

CHAPTER 56

CORPORATIONS AND ASSOCIATIONS

HOUSE BILL 07-1135

BY REPRESENTATIVE(S) Witwer, Buescher, Carroll M., Cerbo, Gardner B., Lambert, Looper, McGihon, Mitchell V., and Roberts;
also SENATOR(S) Shaffer.

AN ACT

CONCERNING BUSINESS ENTITIES REGULATED UNDER TITLE 7 OF THE COLORADO REVISED STATUTES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 7-55-112, Colorado Revised Statutes, is amended to read:

7-55-112. Merger, conversion, or consolidation. Two or more corporations formed under articles 30 to 55 or subject to articles 121 to 137 or articles 101 to 117 of this title, or a similar law of any jurisdiction, may be merged or consolidated as a cooperative association, OR ANY COOPERATIVE ASSOCIATION MAY CONVERT INTO ANY FORM OF ENTITY PERMITTED BY SECTION 7-90-201, upon such terms and for such purpose and by such domestic entity name as may be agreed upon, WHICH DOMESTIC ENTITY NAME SHALL COMPLY WITH PART 6 OF ARTICLE 90 OF THIS TITLE. Such agreement shall also state all the matters necessary to A STATEMENT OF MERGER, STATEMENT OF CONVERSION, OR articles of ~~merger or~~ consolidation and shall be approved by a two-thirds majority of the members of the boards of directors and a two-thirds majority vote of the members or stockholders of each association, nonprofit corporation, or corporation present and voting in person or by mail ballot at any regular or special meeting at which prior notice, with mail ballot attached, had been mailed to each member or stockholder stating the plan of merger, CONVERSION, or consolidation; except that cooperative associations with less than one hundred members may post notice of such plan of merger or consolidation in a conspicuous place at its normal place of business for at least thirty days prior to such meeting. ~~The~~ A STATEMENT OF MERGER COMPLYING WITH SECTION 7-90-203.7, A STATEMENT OF CONVERSION COMPLYING WITH SECTION 7-90-201.7, OR articles of ~~merger or~~ consolidation shall be delivered to the secretary of state, for filing pursuant to part 3 of article 90 of this title, and a certificate of the secretary of state as to the fact of SUCH filing ~~of the certificate of merger or consolidation~~

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

shall be recorded in the office of each county in which each party to the merger, CONVERSION, or consolidation is situated. From and after the filing of ~~the~~ articles of ~~merger or~~ consolidation, the former associations, nonprofit corporations, or corporations comprising the component parts shall cease to exist, and the consolidated ~~or merged~~ cooperative association shall succeed to all rights, duties, and powers prescribed in the agreement of consolidated ~~or merged~~ associations, nonprofit corporations, or corporations, not inconsistent with this article, and shall be subject to all liabilities and obligations of the former component associations, nonprofit corporations, or corporations and succeed to all property and interest thereof and may adopt bylaws and do all things permitted by this article. THE EFFECT OF A CONVERSION SHALL BE AS PROVIDED IN SECTION 7-90-202. THE EFFECT OF A MERGER SHALL BE AS PROVIDED IN SECTION 7-90-204.

SECTION 2. 7-55-116, Colorado Revised Statutes, is amended to read:

7-55-116. Application of corporation laws. The provisions of articles 30 to 52, 101 to 117, and 121 to 137 of this title and all powers and rights thereunder shall apply to the associations organized under this article, except where such provisions are in conflict with or inconsistent with ~~the~~ AN express provision of this article.

SECTION 3. 7-56-602 (1), (2) (a), (2) (b), and (3), Colorado Revised Statutes, are amended to read:

7-56-602. Merger, conversion, or consolidation or share or equity capital exchange. (1) One or more cooperatives formed under or that have elected to be subject to this article may be merged, consolidated, or shares or equity capital exchanged with another domestic cooperative or another domestic entity, OR MAY CONVERT TO ANY FORM OF ENTITY PERMITTED BY SECTION 7-90-201, upon such terms, for such purpose, and by such domestic entity name as may be agreed upon, which domestic entity name shall comply with part 6 of article 90 of this title.

(2) (a) With respect to a cooperative that is a party to a plan of merger, CONVERSION, consolidation, or share or equity capital exchange, unless a different vote is required by the articles or bylaws, the plan shall be approved by a two-thirds majority of all the members of the board of the cooperative and by a two-thirds majority of the members present and voting in person or in any other manner authorized by the cooperative pursuant to section 7-56-305 (1). If a higher or lower percentage vote of members is required by the articles or bylaws for approval, not less than a majority of those present and voting in person or in any other manner authorized by the cooperative pursuant to section 7-56-305 (1) nor more than a two-thirds majority of all voting members of the cooperative shall be required.

(b) A cooperative shall not permit proportional voting to apply to a vote of members on a plan of merger, CONVERSION, consolidation, or share or equity capital exchange pursuant to this section.

(3) If a party to the merger, CONVERSION, consolidation, or share or equity capital exchange is the owner of real property in the state of Colorado and the merger, CONVERSION, consolidation, or share or equity capital exchange would affect the title to the real property, a copy of a statement of merger, CONVERSION, consolidation, or share or equity capital exchange, certified by the secretary of state,

shall be filed for record in the office of the county clerk and recorder in the county or counties in which the real property is situated.

SECTION 4. The introductory portion to 7-56-603 (1) and 7-56-603 (1) (a), (1) (c), (1) (d), and (2), Colorado Revised Statutes, are amended, and the said 7-56-603 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

7-56-603. Procedure for consolidation, share or equity capital exchange, conversion, and merger. (1) A plan for ~~merger~~, consolidation or share or equity capital exchange shall state the following:

(a) The entity name of each entity planning to ~~merge~~, consolidate or exchange shares or equity capital and the principal office address of its principal office;

(c) A statement that the ~~merging or consolidating~~ entities are ~~merged into or consolidated~~ with the surviving entity, or that the acquiring entity is acquiring shares or equity capital of the other entities, and the section of this article pursuant to which the ~~merger~~, consolidation or share exchange is effected;

(d) Any amendments to the articles of the surviving party to be effected by the ~~merger~~, consolidation or share or equity capital exchange; and

(2) The plan of ~~merger~~, consolidation or share or equity capital exchange may state any other provisions relating to the ~~merger~~, consolidation or share or equity capital exchange.

(2.3) A PLAN OF CONVERSION SHALL COMPLY WITH SECTION 7-90-201.3.

(2.7) A PLAN OF MERGER SHALL COMPLY WITH SECTION 7-90-203.3.

SECTION 5. 7-56-604.5, Colorado Revised Statutes, is amended to read:

7-56-604.5. Statement of merger or conversion. (1) After a plan of merger is approved, the surviving entity shall deliver to the secretary of state, for filing pursuant to part 3 of article 90 of this title, a statement of merger pursuant to section ~~7-90-203 (5)~~ 7-90-203.7. If the plan of merger provides for amendments to the articles of incorporation of the surviving entity, the surviving entity shall deliver to the secretary of state, for filing pursuant to part 3 of article 90 of this title, articles of amendment effecting the amendments.

(2) AFTER A PLAN OF CONVERSION IS APPROVED, THE CONVERTING ENTITY SHALL DELIVER TO THE SECRETARY OF STATE, FOR FILING PURSUANT TO PART 3 OF ARTICLE 90 OF THIS TITLE, A STATEMENT OF CONVERSION PURSUANT TO SECTION 7-90-201.7.

SECTION 6. 7-56-606, Colorado Revised Statutes, is amended to read:

7-56-606. Effect of merger, conversion, consolidation, or share or equity capital exchange. (1) The effect of a merger is determined by section 7-90-204. ~~When a consolidation takes effect:~~

~~(a) Each nonsurviving party to the consolidation consolidates into the surviving party, and the separate existence of every party to the consolidation except the surviving party ceases;~~

~~(b) The title to all real estate and other property owned by each nonsurviving party is transferred to and vested in the surviving party without reversion or impairment. Such transfer to and vesting in the surviving party shall be deemed to occur by operation of law, and no consent or approval of any other person shall be required in connection with any such transfer or vesting unless such consent or approval is specifically required in the event of consolidation by law or by express provision in any contract, agreement, decree, order, or other instrument to which any of the parties so consolidated is a party or by which it is bound.~~

~~(c) The surviving party has all liabilities of each party to the consolidation;~~

~~(d) A proceeding pending against any party to the consolidation may be continued as if the consolidation did not occur or the surviving party may be substituted in the proceeding for the party whose existence ceased;~~

~~(e) The articles of the surviving party are amended to the extent provided in the plan of consolidation; and~~

~~(f) The shares of each party to the consolidation that are to be converted into shares, obligations, or other securities of the surviving or any other party or into money or other property are converted, and the former holders of the shares or equity capital are entitled only to the rights provided in the statement of consolidation.~~

(2) THE EFFECT OF A CONVERSION IS DETERMINED BY SECTION 7-90-202.

(3) WHEN A CONSOLIDATION TAKES EFFECT:

(a) EACH NONSURVIVING PARTY TO THE CONSOLIDATION CONSOLIDATES INTO THE SURVIVING PARTY, AND THE SEPARATE EXISTENCE OF EVERY PARTY TO THE CONSOLIDATION EXCEPT THE SURVIVING PARTY CEASES;

(b) THE TITLE TO ALL REAL ESTATE AND OTHER PROPERTY OWNED BY EACH NONSURVIVING PARTY IS TRANSFERRED TO AND VESTED IN THE SURVIVING PARTY WITHOUT REVERSION OR IMPAIRMENT. SUCH TRANSFER TO AND VESTING IN THE SURVIVING PARTY SHALL BE DEEMED TO OCCUR BY OPERATION OF LAW, AND NO CONSENT OR APPROVAL OF ANY OTHER PERSON SHALL BE REQUIRED IN CONNECTION WITH ANY SUCH TRANSFER OR VESTING UNLESS SUCH CONSENT OR APPROVAL IS SPECIFICALLY REQUIRED IN THE EVENT OF CONSOLIDATION BY LAW OR BY EXPRESS PROVISION IN ANY CONTRACT, AGREEMENT, DECREE, ORDER, OR OTHER INSTRUMENT TO WHICH ANY OF THE PARTIES SO CONSOLIDATED IS A PARTY OR BY WHICH IT IS BOUND.

(c) THE SURVIVING PARTY HAS ALL LIABILITIES OF EACH PARTY TO THE CONSOLIDATION;

(d) A PROCEEDING PENDING AGAINST ANY PARTY TO THE CONSOLIDATION MAY

BE CONTINUED AS IF THE CONSOLIDATION DID NOT OCCUR OR THE SURVIVING PARTY MAY BE SUBSTITUTED IN THE PROCEEDING FOR THE PARTY WHOSE EXISTENCE CEASED;

(e) THE ARTICLES OF THE SURVIVING PARTY ARE AMENDED TO THE EXTENT PROVIDED IN THE PLAN OF CONSOLIDATION; AND

(f) THE SHARES OF EACH SUCH PARTY TO THE CONSOLIDATION THAT ARE TO BE CONVERTED INTO SHARES, OBLIGATIONS, OR OTHER SECURITIES OF THE SURVIVING OR ANY OTHER PARTY OR INTO MONEY OR OTHER PROPERTY ARE CONVERTED, AND THE FORMER HOLDERS OF THE SHARES OR EQUITY CAPITAL ARE ENTITLED ONLY TO THE RIGHTS PROVIDED IN THE STATEMENT OF CONSOLIDATION.

~~(2)~~ (4) When a share or equity capital exchange takes effect, the shares or equity capital of each acquired party are exchanged as provided in the plan, and the former holders of the shares or equity capital are entitled only to the exchange rights provided in the articles of share or equity capital exchange.

SECTION 7. Part 6 of article 56 of title 7, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

7-56-606.5. Merger with foreign entity. (1) ONE OR MORE DOMESTIC COOPERATIVES MAY MERGE WITH ONE OR MORE FOREIGN ENTITIES IF:

(a) THE MERGER IS PERMITTED BY SECTION 7-90-203 (2);

(b) THE FOREIGN ENTITY COMPLIES WITH SECTION 7-90-203.7 IF IT IS THE SURVIVING ENTITY OF THE MERGER; AND

(c) EACH DOMESTIC COOPERATIVE COMPLIES WITH THE APPLICABLE PROVISIONS OF SECTIONS 7-56-602 AND 7-56-603 AND, IF IT IS THE SURVIVING COOPERATIVE OF THE MERGER, WITH SECTION 7-56-604.5.

(2) UPON THE MERGER TAKING EFFECT, THE SURVIVING FOREIGN ENTITY OF A MERGER SHALL COMPLY WITH SECTION 7-90-204.5.

SECTION 8. 7-56-607 (1), (1.5), and (2) (a) (I), Colorado Revised Statutes, are amended to read:

7-56-607. Consolidation or share or equity capital exchange with foreign business. (1) One or more domestic cooperatives may ~~merge~~; consolidate or enter into a share or equity capital exchange with one or more foreign entities if:

(a) In a ~~merger or~~ consolidation, the ~~merger or~~ consolidation is permitted by the law of the jurisdiction under which each foreign entity is formed and each foreign entity complies with that law in effecting the ~~merger or~~ consolidation;

(b) In a share or equity capital exchange, the cooperative whose shares or equity will be acquired is a domestic or foreign cooperative, and if a share or equity capital exchange is permitted by the law of the jurisdiction under the law of which the acquiring entity is formed;

(c) The foreign entity complies with the provisions of section ~~7-56-604.5 or 7-56-605 as the case may be~~, if it is the surviving or new entity in a merger or consolidation or acquiring entity in a share or equity capital exchange; and

(d) The foreign entity is the surviving entity in the merger or consolidation or the acquiring entity of the share or equity capital exchange and it complies with section ~~7-56-604.5 or 7-56-605. as the case may be~~.

~~(1.5) Upon the merger taking effect, the surviving foreign corporation of a merger shall comply with section 7-90-204.5.~~

(2) Upon the consolidation or share or equity capital exchange taking effect, the surviving foreign entity of a consolidation and the acquiring foreign entity of a share or equity capital exchange:

(a) Shall either:

(I) APPOINT A REGISTERED AGENT IF THE FOREIGN ENTITY HAS NO REGISTERED AGENT AND maintain a registered agent pursuant to part 7 of article 90 of this title, whether or not the foreign entity is otherwise subject to that part, to accept service in any proceeding based on a cause of action arising with respect to any domestic entity that is merged into the foreign entity OR THE OWNERSHIP INTERESTS OF WHICH ARE ACQUIRED IN A SHARE OR EQUITY CAPITAL EXCHANGE; or

SECTION 9. 7-56-608 (2), (4), (5), (6), and (7), the introductory portion to 7-56-608 (8), and 7-56-608 (8) (b), Colorado Revised Statutes, are amended to read:

7-56-608. Dissenters' rights - definitions. (2) If the board of a cooperative subject to this article submits to the members of the cooperative for approval a plan of merger, CONVERSION, consolidation, or share or equity capital exchange and if following the merger, CONVERSION, consolidation, or share or equity capital exchange there will be members of any cooperative involved in the proposed transaction who would no longer be eligible for membership or other voting interest in the surviving OR RESULTING entity, the ineligible members shall be entitled to repayment of their equity interests in the cooperative in accordance with this section.

(4) A cooperative that proposes to be a party to a merger, CONVERSION, consolidation, share or equity capital exchange, or a sale of assets, as described in subsection (2) or (3) of this section, shall include in the notice of the membership meeting at which the vote of the members is taken thereon an explanation of the right to dissent and the requirement to give written notice of intent to demand payment by a member having the right to do so under this section.

(5) A member who may be entitled to repayment of the member's equity interests in the cooperative in accordance with this section shall give written notice of the member's intention to demand payment before the vote is taken at the membership meeting at which a vote on the proposed merger, CONVERSION, consolidation, share or equity capital exchange, or sale of assets is to be taken. Upon giving notice, the member shall no longer be entitled to vote on the proposed transaction. The written notice shall include the name of the member in which the stock or membership is

held on the records of the cooperative and the member's address and social security or federal tax identification number. Failure to give written notice of intention to demand payment in the prescribed manner disqualifies the member from demanding payment under this section.

(6) If the merger, CONVERSION, consolidation, share or equity capital exchange, or sale of assets described in subsection (2) or (3) of this section is approved by the members of the cooperative in the manner applicable to any other entity that is a party to the transaction, the surviving, RESULTING, or new entity, including a cooperative that is to sell all or substantially all of its assets, shall be required to make the payments provided in this section. The surviving, RESULTING, or new entity shall give written notice to all dissenters who have given notice to dissent pursuant to this section. The notice shall include the address at which the surviving, RESULTING, or new entity will receive payment demands, the requirement to submit stock or membership certificates or certification of the loss or destruction thereof, the period in which demands will be received which shall be not less than thirty days from the date of the notice, and where applicable, a statement of qualifications for membership or other voting interest in the surviving or new entity.

(7) Within the period stated in the notice described in subsection (6) of this section, a dissenter may deliver a written demand for payment to the surviving, RESULTING, or new entity, or in the case of a sale of assets subject to this section, to the cooperative selling its assets, stating the address to which payment is to be made and, where applicable, a statement as to the reasons why the dissenter no longer qualifies for membership or a voting interest in the surviving, RESULTING, or new entity.

(8) Within thirty days after receipt of a demand for payment, the surviving, RESULTING, or new entity or, in the case of a sale of assets subject to this section, the cooperative selling its assets shall pay to the dissenter:

(b) The stated value of all other equity capital of the dissenter in the cooperative as recorded in the records of the surviving, ~~cooperative~~ RESULTING, OR NEW ENTITY, or in the case of a sale of assets subject to this section, of the cooperative selling its assets; except that, in the case of any merger, CONVERSION, consolidation, or share or equity capital exchange, if the surviving, RESULTING, or new entity has, by written agreement or operation of law other than this section, become liable to repay the other equity capital of the dissenter, the repayment of other equity capital shall be made by the surviving, RESULTING, or new entity under the same conditions and time frame, but not more than fifteen years, that would have applied if the member or equity holder had withdrawn or been terminated from the cooperative that is not the surviving, RESULTING, or new entity immediately prior to the effective date of the merger, CONVERSION, consolidation, or share or equity capital exchange. If payment is not made on the date required by this subsection (8), the recipient shall be entitled to interest from the date the payment should have been made until the date payment is actually made.

SECTION 10. 7-56-702 (3), Colorado Revised Statutes, is amended to read:

7-56-702. Authorization of dissolution after issuance of memberships.

(3) The cooperative shall give notice to each member of the regular or special

meeting at which the resolution to dissolve will be voted upon. The notice shall state that the purpose, or one of the purposes, of the meeting is to consider the proposal to dissolve the cooperative. The notice shall contain or be accompanied by a copy of the proposal or a summary thereof, including a description of the proposed distribution of the cooperative's assets and, ~~an attached~~ IF VOTING BY MAIL IS PERMITTED, WITH A mail ballot ATTACHED TO IT.

SECTION 11. 7-62-608 (2), Colorado Revised Statutes, is amended to read:

7-62-608. Liability upon return of contribution. (2) If a partner has received the return of any part of the partner's contribution in violation of the partnership agreement or this article, the partner is liable to the limited partnership for a period of ~~six~~ THREE years thereafter for the amount of the contribution wrongfully returned.

SECTION 12. 7-70-102 (2) (c) and (2) (d), Colorado Revised Statutes, as they will become effective May 29, 2007, are amended to read:

7-70-102. Statement of trademark registration. (2) A statement of trademark registration shall state:

(c) If the registrant is an individual, the ~~street address of the individual's primary residence or usual place of business in this state if the individual has one, or outside this state if the individual has no primary residence or usual place of business in this state, and, if different, the mailing address of the individual~~ INDIVIDUAL'S PRINCIPAL ADDRESS;

(d) If the registrant is an entity other than a reporting entity, the ~~street address of the entity's usual place of business in this state if it has one, or outside this state if it has no usual place of business in this state, and, if different, the mailing address of the entity~~ ENTITY'S PRINCIPAL ADDRESS;

SECTION 13. 7-70-106 (2) (d) and (2) (e), Colorado Revised Statutes, as they will become effective May 29, 2007, are amended to read:

7-70-106. Statement of transfer of trademark registration. (2) A statement of transfer of trademark registration shall:

(d) If the transferee is an individual, state the ~~street address of the individual's primary residence or usual place of business in this state if the individual has one, or outside this state if the individual has no primary residence or usual place of business in this state, and, if different, the mailing address of the individual~~ INDIVIDUAL'S PRINCIPAL ADDRESS;

(e) If the transferee is an entity other than a reporting entity, state the ~~street address of the entity's usual place of business in this state if it has one, or outside this state if it has no usual place of business in this state, and, if different, the mailing address of the entity~~ ENTITY'S PRINCIPAL ADDRESS;

SECTION 14. 7-70-108 (1) (b), Colorado Revised Statutes, as it will become effective May 29, 2007, is amended to read:

7-70-108. Service of process on a registrant. (1) A registrant who is neither an individual resident of this state nor an entity that is required to maintain a registered agent pursuant to part 7 of article 90 of this title shall either:

(b) Be deemed to have authorized service of process on it in connection with any such cause of action by registered mail or by certified mail, return receipt requested, addressed to the registrant at the mailing address, if any, furnished pursuant to section 7-70-102 (2) (e) (II), 7-70-104 (3) (c), or 7-70-106 (2) (f), as it may have been corrected by a statement of correction filed pursuant to section 7-90-305 or changed in a statement of change filed pursuant to section 7-90-305.5, and, if no such address has been furnished, to the registrant at THE REGISTRANT'S PRINCIPAL ADDRESS;

~~(f) If the registrant is an individual who is not a resident of this state, the individual's most recent street address and, if different, mailing address furnished in a statement filed pursuant to this article, as the statement may have been changed in a statement of change filed pursuant to section 7-90-702 or corrected in a statement of correction filed pursuant to section 7-90-703;~~

~~(ff) If the registrant has one, the registrant's principal office address; and~~

~~(fff) If the registrant is a person other than an individual or a reporting entity, the registrant's most recent street address and, if different, mailing address, furnished in a statement filed pursuant to this article, as it may have been changed in a statement of change filed pursuant to section 7-90-702, or corrected in a statement of correction filed pursuant to section 7-90-703.~~

SECTION 15. 7-71-103 (1) (c), Colorado Revised Statutes, is amended to read:

7-71-103. Statement of trade name. (1) A person may deliver to the secretary of state, for filing pursuant to part 3 of article 90 of this title, a statement of trade name for any name other than the true name of the person or, in the case of a general partnership that is not a limited liability partnership, other than the true name of each general partner of the general partnership, under which the person transacts business, or contemplates transacting business, in this state. A statement of trade name shall state:

~~(c) If the person is an individual, the street address of the individual's primary residence or usual place of business in this state if the individual has one, or outside this state if the individual has no primary residence or usual place of business in this state, and, if different, the mailing address of the individual or, if the person is an entity other than a reporting entity, the street address of the entity's usual place of business in this state if it has one, or outside this state if it has no usual place of business in this state and, if different, the mailing address of the entity~~ NOT A REPORTING ENTITY, THE PERSON'S PRINCIPAL ADDRESS;

SECTION 16. 7-80-408, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

7-80-408. Access to and confidentiality of information - records - accounting. (6) A MEMBER OF A LIMITED LIABILITY COMPANY SHALL HAVE THE RIGHT TO HAVE

A FORMAL ACCOUNTING OF LIMITED LIABILITY COMPANY AFFAIRS WHENEVER CIRCUMSTANCES RENDER IT JUST AND REASONABLE.

SECTION 17. 7-80-603, Colorado Revised Statutes, is amended to read:

7-80-603. Interest of member upon resignation. A member who has resigned ~~or withdrawn~~ shall have no right to participate in the management of the business and affairs of the limited liability company and is entitled only to receive the share of the profits or other compensation by way of income and the return of contributions, to which such member would have been entitled if the member had not resigned. ~~or withdrawn.~~

SECTION 18. 7-80-606 (1), Colorado Revised Statutes, is amended to read:

7-80-606. Limitations on distribution. (1) A limited liability company shall not make a distribution to a member to the extent that at the time of distribution, after giving effect to the distribution, all liabilities of the limited liability company, other than liabilities to members on account of their ~~limited liability company~~ MEMBERSHIP interests and liabilities for which the recourse of creditors is limited to a specific property of the limited liability company, exceed the fair value of the assets of the limited liability company; except that the fair value of property that is subject to a liability for which the recourse of creditors is limited shall be included in the assets of the limited liability company only to the extent that the fair value of that property exceeds that liability. For purposes of this subsection (1), the term "distribution" shall not include payments to the extent that the payments do not exceed amounts equal to or constituting reasonable compensation for present or past services or reasonable payments made in the ordinary course of business pursuant to a bona fide retirement plan or other benefits program.

SECTION 19. 7-80-702 (2), Colorado Revised Statutes, is amended to read:

7-80-702. Interest in limited liability company - transferability of interest. (2) A MEMBER CEASES TO BE A MEMBER UPON ASSIGNMENT OR TRANSFER OF ALL THE MEMBER'S MEMBERSHIP INTEREST. A person to whom all of a member's membership interest has been assigned or transferred and who has been admitted as a member has all the rights and powers and is subject to all the restrictions and liabilities of the assignor or transferor with respect to the portion of the membership interest assigned or transferred. The admission of the assignee or transferee ~~terminates the assignor's or transferor's rights and powers as a member with respect to the portion of the membership interest assigned or transferred and~~ releases the assignor or transferor from liability to the limited liability company other than for liabilities under section 7-80-502 or ~~7-90-606~~ 7-80-606.

SECTION 20. 7-90-102 (35.7) (g), (51.5), (55), and (58), Colorado Revised Statutes, are amended, and the said 7-90-102 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

7-90-102. Definitions. As used in this title, except as otherwise defined for the purpose of any section, subpart, part, or article of this title, or unless the context otherwise requires:

(20.6) "FEE" MEANS A FEE DETERMINED AND COLLECTED BY THE SECRETARY OF STATE AS PROVIDED IN SECTION 24-21-104, C.R.S., AND INCLUDES A FEE IMPOSED AS A PENALTY FOR A LATE FILING OR OTHERWISE.

(35.7) "Manager" means:

(g) Any person whose position with respect to an entity, as determined under the constituent ~~filed~~ documents and organic statutes of the entity, without regard to the person's title, is the functional equivalent of any of the positions described in paragraphs (a) to (f) of this subsection (35.7).

(50.5) (a) "PRINCIPAL ADDRESS" MEANS PRINCIPAL OFFICE ADDRESS OR, FOR A PERSON THAT HAS NO PRINCIPAL OFFICE ADDRESS, THE STREET ADDRESS OF THE PERSON'S USUAL PLACE OF BUSINESS IN THIS STATE IF IT HAS ONE, THE STREET ADDRESS OF THE PERSON'S RESIDENCE IN THIS STATE IF IT HAS ONE BUT HAS NO PRINCIPAL PLACE OF BUSINESS IN THIS STATE, THE STREET ADDRESS OF THE PERSON'S USUAL PLACE OF BUSINESS OUTSIDE THIS STATE IF IT HAS ONE BUT HAS NO USUAL PLACE OF BUSINESS OR RESIDENCE IN THIS STATE, OR STREET ADDRESS OF THE PERSON'S RESIDENCE OUTSIDE THIS STATE IF IT HAS ONE BUT HAS NO PRINCIPAL PLACE OF BUSINESS ANYWHERE AND NO RESIDENCE IN THIS STATE.

(b) IN EACH CASE ENUMERATED IN PARAGRAPH (a) OF THIS SUBSECTION (50.5), FOR A PERSON THAT HAS NO PRINCIPAL OFFICE ADDRESS, "PRINCIPAL ADDRESS" MEANS THE MAILING ADDRESS OF THE PERSON IF IT IS DIFFERENT FROM THE ADDRESS DETERMINED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (50.5).

(51.5) "Principal office address" means the street address and, if different, the mailing address inside or outside this state, that ~~an entity~~ has BEEN stated BY OR FOR AN ENTITY to be IT'S THE principal office address OF THE ENTITY in the first FILED document, ~~that the entity has delivered to the secretary of state, for filing pursuant to part 3 of this article, and that has been filed by the secretary of state,~~ in which document the entity OR ANOTHER PERSON has been required, by a provision of this title or by a form or cover sheet the use of which is required by the secretary of state, to state the ENTITY'S principal office address; or, if the entity's principal office address has been changed pursuant to section 7-90-705, the principal office address of the entity as last so changed.

(55) "Registered agent" means the registered agent required to be maintained by an entity pursuant to part 7 of this article OR APPOINTED PURSUANT TO ARTICLE 70 OF THIS TITLE.

(58) "Reporting entity" means ANY DOMESTIC ENTITY AS TO WHICH A CONSTITUENT FILED DOCUMENT IS ON FILE IN THE RECORDS OF THE SECRETARY OF STATE OTHER THAN A DOMESTIC LIMITED PARTNERSHIP THAT IS NOT A REPORTING LIMITED PARTNERSHIP ~~a business development corporation, a cooperative housing corporation, a domestic cooperative, a domestic corporation, a domestic limited liability company, a domestic limited partnership association, a domestic nonprofit corporation, a domestic limited liability partnership, a domestic limited liability limited partnership, a corporate entity referred to in section 7-137-102,~~ and any foreign entity authorized to transact business or conduct activities in this state. An entity ceases to be a reporting entity upon the dissolution of the entity, the entity

becoming delinquent, the relinquishment of the entity's authority to transact business or conduct activities in this state, or, if the entity is a limited liability partnership or a limited liability limited partnership THAT IS NOT A REPORTING LIMITED PARTNERSHIP, its withdrawal of its statement of registration. A dissolved entity that was a reporting entity before its dissolution again becomes a reporting entity upon its reinstatement under part 10 of this article, and a delinquent entity again becomes a reporting entity upon the curing of its delinquency pursuant to section 7-90-904.

(58.5) "REPORTING LIMITED PARTNERSHIP" MEANS:

(a) A DOMESTIC LIMITED PARTNERSHIP FORMED AFTER JULY 26, 2009;

(b) A DOMESTIC LIMITED PARTNERSHIP FORMED UNDER ARTICLE 61 OF THIS TITLE THAT ELECTS AFTER JULY 26, 2009, TO BE GOVERNED BY ARTICLE 62 OF THIS TITLE;

(c) A DOMESTIC LIMITED PARTNERSHIP FORMED UNDER OR GOVERNED BY ARTICLE 62 OF THIS TITLE FOR WHICH, AFTER JULY 26, 2009, A STATEMENT OF REGISTRATION IS DELIVERED TO THE SECRETARY OF STATE, FOR FILING PURSUANT TO PART 3 OF THIS ARTICLE, AND WHICH IS SUBSEQUENTLY ON FILE IN THE RECORDS OF THE SECRETARY OF STATE; OR

(d) ANY OTHER DOMESTIC LIMITED PARTNERSHIP FORMED UNDER OR GOVERNED BY ARTICLE 62 OF THIS TITLE AS TO WHICH A STATEMENT OF ELECTION TO BE A REPORTING ENTITY IS ON FILE IN THE RECORDS OF THE SECRETARY OF STATE AFTER JULY 26, 2009.

(61.4) "STATEMENT OF CONVERSION" MEANS A STATEMENT OF CONVERSION AS DESCRIBED IN SECTION 7-90-201.7.

(61.5) "STATEMENT OF ELECTION TO BE A REPORTING ENTITY" MEANS A STATEMENT OF ELECTION TO BE A REPORTING ENTITY AS DESCRIBED IN SECTION 7-90-501 (7.5).

(61.6) "STATEMENT OF MERGER" MEANS A STATEMENT OF MERGER AS DESCRIBED IN SECTION 7-90-203.7.

SECTION 21. 7-90-201, Colorado Revised Statutes, is amended to read:

7-90-201. Conversion of an entity into another entity. (1) PURSUANT TO A PLAN OF CONVERSION APPROVED IN ACCORDANCE WITH SECTION 7-90-201.4:

~~(1)~~ (a) A domestic entity of one form may be converted into any other form of domestic entity.

~~(2)~~ (b) A domestic entity may be converted into any form of foreign entity recognized in the jurisdiction under the law of which the entity will be considered to have been formed after the conversion.

~~(3)~~ (2) A foreign entity may be converted into a domestic entity if the conversion is not prohibited by the constituent documents or organic statutes and if the foreign entity complies with all of the requirements, if any, of its constituent documents and

organic statutes in effecting the conversion.

~~(4)(a) The terms and conditions of the conversion of a domestic entity, including the manner and basis of changing the owners' interests of each converting entity into owners' interests or obligations of the resulting entity or into money or other property in whole or in part, shall be approved as provided in this subsection (4).~~

~~(b) The conversion shall be approved:~~

~~(i) If the resulting entity will be a general partnership that is not a limited liability partnership or a limited partnership that is not a limited liability limited partnership, by each owner of the converting entity who will be a general partner of the resulting entity;~~

~~(ii) By each owner of the converting entity who will have an obligation to make a contribution, not including an obligation to return a distribution, to the resulting entity if the maximum amount of the obligation exceeds any obligation the owner had to make a contribution, not including an obligation to return a distribution, to the converting entity; and~~

~~(iii) By each owner of the converting entity who will have liability for the obligations of the resulting entity that is functionally equivalent to the liability of a general partner for the obligations of a general partnership that is not a limited liability partnership.~~

~~(c) (i) For purposes of this paragraph (c), the provisions of the organic statutes and constituent documents applicable to approval include provisions relating to any preliminary approval by managers for submission to the owners, notices, quorum, voting, and consent by owners or third parties.~~

~~(ii) If the primary constituent documents or the organic statutes expressly provide for the approval of the conversion, then the terms and conditions of the conversion shall be approved in accordance with those provisions.~~

~~(iii) If neither the primary constituent documents nor the organic statutes expressly provide for the approval of the conversion, then the terms and conditions of the conversion shall be approved in accordance with the provisions of the primary constituent documents that contain the most stringent terms for approval of a merger.~~

~~(iii.3) If the primary constituent documents do not expressly provide for the approval of a merger, then the terms and conditions of the conversion shall be approved in accordance with the provisions of the entity's organic statutes that contain the most stringent terms for the approval of a merger.~~

~~(iii.7) If neither the primary constituent documents nor the entity's organic statutes expressly provide for the approval of a merger, then the terms and conditions of the conversion shall be approved in accordance with the provisions for amendment of the primary constituent documents set forth in the organic statutes and the primary constituent documents.~~

~~(IV) If neither the primary constituent documents nor the organic statutes expressly provide for the conversion, for the approval of a merger, or for the approval of an amendment to the primary constituent documents, then the terms and conditions of the conversion shall be approved by all of the owners of the converting entity.~~

~~(5) After the terms and conditions of the conversion are approved in accordance with this section, the converting entity shall cause a statement of conversion to be delivered to the secretary of state, for filing pursuant to part 3 of this article, if the converting entity has a constituent filed document filed in the records of the secretary of state and the resulting entity will not be an entity for which a constituent filed document will be filed in the records of the secretary of state. The statement of conversion shall state:~~

~~(a) The entity name of the converting entity, the principal office address of its principal office, the jurisdiction under the law of which it is formed, and its form of entity;~~

~~(b) The true name of the resulting entity, the principal office address of its principal office, the jurisdiction under the law of which it is formed, and its form of entity; and~~

~~(c) (Deleted by amendment, L. 2004, p. 1470, § 203, effective July 1, 2004.)~~

~~(d) A statement that the converting entity has been converted into the resulting entity pursuant to this section:~~

~~(5.3) After the terms and conditions of the conversion are approved in accordance with this section, if neither the resulting entity nor the converting entity is or will be an entity that will have a constituent filed document filed in the records of the secretary of state, either the resulting entity or the converting entity may deliver to the secretary of state, for filing pursuant to part 3 of this article, a statement of conversion stating:~~

~~(a) The true name of the converting entity, the principal office address of its principal office, the jurisdiction under the law of which it is formed, and its form of entity;~~

~~(b) The true name of the resulting entity, the principal office address of its principal office, the jurisdiction under the law of which it is formed, and its form of entity; and~~

~~(c) A statement that the converting entity has been converted into the resulting entity pursuant to this section:~~

~~(5.5) After the terms and conditions of the conversion are approved in accordance with this section, if the resulting entity will be an entity for which a constituent filed document is to be filed in the records of the secretary of state, the converting entity shall deliver to the secretary of state, for filing pursuant to part 3 of this article, a combined statement of conversion and the constituent filed document that complies with the requirements of the organic statutes. In addition to complying with the~~

~~requirements of the organic statutes for the constituent filed document, a combined statement of conversion and constituent filed document shall state:~~

~~(a) The entity name or, for an entity that has no entity name, the true name of the converting entity, the principal office address of its principal office, the jurisdiction under the law of which it is formed, and its form of entity;~~

~~(b) The entity name of the resulting entity; and~~

~~(c) That the converting entity has been converted into the resulting entity pursuant to this section.~~

~~(6) The conversion shall become effective as specified by the organic statutes. If the organic statutes do not so specify, the conversion shall become effective when the statement of conversion, if any, becomes effective as determined pursuant to section 7-90-304, or, if no statement of conversion is filed, when the constituent filed document filed for the resulting entity becomes effective as determined pursuant to section 7-90-304. If no statement of conversion is required to be filed by the converting entity and no constituent filed document is required to be filed for the resulting entity, the conversion shall become effective at the time and on the date determined by the owners of the converting entity.~~

~~(7) Nothing in this section shall limit the common law powers of the attorney general concerning the conversion of a nonprofit corporation.~~

SECTION 22. Part 2 of article 90 of title 7, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

7-90-201.3. Plan of conversion. (1) A PLAN OF CONVERSION SHALL STATE:

(a) THE ENTITY NAME OR, FOR AN ENTITY THAT HAS NO ENTITY NAME, THE TRUE NAME, THE JURISDICTION UNDER THE LAW OF WHICH THE ENTITY IS FORMED, AND THE FORM OF ENTITY OF THE CONVERTING ENTITY;

(b) THE ENTITY NAME OR, FOR AN ENTITY THAT HAS NO ENTITY NAME, THE TRUE NAME, THE JURISDICTION UNDER THE LAW OF WHICH THE ENTITY IS FORMED, AND THE FORM OF THE RESULTING ENTITY;

(c) THE TERMS AND CONDITIONS OF THE CONVERSION, INCLUDING THE MANNER AND BASIS OF CHANGING THE OWNERS' INTERESTS OF EACH CONVERTING ENTITY INTO OWNERS' INTERESTS OR OBLIGATIONS OF THE RESULTING ENTITY OR INTO MONEY OR OTHER PROPERTY IN WHOLE OR IN PART.

7-90-201.4. Approval of plan of conversion. (1) IN THE CASE OF DOMESTIC ENTITIES DESCRIBED IN THIS SUBSECTION (1), THE PLAN OF CONVERSION SHALL BE APPROVED:

(a) IN THE CASE OF A CORPORATION, AS PROVIDED IN SECTION 7-111-101.5;

(b) IN THE CASE OF A NONPROFIT CORPORATION, AS PROVIDED IN SECTION 7-131-101.5;

(c) IN THE CASE OF A COOPERATIVE FORMED UNDER, OR SUBJECT TO, ARTICLE 56 OF THIS TITLE, AS PROVIDED IN SECTION 7-56-602; AND

(d) IN THE CASE OF A COOPERATIVE FORMED UNDER ARTICLE 55 OF THIS TITLE, AS PROVIDED IN SECTION 7-55-112.

(2) IN THE CASE OF A DOMESTIC ENTITY OTHER THAN AN ENTITY DESCRIBED IN SUBSECTION (1) OF THIS SECTION, THE PLAN OF CONVERSION SHALL BE APPROVED AS FOLLOWS:

(a) IF THE ORGANIC STATUTES OR PRIMARY CONSTITUENT DOCUMENTS EXPRESSLY PROVIDE FOR THE APPROVAL OF THE CONVERSION, THE TERMS AND CONDITIONS OF THE CONVERSION SHALL BE APPROVED IN ACCORDANCE WITH THOSE PROVISIONS.

(b) IF NEITHER THE PRIMARY CONSTITUENT DOCUMENTS NOR THE ORGANIC STATUTES EXPRESSLY PROVIDE FOR THE APPROVAL OF THE PLAN OF CONVERSION, THE PLAN OF CONVERSION SHALL BE APPROVED IN ACCORDANCE WITH THE PROVISIONS OF THE PRIMARY CONSTITUENT DOCUMENTS THAT CONTAIN THE MOST STRINGENT TERMS FOR APPROVAL OF A MERGER.

(c) IF THE PRIMARY CONSTITUENT DOCUMENTS DO NOT EXPRESSLY PROVIDE FOR THE APPROVAL OF A MERGER, THE PLAN OF CONVERSION SHALL BE APPROVED IN ACCORDANCE WITH THE PROVISIONS OF THE ENTITY'S ORGANIC STATUTES THAT CONTAIN THE MOST STRINGENT TERMS FOR THE APPROVAL OF A MERGER.

(d) IF NEITHER THE PRIMARY CONSTITUENT DOCUMENTS NOR THE ENTITY'S ORGANIC STATUTES EXPRESSLY PROVIDE FOR THE APPROVAL OF A MERGER, THE PLAN OF CONVERSION SHALL BE APPROVED IN ACCORDANCE WITH THE PROVISIONS FOR AMENDMENT OF THE PRIMARY CONSTITUENT DOCUMENTS SET FORTH IN THE ORGANIC STATUTES AND THE PRIMARY CONSTITUENT DOCUMENTS.

(e) IF NEITHER THE PRIMARY CONSTITUENT DOCUMENTS NOR THE ORGANIC STATUTES EXPRESSLY PROVIDE FOR THE APPROVAL OF A PLAN OF CONVERSION, FOR THE APPROVAL OF A MERGER, OR FOR THE APPROVAL OF AN AMENDMENT TO THE PRIMARY CONSTITUENT DOCUMENTS, THE PLAN OF CONVERSION SHALL BE APPROVED BY ALL OF THE OWNERS OF THE CONVERTING ENTITY.

(3) FOR PURPOSES OF THIS SECTION, THE PROVISIONS OF THE ORGANIC STATUTES AND CONSTITUENT DOCUMENTS APPLICABLE TO APPROVAL INCLUDE PROVISIONS RELATING TO ANY PRELIMINARY APPROVAL BY MANAGERS FOR SUBMISSION TO THE OWNERS, NOTICES, QUORUM, VOTING, AND CONSENT BY OWNERS OR THIRD PARTIES. REFERENCES IN THIS SECTION TO THE MOST STRINGENT PROVISIONS OF THE PRIMARY CONSTITUENT DOCUMENTS OR ORGANIC STATUTES ARE REFERENCES TO THOSE PROVISIONS OF SUCH DOCUMENTS OR STATUTES THAT ESTABLISH THE HIGHEST VOTING REQUIREMENTS FOR APPROVAL OF A MERGER. NOTHING IN THIS SECTION SHALL BE DEEMED TO PERMIT ANY PRIMARY CONSTITUENT DOCUMENT TO CONTAIN MERGER PROVISIONS THAT ARE PROSCRIBED BY THE ENTITY'S ORGANIC STATUTES.

7-90-201.7. Statement of conversion - when conversion effective. (1) AFTER THE CONVERSION OF AN ENTITY IS APPROVED IN ACCORDANCE WITH SECTION 7-90-201.4, THE CONVERTING ENTITY SHALL CAUSE A STATEMENT OF CONVERSION

TO BE DELIVERED TO THE SECRETARY OF STATE, FOR FILING PURSUANT TO PART 3 OF THIS ARTICLE, IF THE CONVERTING ENTITY HAS A CONSTITUENT FILED DOCUMENT OR A STATEMENT OF FOREIGN ENTITY AUTHORITY FILED IN THE RECORDS OF THE SECRETARY OF STATE AND THE RESULTING ENTITY WILL NOT BE AN ENTITY FOR WHICH A CONSTITUENT FILED DOCUMENT WILL BE FILED IN THE RECORDS OF THE SECRETARY OF STATE. THE STATEMENT OF CONVERSION SHALL STATE:

(a) THE ENTITY NAME OF THE CONVERTING ENTITY, ITS PRINCIPAL OFFICE ADDRESS, THE JURISDICTION UNDER THE LAW OF WHICH IT IS FORMED, AND ITS FORM OF ENTITY;

(b) THE TRUE NAME OF THE RESULTING ENTITY, ITS PRINCIPAL ADDRESS, THE JURISDICTION UNDER THE LAW OF WHICH IT IS FORMED, AND ITS FORM OF ENTITY;

(c) A STATEMENT THAT THE CONVERTING ENTITY HAS BEEN CONVERTED INTO THE RESULTING ENTITY PURSUANT TO THIS SECTION; AND

(d) ANY OTHER MATTERS RELATING TO THE CONVERSION THAT THE CONVERTING ENTITY DETERMINES TO INCLUDE THEREIN.

(2) AFTER THE CONVERSION OF AN ENTITY IS APPROVED IN ACCORDANCE WITH SECTION 7-90-201, IF NEITHER THE RESULTING ENTITY NOR THE CONVERTING ENTITY IS OR WILL BE AN ENTITY THAT WILL HAVE A CONSTITUENT FILED DOCUMENT FILED IN THE RECORDS OF THE SECRETARY OF STATE, EITHER THE RESULTING ENTITY OR THE CONVERTING ENTITY MAY DELIVER TO THE SECRETARY OF STATE, FOR FILING PURSUANT TO PART 3 OF THIS ARTICLE, A STATEMENT OF CONVERSION STATING:

(a) THE TRUE NAME OF THE CONVERTING ENTITY, ITS PRINCIPAL ADDRESS, THE JURISDICTION UNDER THE LAW OF WHICH IT IS FORMED, AND ITS FORM OF ENTITY;

(b) THE TRUE NAME OF THE RESULTING ENTITY, ITS PRINCIPAL ADDRESS, THE JURISDICTION UNDER THE LAW OF WHICH IT IS FORMED, AND ITS FORM OF ENTITY;

(c) THAT THE CONVERTING ENTITY HAS BEEN CONVERTED INTO THE RESULTING ENTITY PURSUANT TO THIS SECTION; AND

(d) ANY OTHER MATTERS RELATING TO THE CONVERSION THAT THE ENTITY FILING THE STATEMENT OF CONVERSION DETERMINES TO INCLUDE THEREIN.

(3)(a) AFTER THE CONVERSION OF AN ENTITY IS APPROVED IN ACCORDANCE WITH SECTION 7-90-201, IF THE RESULTING ENTITY WILL BE AN ENTITY FOR WHICH A CONSTITUENT FILED DOCUMENT IS TO BE FILED IN THE RECORDS OF THE SECRETARY OF STATE, THE CONVERTING ENTITY SHALL DELIVER TO THE SECRETARY OF STATE, FOR FILING PURSUANT TO PART 3 OF THIS ARTICLE, A COMBINED STATEMENT OF CONVERSION AND THE CONSTITUENT FILED DOCUMENT THAT COMPLIES WITH THE REQUIREMENTS OF THE ORGANIC STATUTES. IN ADDITION TO COMPLYING WITH THE REQUIREMENTS OF THE ORGANIC STATUTES FOR THE CONSTITUENT FILED DOCUMENT, A COMBINED STATEMENT OF CONVERSION AND CONSTITUENT FILED DOCUMENT SHALL STATE:

(I) THE ENTITY NAME OR, FOR AN ENTITY THAT HAS NO ENTITY NAME, THE TRUE

NAME OF THE CONVERTING ENTITY, ITS PRINCIPAL ADDRESS, THE JURISDICTION UNDER THE LAW OF WHICH IT IS FORMED, AND ITS FORM OF ENTITY;

(II) THE ENTITY NAME OF THE RESULTING ENTITY;

(III) THAT THE CONVERTING ENTITY HAS BEEN CONVERTED INTO THE RESULTING ENTITY PURSUANT TO THIS SECTION; AND

(IV) ANY OTHER MATTERS RELATING TO THE CONVERSION THAT THE ENTITY FILING THE STATEMENT OF CONVERSION DETERMINES TO INCLUDE THEREIN.

(b) NOTWITHSTANDING THE REQUIREMENT IN PARAGRAPH (a) OF THIS SUBSECTION (3), A COMBINED STATEMENT OF CONVERSION AND CONSTITUENT FILED DOCUMENT, ONCE ACCEPTED FOR FILING BY THE SECRETARY OF STATE, SHALL FOR ALL PURPOSES BE DEEMED TO BE TWO SEPARATE DOCUMENTS: THE STATEMENT OF CONVERSION AND THE CONSTITUENT FILED DOCUMENT.

(4) THE CONVERSION SHALL BECOME EFFECTIVE AS SPECIFIED BY THE ORGANIC STATUTES. IF THE ORGANIC STATUTES DO NOT SPECIFY AN EFFECTIVE DATE, THE CONVERSION SHALL BECOME EFFECTIVE WHEN THE STATEMENT OF CONVERSION, IF ANY, BECOMES EFFECTIVE AS DETERMINED PURSUANT TO SECTION 7-90-304, OR, IF NO STATEMENT OF CONVERSION IS FILED, THE CONVERSION SHALL BECOME EFFECTIVE AT THE TIME AND ON THE DATE DETERMINED BY THE OWNERS OF THE CONVERTING ENTITY.

SECTION 23. 7-90-203, Colorado Revised Statutes, is amended to read:

7-90-203. Merger of entities. (1) One or more domestic entities may merge into a domestic entity of a form the same as or different from any of the merging entities pursuant to a plan of merger approved pursuant to ~~subsection (4) of this~~ SECTION 7-90-203.4.

(2) One or more domestic entities may merge into a foreign entity of a form the same as or different from that of any of the merging entities, or one or more foreign entities may merge into a domestic entity of a form the same as or different from that of any of the merging entities, pursuant to a plan of merger approved, IN THE CASE OF A DOMESTIC ENTITY, pursuant to ~~subsection (4) of this~~ SECTION 7-90-203.4, if the merger is not prohibited by the constituent documents or organic statutes of each foreign entity and if each foreign entity complies with all of the requirements, if any, of its constituent documents and organic statutes in effecting the merger.

(3) ~~The plan of merger shall state:~~

~~(a) The entity name or, for an entity that has no entity name, the true name, the jurisdiction under the law of which the entity is formed, and the form of entity of each of the merging entities;~~

~~(b) The entity name or, for an entity that has no entity name, the true name, the jurisdiction under the law of which the entity is formed, and the form of the surviving entity into which the merging entities are to merge;~~

~~(c) The terms and conditions of the merger, including the manner and basis of changing the owners' interests of each merging entity into owners' interests or obligations of the surviving entity or into money or other property in whole or in part.~~

~~(d) and (e) (Deleted by amendment, L. 2003, p. 2286, § 196, effective July 1, 2004.)~~

~~(f) Any amendments to the constituent documents of the surviving entity to be effected by the merger.~~

~~(4) (a) The plan of merger shall be approved by each domestic constituent entity as provided in this subsection (4).~~

~~(b) (i) If the surviving entity is a general partnership that is not a limited liability partnership or is a limited partnership that is not a limited liability limited partnership, then the plan of merger must be approved by each owner of a constituent entity who will be a general partner of the surviving entity if such owner is an owner of a constituent entity that is a cooperative, corporation, nonprofit corporation, limited liability company, limited partnership, or limited liability partnership.~~

~~(ii) The plan of merger must be approved by each owner of a constituent entity who will have an obligation to make a contribution, not including an obligation to return a distribution, to the surviving entity if the maximum amount of the obligation exceeds any obligation the owner had to make a contribution, not including an obligation to return a distribution, to the constituent entity.~~

~~(iii) The plan of merger must be approved by each owner of a constituent entity who will have liability for the obligations of the surviving entity that is functionally equivalent to the liability of a general partner for the obligations of a general partnership that is not a limited liability partnership.~~

~~(c) (i) For purposes of this paragraph (c), the provisions of the entity's organic statutes and primary constituent documents applicable to approval of the plan of merger include provisions relating to any preliminary approval by managers for submission to the owners, notices, quorum, voting, and consent by owners or third parties. References in subparagraph (ii) of this paragraph (c) to the most stringent provisions of the primary constituent documents or organic statutes are references to those provisions of such documents or statutes that establish the highest voting requirements for approval of a merger. Nothing in this paragraph (c) shall be deemed to permit any primary constituent document to contain merger provisions that are inconsistent with the entity's organic statutes.~~

~~(ii) The terms and conditions of the merger shall be approved in accordance with:~~

~~(A) The provisions of the primary constituent documents dealing with mergers of the type, and with entities of the forms, described in the plan of merger; or~~

~~(B) If there are no such provisions, the provisions of the primary constituent documents that contain the most stringent terms for approval of a merger; or~~

~~(C) If there are no such provisions, the provisions of the entity's organic statutes dealing with mergers of the type, and with entities of the forms, described in the plan of merger; or~~

~~(D) If there are no such provisions, the provisions of the entity's organic statutes that contain the most stringent terms for approval of a merger.~~

~~(H) If neither the primary constituent documents nor the organic statutes expressly provide for the approval of the merger, then the terms and conditions of the merger shall be approved in accordance with the provisions for amendment of the primary constituent documents set forth in the organic statutes and the primary constituent documents.~~

~~(IV) If neither the primary constituent documents nor the organic statutes expressly provide for a merger or for the approval of an amendment to the primary constituent documents, then the terms and conditions of the merger shall be approved by all of the owners of the merging entity.~~

~~(d) Notwithstanding paragraph (a) of this subsection (4), approval of the owners of the merged entity in a merger is not required if, before the merger, the surviving entity holds ninety percent or more of the ownership interests in the merged entity entitled to consent to a merger. The managers of the surviving entity may, by resolution, approve the merger for the entity that will not survive the merger.~~

~~(5) After the plan of merger is approved in accordance with this section, if any merging entity is an entity for which a constituent filed document has been filed by the secretary of state, the surviving entity shall deliver to the secretary of state, for filing pursuant to part 3 of this article, a statement of merger that shall state:~~

~~(a) The entity name or, for an entity that has no entity name, the true name of each merging entity, the principal office address of its principal office, the jurisdiction under the law of which it is formed, and its form of entity;~~

~~(b) The entity name or, for an entity that has no entity name, the true name of the surviving entity, the principal office address of its principal office, the jurisdiction under the law of which it is formed, and its form of entity;~~

~~(c) That each merging entity is merged into the surviving entity;~~

~~(d) That, if the plan of merger provides for amendments to any constituent filed document of the surviving entity, an appropriate statement of change or other document effecting the amendments shall be delivered to the secretary of state, for filing pursuant to part 3 of this article; and~~

~~(e) Any other matters relating to the merger the surviving entity determines to include therein.~~

~~(6) The merger shall become effective as specified by the organic statutes. If the organic statutes do not so state, the merger takes effect at the time and on the date the statement of merger becomes effective as determined pursuant to section 7-90-304 or, if no statement of merger is required to be filed, at the time and on the~~

~~date determined by the owners of the merging entity.~~

~~(7) Nothing in this section shall limit the common law powers of the attorney general concerning the merger of a nonprofit corporation.~~

SECTION 24. Part 2 of article 90 of title 7, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

7-90-203.3. Plan of merger. (1) A PLAN OF MERGER SHALL STATE:

(a) THE ENTITY NAME OR, FOR AN ENTITY THAT HAS NO ENTITY NAME, THE TRUE NAME, THE JURISDICTION UNDER THE LAW OF WHICH THE ENTITY IS FORMED, AND THE FORM OF ENTITY OF EACH OF THE MERGING ENTITIES;

(b) THE ENTITY NAME OR, FOR AN ENTITY THAT HAS NO ENTITY NAME, THE TRUE NAME, THE JURISDICTION UNDER THE LAW OF WHICH THE ENTITY IS FORMED, AND THE FORM OF THE SURVIVING ENTITY INTO WHICH THE MERGING ENTITIES ARE TO MERGE;

(c) THE TERMS AND CONDITIONS OF THE MERGER, INCLUDING THE MANNER AND BASIS OF CHANGING THE OWNERS' INTERESTS OF EACH MERGING ENTITY INTO OWNERS' INTERESTS OR OBLIGATIONS OF THE SURVIVING ENTITY OR INTO MONEY OR OTHER PROPERTY IN WHOLE OR IN PART; AND

(d) ANY AMENDMENTS TO THE CONSTITUENT DOCUMENTS OF THE SURVIVING ENTITY TO BE EFFECTED BY THE MERGER.

7-90-203.4. Approval of plan of merger. (1) IN THE CASE OF DOMESTIC ENTITIES DESCRIBED IN THIS SUBSECTION (1), THE PLAN OF MERGER SHALL BE APPROVED:

(a) IN THE CASE OF A CORPORATION, AS PROVIDED IN SECTION 7-111-101;

(b) IN THE CASE OF A NONPROFIT CORPORATION, AS PROVIDED IN SECTION 7-131-101;

(c) IN THE CASE OF A COOPERATIVE FORMED UNDER, OR SUBJECT TO, ARTICLE 56 OF THIS TITLE, AS PROVIDED IN SECTION 7-56-602; AND

(d) IN THE CASE OF A COOPERATIVE FORMED UNDER ARTICLE 55 OF THIS TITLE, AS PROVIDED IN SECTION 7-55-112.

(2) IN THE CASE OF A DOMESTIC ENTITY OTHER THAN AN ENTITY DESCRIBED IN SUBSECTION (1) OF THIS SECTION, THE PLAN OF MERGER SHALL BE APPROVED:

(a) IN ACCORDANCE WITH THE PROVISIONS OF THE PRIMARY CONSTITUENT DOCUMENTS DEALING WITH MERGERS OF THE TYPE, AND WITH ENTITIES OF THE FORMS, DESCRIBED IN THE PLAN OF MERGER;

(b) IF THERE ARE NO SUCH PROVISIONS, IN ACCORDANCE WITH THE PROVISIONS OF THE PRIMARY CONSTITUENT DOCUMENTS THAT CONTAIN THE MOST STRINGENT

TERMS FOR APPROVAL OF A MERGER;

(c) IF THERE ARE NO SUCH PROVISIONS, IN ACCORDANCE WITH THE PROVISIONS OF THE ENTITY'S ORGANIC STATUTES DEALING WITH MERGERS OF THE TYPE, AND WITH ENTITIES OF THE FORMS, DESCRIBED IN THE PLAN OF MERGER;

(d) IF THERE ARE NO SUCH PROVISIONS, IN ACCORDANCE WITH THE PROVISIONS OF THE ENTITY'S ORGANIC STATUTES THAT CONTAIN THE MOST STRINGENT TERMS FOR APPROVAL OF A MERGER;

(e) IF NEITHER THE PRIMARY CONSTITUENT DOCUMENTS NOR THE ORGANIC STATUTES EXPRESSLY PROVIDE FOR THE APPROVAL OF THE MERGER, IN ACCORDANCE WITH THE PROVISIONS FOR AMENDMENT OF THE PRIMARY CONSTITUENT DOCUMENTS SET FORTH IN THE ORGANIC STATUTES AND THE PRIMARY CONSTITUENT DOCUMENTS; OR

(f) IF NEITHER THE PRIMARY CONSTITUENT DOCUMENTS NOR THE ORGANIC STATUTES EXPRESSLY PROVIDE FOR A MERGER OR FOR THE APPROVAL OF AN AMENDMENT TO THE PRIMARY CONSTITUENT DOCUMENTS, BY ALL OF THE OWNERS OF THE MERGING ENTITY.

(3) FOR PURPOSES OF THIS SECTION, THE PROVISIONS OF THE ENTITY'S ORGANIC STATUTES AND PRIMARY CONSTITUENT DOCUMENTS APPLICABLE TO APPROVAL OF THE PLAN OF MERGER INCLUDE PROVISIONS RELATING TO ANY PRELIMINARY APPROVAL BY MANAGERS FOR SUBMISSION TO THE OWNERS, NOTICES, QUORUM, VOTING, AND CONSENT BY OWNERS OR THIRD PARTIES. REFERENCES IN THIS SECTION TO THE MOST STRINGENT PROVISIONS OF THE PRIMARY CONSTITUENT DOCUMENTS OR ORGANIC STATUTES ARE REFERENCES TO THOSE PROVISIONS OF SUCH DOCUMENTS OR STATUTES THAT ESTABLISH THE HIGHEST VOTING REQUIREMENTS FOR APPROVAL OF A MERGER. NOTHING IN THIS SECTION SHALL BE DEEMED TO PERMIT ANY PRIMARY CONSTITUENT DOCUMENT TO CONTAIN MERGER PROVISIONS THAT ARE PROSCRIBED BY THE ENTITY'S ORGANIC STATUTES.

7-90-203.7. Statement of merger - when merger effective. (1) AFTER A MERGER IS APPROVED IN ACCORDANCE WITH SECTION 7-90-203, IF ANY MERGING ENTITY IS AN ENTITY FOR WHICH A CONSTITUENT FILED DOCUMENT HAS BEEN FILED BY THE SECRETARY OF STATE, THE SURVIVING ENTITY SHALL DELIVER TO THE SECRETARY OF STATE, FOR FILING PURSUANT TO PART 3 OF THIS ARTICLE, A STATEMENT OF MERGER THAT SHALL STATE:

(a) THE ENTITY NAME OR, FOR AN ENTITY THAT HAS NO ENTITY NAME, THE TRUE NAME OF EACH MERGING ENTITY, ITS PRINCIPAL ADDRESS, THE JURISDICTION UNDER THE LAW OF WHICH IT IS FORMED, AND ITS FORM OF ENTITY;

(b) THE ENTITY NAME OR, FOR AN ENTITY THAT HAS NO ENTITY NAME, THE TRUE NAME OF THE SURVIVING ENTITY, ITS PRINCIPAL ADDRESS, THE JURISDICTION UNDER THE LAW OF WHICH IT IS FORMED, AND ITS FORM OF ENTITY;

(c) THAT EACH MERGING ENTITY IS MERGED INTO THE SURVIVING ENTITY;

(d) THAT, IF THE PLAN OF MERGER PROVIDES FOR AMENDMENTS TO ANY

CONSTITUENT FILED DOCUMENT OF THE SURVIVING ENTITY, AN APPROPRIATE STATEMENT OF CHANGE OR OTHER DOCUMENT EFFECTING THE AMENDMENTS SHALL BE DELIVERED TO THE SECRETARY OF STATE FOR FILING PURSUANT TO PART 3 OF THIS ARTICLE; AND

(e) ANY OTHER MATTERS RELATING TO THE MERGER THE SURVIVING ENTITY DETERMINES TO INCLUDE THEREIN.

(2) AFTER A MERGER IS APPROVED IN ACCORDANCE WITH SECTION 7-90-203, IF NO MERGING ENTITY IS AN ENTITY FOR WHICH A CONSTITUENT FILED DOCUMENT HAS BEEN FILED BY THE SECRETARY OF STATE, THE SURVIVING ENTITY MAY DELIVER TO THE SECRETARY OF STATE, FOR FILING PURSUANT TO PART 3 OF THIS ARTICLE, A STATEMENT OF MERGER THAT SHALL STATE:

(a) THE ENTITY NAME OR, FOR AN ENTITY THAT HAS NO ENTITY NAME, THE TRUE NAME OF EACH MERGING ENTITY, ITS PRINCIPAL ADDRESS, THE JURISDICTION UNDER THE LAW OF WHICH IT IS FORMED, AND ITS FORM OF ENTITY;

(b) THE ENTITY NAME OR, FOR AN ENTITY THAT HAS NO ENTITY NAME, THE TRUE NAME OF THE SURVIVING ENTITY, ITS PRINCIPAL ADDRESS, THE JURISDICTION UNDER THE LAW OF WHICH IT IS FORMED, AND ITS FORM OF ENTITY;

(c) THAT EACH MERGING ENTITY IS MERGED INTO THE SURVIVING ENTITY; AND

(d) ANY OTHER MATTERS RELATING TO THE MERGER THAT THE SURVIVING ENTITY DETERMINES TO INCLUDE THEREIN.

(3) THE MERGER SHALL BECOME EFFECTIVE AS SPECIFIED BY THE ORGANIC STATUTES. IF THE ORGANIC STATUTES DO NOT SPECIFY AN EFFECTIVE DATE, THE MERGER TAKES EFFECT AT THE TIME AND ON THE DATE THE STATEMENT OF MERGER BECOMES EFFECTIVE AS DETERMINED PURSUANT TO SECTION 7-90-304 OR, IF NO STATEMENT OF MERGER IS REQUIRED TO BE FILED, AT THE TIME AND ON THE DATE DETERMINED BY THE OWNERS OF THE MERGING ENTITY.

SECTION 25. 7-90-204.5 (1) (a) (I), Colorado Revised Statutes, is amended to read:

7-90-204.5. Foreign entity resulting from conversion or surviving merger.

(1) Upon the conversion of a domestic entity into a foreign entity or the merger of a domestic entity and a foreign entity in which the foreign entity is the surviving entity, the foreign entity:

(a) Shall either:

(I) Appoint a registered agent if the ~~surviving~~ FOREIGN entity has no registered agent and maintain a registered agent pursuant to part 7 of this article, whether or not the foreign entity is otherwise required to do so, to accept service in any proceeding to enforce any obligation or rights of dissenting owners of any domestic entity party to the conversion or merger or in any proceeding based on a cause of action arising with respect to any domestic entity party to the conversion or merger; or

SECTION 26. 7-90-206, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

7-90-206. Dissenters' rights, prohibitions, restrictions, and requirements.

(3) UNLESS OTHERWISE PROVIDED IN THE PLAN OF CONVERSION OR PLAN OF MERGER, IF AN ENTITY IS CONVERTED INTO ANOTHER FORM OF ENTITY OR MERGED INTO ANOTHER FORM OF ENTITY IN A TRANSACTION IN WHICH DISSENTERS' RIGHTS ARE APPLICABLE, AN OWNER OF THE CONVERTING OR MERGED ENTITY WHO CONSENTS TO THE CONVERSION OR MERGER OR WHO DOES NOT CONSENT TO THE CONVERSION OR MERGER AND WHO DOES NOT EXERCISE DISSENTERS' RIGHTS SHALL BECOME AN OWNER OF THE RESULTING OR SURVIVING ENTITY AND SHALL BE DEEMED TO BE A PARTY TO, AND TO BE BOUND BY, THE CONSTITUENT OPERATING DOCUMENT OF THE RESULTING OR SURVIVING ENTITY.

SECTION 27. 7-90-301 (10), Colorado Revised Statutes, is amended to read:

7-90-301. Filing requirements. (10) The document shall be delivered to the secretary of state for filing and shall be accompanied by all required fees. ~~and penalties.~~

SECTION 28. 7-90-302 (1), Colorado Revised Statutes, is amended to read:

7-90-302. Forms and cover sheets - secretary of state to furnish upon request. (1) The secretary of state may prepare and furnish a form or cover sheet, or both, for any document that is subject to this part 3 and may require the use of any such form or cover sheet or both. The form or cover sheet may require the statement of any information the secretary of state deems appropriate to perform the duties of the secretary of state under the law of this state, including information as to the identity of any person to which the document relates, the mailing address of any such person, the registered agent name and registered agent address of the registered agent for any such person who is required OR PERMITTED by this ~~article~~ TITLE to have a registered agent, and the principal office address of the ~~entity's~~ principal office of any such person who has a principal office. A form or cover sheet shall not preclude in any way the inclusion in any document of any item the inclusion of which is not prohibited by the law of this state and shall not require the inclusion of any item the inclusion of which is not required or permitted by this article or any other law of this state.

SECTION 29. 7-90-305 (1) (a), (2) (c), and (2) (d), Colorado Revised Statutes, are amended, and the said 7-90-305 (2) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

7-90-305. Correcting filed document. (1) A person may deliver to the secretary of state, for filing pursuant to this part 3, a statement of correction to:

(a) Correct a filed document if the filed document contains ~~one or more incorrect statements that were~~ INFORMATION THAT WAS incorrect at the time the document was delivered to the secretary of state for filing pursuant to this part 3; or

(2) A statement of correction:

(c) Shall state ~~each incorrect statement that is corrected by the statement of correction~~ THE INFORMATION, IF ANY, CONTAINED IN THE FILED DOCUMENT TO BE CORRECTED;

(d) Shall ~~correct each such incorrect statement, and~~ STATE EACH SUCH CORRECTION;

(d.5) SHALL STATE EACH ADDITION OR DELETION OF INFORMATION, IF ANY; AND

SECTION 30. 7-90-501, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

7-90-501. Annual reports. (7.5) BEGINNING JULY 27, 2009, A DOMESTIC LIMITED PARTNERSHIP FORMED UNDER OR GOVERNED BY ARTICLE 62 OF THIS TITLE THAT IS NOT A REPORTING LIMITED PARTNERSHIP MAY DELIVER TO THE SECRETARY OF STATE, FOR FILING PURSUANT TO PART 3 OF THIS ARTICLE, A STATEMENT OF ELECTION TO BE A REPORTING ENTITY STATING:

(a) THE DOMESTIC ENTITY NAME OF THE DOMESTIC LIMITED PARTNERSHIP;

(b) THE PRINCIPAL OFFICE ADDRESS OF ITS PRINCIPAL OFFICE;

(c) THE REGISTERED AGENT NAME AND REGISTERED AGENT ADDRESS OF ITS REGISTERED AGENT; AND

(d) THAT THE DOMESTIC LIMITED PARTNERSHIP ELECTS TO BECOME A REPORTING LIMITED PARTNERSHIP.

SECTION 31. The introductory portion to 7-90-601 (2), Colorado Revised Statutes, is amended to read:

7-90-601. Entity name. (2) EXCEPT AS PROVIDED IN SECTION 7-90-604 (4.5), each entity name shall be distinguishable on the records of the secretary of state from every:

SECTION 32. 7-90-601.5, Colorado Revised Statutes, is amended to read:

7-90-601.5. Domestic entity name and trade name of dissolved domestic entity. (1) If a domestic entity that has a constituent filed document dissolves, the domestic entity name of the dissolved entity shall include the word "dissolved" followed by the MONTH, DAY, AND year of its dissolution, from the effective date of dissolution of the entity.

(2) ~~If the domestic entity name determined pursuant to subsection (1) of this section would not be distinguishable on the records of the secretary of state as contemplated in section 7-90-601, then the domestic entity name shall include the month, day, and year of the effective date of dissolution of the entity rather than only the year of dissolution.~~

SECTION 33. 7-90-601.6, Colorado Revised Statutes, is amended to read:

7-90-601.6. Entity name of delinquent entity. (1) The entity name of a delinquent entity shall include the word "delinquent", followed by the MONTH, DAY, AND year ~~in which it became delinquent~~ OF THE EFFECTIVE DATE OF THE ENTITY'S DELINQUENCY, after the four hundredth day after the effective date of its delinquency under section 7-90-902 (2).

~~(2) If the entity name determined pursuant to subsection (1) of this section would not be distinguishable on the records of the secretary of state as contemplated in section 7-90-601, then the entity name shall include the month, day, and year of the effective date of the entity's delinquency under section 7-90-902 (2) rather than only the year of delinquency.~~

SECTION 34. 7-90-601.7, Colorado Revised Statutes, is amended to read:

7-90-601.7. Foreign entity name and trade name of withdrawn foreign entity. (1) If a foreign entity has a statement of foreign entity authority on file in the records of the secretary of state, but such authority has been relinquished, the foreign entity name of the foreign entity shall include the words "Colorado authority relinquished" followed by the ~~year of such relinquishment~~ EFFECTIVE DATE OF THE STATEMENT OF FOREIGN ENTITY WITHDRAWAL BY WHICH THE FOREIGN ENTITY RELINQUISHED ITS AUTHORITY.

~~(2) If the foreign entity name determined pursuant to subsection (1) of this section would not be distinguishable on the records of the secretary of state as contemplated in section 7-90-601, then the foreign entity name shall include the effective date of the statement of foreign entity withdrawal by which the foreign entity relinquished its authority rather than only the year of relinquishment.~~

SECTION 35. 7-90-604, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

7-90-604. Registered true name of a foreign entity. (3.5) NO STATEMENT OF RENEWAL OF REGISTRATION OF TRUE NAME SHALL STATE A DELAYED EFFECTIVE DATE.

(4.5) A FOREIGN ENTITY THAT HAS IN EFFECT A REGISTRATION OF ITS TRUE NAME MAY DELIVER TO THE SECRETARY OF STATE, FOR FILING PURSUANT TO PART 3 OF THIS ARTICLE, A STATEMENT OF FOREIGN ENTITY AUTHORITY STATING THAT NAME AS ITS TRUE NAME.

SECTION 36. The introductory portion to 7-90-604 (4) (d) and 7-90-604 (4) (e), Colorado Revised Statutes, are amended to read:

7-90-604. Registered true name of a foreign entity. (4) (d) A foreign entity that has in effect a registration of its true name may transfer such registration to a ~~domestic entity~~ PERSON OTHER THAN A FOREIGN ENTITY, although that name is not the true name of the transferee, if, concurrently with the delivery of the foreign entity's statement of transfer of registration of true name to the secretary of state pursuant to paragraph (a) of this subsection (4), the transferee delivers to the secretary of state, for filing pursuant to part 3 of this article, either:

(e) ~~A foreign entity that has in effect a registration of its true name may transfer such registration to an individual if, concurrently with the delivery of the foreign entity's statement of transfer of registration of true name to the secretary of state pursuant to paragraph (a) of this subsection (4), the transferee delivers to the secretary of state, for filing pursuant to part 3 of this article, a statement of reservation of name reserving the transferred name as an entity name pursuant to section 7-90-602.~~

SECTION 37. 7-90-702 (5), Colorado Revised Statutes, is amended to read:

7-90-702. Change or resignation of registered agent. (5) Notwithstanding the provisions of section 7-90-304, ~~the resignation of a registered agent~~ A STATEMENT OF CHANGE DELIVERED BY A PERSON PURSUANT TO SUBSECTION (4) OF THIS SECTION is effective on the thirty-first day after the date that the statement of change ~~effecting the resignation~~ is filed in the records of the secretary of state or on a delayed effective date stated in the statement of change effecting the resignation that is not earlier than the thirty-first day, and not later than the ninetieth day, after the date the statement of change effecting the resignation is filed in the records of the secretary of state OR ON THE EFFECTIVE DATE OF A STATEMENT OF CHANGE APPOINTING A DIFFERENT PERSON AS REGISTERED AGENT, WHICHEVER OCCURS FIRST.

SECTION 38. The introductory portion to 7-90-704 (2), Colorado Revised Statutes, is amended to read:

7-90-704. Service on entities. (2) If an entity that is required to maintain a registered agent pursuant to this part 7 has no registered agent, or if the registered agent is not located under its registered agent name at its registered agent address, or if the registered agent cannot with reasonable diligence be served, the entity may be served by registered mail or by certified mail, return receipt requested, addressed to the entity at its principal ~~office~~ address. Service is perfected under this subsection (2) at the earliest of:

SECTION 39. 7-90-801, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

7-90-801. Authority to transact business or conduct activities required. (5) A FOREIGN NONPROFIT ENTITY SHALL BE CONSIDERED TO BE TRANSACTING BUSINESS OR CONDUCTING ACTIVITIES IN THIS STATE IF IT IS REQUIRED TO FILE A REGISTRATION STATEMENT WITH THE SECRETARY OF STATE PURSUANT TO SECTION 6-16-104, C.R.S.

SECTION 40. 7-90-910, Colorado Revised Statutes, is amended to read:

7-90-910. Effect of dissolution under section 7-90-907 or 7-90-908. A domestic entity that is dissolved pursuant to section 7-90-907 or 7-90-908 continues its existence but may not carry on any business except as is appropriate to wind up and liquidate its business and affairs, and to give notice to claimants, in accordance with the organic statutes. ~~A nonprofit corporation that is so dissolved, that continues to operate for nonprofit purposes, and that does not wind up its business and affairs shall be deemed an unincorporated organization as provided in section 7-30-101.1 that qualifies as a nonprofit association for purposes of the "Uniform~~

~~Unincorporated Nonprofit Association Act", article 30 of this title, unless it reinstates itself as provided in part 10 of this article:~~

SECTION 41. 7-90-912 (4), Colorado Revised Statutes, is amended to read:

7-90-912. Disposition of claims by publication. (4) For purposes of this section and except where ~~required~~ PERMITTED to be disposed of under section 7-90-911, "claim" means any claim, excluding claims of this state, whether known, due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract, tort, or other legal basis, or otherwise. For purposes of this section, an action to enforce a claim includes an arbitration under any agreement for binding arbitration between the dissolved domestic entity and the person making the claim and includes a civil action.

SECTION 42. 7-108-206 (4) (f), Colorado Revised Statutes, is amended to read:

7-108-206. Committees. (4) To the extent stated in the bylaws or by the board of directors, each committee shall have the authority of the board of directors under section 7-108-101; except that a committee shall not:

(f) Approve a PLAN OF CONVERSION OR plan of merger not requiring shareholder approval;

SECTION 43. 7-111-101, Colorado Revised Statutes, is amended to read:

7-111-101. Merger. (1) One or more domestic corporations may merge into another domestic ~~corporation~~ ENTITY if the board of directors of each DOMESTIC corporation THAT IS A PARTY TO THE MERGER AND EACH OTHER ENTITY THAT IS A PARTY TO THE MERGER adopts a plan of merger COMPLYING WITH SECTION 7-90-203.3 and the shareholders of each SUCH corporation, if required by section 7-111-103, approve the plan of merger.

~~(2) The plan of merger required by subsection (1) of this section shall state:~~

~~(a) The domestic entity name of each corporation planning to merge and the domestic entity name of the surviving corporation into which each corporation plans to merge;~~

~~(b) The terms and conditions of the merger, including the manner and basis of changing the owners' interests of each merging entity into owners' interests or obligations of the surviving entity or into money or other property in whole or in part; and~~

~~(c) (Deleted by amendment, L. 2003, p. 2322, § 254, effective July 1, 2004.)~~

~~(d) Any amendments to the articles of incorporation of the surviving corporation to be effected by the merger.~~

~~(3) The plan of merger may state other provisions relating to the merger.~~

SECTION 44. Article 111 of title 7, Colorado Revised Statutes, is amended BY

THE ADDITION OF A NEW SECTION to read:

7-111-101.5. Conversion. A DOMESTIC CORPORATION MAY CONVERT INTO ANY FORM OF ENTITY PERMITTED BY SECTION 7-90-201 IF THE BOARD OF DIRECTORS OF THE CORPORATION ADOPTS A PLAN OF CONVERSION THAT COMPLIES WITH SECTION 7-90-201.3 AND THE SHAREHOLDERS OF THE CORPORATION, IF REQUIRED BY SECTION 7-111-103, APPROVE THE PLAN OF CONVERSION.

SECTION 45. 7-111-103 (1), (2), (3), (4), (5), (6) (a), and (9), Colorado Revised Statutes, are amended to read:

7-111-103. Action on plan. (1) After adopting A PLAN OF CONVERSION COMPLYING WITH SECTION 7-90-201.3, a plan of merger COMPLYING WITH SECTION 7-90-203.3, or A PLAN OF share exchange COMPLYING WITH SECTION 7-111-102, THE BOARD OF DIRECTORS OF THE CONVERTING CORPORATION, the board of directors of each corporation party to the merger, and the board of directors of each corporation whose shares will be acquired in the share exchange, shall submit the PLAN OF CONVERSION, plan of merger, except as provided in subsection (7) of this section or in section 7-111-104, or the plan of share exchange to its shareholders for approval.

(2) For A PLAN OF CONVERSION, a plan of merger, or A PLAN OF share exchange to be approved by the shareholders:

(a) The board of directors shall recommend the PLAN OF CONVERSION, plan of merger, or PLAN OF share exchange to the shareholders unless the board of directors determines that, because of conflict of interest or other special circumstances, it should make no recommendation and communicates the basis for its determination to the shareholders with the plan; and

(b) The shareholders entitled to vote on the PLAN OF CONVERSION, plan of merger, or PLAN OF share exchange shall approve the plan as provided in subsection (5) of this section.

(3) The board of directors may condition the effectiveness of the PLAN OF CONVERSION, plan of merger, or PLAN OF share exchange on any basis.

(4) The corporation shall give notice, in accordance with section 7-107-105, to each shareholder entitled to vote on the PLAN OF CONVERSION, plan of merger, or PLAN OF share exchange of the shareholders' meeting at which the plan will be voted upon. The notice shall state that the purpose, or one of the purposes, of the meeting is to consider the PLAN OF CONVERSION, plan of merger, or PLAN OF share exchange, and the notice shall contain or be accompanied by a copy of the plan or a summary thereof.

(5) Unless articles 101 to 117 of this title, including the provisions of section 7-117-101 (8), the articles of incorporation, bylaws adopted by the shareholders, or the board of directors acting pursuant to subsection (3) of this section require a greater vote, the PLAN OF CONVERSION, plan of merger, or PLAN OF share exchange shall be approved by each voting group entitled to vote separately on the plan by a majority of all the votes entitled to be cast on the plan by that voting group.

(6) Separate voting by voting groups is required:

(a) On a plan of merger OR A PLAN OF CONVERSION if the plan contains a provision that, if contained in an amendment to the articles of incorporation, would require action by one or more separate voting groups on the amendment under section 7-110-104;

(9) After a plan of merger, A PLAN OF CONVERSION, or A PLAN OF share exchange is authorized, and at any time before the merger, CONVERSION, or share exchange becomes effective, the merger, CONVERSION, or share exchange may be abandoned, subject to any contractual rights, without further shareholder action, in accordance with the procedure stated in the plan of merger, CONVERSION, or share exchange or, if none is stated, in the manner determined by the board of directors. If a merger, CONVERSION, or share exchange is abandoned after a statement of merger HAS BEEN FILED BY THE SECRETARY OF STATE PURSUANT TO SECTION 7-90-203.7, A STATEMENT OF CONVERSION HAS BEEN FILED BY THE SECRETARY OF STATE PURSUANT TO SECTION 7-90-201.7, or A PLAN OF share exchange has been filed by the secretary of state pursuant to section ~~7-111-104.5~~ or 7-111-105 stating a delayed effective date, the merger, CONVERSION, or share exchange may be prevented from becoming effective by delivering to the secretary of state, for filing pursuant to part 3 of article 90 of this title, before the date the merger or share exchange becomes effective pursuant to section 7-90-304, a statement of change that states that, by appropriate corporate action, the merger, CONVERSION, or share exchange has been abandoned.

SECTION 46. 7-111-104.5, Colorado Revised Statutes, is amended to read:

7-111-104.5. Statement of merger or conversion. (1) After a plan of merger is approved, the surviving corporation shall deliver to the secretary of state, for filing pursuant to part 3 of article 90 of this title, a statement of merger pursuant to section ~~7-90-203 (5)~~ 7-90-203.7. If the plan of merger provides for amendments to the articles of incorporation of the surviving corporation, articles of amendment effecting the amendments shall be delivered to the secretary of state for filing pursuant to part 3 of article 90 of this title.

(2) AFTER A PLAN OF CONVERSION IS APPROVED, THE CONVERTING CORPORATION SHALL DELIVER TO THE SECRETARY OF STATE, FOR FILING PURSUANT TO PART 3 OF ARTICLE 90 OF THIS TITLE, A STATEMENT OF CONVERSION PURSUANT TO SECTION 7-90-201.7.

SECTION 47. 7-111-106 (1), Colorado Revised Statutes, is amended, and the said 7-111-106 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

7-111-106. Effect of merger, conversion, or share exchange. (1) ~~Provision is made in~~ THE EFFECT OF A MERGER SHALL BE AS PROVIDED IN section 7-90-204. ~~for the effect of a merger.~~

(1.5) THE EFFECT OF A CONVERSION SHALL BE AS PROVIDED IN SECTION 7-90-202.

SECTION 48. Article 111 of title 7, Colorado Revised Statutes, is amended BY

THE ADDITION OF A NEW SECTION to read:

7-111-106.5. Merger with foreign entity. (1) ONE OR MORE DOMESTIC CORPORATIONS MAY MERGE WITH ONE OR MORE FOREIGN ENTITIES IF:

(a) THE MERGER IS PERMITTED BY SECTION 7-90-203 (2);

(b) THE FOREIGN ENTITY COMPLIES WITH SECTION 7-90-203.7 IF IT IS THE SURVIVING ENTITY OF THE MERGER; AND

(c) EACH DOMESTIC CORPORATION COMPLIES WITH THE APPLICABLE PROVISIONS OF SECTIONS 7-111-101 TO 7-111-104 AND, IF IT IS THE SURVIVING CORPORATION OF THE MERGER, WITH SECTION 7-111-104.5.

(2) UPON THE MERGER TAKING EFFECT, THE SURVIVING FOREIGN ENTITY OF A MERGER SHALL COMPLY WITH SECTION 7-90-204.5.

SECTION 49. The introductory portion to 7-111-107 (1) and 7-111-107 (1) (a), (1) (c), (1) (d), (1.5), and (2) (a) (I), Colorado Revised Statutes, are amended to read:

7-111-107. Share exchange with foreign corporation. (1) One or more domestic corporations may ~~merge or~~ enter into a share exchange with one or more foreign corporations if:

(a) ~~In a merger, the merger is permitted by the law of the jurisdiction under the law of which each foreign corporation is incorporated and each foreign corporation complies with that law in effecting the merger;~~

(c) The foreign corporation complies with section ~~7-111-104.5 or~~ 7-111-105 ~~as the case may be;~~ if it is the ~~surviving corporation of the merger or~~ acquiring corporation of the share exchange; and

(d) Each domestic corporation complies with the applicable provisions of sections 7-111-101 to 7-111-104 and, if it is the ~~surviving corporation of the merger or~~ acquiring corporation of the share exchange, with section ~~7-111-104.5 or~~ 7-111-105. ~~as the case may be.~~

(1.5) ~~Upon the merger taking effect, the surviving foreign corporation of a merger shall comply with section 7-90-204.5.~~

(2) Upon the share exchange taking effect, the acquiring foreign corporation of a share exchange:

(a) Shall either:

(I) APPOINT A REGISTERED AGENT IF THE FOREIGN CORPORATION HAS NO REGISTERED AGENT AND maintain a registered agent pursuant to part 7 of article 90 of this title, whether or not the foreign corporation is otherwise subject to that part, to accept service in any proceeding to enforce any obligation or rights of dissenting shareholders of each domestic corporation party to the share exchange; or

SECTION 50. 7-123-101 (8), Colorado Revised Statutes, is amended to read:

7-123-101. Purposes and applicability. (8) A mutual ditch company may elect by a statement in its articles of incorporation that ONE OR MORE OF the provisions of the "Colorado Business Corporation Act", articles 101 to 117 of this title, ~~relating to shares and shareholders, including articles 107, 110, 111, 113, and 116 of this title;~~ apply to ~~the shares and shareholders of~~ the mutual ditch company in lieu of ONE OR MORE OF the provisions of articles ~~127, 130, 131, 133, and 136~~ 121 TO 137 of this title.

SECTION 51. 7-125-101, Colorado Revised Statutes, is amended to read:

7-125-101. Registered office and registered agent. Part 7 of article 90 of this title, providing for registered agents and service of process, applies to nonprofit corporations incorporated under or subject to ~~this article~~ ARTICLES 121 TO 137 OF THIS TITLE.

SECTION 52. 7-128-206 (4) (f), Colorado Revised Statutes, is amended to read:

7-128-206. Committees of the board. (4) To the extent stated in the bylaws or by the board of directors, each committee of the board shall have the authority of the board of directors under section 7-128-101; except that a committee of the board shall not:

(f) Approve a PLAN OF CONVERSION OR plan of merger not requiring member approval; or

SECTION 53. 7-130-201 (2), Colorado Revised Statutes, is amended to read:

7-130-201. Amendment of bylaws by board of directors or members. (2) The members may amend the bylaws even though the bylaws may also be amended by the board of directors. In such instance, the action shall be taken in accordance with sections 7-130-103 and 7-130-104 as if each reference therein to the ~~article~~ ARTICLES of incorporation was a reference to the bylaws.

SECTION 54. 7-131-101, Colorado Revised Statutes, is amended to read:

7-131-101. Merger. (1) One or more DOMESTIC nonprofit corporations may merge into another ~~nonprofit corporation~~ DOMESTIC ENTITY if the board of directors of each nonprofit corporation THAT IS A PARTY TO THE MERGER AND EACH OTHER ENTITY THAT IS A PARTY TO THE MERGER adopts a plan of merger COMPLYING WITH SECTION 7-90-203.3 and the members entitled to vote thereon, if any, of ~~the~~ EACH SUCH nonprofit corporation, if required by section 7-131-102, approve the plan of merger.

(2) ~~The plan of merger required by subsection (1) of this section shall state:~~

(a) ~~The domestic entity name of each nonprofit corporation planning to merge and the domestic entity name of the surviving nonprofit corporation into which each nonprofit corporation plans to merge;~~

~~(b) The terms and conditions of the merger, including the manner and basis of converting the memberships of each nonprofit corporation, if any, into memberships, obligations, or other interests of the surviving nonprofit corporation or any other entity or into money or other property in whole or in part; and~~

~~(c) (Deleted by amendment, L. 2003, p. 2345, § 318, effective July 1, 2004.)~~

~~(d) Any amendments to the articles of incorporation of the surviving nonprofit corporation to be effected by the merger.~~

(3) The plan of merger may state other provisions relating to the merger.

SECTION 55. Article 131 of title 7, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

7-131-101.5. Conversion. A NONPROFIT CORPORATION MAY CONVERT INTO ANY FORM OF ENTITY PERMITTED BY SECTION 7-90-201 IF THE BOARD OF DIRECTORS OF THE NONPROFIT CORPORATION ADOPTS A PLAN OF CONVERSION THAT COMPLIES WITH SECTION 7-90-201.3 AND THE MEMBERS ENTITLED TO VOTE THEREON, IF ANY, IF REQUIRED BY SECTION 7-131-102, APPROVE THE PLAN OF CONVERSION.

SECTION 56. 7-131-102, Colorado Revised Statutes, is amended to read:

7-131-102. Action on plan of conversion or merger. (1) After adopting ~~the~~ A PLAN OF CONVERSION COMPLYING WITH SECTION 7-90-201.3 OR A plan of merger COMPLYING WITH SECTION 7-90-203.3, THE BOARD OF DIRECTORS OF THE CONVERTING NONPROFIT CORPORATION OR the board of directors of each nonprofit corporation that is a party to the merger shall also submit the PLAN OF CONVERSION OR plan of merger to its members, if any are entitled to vote thereon, for approval.

(2) If the nonprofit corporation does have members entitled to vote with respect to the approval of a PLAN OF CONVERSION OR plan of merger, A PLAN OF CONVERSION OR a plan of merger is approved by the members if:

(a) The board of directors recommends the PLAN OF CONVERSION OR plan of merger to the members entitled to vote thereon unless the board of directors determines that, because of conflict of interest or other special circumstances, it should make no recommendation and communicates the basis for its determination to the members with the plan; and

(b) The members entitled to vote on the PLAN OF CONVERSION OR plan of merger approve the plan as provided in subsection (7) of this section.

(3) After adopting the PLAN OF CONVERSION OR plan of merger, THE BOARD OF DIRECTORS OF THE CONVERTING NONPROFIT CORPORATION OR the board of directors of each nonprofit corporation party to the merger shall submit the PLAN OF CONVERSION OR plan of merger for written approval by any person or persons whose approval is required by a provision of the articles of incorporation of the nonprofit corporation and as recognized by section 7-130-301 for an amendment to the articles of incorporation or bylaws.

(4) If the nonprofit corporation does not have members entitled to vote on a CONVERSION OR merger, the CONVERSION OR merger shall be approved and adopted by a majority of the directors elected and in office at the time the PLAN OF CONVERSION OR plan of merger is considered by the board of directors. In addition, the nonprofit corporation shall provide notice of any meeting of the board of directors at which such approval is to be obtained in accordance with section 7-128-203. The notice shall also state that the purpose, or one of the purposes, of the meeting is to consider the proposed CONVERSION OR merger.

(5) The board of directors may condition the effectiveness of the PLAN OF CONVERSION OR plan of merger on any basis.

(6) The nonprofit corporation shall give notice, in accordance with section 7-127-104, to each member entitled to vote on the PLAN OF CONVERSION OR plan of merger of the members' meeting at which the plan will be voted on. The notice shall state that the purpose, or one of the purposes, of the meeting is to consider the PLAN OF CONVERSION OR plan of merger, and the notice shall contain or be accompanied by a copy of the plan or a summary thereof.

(7) Unless articles 121 to 137 of this title, the articles of incorporation, bylaws adopted by the members, or the board of directors acting pursuant to subsection (5) of this section require a greater vote, the PLAN OF CONVERSION OR plan of merger shall be approved by the votes required by sections 7-127-205 and 7-127-206 by every voting group entitled to vote on the PLAN OF CONVERSION OR plan of merger.

(8) Separate voting by voting groups is required on a PLAN OF CONVERSION OR plan of merger if the plan contains a provision that, if contained in an amendment to the articles of incorporation, would require action by one or more separate voting groups on the amendment.

SECTION 57. 7-131-103 (1), Colorado Revised Statutes, is amended, and the said 7-131-103 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

7-131-103. Statement of merger or conversion. (1) After a plan of merger is approved, pursuant to section 7-131-102, the surviving nonprofit corporation shall deliver to the secretary of state, for filing pursuant to part 3 of article 90 of this title, a statement of merger pursuant to section ~~7-90-203 (5)~~ 7-90-203.7. If the plan of merger provides for amendments to the articles of incorporation of the surviving nonprofit corporation, articles of amendment effecting the amendments shall be delivered to the secretary of state for filing pursuant to part 3 of article 90 of this title.

(4) AFTER A PLAN OF CONVERSION IS APPROVED, THE CONVERTING NONPROFIT CORPORATION SHALL DELIVER TO THE SECRETARY OF STATE, FOR FILING PURSUANT TO PART 3 OF ARTICLE 90 OF THIS TITLE, A STATEMENT OF CONVERSION PURSUANT TO SECTION 7-90-201.7.

SECTION 58. 7-131-104, Colorado Revised Statutes, is amended to read:

7-131-104. Effect of merger or conversion. (1) The effect of a merger shall be

as provided in section 7-90-204.

(2) THE EFFECT OF A CONVERSION SHALL BE AS PROVIDED IN SECTION 7-90-202.

(3) NOTHING IN THIS TITLE SHALL LIMIT THE COMMON LAW POWERS OF THE ATTORNEY GENERAL CONCERNING THE MERGER OR CONVERSION OF A NONPROFIT CORPORATION.

SECTION 59. The introductory portion to 7-131-105 (1) and 7-131-105 (1) (a), (1) (b), (1) (c), and (2), Colorado Revised Statutes, are amended to read:

7-131-105. Merger with foreign entity. (1) One or more domestic nonprofit corporations may merge with one or more foreign ~~nonprofit corporations~~ ENTITIES if:

(a) The merger is permitted by ~~the law of the jurisdiction under the law of which each foreign nonprofit corporation is incorporated~~ SECTION 7-90-203 (2);

(b) ~~Each foreign nonprofit corporation complies with the provisions of such law in effecting the merger;~~

(c) The foreign ~~nonprofit corporation~~ ENTITY complies with section ~~7-131-103~~ 7-90-203.7, if it is the surviving ~~nonprofit corporation~~ ENTITY of the merger; ~~and provides, in addition to the information required by such section, the address of its principal office;~~ and

(2) Upon the merger taking effect, the surviving foreign ~~nonprofit corporation~~ ENTITY of a merger shall comply with section 7-90-204.5.

SECTION 60. Effective date. This act shall take effect May 29, 2007.

SECTION 61. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: March 26, 2007