each of its  
1471 members or those members owning substantially all of the interests in  
1472 the association have the power, without the consent of other members,  
1473 to substitute for themselves in the same association a person duly  
1474 licensed or authorized to practice the profession for which the  
1475 association was formed who is not a member of the association, or, a  
1476 modified form of free transferability of interests so that each member  
1477 of the association can transfer his interest to a person so licensed or  
1478 authorized who is not a member of the association only after having  
1479 offered such interest to the association or to the other members of the  
1480 association at its fair market value as established in the articles of  
1481 association, or otherwise.

1482 [(2)] (b) The articles of association of any association, formed and  
1483 authorized pursuant to [paragraph (1)] subsection (a) of this section,  
1484 shall expressly state that the association is formed under said  
1485 [paragraph (1)] subsection (a) and shall be signed and sworn to by all  
1486 of the members. The articles of association, duly executed, shall be  
1487 filed for record with the Secretary of the State, together with a filing fee  
1488 of twenty-five dollars. The Secretary of the State shall index and keep  
1489 the documents in files used exclusively for such purpose.

1490 [(3)] (c) Any association formed and authorized under [paragraph

1491 (1)] subsection (a) of this section shall be subject to the laws of the state  
1492 of Connecticut regulating the practice of the profession of the  
1493 individual members of the association.

1494 [(4)] (d) The articles of association shall be cancelled when the  
1495 association is dissolved by all of its members or as otherwise provided  
1496 in the articles of association. The articles of association shall be  
1497 amended when [(i)] (1) there is a change in the name or principal place  
1498 of business of the association, [(ii)] or (2) the members desire to make a  
1499 change in any other statement in the articles of association and have  
1500 adopted such change in the manner provided in the articles of  
1501 association.

1502 [(5)] (e) No amendment to the articles of association nor any  
1503 dissolution of the association shall be effective until the amendment or  
1504 an agreement of dissolution has been duly executed and filed for  
1505 record with the Secretary of the State, together with a filing fee of ten  
1506 dollars.

1507 [(6) An association formed under this section may become a  
1508 professional service corporation, in accordance with section 33-182b,  
1509 by complying with the provisions of chapter 594a and with this  
1510 subsection. Upon the filing of a certificate of incorporation in  
1511 compliance with section 33-182c, the association shall file with the  
1512 Secretary of the State, in such form as the Secretary of the State shall  
1513 prescribe, a certificate of cancellation of its articles of association and a  
1514 consent of each member to the association becoming a professional  
1515 service corporation, together with a filing fee of ten dollars. Upon the  
1516 filing of such a certificate and consents and the incorporation of the  
1517 professional service corporation, the association shall become a  
1518 professional service corporation and the interests therein shall be  
1519 converted to such number of shares of capital stock of the professional  
1520 service corporation as the members shall approve. The provisions of  
1521 subdivisions (3), (4), (5) and (8) of subsection (a) of section 33-820 shall  
1522 apply as though the professional service corporation was the surviving  
1523 corporation in a merger and the association the merging corporation.]

1524 Sec. 46. Section 34-193 of the general statutes is repealed and the  
1525 following is substituted in lieu thereof (*Effective October 1, 2011*):

1526 (a) Except as provided in subsection (b) of this section, any one or  
1527 more limited liability companies may merge or consolidate with or  
1528 into any one or more domestic or foreign limited liability companies  
1529 [or one or more other entities formed or organized under the laws of  
1530 this state or any other state or any foreign country or other foreign  
1531 jurisdiction, or any combination thereof,] in a manner provided in  
1532 sections 34-194 and 34-195, as amended by this act.

1533 (b) A limited liability company organized under sections 34-100 to  
1534 34-242, inclusive, as amended by this act, to render professional  
1535 services may merge or consolidate only with another domestic limited  
1536 liability company organized under said sections. [, a professional  
1537 service corporation organized under chapter 594a or a partnership or  
1538 limited liability partnership organized under chapter 614, if such  
1539 company, corporation or partnership is organized to render the same  
1540 professional service.] A merger or consolidation of a limited liability  
1541 company organized under sections 34-100 to 34-242, inclusive, as  
1542 amended by this act, to render professional services with any foreign  
1543 limited liability company or foreign other entity is prohibited.

1544 Sec. 47. Section 34-195 of the general statutes is repealed and the  
1545 following is substituted in lieu thereof (*Effective October 1, 2011*):

1546 (a) Each limited liability company [or other entity] that is a party to  
1547 a proposed merger or consolidation shall enter into a written plan of  
1548 merger or consolidation, which shall be approved in accordance with  
1549 section 34-194.

1550 (b) The plan of merger or consolidation shall set forth: (1) The name  
1551 of each limited liability company [and other entity] that is a party to  
1552 the merger or consolidation and the name of the survivor in a merger  
1553 or the new limited liability company in a consolidation; (2) the terms  
1554 and conditions of the proposed merger or consolidation; (3) the  
1555 manner and basis of converting the interests in each limited liability

1556 company [or other entity] in the merger or consolidation into interests  
1557 of the surviving or new limited liability company [or other entity] or,  
1558 in whole or in part, into cash or other property; (4) in the case of a  
1559 merger, such amendments to the organizational documents of the  
1560 survivor as are desired to be effected by the merger, or that no such  
1561 changes are desired; (5) in the case of a consolidation, all of the  
1562 statements required to be set forth in the organizational documents of  
1563 the survivor; and (6) such other provisions relating to the proposed  
1564 merger or consolidation as are deemed necessary or desirable. [If the  
1565 merger or consolidation involves an other entity, a written plan of  
1566 merger or consolidation that meets the requirements for merger or  
1567 consolidation of the statutes under which such other entity is  
1568 organized or by which it is governed shall be deemed to meet the  
1569 requirements for a plan of merger or consolidation under this section.]

1570 Sec. 48. Section 34-196 of the general statutes is repealed and the  
1571 following is substituted in lieu thereof (*Effective October 1, 2011*):

1572 (a) After a plan of merger or consolidation is approved as provided  
1573 in section 34-194, the survivor shall deliver to the Secretary of the State  
1574 for filing articles of merger or consolidation duly executed by each  
1575 limited liability company [and other entity] that is a party thereto  
1576 setting forth: (1) The name and jurisdiction of formation or  
1577 organization of each limited liability company; [and other entity;] (2)  
1578 the effective date of the merger or consolidation if later than the date of  
1579 filing of the articles of merger or consolidation; (3) the name of the  
1580 survivor; (4) a statement that the plan of merger or consolidation was  
1581 duly authorized and approved by each limited liability company in  
1582 accordance with the provisions of section 34-194; [and by each other  
1583 entity in accordance with the applicable organizational documents of  
1584 each other entity;] (5) if the articles of organization of the survivor of  
1585 the merger are amended, the amendments to such articles of  
1586 organization or, if a new limited liability company is created as a result  
1587 of the consolidation, the articles of organization of such new limited  
1588 liability company; (6) that the plan of merger or consolidation is on file  
1589 at a place of business of the survivor and the address thereof; and (7)

1590 that a copy of the plan of merger or consolidation [will] shall be  
1591 furnished by the survivor, on request and without cost, to any person  
1592 holding an interest in any limited liability company [or other entity]  
1593 that is a party to the merger or consolidation.

1594 (b) A merger or consolidation takes effect upon the later of the  
1595 effective date of the filing of the articles of merger or consolidation or  
1596 the date set forth in the plan of merger or consolidation.

1597 (c) The articles of merger or consolidation shall be executed by each  
1598 limited liability company [or other entity] that is a party to the merger  
1599 or consolidation. The survivor shall file the articles of merger or  
1600 consolidation with the Secretary of the State in the manner provided  
1601 for in section 34-110 as a condition of the effectiveness of the merger or  
1602 consolidation.

1603 (d) Articles of merger or consolidation shall act as articles of  
1604 dissolution for a limited liability company which is not the survivor in  
1605 the merger or consolidation.

1606 (e) A plan of merger or consolidation authorized and approved in  
1607 accordance with section 34-194 may effect any amendment to the  
1608 operating agreement or effect the adoption of a new operating  
1609 agreement for a limited liability company if it is the survivor in the  
1610 merger or consolidation. Such a plan of merger or consolidation may  
1611 also provide that the operating agreement of any limited liability  
1612 company that is a party to the merger or consolidation, including a  
1613 limited liability company formed for the purpose of consummating a  
1614 merger or consolidation, shall be the operating agreement of the  
1615 survivor. Any amendment to an operating agreement or adoption of a  
1616 new operating agreement made pursuant to this subsection shall be  
1617 effective at the effective time or date of the merger or consolidation.  
1618 The provisions of this subsection shall not be construed to limit the  
1619 accomplishment of a merger or consolidation or of any of the matters  
1620 referred to in this subsection by any other means provided for in an  
1621 operating agreement or other agreement or as otherwise permitted by  
1622 law.

1623 Sec. 49. Section 34-197 of the general statutes is repealed and the  
1624 following is substituted in lieu thereof (*Effective October 1, 2011*):

1625 Upon the effectiveness of a merger or consolidation:

1626 (1) The survivor shall be a limited liability company [or other entity]  
1627 which, in the case of a merger, shall be the limited liability company  
1628 [or other entity] designated in the plan of merger as the survivor and,  
1629 in the case of a consolidation, shall be the new limited liability  
1630 company [or other entity] provided for in the plan of consolidation.

1631 (2) The separate existence of each limited liability company [or other  
1632 entity] that is a party to the plan of merger or consolidation, except the  
1633 survivor, shall cease.

1634 (3) The survivor shall thereupon and thereafter possess all the  
1635 rights, privileges, immunities and powers of each of the merging or  
1636 consolidating limited liability companies [or other entities] and shall be  
1637 subject to all the restrictions, disabilities and duties of each of the  
1638 merging or consolidating limited liability companies. [or other  
1639 entities.]

1640 (4) Any property, real, personal and mixed, and all debts due on  
1641 whatever account, including promises to make capital contributions,  
1642 and all other choses in action, and all and every other interest of or  
1643 belonging to or due to each party to the merger or the consolidation  
1644 shall be vested in the survivor without further act or deed.

1645 (5) The title to all real estate, and any interest therein, vested in any  
1646 party to the merger or the consolidation shall not revert or be in any  
1647 way impaired by reason of such merger or consolidation.

1648 (6) The survivor shall be responsible and liable for all liabilities and  
1649 obligations of each of the limited liability companies [or other entities]  
1650 that were merged or consolidated, and any claim existing or action or  
1651 proceeding pending by or against any limited liability company [or  
1652 other entity] that was a party to the merger or consolidation may be  
1653 prosecuted as if such merger or consolidation had not taken place, or

1654 the survivor may be substituted in the action.

1655 (7) Neither the rights of creditors nor any liens on the property of  
1656 any limited liability company [or other entity] that is a party to the  
1657 merger or consolidation shall be impaired by the merger or  
1658 consolidation.

1659 (8) The membership or other interests in a limited liability company  
1660 [or other entity] that are to be converted or exchanged into interests,  
1661 cash, obligations or other property under the terms of the plan of  
1662 merger or consolidation are so converted, and the former holders  
1663 thereof are entitled only to the rights provided in the plan of merger or  
1664 consolidation or the rights otherwise provided by law.

1665 Sec. 50. Section 34-388 of the general statutes is repealed and the  
1666 following is substituted in lieu thereof (*Effective October 1, 2011*):

1667 (a) Pursuant to a plan of merger approved as provided in subsection  
1668 (c) of this section, one or more partnerships may merge with or into  
1669 any one or more partnerships [or any one or more other entities]  
1670 formed or organized under the laws of this state or any other state or  
1671 any foreign country or other foreign jurisdiction, or any combination  
1672 thereof.

1673 (b) The plan of merger shall set forth:

1674 (1) The name of each partnership [or other entity] that is a party to  
1675 the merger;

1676 (2) The name of the survivor into which the other partnerships [or  
1677 other entities will] shall merge;

1678 (3) [Whether the survivor is a partnership or an other entity and, if  
1679 the survivor is a partnership or a limited partnership, the] The status of  
1680 each partner;

1681 (4) The terms and conditions of the merger;

1682 (5) The manner and basis of converting the [shares or] interests of

1683 each party to the merger into [shares,] interests or obligations of the  
1684 survivor or into money or other property in whole or part;

1685 (6) The street address of the survivor's chief executive office;

1686 (7) The effective date or time, which shall be a date or time certain,  
1687 of the merger if it is not to be effective upon the filing of the certificate  
1688 of merger; and

1689 (8) Such other provisions with respect to the merger as are deemed  
1690 necessary or desirable.

1691 (c) The plan of merger shall be approved [:]

1692 [(1) In the case of a partnership that is a party to the merger,] by all  
1693 of the partners or a number or percentage specified for merger in the  
1694 partnership agreement. [; and]

1695 [(2) In the case of an other entity that is a party to the merger, by the  
1696 vote required for approval of a merger by the law of the state or  
1697 foreign jurisdiction in which the other entity is organized or by which  
1698 it is governed and, in the absence of such a specifically applicable law,  
1699 as to a limited partnership, by all of the partners, notwithstanding a  
1700 provision to the contrary in the partnership agreement.]

1701 (d) After a plan of merger is approved and before the merger takes  
1702 effect, the plan may be amended or abandoned as provided in the  
1703 plan.

1704 (e) The merger takes effect on the later of:

1705 (1) The approval of the plan of merger by all parties to the merger,  
1706 as provided in subsection (c) of this section;

1707 (2) The filing of all documents required by law to be filed as a  
1708 condition to the effectiveness of the merger; or

1709 (3) Any effective date specified in the plan of merger.

1710 [(f) If the merger involves one or more other entities, a written plan  
1711 of merger which meets the requirements for merger of the statutes  
1712 under which such other entity is organized or by which it is governed  
1713 shall be deemed to meet the requirements of a plan of merger under  
1714 this section.]

1715 Sec. 51. Section 34-389 of the general statutes is repealed and the  
1716 following is substituted in lieu thereof (*Effective October 1, 2011*):

1717 (a) When a merger takes effect:

1718 (1) The separate existence of every partnership [or other entity] that  
1719 is a party to the merger, other than the survivor, ceases;

1720 (2) All property owned by each of the merged partnerships [or other  
1721 entities] vests in the survivor;

1722 (3) All obligations of every partnership [or other entity] that is a  
1723 party to the merger become the obligations of the survivor; and

1724 (4) An action or proceeding pending against a partnership [or other  
1725 entity] that is a party to the merger may be continued as if the merger  
1726 had not occurred, or the survivor may be substituted as a party to the  
1727 action or proceeding.

1728 (b) The Secretary of the State is the agent for service of process in an  
1729 action or proceeding against a surviving foreign partnership [or other  
1730 entity] to enforce an obligation of a domestic partnership [or other  
1731 entity] that is a party to a merger. Upon receipt of process, the  
1732 Secretary of the State shall mail a copy of the process to the surviving  
1733 foreign partnership. [or other entity.]

1734 (c) A partner of a surviving partnership [or limited partnership] is  
1735 liable for:

1736 (1) All obligations of a party to the merger for which the partner  
1737 was personally liable before the merger;

1738 (2) All other obligations of the survivor incurred before the merger

1739 by a party to the merger, but those obligations may be satisfied only  
1740 out of property of the survivor; and

1741 (3) All obligations of the survivor incurred after the merger takes  
1742 effect. [, but those obligations may be satisfied only out of property of  
1743 the survivor if the partner is a limited partner.]

1744 (d) If the obligations incurred before the merger by a party to the  
1745 merger that is a partnership [or limited partnership] are not satisfied  
1746 out of the property of the survivor, the general partners of that party  
1747 immediately before the effective date of the merger shall contribute the  
1748 amount necessary to satisfy that party's obligations to the survivor, in  
1749 the manner provided in section 34-378 or in sections 34-9 to 34-38r,  
1750 inclusive, of the jurisdiction in which the party was organized, as the  
1751 case may be, as if the merged party were dissolved.

1752 (e) A partner of a party to a merger between or among partnerships  
1753 [or limited partnerships, or both,] who does not become a partner of  
1754 the survivor is dissociated from the entity, of which that partner was a  
1755 partner, as of the date the merger takes effect. The survivor shall cause  
1756 the partner's interest in the entity to be purchased under section 34-362  
1757 or another statute specifically applicable to that partner's interest with  
1758 respect to a merger. The survivor is bound under section 34-363, as  
1759 amended by this act, by an act of a general partner dissociated under  
1760 this subsection, and the partner is liable under section 34-364, as  
1761 amended by this act, for transactions entered into by the survivor after  
1762 the merger takes effect.

1763 (f) Any partner of a partnership [or holder of an interest in an other  
1764 entity] that is a party to a merger who, prior to the merger, was  
1765 obligated for any of the liabilities or obligations of the partnership [or  
1766 other entity] shall not be released by reason of the merger from any  
1767 such liabilities or obligations arising prior to the effective time of the  
1768 merger.

1769 Sec. 52. Section 34-390 of the general statutes is repealed and the  
1770 following is substituted in lieu thereof (*Effective October 1, 2011*):

1771 (a) After a merger, [if the survivor is a partnership,] the partnership  
1772 may file a statement that one or more partnerships [or other entities]  
1773 have merged into the surviving partnership.

1774 (b) A statement of merger shall contain, in addition to the  
1775 requirements of statute for a certificate of merger or consolidation;  
1776 [applicable to an other entity that is a party to the merger:]

1777 (1) The name of each partnership [or other entity] that is a party to  
1778 the merger;

1779 (2) The name of the survivor into which the other partnerships [or  
1780 other entities] were merged; and

1781 (3) The street address of the survivor's chief executive office and of  
1782 an office in this state, if any. [; and]

1783 [(4) The type of entity of the survivor.]

1784 (c) Except as otherwise provided in subsection (d) of this section, for  
1785 the purposes of section 34-323, property of the surviving partnership  
1786 [or other entity] which before the merger was held in the name of  
1787 another party to the merger is property held in the name of the  
1788 survivor upon filing a statement of merger.

1789 (d) For the purposes of section 34-323, real property of the surviving  
1790 partnership [or other entity] which before the merger was held in the  
1791 name of another party to the merger is property held in the name of  
1792 the survivor upon recording a certified copy of the statement of  
1793 merger in the office for recording transfers of that real property.

1794 (e) A filed and, if appropriate, recorded statement of merger,  
1795 executed and declared to be accurate pursuant to subsection (c) of  
1796 section 34-305, stating the name of a partnership [or other entity] that  
1797 is a party to the merger in whose name property was held before the  
1798 merger and the name of the survivor, but not containing all of the  
1799 other information required by subsection (b) of this section, operates  
1800 with respect to the partnerships or other entities named to the extent

1801 provided in subsections (c) and (d) of this section.

1802 [(f) If the survivor is a limited liability partnership, a certificate  
1803 meeting the requirements of section 34-33d shall be filed with the  
1804 Secretary of the State.]

1805 Sec. 53. Subdivision (1) of section 22a-134 of the general statutes is  
1806 repealed and the following is substituted in lieu thereof (*Effective*  
1807 *October 1, 2011*):

1808 (1) "Transfer of establishment" means any transaction or proceeding  
1809 through which an establishment undergoes a change in ownership, but  
1810 does not mean:

1811 (A) Conveyance or extinguishment of an easement;

1812 (B) Conveyance of an establishment through a foreclosure, as  
1813 defined in subsection (b) of section 22a-452f, foreclosure of a municipal  
1814 tax lien or through a tax warrant sale pursuant to section 12-157, an  
1815 exercise of eminent domain pursuant to section 8-128, 8-169e or 8-193  
1816 or by condemnation pursuant to section 32-224 or purchase pursuant  
1817 to a resolution by the legislative body of a municipality authorizing the  
1818 acquisition through eminent domain for establishments that also meet  
1819 the definition of a brownfield as defined in section 32-9kk or a  
1820 subsequent transfer by such municipality that has foreclosed on the  
1821 property, foreclosed municipal tax liens or that has acquired title to the  
1822 property through section 12-157, or is within the pilot program  
1823 established in subsection (c) of section 32-9cc, or has acquired such  
1824 property through the exercise of eminent domain pursuant to section  
1825 8-128, 8-169e or 8-193 or by condemnation pursuant to section 32-224  
1826 or a resolution adopted in accordance with this subparagraph,  
1827 provided (i) the party acquiring the property from the municipality  
1828 did not establish, create or contribute to the contamination at the  
1829 establishment and is not affiliated with any person who established,  
1830 created or contributed to such contamination or with any person who  
1831 is or was an owner or certifying party for the establishment, and (ii) on  
1832 or before the date the party acquires the property from the

1833 municipality, such party or municipality enters and subsequently  
1834 remains in the voluntary remediation program administered by the  
1835 commissioner pursuant to section 22a-133x and remains in compliance  
1836 with schedules and approvals issued by the commissioner. For  
1837 purposes of this subparagraph, subsequent transfer by a municipality  
1838 includes any transfer to, from or between a municipality, municipal  
1839 economic development agency or entity created or operating under  
1840 chapter 130 or 132, a nonprofit economic development corporation  
1841 formed to promote the common good, general welfare and economic  
1842 development of a municipality that is funded, either directly or  
1843 through in-kind services, in part by a municipality, or a nonstock  
1844 corporation or limited liability company controlled or established by a  
1845 municipality, municipal economic development agency or entity  
1846 created or operating under chapter 130 or 132;

1847 (C) Conveyance of a deed in lieu of foreclosure to a lender, as  
1848 defined in and that qualifies for the secured lender exemption  
1849 pursuant to subsection (b) of section 22a-452f;

1850 (D) Conveyance of a security interest, as defined in subdivision (7)  
1851 of subsection (b) of section 22a-452f;

1852 (E) Termination of a lease and conveyance, assignment or execution  
1853 of a lease for a period less than ninety-nine years including  
1854 conveyance, assignment or execution of a lease with options or similar  
1855 terms that will extend the period of the leasehold to ninety-nine years,  
1856 or from the commencement of the leasehold, ninety-nine years,  
1857 including conveyance, assignment or execution of a lease with options  
1858 or similar terms that will extend the period of the leasehold to ninety-  
1859 nine years, or from the commencement of the leasehold;

1860 (F) Any change in ownership approved by the Probate Court;

1861 (G) Devolution of title to a surviving joint tenant, or to a trustee,  
1862 executor or administrator under the terms of a testamentary trust or  
1863 will, or by intestate succession;

1864 (H) Corporate reorganization not substantially affecting the  
1865 ownership of the establishment;

1866 (I) The issuance of stock or other securities of an entity which owns  
1867 or operates an establishment;

1868 (J) The transfer of stock, securities or other ownership interests  
1869 representing less than forty per cent of the ownership of the entity that  
1870 owns or operates the establishment;

1871 (K) Any conveyance of an interest in an establishment where the  
1872 transferor is the sibling, spouse, child, parent, grandparent, child of a  
1873 sibling or sibling of a parent of the transferee;

1874 (L) Conveyance of an interest in an establishment to a trustee of an  
1875 inter vivos trust created by the transferor solely for the benefit of one  
1876 or more siblings, spouses, children, parents, grandchildren, children of  
1877 a sibling or siblings of a parent of the transferor;

1878 (M) Any conveyance of a portion of a parcel upon which portion no  
1879 establishment is or has been located and upon which there has not  
1880 occurred a discharge, spillage, uncontrolled loss, seepage or filtration  
1881 of hazardous waste, provided either the area of such portion is not  
1882 greater than fifty per cent of the area of such parcel or written notice of  
1883 such proposed conveyance and an environmental condition  
1884 assessment form for such parcel is provided to the commissioner sixty  
1885 days prior to such conveyance;

1886 (N) Conveyance of a service station, as defined in subdivision (5) of  
1887 this section;

1888 (O) Any conveyance of an establishment which, prior to July 1, 1997,  
1889 had been developed solely for residential use and such use has not  
1890 changed;

1891 (P) Any conveyance of an establishment to any entity created or  
1892 operating under chapter 130 or 132, or to an urban rehabilitation  
1893 agency, as defined in section 8-292, or to a municipality under section

1894 32-224, or to the Connecticut Development Authority or any  
1895 subsidiary of the authority;

1896 (Q) Any conveyance of a parcel in connection with the acquisition of  
1897 properties to effectuate the development of the overall project, as  
1898 defined in section 32-651;

1899 [(R) The conversion of a general or limited partnership to a limited  
1900 liability company under section 34-199;]

1901 [(S)] (R) The transfer of general partnership property held in the  
1902 names of all of its general partners to a general partnership which  
1903 includes as general partners immediately after the transfer all of the  
1904 same persons as were general partners immediately prior to the  
1905 transfer;

1906 [(T)] (S) The transfer of general partnership property held in the  
1907 names of all of its general partners to a limited liability company  
1908 which includes as members immediately after the transfer all of the  
1909 same persons as were general partners immediately prior to the  
1910 transfer;

1911 [(U)] (T) Acquisition of an establishment by any governmental or  
1912 quasi-governmental condemning authority;

1913 [(V)] (U) Conveyance of any real property or business operation that  
1914 would qualify as an establishment solely as a result of (i) the  
1915 generation of more than one hundred kilograms of universal waste in  
1916 a calendar month, (ii) the storage, handling or transportation of  
1917 universal waste generated at a different location, or (iii) activities  
1918 undertaken at a universal waste transfer facility, provided any such  
1919 real property or business operation does not otherwise qualify as an  
1920 establishment; there has been no discharge, spillage, uncontrolled loss,  
1921 seepage or filtration of a universal waste or a constituent of universal  
1922 waste that is a hazardous substance at or from such real property or  
1923 business operation; and universal waste is not also recycled, treated,  
1924 except for treatment of a universal waste pursuant to 40 CFR

1925 273.13(a)(2) or (c)(2) or 40 CFR 273.33 (a)(2) or (c)(2), or disposed of at  
1926 such real property or business operation; or

1927 [(W)] (V) Conveyance of a unit in a residential common interest  
1928 community in accordance with section 22a-134i;

1929 Sec. 54. Section 33-182b of the general statutes is repealed and the  
1930 following is substituted in lieu thereof (*Effective October 1, 2011*):

1931 This chapter shall not apply to any corporation organized prior to or  
1932 after May 29, 1969, to perform professional services to the public under  
1933 any other provision of existing law specifically authorizing the  
1934 rendition of professional services by a corporation. Any such  
1935 corporation may bring itself within the provisions of this chapter by  
1936 amending its certificate of incorporation in such manner as to be  
1937 consistent with all the provisions of this chapter and by affirmatively  
1938 stating in the amended certificate of incorporation that the  
1939 shareholders have elected to bring the corporation within the  
1940 provisions of this chapter. [Any association formed and existing under  
1941 the provisions of chapter 612 may bring itself within the provisions of  
1942 this chapter by complying with the provisions of subsection (6) of  
1943 section 34-82.]

1944 Sec. 55. Subsection (a) of section 34-363 of the general statutes is  
1945 repealed and the following is substituted in lieu thereof (*Effective*  
1946 *October 1, 2011*):

1947 (a) For two years after a partner dissociates without resulting in a  
1948 dissolution and winding up of the partnership business, the  
1949 partnership, including a surviving partnership under sections 34-384,  
1950 as amended by this act, and 34-388 to [34-391] 34-390, inclusive, as  
1951 amended by this act, is bound by an act of the dissociated partner  
1952 which would have bound the partnership under section 34-322 before  
1953 dissociation only if at the time of entering into the transaction the other  
1954 party: (1) Reasonably believed that the dissociated partner was then a  
1955 partner; (2) did not have notice of the partner's dissociation; and (3) is  
1956 not deemed to have had knowledge under subsection (e) of section 34-

1957 324 or notice under subsection (c) of section 34-365.

1958 Sec. 56. Subsection (b) of section 34-364 of the general statutes is  
1959 repealed and the following is substituted in lieu thereof (*Effective*  
1960 *October 1, 2011*):

1961 (b) A partner who dissociates without resulting in a dissolution and  
1962 winding up of the partnership business is liable as a partner to the  
1963 other party in a transaction entered into by the partnership, or a  
1964 surviving partnership under sections 34-384, as amended by this act,  
1965 and 34-388 to [34-391] 34-390, inclusive, as amended by this act, within  
1966 two years after the partner's dissociation, only if at the time of entering  
1967 into the transaction the other party: (1) Reasonably believed that the  
1968 dissociated partner was then a partner; (2) did not have notice of the  
1969 partner's dissociation; and (3) is not deemed to have had knowledge  
1970 under subsection (e) of section 34-324 or notice under subsection (c) of  
1971 section 34-365.

1972 Sec. 57. Section 34-384 of the general statutes is repealed and the  
1973 following is substituted in lieu thereof (*Effective October 1, 2011*):

1974 In this section and sections [34-385] 34-388 to [34-391] 34-390,  
1975 inclusive, as amended by this act:

1976 (1) "General partner" means a partner in a partnership and a general  
1977 partner in a limited partnership.

1978 (2) "Limited partner" means a limited partner in a limited  
1979 partnership.

1980 (3) "Limited partnership" means a limited partnership created under  
1981 sections 34-9 to 34-38r, inclusive, predecessor law or comparable law of  
1982 another jurisdiction.

1983 (4) "Partner" includes both a general partner and a limited partner.

1984 Sec. 58. Sections 34-199, 34-200, 34-385 to 34-387, inclusive, and 34-  
1985 391 of the general statutes are repealed. (*Effective October 1, 2011*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2011</i>	New section
Sec. 2	<i>October 1, 2011</i>	New section
Sec. 3	<i>October 1, 2011</i>	New section
Sec. 4	<i>October 1, 2011</i>	New section
Sec. 5	<i>October 1, 2011</i>	New section
Sec. 6	<i>October 1, 2011</i>	New section
Sec. 7	<i>October 1, 2011</i>	New section
Sec. 8	<i>October 1, 2011</i>	New section
Sec. 9	<i>October 1, 2011</i>	New section
Sec. 10	<i>October 1, 2011</i>	New section
Sec. 11	<i>October 1, 2011</i>	New section
Sec. 12	<i>October 1, 2011</i>	New section
Sec. 13	<i>October 1, 2011</i>	New section
Sec. 14	<i>October 1, 2011</i>	New section
Sec. 15	<i>October 1, 2011</i>	New section
Sec. 16	<i>October 1, 2011</i>	New section
Sec. 17	<i>October 1, 2011</i>	New section
Sec. 18	<i>October 1, 2011</i>	New section
Sec. 19	<i>October 1, 2011</i>	New section
Sec. 20	<i>October 1, 2011</i>	New section
Sec. 21	<i>October 1, 2011</i>	New section
Sec. 22	<i>October 1, 2011</i>	New section
Sec. 23	<i>October 1, 2011</i>	New section
Sec. 24	<i>October 1, 2011</i>	New section
Sec. 25	<i>October 1, 2011</i>	New section
Sec. 26	<i>October 1, 2011</i>	New section
Sec. 27	<i>October 1, 2011</i>	New section
Sec. 28	<i>October 1, 2011</i>	New section
Sec. 29	<i>October 1, 2011</i>	New section
Sec. 30	<i>October 1, 2011</i>	New section
Sec. 31	<i>October 1, 2011</i>	New section
Sec. 32	<i>October 1, 2011</i>	New section
Sec. 33	<i>October 1, 2011</i>	New section
Sec. 34	<i>October 1, 2011</i>	33-182i
Sec. 35	<i>October 1, 2011</i>	33-815
Sec. 36	<i>October 1, 2011</i>	33-816
Sec. 37	<i>October 1, 2011</i>	33-817(4)
Sec. 38	<i>October 1, 2011</i>	33-819(a)

Sec. 39	<i>October 1, 2011</i>	33-820(a)
Sec. 40	<i>October 1, 2011</i>	33-820(d)
Sec. 41	<i>October 1, 2011</i>	34-33a
Sec. 42	<i>October 1, 2011</i>	34-33b
Sec. 43	<i>October 1, 2011</i>	34-33d
Sec. 44	<i>October 1, 2011</i>	34-33f
Sec. 45	<i>October 1, 2011</i>	34-82
Sec. 46	<i>October 1, 2011</i>	34-193
Sec. 47	<i>October 1, 2011</i>	34-195
Sec. 48	<i>October 1, 2011</i>	34-196
Sec. 49	<i>October 1, 2011</i>	34-197
Sec. 50	<i>October 1, 2011</i>	34-388
Sec. 51	<i>October 1, 2011</i>	34-389
Sec. 52	<i>October 1, 2011</i>	34-390
Sec. 53	<i>October 1, 2011</i>	22a-134(1)
Sec. 54	<i>October 1, 2011</i>	33-182b
Sec. 55	<i>October 1, 2011</i>	34-363(a)
Sec. 56	<i>October 1, 2011</i>	34-364(b)
Sec. 57	<i>October 1, 2011</i>	34-384
Sec. 58	<i>October 1, 2011</i>	Repealer section

**APP**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 12 \$	FY 13 \$
Secretary of the State	GOBonds - Cost	1,000,000	None

Note: GOBonds=General Obligation Bonds

**Municipal Impact:** None

**Explanation**

The bill makes changes to provisions involving business entities based on the Model Entity Transaction Act. In order for the Secretary of the State (SOS) to implement these changes, various updates must be made to the Connecticut Online Network Commercial Recording (CONCORD). It is estimated to cost SOS approximately \$1 million to implement these changes. Funding for this upgrade is included in sSB 1008, the bond bill, which authorizes \$3 million in FY 12 and \$2 million in FY 13 in General Obligation (GO) bonds to the Secretary of the State for the development, implementation and upgrade of information technology systems.

**The Out Years**

The fiscal impact to the General Fund would continue into the future for the term of issuance of the GO bonds.

**OLR Bill Analysis****sHB 6497*****AN ACT CREATING JOBS BY ENHANCING CONNECTICUT'S CORPORATE AND SECURITIES LAWS.*****SUMMARY:**

This bill creates a mechanism for specified business entities to change their entity type through mergers, conversions, and interest exchanges. It also allows domestications, through which a business entity becomes an entity of the same type in another jurisdiction. Subject to various conditions, the bill allows these transactions to involve both domestic and foreign entities. The bill is based on the Model Entity Transactions Act (see BACKGROUND).

The bill does not affect existing law for transactions involving the same entity types (for example, a share exchange between two corporations or the merger of two partnerships). However, it replaces current law's provisions for changing from one entity type to another (for example, provisions allowing a partnership to convert into a limited liability company (LLC)). Current law authorizes some, but not all, of the transactions covered by the bill. Thus, the bill both expands the available transactions and standardizes procedures for transactions involving different entity types.

To enter into one of these transactions, specified parties must approve a transaction plan. The bill sets the plan's contents as well as which entities must approve it and how they must do so. The approval method is largely tied to existing law for approval of such transactions. The bill also provides how parties may amend or abandon a plan.

For the transaction to take effect, the bill requires specified parties to the transaction to file documents with the secretary of the state and

outlines procedures and contents for them. The bill also outlines the various consequences of the transactions, including how the parties succeed to the rights and liabilities of the entities involved in the transaction.

The bill's procedural requirements are generally similar to those for transactions already permitted by law (for example, mergers or share exchanges of business corporations). In many cases the bill's requirements are more detailed than those under existing law.

EFFECTIVE DATE: October 1, 2011

### **§ 9 — ENTITIES COVERED BY THE MODEL ENTITY TRANSACTIONS ACT**

The bill permits transactions involving both domestic and foreign entities, subject to limitations for particular transactions. It generally defines a domestic entity as one whose internal affairs are governed by Connecticut law.

The bill generally applies to transactions involving the following entities:

1. business corporations;
2. professional service corporations;
3. general partnerships, including limited liability partnerships (LLPs);
4. limited partnerships, including limited liability limited partnerships; or
5. LLCs.

The bill prohibits several types of entities from participating in the transactions it governs and specifies that it must not be used to effect a transaction involving any of these prohibited entities. These prohibited entities include:

1. business corporations formed under special act;
2. cooperative associations formed under CGS chapter 595;
3. cooperative marketing corporations formed under chapter 596;
4. electric cooperative corporations formed under chapter 597;
5. worker cooperative corporations formed under chapter 599a;
6. insurance companies, health care centers, and other corporations formed under chapters 697 and 698;
7. health care centers, related service groups, hospital service corporations, medical service corporations, and other corporations formed under chapter 698a;
8. prepaid legal service corporations formed under chapter 698b;
9. risk retention groups formed and organized under chapter 698;
10. fraternal benefit societies formed under chapter 700d;
11. banks, related organizations, and other corporations formed under chapters 664, 664b, and 666;
12. credit unions formed under chapter 667;
13. public service companies formed under chapter 277;
14. title insurance companies formed under chapter 700a;
15. out-of-state banks formed under chapter 666;
16. nondepository institutions formed under chapter 668;
17. nonprofit or not-for-profit corporations;
18. religious corporations and societies formed under chapter 598;
19. nonstock corporations formed under chapter 602;

20. unincorporated nonprofit associations;
21. cooperatives;
22. business trusts or statutory trust entities; and
23. any person, other than explicitly permitted entities, with a separate legal existence or the power to acquire an interest in real property in its own name other than (a) an individual; (b) a testamentary, inter vivos, or charitable trust, with the exception of a business trust, statutory trust entity, or similar trust; (c) an association or relationship that is not a partnership solely by reason of the law of any other jurisdiction; (d) a decedent's estate; or (e) a government, a governmental subdivision, agency, or instrumentality or quasi-governmental instrumentality.

The bill does not apply to conversions, mergers, consolidations, interest exchanges, divisions, or other transactions between or among entities of the same type.

## **PERMITTED TRANSACTIONS**

### **§ 10 — Merger**

The bill defines a merger as a transaction in which two or more merging entities are combined into a surviving entity pursuant to a filing with the secretary of the state. A merging entity is a party that exists immediately before the merger takes effect. A surviving entity is one that continues in existence after a merger or that is created by a merger.

Subject to the exceptions outlined below, the bill provides a mechanism for the merger of (1) one or more domestic entities with one or more domestic or foreign entities into a domestic or foreign surviving entity and (2) two or more foreign entities into a domestic entity. The bill specifies that, as long as the merger is authorized by the law where a foreign entity is organized, that entity may be a party to, or the surviving entity of, the merger.

The bill does not apply to mergers involving entities not covered by the bill or mergers governed by existing law between:

1. domestic corporations or domestic and foreign corporations;
2. domestic limited partnerships or domestic and foreign limited partnerships;
3. partnerships or limited liability partnerships; or
4. domestic LLCs or domestic and foreign LLCs.

### **§ 16 — Interest Exchange**

The bill creates a mechanism for interest exchanges between (1) a domestic entity and (2) another domestic entity or a foreign entity (but not between two foreign entities). Through such an interest exchange, one entity acquires all of one or more of the other entity's classes or series of interests, in exchange for interests, securities, obligations, rights to acquire interests or securities, cash, other property, or any combination of these.

A foreign entity that complies with the bill's requirements may be a party to an interest exchange, as long as the exchange is authorized by the law where it is organized.

Under the bill, an acquired entity is one in which all of one or more classes or series of interests are acquired in an interest exchange. The acquiring entity is the entity that acquires all of one or more classes or series of interests of the acquired entity.

The bill defines an interest, unless the context otherwise requires, as a (1) governance or transferable interest in an unincorporated entity or (2) share or membership in a corporation.

### **§ 22 — Conversion**

The bill creates a mechanism for a domestic entity to convert into (1) a domestic entity of a different type or (2) a foreign entity of a different type, as long as the conversion is authorized by the law of the foreign

jurisdiction.

The bill defines a converted entity as the entity that continues in existence after a conversion. A converting entity is either a domestic entity that approves a plan of conversion pursuant to the bill or a foreign entity that approves a conversion pursuant to the law where it is organized.

A foreign entity that complies with the bill's requirements may convert into a domestic entity of a different type, as long as the conversion is authorized by the law where the entity is organized or its organic rules.

### **§ 28 — Domestication**

The bill also creates a mechanism for a domestic entity to become a domestic entity of the same type in a foreign jurisdiction, as long as the domestication is authorized by the law of the foreign jurisdiction. For the bill's provisions on domestications, a domestic entity means, with respect to a foreign jurisdiction, an entity whose internal affairs are governed by the law of the foreign jurisdiction.

A foreign entity that complies with the bill's requirements may become a domestic entity of the same type in Connecticut if the domestication is authorized by the law of its jurisdiction of organization.

The bill defines a domesticated entity as the entity as it continues in existence after a domestication. A domesticating entity is either the domestic entity that approves a plan of domestication pursuant to the bill or the foreign entity that approves a domestication pursuant to the law of its jurisdiction of organization.

### **§§ 11, 17, 23, 29 — PLAN REQUIREMENT AND CONTENTS**

The bill requires specified domestic entities seeking to enter a permitted transaction to approve a plan of merger, interest exchange, conversion, or domestication. The required approving parties are: for mergers, a party to the merger; for interest exchanges, the acquired

entity; for conversions, a party converting to a different entity type; and for domestications, a party becoming a foreign entity. For all four transaction categories, the plan must be in a record. Under the bill, a record is information that is (1) inscribed on a tangible medium or (2) stored in an electronic or other medium and retrievable in perceivable form.

The bill requires the following information in a plan, but the plan may contain other provisions that are not prohibited by law.

### ***Identifying Information***

Under the bill, plans must contain:

1. for a merger: each merging entity's name, jurisdiction of organization, and type; and if the surviving entity is created in the merger, a statement to that effect and the entity's name, jurisdiction of organization, and type;
2. for an interest exchange: the acquired entity's name and type and the acquiring entity's name, jurisdiction of organization, and type;
3. for a conversion: the converting entity's name and type and the converted entity's name, jurisdiction of organization, and type; and
4. for a domestication: the domesticating entity's name and type and the domesticated entity's name and jurisdiction of organization.

### ***Public Organic Documents and Private Organic Rules***

Under the bill, a public organic document is a public record whose filing creates an entity, as well as any amendment to or restatement of that record. Private organic rules are the rules, whether or not in a record, that govern an entity's internal affairs, are binding on all of its interest holders, and are not part of its public organic document, if any.

Plans must contain:

1. for a merger: if the surviving entity exists before the merger, any proposed amendments to that entity's public organic document or private organic rules that are, or are proposed to be, in a record; if the survivor is to be created in the merger, that entity's proposed public organic document, if any, and the full text of its private organic rules that are proposed to be in a record;
2. for an interest exchange: any proposed amendments to the public organic document or private organic rules that are, or are proposed to be, in a record of the acquired entity;
3. for a conversion: the converted entity's proposed public organic document, if it will be a filing entity (meaning an entity that is created by filing a public organic document); and the full text of its private organic rules that are proposed to be in a record; and
4. for a domestication: the domesticated entity's proposed public organic document if it is a filing entity and the full text of its private organic rules that are proposed to be in a record.

For each type of transaction, the plan must also contain any other provisions required by the organic rules of a merging, acquired, converting, or domesticating entity, as applicable.

### ***Other Required Laws***

Under the bill, plans must contain:

1. for a merger: any other provisions required by the law of a merging entity's jurisdiction of organization and
2. for other transaction categories: any other provisions required by Connecticut law.

### ***Manner of Conversion and Other Terms***

For each type of transaction, plans must also contain:

1. the manner of converting the interests in each merging party, acquired entity, converting entity, or domesticating entity into

interests, securities, obligations, rights to acquire interests or securities, cash, other property, or any combination of these and

2. the transaction's other terms and conditions.

### **§§ 12, 18, 24, 30 — PLAN APPROVAL**

Under the bill, "approve" means an entity's governors and interest holders taking whatever steps are necessary under its organic rules, organic law, and other law to (1) propose a transaction subject to the bill, (2) adopt and approve the transaction's terms and conditions, and (3) conduct any required proceedings or otherwise obtain any required votes or consents of the governors or interest holders.

A governor is a person by or under whose authority an entity's powers are exercised and under whose direction the entity's business and affairs are managed pursuant to its organic law and rules. An interest holder is a direct holder of an interest. An entity's organic rules are its public organic document and private organic rules. An entity's organic law refers to statutes (other than the bill), if any, governing the entity's internal affairs.

The bill provides that plans are not effective until approved, as specified below.

Under the bill, approval must be in a record by each interest holder of a domestic merging, acquired, converting, or domesticating entity, as applicable, that has interest holder liability for liabilities that arise after the transaction takes effect. The requirement for each interest holder's approval does not apply for an entity that is not a business corporation or, except for interest exchanges, a nonprofit corporation if (1) the entity's organic rules provide in a record for the approval of an applicable transaction or a merger in which some or all of the entity's interest holders become subject to interest holder liability by the vote or consent of fewer than all interest holders and (2) the interest holder voted for or consented in a record to that provision of the organic rules or became an interest holder after the provision was adopted.

Under the bill, interest holder liability is:

1. personal liability for an entity's liability that is imposed on a person (a) solely because of the person's status as an interest holder or (b) by the entity's organic rules authorized by the organic law making one or more specified interest holders or categories of them liable in their capacity as interest holders for all or specified liabilities or
2. an interest holder's obligation under an entity's organic rules to contribute to the entity.

The following additional requirements apply to specific transactions.

### ***Merger***

Under the bill, for a domestic merging entity that is not a business corporation, the plan of merger must be approved in accordance with the requirements, if any, in its organic law and organic rules for merger approval. For example, the bill requires a Connecticut LLC merging with a different entity type to approve the transaction as provided by Connecticut law for LLC mergers (CGS § 34-194) and the LLC's organic rules for merger approval.

For a domestic merging business corporation, the plan must be approved (1) in accordance with any requirements in its organic law and rules for approval of a merger requiring approval by a vote of the corporation's interest holders or (2) if its organic law and rules do not provide for such a merger approval, by all of the entity's interest holders entitled to vote on or consent to any matter.

### ***Interest Exchange***

The plan must be approved by a domestic acquired entity, as follows:

1. in accordance with the requirements, if any, in its organic law and organic rules for approval of an exchange of interests;

2. if the organic law and rules do not provide for approval of an exchange of interests, then in accordance with the requirements, if any, in its organic law and rules for merger approval, as if the interest exchange were a merger; or
3. if the organic law and rules do not provide for approval of an exchange of interests or a merger, by all of the entity's interest holders entitled to vote on or consent to any matter.

The bill specifies that, except as otherwise provided in its organic law or rules, an acquiring entity's interest holders do not have to approve the transaction.

### ***Conversion***

The plan must be approved by a domestic converting entity, as follows:

1. in accordance with the requirements, if any, in its organic rules for approval of a conversion;
2. if the organic rules do not provide for approval of a conversion, then in accordance with the requirements, if any, in its organic law and rules for approval of (a) for all entities other than a business corporation, a merger, as if the conversion were a merger or (b) for corporations, a merger requiring approval by a vote of the corporation's interest holders, as if the conversion were such a merger; or
3. if the organic law and rules do not provide for approval of a conversion or a merger as specified above, by all of the entity's interest holders entitled to vote on or consent to any matter.

### ***Domestication***

The plan must be approved by a domestic domesticating entity, as follows:

1. in accordance with the requirements, if any, in its organic rules for approval of a domestication;

2. if the organic rules do not provide for approval of a domestication, then in accordance with the requirements, if any, in its organic law and rules for approval of (a) for all entities other than a business corporation, a merger, as if the domestication were a merger or (b) for business corporations, a merger requiring approval by a vote of the corporation's interest holders, as if the domestication were such a merger; or
3. if the organic law and rules do not provide for approval of a domestication or a merger requiring approval by the interest holders' vote, by all of the entity's interest holders entitled to vote on or consent to any matter.

### ***Foreign Entity Approval***

Under the bill, a transaction involving a foreign merging, acquired, converting, or domesticating entity is not effective unless it is approved by the foreign entity in accordance with the law where the foreign entity is organized, and for a conversion, that entity's organic rules.

### **§§ 13, 19, 25, 31 — PLAN AMENDMENT**

The bill outlines procedures for amending the plans of a domestic merging, acquired, converting, or domesticating entity. For all transaction categories, a plan may be amended in the same manner as it was approved, as long as the plan does not specify a different manner of amendment.

Alternatively, the plan may be amended by the entity's governors or interest holders in the manner provided in the plan. However, interest holders entitled to vote on or consent to approval of the transaction are entitled to vote on or consent to amendments that change:

1. the amount or kind of interests, securities, obligations, rights to acquire interests or securities, cash, other property, or any combination of these, to be received by the interest holders of any party to a merger or the acquired, converting, or domesticating entity;

2. the surviving, acquired, converted, or domesticated entity's public organic document or private organic rules that will be in effect immediately after the transaction takes effect, except for changes that do not require approval of that entity's interest holders under its organic law or rules; or
3. other plan terms or conditions, if the change would adversely affect the interest holder in a material respect.

### **§§ 13, 19, 25, 31 — PLAN ABANDONMENT**

After a domestic merging, acquired, converting, or domesticating entity, as applicable, approves a plan, and before a transaction filing document, such as a certificate of merger, becomes effective, the plan may be abandoned (1) as provided in the plan or (2) in the same manner as the plan was approved, unless the plan prohibits it.

The bill specifies procedures for a plan to be abandoned after a transaction filing document has been filed with the secretary of the state but before the filing takes effect. If this happens, a statement of abandonment (for mergers or domestications) or certificate of abandonment (for interest exchanges or conversions) must be filed with the secretary of the state before the transaction filing document takes effect. The statement or certificate of abandonment takes effect upon its filing.

The statement or certificate of abandonment must be signed on the entity's behalf and contain

1. the entity's name (for mergers, the name of each merging or surviving entity that is a domestic or qualified foreign entity),
2. the transaction filing document filing date, and
3. a statement that the transaction has been abandoned in accordance with the bill's requirements.

A qualified foreign entity is a foreign entity that is authorized to transact business in Connecticut pursuant to a filing with the secretary

of the state.

## **§§ 14, 20, 26, 32 — TRANSACTION FILING DOCUMENTS**

For each transaction category, the bill requires a document to be filed with the secretary of the state. The documents are referred to as a certificate of merger (the bill also refers to a statement of merger), statement of domestication, certificate of interest exchange, or certification of conversion, as applicable. The documents take effect on the date and time of filing or when specified in the document. They must be signed on behalf of each merging entity or a domestic acquired, converting, or domesticating entity, as applicable.

Transaction filing documents must contain the following information. They may also contain any other lawful provisions.

### ***Effective Date***

If the transaction filing document is not to be effective upon filing, the document must specify the date and time when it takes effect, which except for conversions, must not be later than 90 days after the filing date.

### ***Identifying Information***

The filing document must contain:

1. for a merger: the name, jurisdiction of organization, and type of (a) the surviving entity and (b) each merging entity that is not the survivor;
2. for an interest exchange: the acquired entity's name and type and the acquiring entity's name, jurisdiction of organization, and type;
3. for a conversion: both the converting and converted entity's name, jurisdiction of organization, and type; and
4. for a domestication: the domesticating entity's name, jurisdiction of organization, and type and the domesticated entity's name and jurisdiction of organization.

**Statements of Approval**

The filing document must contain:

1. for a merger: a statement that the merger was approved by each  
(a) domestic merging entity, if any, according to the bill's requirements and (b) foreign merging entity, if any, according to the law of its jurisdiction of organization;
2. for an interest exchange: a statement that the plan of interest exchange was approved by the acquired entity, in accordance with the bill's requirements;
3. for a conversion: if the converting entity is domestic, a statement that the plan of conversion was approved according to the bill's requirements; or if the converting entity is foreign, a statement that the conversion was approved by it according to the law of its jurisdiction of organization; and
4. for a domestication: if the domesticating entity is domestic, a statement that the plan of domestication was approved according to the bill's requirements; or if the domesticating entity is foreign, a statement that the domestication was approved in accordance with the law of its jurisdiction of organization.

**Public Organic Documents**

The filing document must contain:

1. for a merger: if the surviving entity exists before the merger and is a domestic filing entity, any amendment to its public organic document approved as part of the plan of merger; if the surviving entity is created by the merger and is a domestic filing entity, its public organic document, attached to the certificate (a domestic limited liability partnership must attach its certificate of limited liability partnership);
2. for an interest exchange: any amendments to the acquired

entity's public organic document as part of the plan of interest exchange;

3. for a conversion: if the converted entity is a domestic filing entity, the text of its public organic document, as an attachment; if it is a domestic limited liability partnership, the text of its certificate of limited liability partnership, as an attachment; and
4. for a domestication: if the domesticated entity is a domestic filing entity, its public organic document, as an attachment; if it is a domestic LLP, its LLP certificate, as an attachment.

If the surviving entity of a merger, or the converted or domesticated entity, as applicable, is domestic, its public organic document, if any, must satisfy the requirements of Connecticut law, except it (1) need not be signed and (2) may omit any provisions that are not required to be included in a restatement of the public organic document.

#### ***Address for Service of Process***

If the (1) surviving entity of a merger, (2) converted entity, or (3) domesticated entity is a foreign entity that is not a qualified foreign entity, the filing document must contain a mailing address to which the secretary of the state may send any process served on the secretary pursuant to the bill's requirements for the collection and enforcement of liabilities.

#### **§§ 15, 21, 27, 33 — RESULT OF TRANSACTIONS TAKING EFFECT**

The bill specifies several results that follow when transactions the bill authorizes take effect. While there is considerable overlap among the four transaction categories, there are differences between each category.

#### ***Merger***

When the merger becomes effective under the bill, the surviving entity continues to exist or comes into existence, and each merging entity that is not the surviving entity ceases to exist.

Each merging entity's property vests in the surviving entity without assignment, reversion, or impairment, and each merging entity's liabilities become liabilities of the survivor. If the surviving entity exists before the merger, its property continues to be vested in it without reversion or impairment and it remains subject to all of its liabilities.

Except as provided by law or the merger plan, each merging entity's rights, privileges, immunities, powers, and purposes vest in the surviving entity. A surviving entity that exists before the merger retains its rights, privileges, immunities, powers, and purposes.

The surviving entity's name may be substituted for that of any merging entity that is a party to a pending action or proceeding.

If the surviving entity exists before the merger, its public organic document, if any, must be amended as provided in the statement of merger and is binding on its interest holders. Any private organic rules that are to be in a record must be amended as provided in the plan of merger and are binding on and enforceable by (1) its interest holders and (2) for surviving entities that are not business corporations, any other party to an agreement that is part of the surviving entity's private organic rules.

If the surviving entity is created by the merger, any public organic document is effective and binding on its interest holders. Its private organic rules are effective and binding on and enforceable by (1) its interest holders and (2) for surviving entities that are not business corporations, any other party to an agreement that was part of the organic rules of a merging entity if that person has agreed to be a party to an agreement that is part of the surviving entity's private organic rules.

The interests in each merging entity that are to be converted in the merger are converted after the merger takes effect. The interest holders are entitled only to the rights provided to them under the merger plan and to any appraisal rights they have under the bill and the merging

entity's organic law.

Except as otherwise provided in the merging entity's organic law or rules, the merger does not give rise to any rights that an interest holder, governor, or third party would otherwise have upon the merging entity's dissolution, liquidation, or winding-up.

When a merger takes effect, a person that did not have interest holder liability with respect to a merging entity and that becomes subject to such liability with respect to a domestic entity as a result of a merger has such liability only to the extent provided by the entity's organic law and only for those liabilities that arise after the merger becomes effective.

When a merger becomes effective under the bill, the interest holder liability of a person that no longer holds an interest in a domestic merging entity with respect to which the person had such liability is as follows:

1. the merger does not discharge any interest holder liability under the domestic merging entity's organic law to the extent it arose before the merger became effective;
2. the person does not have interest holder liability under the domestic merging entity's organic law for any liability arising after the merger becomes effective;
3. the domestic merging entity's organic law continues to apply to the release, collection, or discharge of any interest holder liability preserved under (1) above as if the merger had not occurred and the surviving entity were the domestic merging entity; and
4. the person has whatever rights of contribution from any other person the domestic merging entity's organic law or rules provide with respect to any interest holder liability preserved under (1) above as if the merger had not occurred.

When a merger becomes effective, a foreign entity that is the

surviving entity may be served with process in Connecticut for the collection and enforcement of any liabilities of a domestic merging entity. Such a foreign entity must appoint the secretary of the state as its agent for service of process for collecting or enforcing such liabilities. The certificate of authority or other foreign qualification of any foreign merging entity that is not the surviving entity is canceled.

### ***Interest Exchange***

Under the bill, when an interest exchange becomes effective, the acquired entity's interests that are the subject of the exchange cease to exist or are converted or exchanged, and those interests' interest holders are entitled only to the rights provided to them under the plan and to any appraisal rights they have under the bill and the acquired entity's organic law. The acquiring entity becomes the interest holder of the interests in the acquired entity stated in the plan.

The acquired entity's public organic document, if any, must be amended as provided in the certificate of interest exchange and is binding on its interest holders. The acquired entity's private organic rules that are to be in a record, if any, must be amended to the extent provided in the plan and be binding on and enforceable by (1) its interest holders and (2) for an acquired entity that is not a corporation, any other person that is a party to an agreement that is part of the acquired entity's private organic rules.

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

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

When an interest exchange becomes effective, the interest holder liability of a person that no longer holds an interest in a domestic acquired entity with respect to which the person had interest holder liability is as follows:

1. the interest exchange does not discharge any interest holder liability under the domestic acquired entity's organic law 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 domestic acquired entity's organic law for any liability that arises after the interest exchange becomes effective;
3. the domestic acquired entity's organic law continues to apply to the release, collection, or discharge of any interest holder liability preserved under (1) above as if the interest exchange had not occurred; and
4. the person has whatever rights of contribution from any other person the domestic acquired entity's organic law or rules provide with respect to any interest holder liability preserved under (1) above as if the interest exchange had not occurred.

Existing law on the effect of a business corporation's share exchange does not address some of these topics, but does include similar provisions regarding (1) the rights of former shareholders and (2) the non-release of liabilities that arose prior to the share exchange (CGS § 33-820).

### ***Conversion***

When a conversion becomes effective, the converted entity is organized under and subject to the converted entity's organic law. The converted entity is also the same entity as the converting entity without interruption.

The converting entity's property continues to be vested in the

converted entity without assignment, reversion, or impairment. The converting entity's liabilities continue as liabilities of the converted entity.

Except as provided by other law or the conversion plan, the converting entity's rights, privileges, immunities, powers, and purposes remain in the converted entity.

The converted entity's name may be substituted for that of the converting entity in a pending action or proceeding.

If the converted entity is a filing entity, its public organic document is effective and binding on its interest holders. If it is an LLP, its LLP certificate is effective simultaneously.

The converted entity's private organic rules that are to be in a record, if any, approved as part of the plan are effective and binding on and enforceable by (1) its interest holders and (2) for a converted entity that is not a corporation, any other party to an agreement that is part of the entity's private organic rules.

The converting entity's interests are converted, and that entity's interest holders are entitled only to the rights provided to them under the plan and to any appraisal rights they have under the bill and the entity's organic law.

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

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

When a conversion becomes effective:

1. the conversion does not discharge any interest holder liability under a domestic converting entity's organic law to the extent the interest holder liability arose before the conversion became effective;
2. a person does not have interest holder liability under a domestic converting entity's organic law for any liability that arises after the conversion becomes effective;
3. a domestic converting entity's organic law continues to apply to the release, collection, or discharge of any interest holder liability preserved under (1) above as if the conversion had not occurred; and
4. a person has whatever rights of contribution from any other person the domestic converting entity's organic law or rules provide with respect to any interest holder liability preserved under (1) above as if the conversion had not occurred.

When a conversion becomes effective, a foreign entity that is the converted entity may be served with process in Connecticut for the collection and enforcement of any of its liabilities. Such a foreign entity must appoint the secretary of the state as its agent for service of process for collecting or enforcing such liabilities.

If the converting entity is a qualified foreign entity, its certificate of authority or other foreign qualification is canceled when the conversion becomes effective.

A conversion does not require the entity to wind up its affairs and does not constitute or cause the entity's dissolution.

These provisions are much more detailed than existing law for the effect of certain conversions. For example, the bill repeals current law on a partnership converting into a limited partnership, or vice versa. Current law provides that the new entity is for all purposes the same

entity as it was before the conversion. When the conversion takes effect:

1. all property owned by the converting entity remains vested in the converted entity;
2. all of the converting entity's obligations continue as obligations of the converted entity; and
3. a pending action or proceeding against the converting entity may be continued as if the conversion had not occurred (CGS § 34-387).

### ***Domestication***

When a domestication becomes effective, the domesticated entity is organized under and subject to the domesticated entity's organic law. The domesticated entity is the same entity without interruption as the domesticating entity.

The domesticating entity's property continues to be vested in the domesticated entity without assignment, reversion, or impairment. The domesticating entity's liabilities continue as liabilities of the domesticated entity. Except as provided by other law or the plan, the domesticating entity's rights, privileges, immunities, powers, and purposes remain in the domesticated entity.

The domesticated entity's name may be substituted for that of the domesticating entity in a pending action or proceeding.

If the domesticated entity is a filing entity, its public organic document is effective and binding on its interest holders. If it is an LLP, its certificate of limited partnership is effective simultaneously.

Any private organic rules of the domesticated entity that are to be in a record approved as part of the plan are effective and binding on and enforceable by (1) its interest holders and (2) for a domesticated entity that is not a business corporation, any other party to an agreement that is part of the entity's private organic rules.

The interests in the domesticating entity are converted to the extent and in the manner approved in connection with the domestication. The domesticating entity's interest holders are entitled only to the rights provided to them under the plan and to any appraisal rights they have under the bill and the domesticating entity's organic law.

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

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

When a domestication becomes effective:

1. the domestication does not discharge any interest holder liability under a domesticating domestic entity's organic law to the extent the interest holder liability arose before the domestication became effective;
2. a person does not have interest holder liability under a domestic domesticating entity's organic law for any liability that arises after the domestication becomes effective;
3. a domestic domesticating entity's organic law continues to apply to the release, collection, or discharge of any interest holder liability preserved under (1) above as if the domestication had not occurred; and
4. a person has whatever rights of contribution from any other person the domestic domesticating entity's organic law or rules provide with respect to any interest holder liability preserved under (1) above as if the domestication had not occurred.

When a domestication becomes effective, a foreign entity that is the domesticated entity may be served with process in Connecticut for the collection and enforcement of any of its liabilities. Such a foreign entity must appoint the secretary of the state as its agent for service of process for collecting or enforcing such liabilities. If the domesticating entity is a qualified foreign entity, its certificate of authority or other foreign qualification is canceled when the domestication becomes effective.

A domestication does not require the entity to wind up its affairs and does not constitute or cause the entity's dissolution.

## **GENERAL PROVISIONS**

### **§ 2 — Other Law**

The bill specifies that principles of law and equity supplement it, unless particular provisions of the bill displace them. It also specifies that it does not authorize any illegal action or affect the application or requirements of law.

Transactions under the bill do not create or impair rights or obligations on the part of anyone under a provision of Connecticut law relating to a change in control, takeover, business combination, control-share acquisition, or similar transaction involving a domestic merging, acquired, converting, or domesticating corporation unless either of the following occur: (1) the transaction satisfies the requirements of such provisions, provided the corporation does not survive the transaction or (2) the approval of the plan is by a sufficient vote of shareholders or directors to create or impair the right or obligation directly under the provision, provided the corporation survives the transaction.

### **§ 3 — Government Notification**

Under the bill, if an entity needs to notify or obtain the approval of a governmental agency or officer to be a party to a merger, it must do so in order to be a party to an interest exchange, conversion, or domestication. The requirement applies to both domestic and foreign

entities.

### **§ 3 — Charitable Property**

If an entity holds property for a charitable purpose immediately before a transaction under the bill takes effect, the bill provides that generally, the transaction does not divert that property from the objects for which it was donated, granted, or devised. However, this does not apply if the entity obtains an appropriate order of the attorney general specifying how the property is to be disposed, to the extent required by or pursuant to Connecticut law concerning cy pres (see BACKGROUND) or other law concerning nondiversion of charitable assets.

The bill specifies that these rules apply for both domestic and foreign entities.

### **§ 4 — Public Organic Document**

Under the bill, a filing that is signed by a domestic entity becomes part of the entity's public organic document, as long as the entity's organic law provides that similar filings under such law become part of its public organic document.

### **§ 5 — Other Manner of Accomplishing Results**

The fact that a transaction under the bill produces a certain result does not preclude the same result from being accomplished in another lawful manner.

### **§ 6 — Facts Outside of Plan**

Under the bill, plans of merger, interest exchange, conversion, or domestication may refer to facts ascertainable outside of the plan, as long as the plan specifies the manner in which the facts operate on the plan. The facts may include an event's occurrence or a person's determination or action, whether or not a party to the transaction controls the event, determination, or action.

### **§ 7 — Transaction Approval**

The bill provides that, except as otherwise provided by a domestic

entity's organic law or rules, the unanimous vote or consent of an entity's interest holders approving a transaction under the bill satisfies the bill's requirements for transaction approval.

### **§ 8 — Appraisal Rights**

Under the bill, an interest holder of a domestic merging, acquired, converting, or domesticating corporation is entitled to appraisal rights in connection with the transaction, as long as the interest holder would have been so entitled under the entity's organic law in connection with a merger in which the interest holder's interests were changed, converted, or exchanged. However, this does not apply if the entity's (1) organic law allows the organic rules to limit the availability of appraisal rights and (2) the organic rules provide a limit.

An interest holder of a domestic merging, acquired, converting, or domesticating entity is entitled to contractual appraisal rights in connection with a transaction under the bill, to the extent provided (1) in the entity's organic rules; (2) in the plan; or (3) for a business corporation, by action of its governors. If an interest holder is entitled to contractual appraisal rights and the entity's organic law does not provide procedures for conducting an appraisal rights proceeding, the law's procedures for appraisal rights in business corporations apply, to the extent practicable or as otherwise provided in the entity's organic rules or the plan.

### **§§ 16, 22, 28 — Protected Agreements**

Under the bill, a protected agreement is:

1. a record evidencing indebtedness and any related agreement in effect on or after October 1, 2011;
2. an agreement binding on an entity on or after that date;
3. an entity's organic rules in effect on or after that date; or
4. an agreement binding on any of the governors or interest holders of an entity on or after that date.

If a protected agreement contains a provision that applies to a domestic entity's merger but does not refer to an interest exchange, conversion, or domestication, the provision applies to such a transaction as if it were a merger until such time after October 1, 2011, as the provision is amended. For interest exchanges, the bill specifies that this only applies when the domestic entity is the acquired entity.

### **§§ 34-58 — REPEAL OF EXISTING PROVISIONS**

The bill deletes provisions in current law for mergers, conversions, and interest exchanges involving more than one entity type (current law does not generally provide for domestications), and makes conforming changes. The deleted provisions include the following:

1. mergers or interest exchanges of domestic business corporations with partnerships, limited partnerships, LLPs, LLCs, joint ventures, joint stock companies, business trusts, statutory trusts, real estate investment trusts, or other associations or legal entities (other than corporations) organized to conduct business (§§ 35-40);
2. mergers or consolidations of domestic limited partnerships with corporations, general partnerships, LLPs, LLCs, joint ventures, joint stock companies, business trusts, statutory trusts, real estate investment trusts, or other associations or legal entities (other than limited partnerships) organized to conduct business (§§ 41-44);
3. conversion of a professional association into a professional service corporation (§§ 45, 54);
4. mergers or consolidations of LLCs with corporations, general partnerships, LLPs, limited partnerships, joint ventures, joint stock companies, business trusts, statutory trusts, real estate investment trusts, or other associations or legal entities (other than LLCs) organized to conduct business (§§ 46-49) (see below for additional changes regarding certain LLCs);

5. mergers of partnerships with corporations, LLCs, LLPs, limited partnerships, joint ventures, joint stock companies, business trusts, statutory trusts, real estate investment trusts, or other associations or legal entities (other than partnerships) organized to conduct business (§§ 50-52); and
6. conversion of a domestic general or limited partnership into an LLC, or conversion of a partnership into a limited partnership (or vice versa) (§ 58).

### **§ 34 — Professional Service Corporations**

The bill makes additional changes regarding professional service corporations. Current law provides that a professional service corporation may consolidate or merge with another professional service corporation, LLC, partnership, LLP, or medical foundation, but only if the other entity is organized to render the same specific professional service. The bill deletes this restriction on the entities with which a professional service corporation may consolidate or merge, but retains the requirement that the entities be organized to render the same professional service if the consolidation or merger is with another professional service corporation. Thus, under the bill, a professional service corporation may merge or otherwise consolidate with other entity types that are not organized to render the same specific professional service.

Current law also prohibits the merger or consolidation of a professional service corporation with a foreign corporation, LLC, partnership, or LLP. The bill retains this prohibition only regarding foreign corporations.

### **§ 46 — Limited Liability Companies Organized To Render Professional Services**

Current law provides that an LLC organized to render professional services may merge or consolidate only with another domestic LLC, professional service corporation, partnership, or LLP, and only if the other entity is organized to render the same professional service. The bill deletes this restriction on the entities with which such an LLC may

merge or consolidate, as well as the restriction that such combinations are permitted only if the other entity is organized to render the same professional service.

The bill retains the prohibition in current law prohibiting an LLC organized to render professional services from merging or consolidating with a foreign entity of any type.

## **§ 1 — OTHER DEFINITIONS**

In addition to terms defined above, the following definitions apply in the bill:

**Governance Interest:** The right under an entity's organic law or organic rules, other than as a governor, agent, assignee, or proxy, to (1) receive or demand access to the entity's books or records or information concerning the entity; (2) vote for the election of the entity's governors; or (3) receive notice of or vote on any or all issues involving the entity's internal affairs.

**Jurisdiction of Organization (of an Entity):** The jurisdiction under which the law includes the entity's organic law.

**Liability:** A debt, obligation, or any other liability arising in any manner, regardless of whether it is secured or contingent.

**Person:** An individual, corporation, estate, trust, partnership, limited liability company, business or similar trust, association, joint venture, public corporation, government or governmental subdivision, agency or instrumentality, or any other legal or commercial entity.

**Sign or Signature:** Includes any manual, facsimile, conformed, or electronic signature.

**Transferable Interest:** The right under an entity's organic law to receive distributions from the entity.

**Type:** With regard to an entity, means a generic entity form (1) recognized at common law or (2) organized under an organic law,

whether or not an entity organized under such law are subject to the provisions of that law creating different categories of the entity form.

## **BACKGROUND**

### ***Model Entity Transactions Act (META)***

META was drafted by the National Conference of Commissioners on Uniform State Laws and the American Bar Association. It was created in 2005 and amended in 2007.

### ***Cy Pres***

The cy pres doctrine allows a court to amend the terms of a charitable trust as closely as possible to the original intention of the deceased when the original objective becomes impossible, impracticable, or illegal to perform.

### ***Legislative History***

The House referred the bill (File 313) to the Appropriations Committee, which reported a substitute deleting a provision requiring the chief court administrator, within available appropriations, to create a corporate, securities, and transactional matters docket.

## **COMMITTEE ACTION**

### Banks Committee

Joint Favorable

Yea 17    Nay 0    (03/15/2011)

### Appropriations Committee

Joint Favorable Substitute

Yea 40    Nay 11    (05/10/2011)