

By: Senator(s) Doty

To: Judiciary, Division A;
Accountability, Efficiency,
Transparency

SENATE BILL NO. 2322

1 AN ACT TO CREATE THE MISSISSIPPI ENTITY CONVERSION AND
2 DOMESTICATION ACT; TO CREATE NEW SECTION 79-37-101, MISSISSIPPI
3 CODE OF 1972, TO SET FORTH A SHORT TITLE; TO CREATE NEW SECTION
4 79-37-102, MISSISSIPPI CODE OF 1972, TO ENACT DEFINITIONS; TO
5 CREATE NEW SECTION 79-37-103, MISSISSIPPI CODE OF 1972, TO SPECIFY
6 THE RELATIONSHIP OF THE ACT TO OTHER LAWS; TO CREATE NEW SECTION
7 79-37-104, MISSISSIPPI CODE OF 1972, TO SPECIFY WHEN NOTICE OR
8 APPROVAL IS REQUIRED; TO CREATE NEW SECTION 79-37-105, MISSISSIPPI
9 CODE OF 1972, TO PROVIDE FOR FILING STATUS; TO CREATE NEW SECTION
10 79-37-106, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE ACT IS
11 NOT EXCLUSIVE; TO CREATE NEW SECTION 79-37-107, MISSISSIPPI CODE
12 OF 1972, TO PROVIDE THAT A PLAN MAY REFER TO ASCERTAINABLE OUTSIDE
13 FACTS; TO CREATE NEW SECTION 79-37-108, MISSISSIPPI CODE OF 1972,
14 TO PROVIDE FOR ALTERNATIVE MEANS OF APPROVAL OF TRANSACTIONS; TO
15 CREATE NEW SECTION 79-37-109, MISSISSIPPI CODE OF 1972, TO OUTLINE
16 APPRAISAL RIGHTS; TO CREATE NEW SECTION 79-37-110, MISSISSIPPI
17 CODE OF 1972, TO BE RESERVED FOR FUTURE ENACTMENT; TO CREATE NEW
18 SECTION 79-37-111, MISSISSIPPI CODE OF 1972, TO SET FORTH
19 REQUIREMENTS FOR DOCUMENTS; TO CREATE NEW SECTION 79-37-112,
20 MISSISSIPPI CODE OF 1972, TO SET FEES; TO CREATE NEW SECTION
21 79-37-113, MISSISSIPPI CODE OF 1972, TO PROVIDE THE EFFECTIVE DATE
22 OF DOCUMENTS; TO CREATE NEW SECTION 79-37-114, MISSISSIPPI CODE OF
23 1972, TO ALLOW FOR CORRECTIONS TO A FILED DOCUMENT; TO CREATE NEW
24 SECTION 79-37-115, MISSISSIPPI CODE OF 1972, TO SET FORTH THE
25 FILING DUTY OF THE SECRETARY OF STATE; TO CREATE NEW SECTION
26 79-37-116, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR APPEAL OF THE
27 SECRETARY'S REFUSAL TO FILE A DOCUMENT; TO CREATE NEW SECTION
28 79-37-117, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE
29 EVIDENTIARY EFFECT OF A FILED COPY; TO CREATE NEW SECTION
30 79-37-118, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE PENALTY
31 FOR SIGNING A FALSE DOCUMENT; TO CREATE NEW SECTION 79-37-119,
32 MISSISSIPPI CODE OF 1972, TO GRANT TO THE SECRETARY OF STATE
33 POWERS REASONABLY NECESSARY TO ENFORCE THE ACT; TO CREATE NEW
34 SECTION 79-37-401, MISSISSIPPI CODE OF 1972, TO AUTHORIZE



35 CONVERSION OF ENTITIES TO A DIFFERENT FORM; TO CREATE NEW SECTION
36 79-37-402, MISSISSIPPI CODE OF 1972, TO SET FORTH REQUIREMENTS FOR
37 A PLAN OF CONVERSION; TO CREATE NEW SECTION 79-37-403, MISSISSIPPI
38 CODE OF 1972, TO REQUIRE APPROVAL OF A PLAN OF CONVERSION; TO
39 CREATE NEW SECTION 79-37-404, MISSISSIPPI CODE OF 1972, TO ALLOW
40 AMENDMENT OR ABANDONMENT OF A PLAN OF CONVERSION; TO CREATE NEW
41 SECTION 79-37-405, MISSISSIPPI CODE OF 1972, TO SET FORTH THE
42 REQUIREMENTS FOR A VALID STATEMENT OF CONVERSION; TO CREATE NEW
43 SECTION 79-37-406, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE
44 EFFECT OF A CONVERSION; TO CREATE NEW SECTION 79-37-501,
45 MISSISSIPPI CODE OF 1972, TO AUTHORIZE DOMESTICATION OF A FOREIGN
46 ENTITY; TO CREATE NEW SECTION 79-37-502, MISSISSIPPI CODE OF 1972,
47 TO SET FORTH REQUIREMENTS FOR A PLAN OF DOMESTICATION; TO CREATE
48 NEW SECTION 79-37-503, MISSISSIPPI CODE OF 1972, TO REQUIRE
49 APPROVAL OF A PLAN OF DOMESTICATION; TO CREATE NEW SECTION
50 79-37-504, MISSISSIPPI CODE OF 1972, TO ALLOW AMENDMENT OR
51 ABANDONMENT OF A PLAN OF DOMESTICATION; TO CREATE NEW SECTION
52 79-37-505, MISSISSIPPI CODE OF 1972, TO SET FORTH THE REQUIREMENTS
53 FOR A VALID STATEMENT OF DOMESTICATION; TO CREATE NEW SECTION
54 79-37-506, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE EFFECT OF
55 A DOMESTICATION; TO CREATE NEW SECTION 79-37-601, MISSISSIPPI CODE
56 OF 1972, TO PROMOTE CONSISTENCY OF THE LAW WITH REGARD TO OTHER
57 STATES ENACTING SUCH AN ACT; TO CREATE NEW SECTION 79-37-602,
58 MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE RELATIONSHIP OF THIS
59 ACT TO THE ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE
60 ACT; TO CREATE NEW SECTION 79-37-603, MISSISSIPPI CODE OF 1972, TO
61 CREATE A SAVINGS CLAUSE; TO CREATE SECTION 79-37-604, MISSISSIPPI
62 CODE OF 1972, TO CREATE A SEPARATE SEVERABILITY CLAUSE; TO AMEND
63 SECTION 79-4-13.02, MISSISSIPPI CODE OF 1972, TO CONFORM THE
64 BUSINESS CORPORATION ACT; TO AMEND SECTIONS 79-13-101, 79-13-401,
65 79-13-502 AND 79-13-908, MISSISSIPPI CODE OF 1972, TO CONFORM THE
66 UNIFORM PARTNERSHIP ACT; TO AMEND SECTIONS 79-14-101, 79-14-105,
67 79-14-201, 79-14-202, 79-14-204 AND 79-14-701, MISSISSIPPI CODE OF
68 1972, TO CONFORM THE UNIFORM LIMITED PARTNERSHIP ACT; TO AMEND
69 SECTION 79-29-123, MISSISSIPPI CODE OF 1972, TO CONFORM THE
70 LIMITED LIABILITY COMPANY ACT; TO REPEAL SECTION 79-13-902,
71 MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR CONVERSION OF A
72 PARTNERSHIP TO A LIMITED PARTNERSHIP; TO REPEAL SECTION 79-13-903,
73 MISSISSIPPI CODE OF 1972, WHICH IS RESERVED FOR FUTURE ENACTMENT;
74 TO REPEAL SECTION 79-13-904, MISSISSIPPI CODE OF 1972, WHICH
75 PROVIDES FOR THE EFFECT OF A CONVERSION; AND FOR RELATED PURPOSES.

76 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

77 **ARTICLE 1**

78 **GENERAL PROVISIONS**

79 **SECTION 1.** The following shall be codified as Section

80 79-37-101, Mississippi Code of 1972:



81 79-37-101. **Short title.** This chapter shall be known and may
82 be cited as the Mississippi Entity Conversion and Domestication
83 Act.

84 **SECTION 2.** The following shall be codified as Section
85 79-37-102, Mississippi Code of 1972:

86 79-37-102. **Definitions.** As used in this chapter, unless the
87 context otherwise requires:

88 (1) [Reserved]

89 (2) [Reserved]

90 (3) "Approve" means, in the case of an entity, for its
91 governors and interest holders to take whatever steps are
92 necessary under the entity's organic rules, organic law, and other
93 law to:

94 (A) Propose a transaction subject to this chapter;

95 (B) Adopt and approve the terms and conditions of
96 the transaction; and

97 (C) Conduct any required proceedings or otherwise
98 obtain any required votes or consents of the governors or interest
99 holders.

100 (4) "Conversion" means a transaction authorized by
101 Article 4 of this chapter.

102 (5) "Converted entity" means the converting entity as
103 it continues in existence after a conversion.

104 (6) "Converting entity" means the domestic entity that
105 approves a plan of conversion pursuant to Section 79-37-403 or the



106 foreign entity that approves a conversion pursuant to the law of
107 its jurisdiction of formation.

108 (7) "Distributional interest" means the right under an
109 unincorporated entity's organic law and organic rules to receive
110 distributions from the entity.

111 (8) "Domestic," with respect to an entity, means
112 governed as to its internal affairs by the law of this state.

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

115 (10) "Domesticating entity" means the domestic entity
116 that approves a plan of domestication pursuant to Section
117 79-37-503 or the foreign entity that approves a domestication
118 pursuant to the law of its jurisdiction of formation.

119 (11) "Domestication" means a transaction authorized by
120 Article 5 of this chapter.

121 (12) "Entity":

122 (A) Means:

123 (i) A business corporation;

124 (ii) A nonprofit corporation;

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

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

129 (v) A limited liability company;

130 (vi) [Reserved];



131 (vii) [Reserved];
132 (viii) [Reserved];
133 (ix) A statutory trust, business trust, or
134 common-law business trust;
135 (x) An agricultural association, including an
136 agricultural co-operative marketing association; or
137 (xi) Any other person that has:
138 (I) A legal existence separate from any
139 interest holder of that person; or
140 (II) The power to acquire an interest in
141 real property in its own name; and
142 (B) Does not include:
143 (i) An individual;
144 (ii) A trust with a predominantly donative
145 purpose or a charitable trust;
146 (iii) An association or relationship that is
147 not an entity listed in subparagraph (A) and is not a partnership
148 under the rules stated in Section 79-13-202(c) or a similar
149 provision of the law of any other jurisdiction;
150 (iv) A decedent's estate; or
151 (v) A government or a governmental
152 subdivision, agency, or instrumentality.
153 (13) "Filing entity" means an entity whose formation
154 requires the filing of a public organic record. The term does not
155 include a limited liability partnership.



156 (14) "Foreign," with respect to an entity, means an
157 entity governed as to its internal affairs by the law of a
158 jurisdiction other than this state.

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

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

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

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

168 (16) "Governor" means:

169 (A) A director of a business corporation;

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

172 (C) A general partner of a general partnership;

173 (D) A general partner of a limited partnership;

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

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

178 (G) [Reserved];

179 (H) [Reserved];

180 (I) [Reserved];



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

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

187 (17) "Interest" means:

188 (A) A share in a business corporation;

189 (B) A membership in a nonprofit corporation;

190 (C) A partnership interest in a general
191 partnership;

192 (D) A partnership interest in a limited
193 partnership;

194 (E) A membership interest in a limited liability
195 company;

196 (F) [Reserved];

197 (G) [Reserved];

198 (H) [Reserved];

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

201 (J) A membership in an agricultural association,
202 including an agricultural co-operative marketing association; or

203 (K) A governance interest or distributional
204 interest in any other type of unincorporated entity.

205 (18) [Reserved]



206 (19) "Interest holder" means:

207 (A) A shareholder of a business corporation;

208 (B) A member of a nonprofit corporation;

209 (C) A general partner of a general partnership;

210 (D) A general partner of a limited partnership;

211 (E) A limited partner of a limited partnership;

212 (F) A member of a limited liability company;

213 (G) [Reserved];

214 (H) [Reserved];

215 (I) [Reserved];

216 (J) A beneficiary or beneficial owner of a

217 statutory trust, business trust, or common-law business trust;

218 (K) A member of an agricultural association,

219 including an agricultural co-operative marketing association; or

220 (L) Any other direct holder of an interest.

221 (20) "Interest holder liability" means:

222 (A) Personal liability for a liability of an

223 entity that is imposed on a person:

224 (i) Solely by reason of the status of the

225 person as an interest holder; or

226 (ii) By the organic rules of the entity which

227 make one or more specified interest holders or categories of

228 interest holders liable in their capacity as interest holders for

229 all or specified liabilities of the entity; or



230 (B) An obligation of an interest holder under the
231 organic rules of an entity to contribute to the entity.

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

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

237 (23) [Reserved]

238 (24) [Reserved]

239 (25) "Organic law" means the law of an entity's
240 jurisdiction of formation governing the internal affairs of the
241 entity.

242 (26) "Organic rules" means the public organic record
243 and private organic rules of an entity.

244 (27) "Person" means an individual, business
245 corporation, nonprofit corporation, partnership, limited
246 partnership, limited liability company, agricultural association,
247 agricultural co-operative marketing association, statutory trust,
248 business trust, common-law business trust, estate, trust,
249 association, joint venture, public corporation, government or
250 governmental subdivision, agency, or instrumentality, or any other
251 legal or commercial entity.

252 (28) "Plan" means a plan of conversion or plan of
253 domestication.



254 (29) "Plan of conversion" means a plan under Section
255 79-37-402.

256 (30) "Plan of domestication" means a plan under Section
257 79-37-502.

258 (31) [Reserved]

259 (32) [Reserved]

260 (33) "Private organic rules" mean the rules, whether or
261 not in a record, that govern the internal affairs of an entity,
262 are binding on all of its interest holders, and are not part of
263 its public organic record, if any. The term includes:

264 (A) The bylaws of a business corporation;

265 (B) The bylaws of a nonprofit corporation;

266 (C) The partnership agreement of a general
267 partnership;

268 (D) The partnership agreement of a limited
269 partnership;

270 (E) The operating agreement of a limited liability
271 company;

272 (F) [Reserved];

273 (G) [Reserved];

274 (H) [Reserved];

275 (I) The bylaws of an agricultural association,
276 including an agricultural co-operative marketing association; and

277 (J) The trust instrument of a statutory trust or
278 similar rules of a business trust or common-law business trust.



279 (34) "Property" means all property, whether real,
280 personal, or mixed or tangible or intangible, or any right or
281 interest therein.

282 (35) "Protected agreement" means:

283 (A) A record evidencing indebtedness and any
284 related agreement in effect on the effective date of this chapter;

285 (B) An agreement that is binding on an entity on
286 the effective date of this chapter;

287 (C) The organic rules of an entity in effect on
288 the effective date of this chapter; or

289 (D) An agreement that is binding on any of the
290 governors or interest holders of an entity on the effective date
291 of this chapter.

292 (36) "Public organic record" means the record the
293 filing of which by the Secretary of State is required to form an
294 entity and any amendment to or restatement of that record. The
295 term includes:

296 (A) The articles of incorporation of a business
297 corporation;

298 (B) The articles of incorporation of a nonprofit
299 corporation;

300 (C) The certificate of limited partnership of a
301 limited partnership;

302 (D) The certificate of formation of a limited
303 liability company;



304 (E) [Reserved];

305 (F) [Reserved];

306 (G) The articles of association of an agricultural
307 association, including an agricultural co-operative marketing
308 association; and

309 (H) The certificate of trust of a statutory trust
310 or similar record of a business trust.

311 (37) "Record," used as a noun, means information that
312 is inscribed on a tangible medium or that is stored in an
313 electronic or other medium and is retrievable in perceivable form.

314 (38) "Registered foreign entity" means a foreign entity
315 that is registered to do business in this state pursuant to a
316 record filed by the Secretary of State.

317 (39) "Sign" means, with present intent to authenticate
318 or adopt a record:

319 (A) To execute or adopt a tangible symbol; or

320 (B) To attach to or logically associate with the
321 record an electronic symbol, sound, or process.

322 (40) "State" means a state of the United States, the
323 District of Columbia, Puerto Rico, the United States Virgin
324 Islands, or any territory or insular possession subject to the
325 jurisdiction of the United States.

326 (41) "Statement of conversion" means a statement under
327 Section 79-37-405.



328 (42) "Statement of domestication" means a statement
329 under Section 79-37-505.

330 (43) [Reserved]

331 (44) [Reserved]

332 (45) [Reserved]

333 (46) "Transfer" includes:

334 (A) An assignment;

335 (B) A conveyance;

336 (C) A sale;

337 (D) A lease;

338 (E) An encumbrance, including a mortgage or
339 security interest;

340 (F) A gift; and

341 (G) A transfer by operation of law.

342 (47) "Type of entity" means a generic form of entity:

343 (A) Recognized at common law; or

344 (B) Formed under an organic law, whether or not
345 some entities formed under that law are subject to provisions of
346 that law that create different categories of the form of entity.

347 **SECTION 3.** The following shall be codified as Section
348 79-37-103, Mississippi Code of 1972:

349 79-37-103. **Relationship of chapter to other laws.** (a)

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



352 (b) This chapter does not authorize an act prohibited by,
353 and does not affect the application or requirements of, law other
354 than this chapter.

355 (c) A transaction effected under this chapter may not create
356 or impair a right, duty, or obligation of a person under the
357 statutory law of this state relating to a change in control,
358 takeover, business combination, control-share acquisition, or
359 similar transaction involving a domestic converting or
360 domesticating business corporation unless the corporation survives
361 the transaction, the approval of the plan is by a vote of the
362 shareholders or directors which would be sufficient to create or
363 impair the right, duty, or obligation directly under the law.

364 **SECTION 4.** The following shall be codified as Section
365 79-37-104, Mississippi Code of 1972:

366 79-37-104. **Required notice or approval.** (a) A domestic or
367 foreign entity that is required to give notice to, or obtain the
368 approval of, a governmental agency or officer of this state to be
369 a party to a merger must give the notice or obtain the approval to
370 be a party to a conversion or domestication.

371 (b) Property held for a charitable purpose under the law of
372 this state by a domestic or foreign entity immediately before a
373 transaction under this chapter becomes effective may not, as a
374 result of the transaction, be diverted from the objects for which
375 it was donated, granted, devised, or otherwise transferred unless,
376 to the extent required by or pursuant to the law of this state



377 concerning cy pres or other law dealing with nondiversion of
378 charitable assets, the entity obtains an appropriate order of the
379 appropriate court specifying the disposition of the property.

380 **SECTION 5.** The following shall be codified as Section
381 79-37-105, Mississippi Code of 1972:

382 79-37-105. **Status of filings.** A filing under this chapter
383 signed by a domestic entity becomes part of the public organic
384 record of the entity if the entity's organic law provides that
385 similar filings under that law become part of the public organic
386 record of the entity.

387 **SECTION 6.** The following shall be codified as Section
388 79-37-106, Mississippi Code of 1972:

389 79-37-106. **Nonexclusivity.** The fact that a transaction
390 under this chapter produces a certain result does not preclude the
391 same result from being accomplished in any other manner permitted
392 by law other than this chapter.

393 **SECTION 7.** The following shall be codified as Section
394 79-37-107, Mississippi Code of 1972:

395 79-37-107. **Reference to external facts.** A plan may refer to
396 facts ascertainable outside the plan if the manner in which the
397 facts will operate upon the plan is specified in the plan. The
398 facts may include the occurrence of an event or a determination or
399 action by a person, whether or not the event, determination, or
400 action is within the control of a party to the transaction.



401 **SECTION 8.** The following shall be codified as Section
402 79-37-108, Mississippi Code of 1972:

403 79-37-108. **Alternative means of approval of transactions.**

404 Except as otherwise provided in the organic law or organic rules
405 of a domestic entity, approval of a transaction under this chapter
406 by the affirmative vote or consent of all its interest holders
407 satisfies the requirements of this chapter for approval of the
408 transaction.

409 **SECTION 9.** The following shall be codified as Section
410 79-37-109, Mississippi Code of 1972:

411 79-37-109. **Appraisal rights.** (a) An interest holder of a
412 domestic converting or domesticating entity is entitled to
413 appraisal rights in connection with the transaction if the
414 interest holder would have been entitled to appraisal rights under
415 the entity's organic law in connection with a merger in which the
416 interest of the interest holder was changed, converted, or
417 exchanged unless:

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

420 (2) The organic rules provide such a limit or
421 elimination.

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



- 426 (1) The entity's organic rules;
427 (2) The plan; or
428 (3) The case of a business corporation, by action of
429 its governors.

430 (c) If an interest holder is entitled to contractual
431 appraisal rights under subsection (b) and the entity's organic law
432 does not provide procedures for the conduct of an appraisal rights
433 proceeding, Chapter 13 of the Mississippi Business Corporation Act
434 applies to the extent practicable or as otherwise provided in the
435 entity's organic rules or the plan.

436 **SECTION 10.** The following shall be codified as Section
437 79-37-110, Mississippi Code of 1972:

438 79-37-110. [Reserved]

439 **SECTION 11.** The following shall be codified as Section
440 79-37-111, Mississippi Code of 1972:

441 79-37-111. **Requirements for documents.** (a) To be entitled
442 to filing by the Secretary of State, a document must satisfy the
443 following requirements and the requirements of any other provision
444 of this chapter that adds to or varies these requirements:

445 (1) This chapter requires or permits filing the
446 document in the Office of the Secretary of State.

447 (2) The document contains the information required by
448 this chapter and may contain other information.

449 (3) The document is in a record.



450 (4) The document is in the English language, but the
451 name of an entity need not be in English if written in English
452 letters or Arabic or Roman numerals.

453 (5) The document is signed:

454 (A) By an officer of a domestic or foreign
455 corporation;

456 (B) By a person authorized by a domestic or
457 foreign entity that is not a corporation; or

458 (C) If the entity is in the hands of a receiver,
459 trustee, or other court-appointed fiduciary, by that fiduciary.

460 (6) The document must state the name and capacity of
461 the person that signed it.

462 (7) The document must be delivered to the Office of the
463 Secretary of State for filing.

464 (b) When a document is delivered to the Office of the
465 Secretary of State for filing, the correct filing fee must be paid
466 or provision for payment made in a manner permitted by the
467 Secretary of State.

468 **SECTION 12.** The following shall be codified as Section
469 79-37-112, Mississippi Code of 1972:

470 79-37-112. **Filing, service, and copying fees.** (a) The
471 Secretary of State shall collect a fee of Twenty-five Dollars
472 (\$25.00) each time process is served on the Secretary of State
473 under this chapter. The party to a proceeding causing service of



474 process may recover this fee as costs if the party prevails in the
475 proceeding.

476 (b) The Secretary of State shall collect the following fees
477 for copying and certifying the copy of any document filed under
478 this chapter:

- 479 (1) One Dollar (\$1.00) a page for copying; and
- 480 (2) Ten Dollars (\$10.00) for the certificate.

481 (c) The Secretary of State shall collect the following fees
482 when the documents described are delivered for filing:

- 483 (1) [Reserved]
- 484 (2) [Reserved]
- 485 (3) [Reserved]
- 486 (4) [Reserved]
- 487 (5) Statement of conversion\$50.00
- 488 (6) Statement of abandonment of conversion.....\$25.00
- 489 (7) Statement of domestication\$50.00
- 490 (8) Statement of abandonment of domestication....\$25.00

491 **SECTION 13.** The following shall be codified as Section
492 79-37-113, Mississippi Code of 1972:

493 79-37-113. **Effective time and date of document.** Except as
494 provided in Section 79-37-114, a document accepted for filing is
495 effective:

- 496 (1) At the date and time of filing, as evidenced by the
497 means used by the Secretary of State for recording the date and
498 time of filing;



499 (2) At the time specified in the document as its
500 effective time on the date it is filed;

501 (3) At a specified delayed effective time and date if
502 permitted by this chapter; or

503 (4) If a delayed effective date but no time is
504 specified, at the close of business on the date specified.

505 **SECTION 14.** The following shall be codified as Section
506 79-37-114, Mississippi Code of 1972:

507 79-37-114. **Correcting filed document.** (a) A domestic or
508 foreign entity may correct a document filed by the Secretary of
509 State within sixty (60) days of the filing if:

510 (1) The document contains an inaccuracy;

511 (2) The document was defectively signed; or

512 (3) The electronic transmission of the document to the
513 Secretary of State was defective.

514 (b) A document is corrected by filing with the Secretary of
515 State a statement of correction that:

516 (1) Describes the document to be corrected and states
517 its filing date or has attached a copy of the document;

518 (2) Specifies the inaccuracy or defect to be corrected;
519 and

520 (3) Corrects the inaccuracy or defect.

521 (c) A statement of correction is effective on the effective
522 date of the document it corrects except as to persons relying on
523 the uncorrected document and adversely affected by the correction.



524 As to those persons, a statement of correction is effective when
525 filed.

526 **SECTION 15.** The following shall be codified as Section
527 79-37-115, Mississippi Code of 1972:

528 79-37-115. **Filing duty of Secretary of State.** (a) A
529 document delivered to the Office of the Secretary of State for
530 filing that satisfies the requirements of Section 79-37-111 must
531 be filed by the Secretary of State.

532 (b) The Secretary of State files a document by recording it
533 as filed on the date and time of receipt. After filing a
534 document, the Secretary of State shall deliver to the domestic or
535 foreign entity or its representative a copy of the document with
536 an acknowledgement of the date and time of filing.

537 (c) If the Secretary of State refuses to file a document,
538 the Secretary of State shall return the document to the domestic
539 or foreign entity or its representative within five (5) days after
540 the document was delivered, together with a brief, written
541 explanation of the reason for the refusal.

542 (d) The duty of the Secretary of State to file documents
543 under this section is ministerial. The filing or refusal to file
544 a document does not:

545 (1) Affect the validity or invalidity of the document
546 in whole or in part;

547 (2) Relate to the correctness or incorrectness of
548 information contained in the document; or



549 (3) Create a presumption that the document is valid or
550 invalid or that information contained in the document is correct
551 or incorrect.

552 **SECTION 16.** The following shall be codified as Section
553 79-37-116, Mississippi Code of 1972:

554 79-37-116. **Appeal from refusal to file a document.** (a) If
555 the Secretary of State refuses to file a document delivered for
556 filing, the domestic or foreign entity that submitted the document
557 for filing may appeal the refusal within thirty (30) days after
558 the return of the document to the chancery court of the county
559 where the entity's principal office is or will be located, or the
560 Chancery Court of the First Judicial District of Hinds County,
561 Mississippi, if the entity does not have a principal office in
562 this state. The appeal is commenced by petitioning the court to
563 compel filing the document and by attaching to the petition the
564 document and the explanation of the Secretary of State for the
565 refusal to file.

566 (b) The court may summarily order the Secretary of State to
567 file the document or take other action the court considers
568 appropriate.

569 (c) The court's final decision may be appealed as in other
570 civil proceedings.

571 **SECTION 17.** The following shall be codified as Section
572 79-37-117, Mississippi Code of 1972:



573 79-37-117. **Evidentiary effect of copy of filed document.** A
574 filed-stamped copy from the Secretary of State conclusively
575 establishes that the original document is on file with the
576 Secretary of State.

577 **SECTION 18.** The following shall be codified as Section
578 79-37-118, Mississippi Code of 1972:

579 79-37-118. **Penalty for signing false document.** (a) A
580 person commits an offense if he signs a document he knows is false
581 in any material respect with intent that the document be delivered
582 to the Secretary of State for filing.

583 (b) An offense under this section is a misdemeanor
584 punishable by a fine of not to exceed One Thousand Dollars
585 (\$1,000.00).

586 **SECTION 19.** The following shall be codified as Section
587 79-37-119, Mississippi Code of 1972:

588 79-37-119. **Powers of Secretary of State.** The Secretary of
589 State has the power reasonably necessary to perform the duties
590 required by this chapter and adopt rules and regulations for
591 enforcement.

592 **ARTICLE 2 [RESERVED]**

593 **ARTICLE 3 [RESERVED]**

594 **ARTICLE 4**

595 **CONVERSION**

596 **SECTION 20.** The following shall be codified as Section
597 79-37-401, Mississippi Code of 1972:



598 79-37-401. **Conversion authorized.** (a) By complying with
599 this article, a domestic entity may become:

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

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

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

610 (c) If a protected agreement contains a provision that
611 applies to a merger of a domestic entity but does not refer to a
612 conversion, the provision applies to a conversion of the entity as
613 if the conversion were a merger until the provision is amended
614 after the effective date of this chapter.

615 **SECTION 21.** The following shall be codified as Section
616 79-37-402, Mississippi Code of 1972:

617 79-37-402. **Plan of conversion.** (a) A domestic entity may
618 convert to a different type of entity under this article by
619 approving a plan of conversion. The plan must be in a record and
620 contain:

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



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

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

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

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

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

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

637 (b) In addition to the requirements of subsection (a), a
638 plan of conversion may contain any other provision not prohibited
639 by law.

640 **SECTION 22.** The following shall be codified as Section
641 79-37-403, Mississippi Code of 1972:

642 79-37-403. **Approval of conversion.** (a) A plan of
643 conversion is not effective unless it has been approved:

644 (1) By a domestic converting entity:

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



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

650 (i) In the case of an entity that is not a
651 business corporation, a merger, as if the conversion were a
652 merger;

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

657 (C) By all of the interest holders of the entity
658 entitled to vote on or consent to any matter if in the case of any
659 entity that is not a business corporation, neither its organic law
660 nor organic rules provide for approval of a conversion or a
661 merger; and

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

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



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

675 (b) A conversion of a foreign converting entity is not
676 effective unless it is approved by the foreign entity in
677 accordance with the law of the foreign entity's jurisdiction of
678 formation.

679 **SECTION 23.** The following shall be codified as Section
680 79-37-404, Mississippi Code of 1972:

681 79-37-404. **Amendment or abandonment of plan of conversion.**

682 (a) A plan of conversion of a domestic converting entity may be
683 amended:

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

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

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



696 (B) The public organic record, if any, or private
697 organic rules of the converted entity which will be in effect
698 immediately after the conversion becomes effective, except for
699 changes that do not require approval of the interest holders of
700 the converted entity under its organic law or organic rules; or

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

704 (b) After a plan of conversion has been approved and before
705 a statement of conversion becomes effective, the plan may be
706 abandoned as provided in the plan. Unless prohibited by the plan,
707 a domestic converting entity may abandon the plan in the same
708 manner as the plan was approved.

709 (c) If a plan of conversion is abandoned after a statement
710 of conversion has been delivered to the Secretary of State for
711 filing and before the statement becomes effective, a statement of
712 abandonment, signed by the converting entity, must be delivered to
713 the Secretary of State for filing before the statement of
714 conversion becomes effective. The statement of abandonment takes
715 effect on filing, and the conversion is abandoned and does not
716 become effective. The statement of abandonment must contain:

717 (1) The name of the converting entity;

718 (2) The date on which the statement of conversion was
719 filed by the Secretary of State; and



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

722 **SECTION 24.** The following shall be codified as Section
723 79-37-405, Mississippi Code of 1972:

724 79-37-405. **Statement of conversion; effective date.** (a) A
725 statement of conversion must be signed on behalf of the converting
726 entity and delivered to the Secretary of State for filing.

727 (b) A statement of conversion must contain:

728 (1) The name, jurisdiction of formation, and type of
729 entity of the converting entity;

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

732 (3) If the statement of conversion is not to be
733 effective upon filing, the later date and time on which it will
734 become effective, which may not be more than ninety (90) days
735 after the date of filing;

736 (4) If the converting entity is a domestic entity, a
737 statement that the plan of conversion was approved in accordance
738 with this article or, if the converting entity is a foreign
739 entity, a statement that the conversion was approved by the
740 foreign entity in accordance with the law of its jurisdiction of
741 formation;

742 (5) If the converted entity is a domestic filing
743 entity, its public organic record, as an attachment;



744 (6) If the converted entity is a domestic limited
745 liability partnership, its statement of qualification, as an
746 attachment; and

747 (7) If the converted entity is a foreign entity, a
748 mailing address to which the Secretary of State may send any
749 process served on the Secretary of State pursuant to Section
750 79-37-406(e).

751 (c) In addition to the requirements of subsection (b), a
752 statement of conversion may contain any other provision not
753 prohibited by law.

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

759 (e) A plan of conversion that is signed by a domestic
760 converting entity and meets all the requirements of subsection (b)
761 may be delivered to the Secretary of State for filing instead of a
762 statement of conversion and on filing has the same effect. If a
763 plan of conversion is filed as provided in this subsection,
764 references in this chapter to a statement of conversion refer to
765 the plan of conversion filed under this subsection.

766 (f) A statement of conversion is effective on the date and
767 time of filing or the later date and time specified in the
768 statement of conversion.



769 (g) If the converted entity is a domestic entity, the
770 conversion is effective when the statement of conversion is
771 effective. If the converted entity is a foreign entity, the
772 conversion is effective on the later of:

773 (1) The date and time provided by the organic law of
774 the converted entity; or

775 (2) When the statement is effective.

776 **SECTION 25.** The following shall be codified as Section
777 79-37-406, Mississippi Code of 1972:

778 79-37-406. **Effect of conversion.** (a) When a conversion
779 becomes effective:

780 (1) The converted entity is:

781 (A) Organized under and subject to the organic law
782 of the converted entity; and

783 (B) The same entity without interruption as the
784 converting entity;

785 (2) All property of the converting entity continues to
786 be vested in the converted entity without transfer, reversion, or
787 impairment;

788 (3) All debts, obligations, and other liabilities of
789 the converting entity continue as debts, obligations, and other
790 liabilities of the converted entity;

791 (4) Except as otherwise provided by law or the plan of
792 conversion, all the rights, privileges, immunities, powers, and
793 purposes of the converting entity remain in the converted entity;



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

797 (6) If a converted entity is a filing entity, its
798 public organic record is effective;

799 (7) If the converted entity is a limited liability
800 partnership, its statement of qualification is effective;

801 (8) The private organic rules of the converted entity
802 which are to be in a record, if any, approved as part of the plan
803 of conversion are effective; and

804 (9) The interests in the converting entity are
805 converted, and the interest holders of the converting entity are
806 entitled only to the rights provided to them under the plan of
807 conversion and to any appraisal rights they have under Section
808 79-37-109 and the converting entity's organic law.

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

814 (c) When a conversion becomes effective, a person that did
815 not have interest holder liability with respect to the converting
816 entity and becomes subject to interest holder liability with
817 respect to a domestic entity as a result of a conversion has
818 interest holder liability only to the extent provided by the



819 organic law of the entity and only for those debts, obligations,
820 and other liabilities that arise after the conversion becomes
821 effective.

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

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

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

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

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



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

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

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

854 **ARTICLE 5**

855 **DOMESTICATION**

856 **SECTION 26.** The following shall be codified as Section
857 79-37-501, Mississippi Code of 1972:

858 79-37-501. **Domestication authorized.** (a) Except as
859 otherwise provided in this section, by complying with this
860 article, a domestic entity may become a domestic entity of the
861 same type of entity in a foreign jurisdiction if the domestication
862 is authorized by the law of the foreign jurisdiction.

863 (b) Except as otherwise provided in this section, by
864 complying with the provisions of this article applicable to
865 foreign entities a foreign entity may become a domestic entity of
866 the same type of entity in this state if the domestication is



867 authorized by the law of the foreign entity's jurisdiction of
868 formation.

869 (c) If a protected agreement contains a provision that
870 applies to a merger of a domestic entity but does not refer to a
871 domestication, the provision applies to a domestication of the
872 entity as if the domestication were a merger until the provision
873 is amended after the effective date of this chapter.

874 **SECTION 27.** The following shall be codified as Section
875 79-37-502, Mississippi Code of 1972:

876 79-37-502. **Plan of domestication.** (a) A domestic entity
877 may become a foreign entity in a domestication by approving a plan
878 of domestication. The plan must be in a record and contain:

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

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

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

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

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



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

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

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

898 **SECTION 28.** The following shall be codified as Section
899 79-37-503, Mississippi Code of 1972:

900 79-37-503. **Approval of domestication.** (a) A plan of
901 domestication is not effective unless it has been approved:

902 (1) By a domestic domesticating entity:

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

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

908 (i) In the case of an entity that is not a
909 business corporation, a merger, as if the domestication were a
910 merger;

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



915 (C) By all of the interest holders of the entity
916 entitled to vote on or consent to any matter if in the case of an
917 entity that is not a business corporation, neither its organic law
918 nor organic rules provide for approval of a domestication or a
919 merger; and

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

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

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

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

936 **SECTION 29.** The following shall be codified as Section
937 79-37-504, Mississippi Code of 1972:



938 79-37-504. **Amendment or abandonment of plan of**

939 **domestication.** (a) A plan of domestication of a domestic
940 domesticating entity may be amended:

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

943 or

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

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

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

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

961 (b) After a plan of domestication has been approved by a
962 domestic domesticating entity and before a statement of



963 domestication becomes effective, the plan may be abandoned as
964 provided in the plan. Unless prohibited by the plan, a domestic
965 domesticating entity may abandon the plan in the same manner as
966 the plan was approved.

967 (c) If a plan of domestication is abandoned after a
968 statement of domestication has been delivered to the Secretary of
969 State for filing and before the statement becomes effective, a
970 statement of abandonment, signed by the entity, must be delivered
971 to the Secretary of State for filing before the statement of
972 domestication becomes effective. The statement of abandonment
973 takes effect on filing, and the domestication is abandoned and
974 does not become effective. The statement of abandonment must
975 contain:

- 976 (1) The name of the domesticating entity;
- 977 (2) The date on which the statement of domestication
978 was filed by the Secretary of State; and
- 979 (3) A statement that the domestication has been
980 abandoned in accordance with this section.

981 **SECTION 30.** The following shall be codified as Section
982 79-37-505, Mississippi Code of 1972:

983 79-37-505. **Statement of domestication; effective date.** (a)
984 A statement of domestication must be signed by the domesticating
985 entity and delivered to the Secretary of State for filing.

986 (b) A statement of domestication must contain:



987 (1) The name, jurisdiction of formation, and type of
988 entity of the domesticating entity;

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

991 (3) If the statement of domestication is not to be
992 effective upon filing, the later date and time on which it will
993 become effective, which may not be more than ninety (90) days
994 after the date of filing;

995 (4) If the domesticating entity is a domestic entity, a
996 statement that the plan of domestication was approved in
997 accordance with this article or, if the domesticating entity is a
998 foreign entity, a statement that the domestication was approved in
999 accordance with the law of its jurisdiction of formation;

1000 (5) If the domesticated entity is a domestic filing
1001 entity, its public organic record, as an attachment;

1002 (6) If the domesticated entity is a domestic limited
1003 liability partnership, its statement of qualification, as an
1004 attachment; and

1005 (7) If the domesticated entity is a foreign entity that
1006 is not a registered foreign entity, a mailing address to which the
1007 Secretary of State may send any process served on the Secretary of
1008 State pursuant to Section 79-37-506(e).

1009 (c) In addition to the requirements of subsection (b), a
1010 statement of domestication may contain any other provision not
1011 prohibited by law.



1012 (d) If the domesticated entity is a domestic entity, its
1013 public organic record, if any, must satisfy the requirements of
1014 the law of this state, but the public organic record does not need
1015 to be signed and may omit any provision that is not required to be
1016 included in a restatement of the public organic record.

1017 (e) A plan of domestication that is signed by a
1018 domesticating domestic entity and meets all of the requirements of
1019 subsection (b) may be delivered to the Secretary of State for
1020 filing instead of a statement of domestication and on filing has
1021 the same effect. If a plan of domestication is filed as provided
1022 in this subsection, references in this chapter to a statement of
1023 domestication refer to the plan of domestication filed under this
1024 subsection.

1025 (f) A statement of domestication is effective on the date
1026 and time of filing or the later date and time specified in the
1027 statement of domestication.

1028 (g) A domestication in which the domesticated entity is a
1029 domestic entity is effective when the statement of domestication
1030 is effective. A domestication in which the domesticated entity is
1031 a foreign entity is effective on the later of:

1032 (1) The date and time provided by the organic law of
1033 the domesticated entity; or

1034 (2) When the statement is effective.

1035 **SECTION 31.** The following shall be codified as Section
1036 79-37-506, Mississippi Code of 1972:



1037 79-37-506. **Effect of domestication.** (a) When a
1038 domestication becomes effective:
1039 (1) The domesticated entity is:
1040 (A) Organized under and subject to the organic law
1041 of the domesticated entity; and
1042 (B) The same entity without interruption as the
1043 domesticating entity;
1044 (2) All property of the domesticating entity continues
1045 to be vested in the domesticated entity without transfer,
1046 reversion, or impairment;
1047 (3) All debts, obligations, and other liabilities of
1048 the domesticating entity continue as debts, obligations, and other
1049 liabilities of the domesticated entity;
1050 (4) Except as otherwise provided by law or the plan of
1051 domestication, all of the rights, privileges, immunities, powers,
1052 and purposes of the domesticating entity remain in the
1053 domesticated entity;
1054 (5) The name of the domesticated entity may be
1055 substituted for the name of the domesticating entity in any
1056 pending action or proceeding;
1057 (6) If the domesticated entity is a filing entity, its
1058 public organic record is effective;
1059 (7) If the domesticated entity is a limited liability
1060 partnership, its statement of qualification is effective
1061 simultaneously;



1062 (8) The private organic rules of the domesticated
1063 entity that are to be in a record, if any, approved as part of the
1064 plan of domestication are effective; and

1065 (9) The interests in the domesticating entity are
1066 converted to the extent and as approved in connection with the
1067 domestication, and the interest holders of the domesticating
1068 entity are entitled only to the rights provided to them under the
1069 plan of domestication and to any appraisal rights they have under
1070 Section 79-37-109 and the domesticating entity's organic law.

1071 (b) Except as otherwise provided in the organic law or
1072 organic rules of the domesticating entity, the domestication does
1073 not give rise to any rights that an interest holder, governor, or
1074 third party would have upon a dissolution, liquidation, or winding
1075 up of the domesticating entity.

1076 (c) When a domestication becomes effective, a person that
1077 did not have interest holder liability with respect to the
1078 domesticating entity and that becomes subject to interest holder
1079 liability with respect to a domestic entity as a result of the
1080 domestication has interest holder liability only to the extent
1081 provided by the organic law of the entity and only for those
1082 debts, obligations, and other liabilities that arise after the
1083 domestication becomes effective.

1084 (d) When a domestication becomes effective, the interest
1085 holder liability of a person that ceases to hold an interest in a



1086 domestic domesticating entity with respect to which the person had
1087 interest holder liability is subject to the following rules:

1088 (1) The domestication does not discharge any interest
1089 holder liability under the organic law of a domesticating domestic
1090 entity to the extent the interest holder liability arose before
1091 the domestication became effective.

1092 (2) A person does not have interest holder liability
1093 under the organic law of the domestic domesticating entity for any
1094 debt, obligation, or other liability that arises after the
1095 domestication becomes effective.

1096 (3) The organic law of a domestic domesticating entity
1097 continues to apply to the release, collection, or discharge of any
1098 interest holder liability preserved under paragraph (1) as if the
1099 domestication had not occurred.

1100 (4) A person has whatever rights of contribution from
1101 any other person as are provided by other law or the organic rules
1102 of the domestic domesticating entity with respect to any interest
1103 holder liability preserved under paragraph (1) as if the
1104 domestication had not occurred.

1105 (e) When a domestication becomes effective, a foreign entity
1106 that is the domesticated entity may be served with process in this
1107 state for the collection and enforcement of any of its debts,
1108 obligations, and other liabilities in accordance with applicable
1109 law.



1110 (f) If a domesticating entity is a registered foreign
1111 entity, the registration to do business in this state of the
1112 domesticating entity is canceled when the domestication becomes
1113 effective.

1114 (g) A domestication does not require the entity to wind up
1115 its affairs and does not constitute or cause the dissolution of
1116 the entity.

1117 ARTICLE 6

1118 MISCELLANEOUS PROVISIONS

1119 SECTION 32. The following shall be codified as Section
1120 79-37-601, Mississippi Code of 1972:

1121 79-37-601. **Consistency of application.** In applying and
1122 construing this chapter, consideration must be given to the need
1123 to promote consistency of the law with respect to its subject
1124 matter among states that enact it.

1125 SECTION 33. The following shall be codified as Section
1126 79-37-602, Mississippi Code of 1972:

1127 79-37-602. **Relation to Electronic Signatures in Global and**
1128 **National Commerce Act.** This chapter modifies, limits, and
1129 supersedes the Electronic Signatures in Global and National
1130 Commerce Act, 15 USC Section 7001, et seq., but does not modify,
1131 limit, or supersede Section 101(c) of that act, 15 USC Section
1132 7001(c), or authorize electronic delivery of any of the notices
1133 described in Section 103(b) of that act, 15 USC Section 7003(b).



1134 **SECTION 34.** The following shall be codified as Section
1135 79-37-603, Mississippi Code of 1972:

1136 79-37-603. **Savings clause.** This chapter does not affect an
1137 action commenced, proceeding brought, or right accrued before the
1138 effective date of this chapter.

1139 **SECTION 35.** The following shall be codified as Section
1140 79-37-604, Mississippi Code of 1972:

1141 79-37-604. **Severability clause.** If any provision of this
1142 chapter or its application to any person or circumstance is held
1143 invalid, the invalidity does not affect other provisions or
1144 applications of this chapter which can be given effect without the
1145 invalid provision or application, and to this end the provisions
1146 of this chapter are severable.

1147 **SECTION 36.** Section 79-4-13.02, Mississippi Code of 1972, is
1148 amended as follows:

1149 79-4-13.02. (a) A shareholder is entitled to appraisal
1150 rights, and to obtain payment of the fair value of that
1151 shareholder's shares, in the event of any of the following
1152 corporate actions:

1153 (1) Consummation of a merger to which the corporation
1154 is a party (i) if shareholder approval is required for the merger
1155 by Section 79-4-11.04 and the shareholder is entitled to vote on
1156 the merger, except that appraisal rights shall not be available to
1157 any shareholder of the corporation with respect to shares of any
1158 class or series that remain outstanding after consummation of the



1159 merger, or (ii) if the corporation is a subsidiary and the merger
1160 is governed by Section 79-4-11.05;

1161 (2) Consummation of a share exchange to which the
1162 corporation is a party as the corporation whose shares will be
1163 acquired if the shareholder is entitled to vote on the exchange,
1164 except that appraisal rights shall not be available to any
1165 shareholder of the corporation with respect to any class or series
1166 of shares of the corporation that is not exchanged;

1167 (3) Consummation of a disposition of assets pursuant to
1168 Section 79-4-12.02 if the shareholder is entitled to vote on the
1169 disposition;

1170 (4) An amendment of the articles of incorporation with
1171 respect to a class or series of shares that reduces the number of
1172 shares of a class or series owned by the shareholder to a fraction
1173 of a share if the corporation has the obligation or right to
1174 repurchase the fractional share so created; * * *

1175 (5) Any other amendment to the articles of
1176 incorporation, merger, share exchange or disposition of assets to
1177 the extent provided by the articles of incorporation, bylaws or a
1178 resolution of the board of directors * * *;

1179 (6) Consummation of a domestication if the shareholder
1180 does not receive shares in the foreign corporation resulting from
1181 the domestication that have terms as favorable to the shareholder
1182 in all material respects, and represent at least the same
1183 percentage interest of the total voting rights of the outstanding



1184 shares of the corporation, as the shares held by the shareholder
1185 before the domestication; or

1186 (7) Consummation of a conversion of the corporation to
1187 a different form of entity under the Mississippi Entity Conversion
1188 and Domestication Act.

1189 (b) Notwithstanding subsection (a), the availability of
1190 appraisal rights under subsection (a)(1), (2), (3) * * *, (4) and
1191 (6) shall be limited in accordance with the following provisions:

1192 (1) Appraisal rights shall not be available to any
1193 shareholder of the constituent corporations in a corporate
1194 reorganization transaction otherwise covered by subsection (a)(1)
1195 or (2) if: (i) the shareholders of an existing corporation
1196 exchange shares of such corporation for shares of a newly formed
1197 corporation and receive, after the reorganization, the same
1198 proportionate share interest in the new corporation and the rights
1199 and interests of the shareholders in the newly formed corporation
1200 are substantially the same as those in the existing corporation
1201 prior to the transaction; (ii) the newly formed corporation has no
1202 significant assets other than the shares of the existing
1203 corporation; (iii) after the reorganization the newly formed
1204 corporation and its subsidiaries have substantially the same
1205 assets and liabilities, on a consolidated basis, as those of the
1206 existing corporation prior to the transaction; (iv) fractional
1207 shares are neither created nor eliminated as a result of the
1208 transaction; (v) the existing corporation and the newly formed



1209 corporation are the only constituent corporations to such
1210 reorganization; (vi) the existing corporation and the newly formed
1211 corporation are corporations of this state; (vii) the directors of
1212 the existing corporation become the directors of the newly formed
1213 corporation upon the effective time of the corporate
1214 reorganization; (viii) the existing corporation becomes a direct
1215 wholly owned subsidiary of the newly formed corporation; and (ix)
1216 the shareholders of the existing corporation do not recognize gain
1217 or loss for United States federal income tax purposes as
1218 determined by the board of directors of the existing corporation.

1219 (2) Appraisal rights shall not be available for the
1220 holders of shares of any class or series of shares which is:

1221 (i) Listed on the New York Stock Exchange * * * or
1222 designated as a national market system security on an interdealer
1223 quotation system by the National Association of Securities
1224 Dealers, Inc.; or

1225 (ii) Not so listed or designated, but has at least
1226 two thousand (2,000) shareholders and the outstanding shares of
1227 such class or series has a market value of at least Twenty Million
1228 Dollars (\$20,000,000.00) (exclusive of the value of such shares
1229 held by its subsidiaries, senior executives, directors and
1230 beneficial shareholders owning more than ten percent (10%) of such
1231 shares).

1232 (3) The applicability of subsection (b) (2) shall be
1233 determined as of:



1234 (i) The record date fixed to determine the
1235 shareholders entitled to receive notice of, and to vote at, the
1236 meeting of shareholders to act upon the corporate action requiring
1237 appraisal rights; or

1238 (ii) The day before the effective date of such
1239 corporate action if there is no meeting of shareholders.

1240 (4) Subsection (b) (2) shall not be applicable and
1241 appraisal rights shall be available pursuant to subsection (a) for
1242 the holders of any class or series of shares who are required by
1243 the terms of the corporate action requiring appraisal rights to
1244 accept for such shares anything other than cash or shares of any
1245 class or any series of shares of any corporation, or any other
1246 proprietary interest of any other entity, that satisfies the
1247 standards set forth in subsection (b) (2) at the time the corporate
1248 action becomes effective.

1249 (5) Subsection (b) (2) shall not be applicable and
1250 appraisal rights shall be available pursuant to subsection (a) for
1251 the holders of any class or series of shares where the corporate
1252 action is an interested transaction.

1253 (c) Notwithstanding any other provision of this section, the
1254 articles of incorporation as originally filed or any amendment
1255 thereto may limit or eliminate appraisal rights for any class or
1256 series of preferred shares, but any such limitation or elimination
1257 contained in an amendment to the articles of incorporation that
1258 limits or eliminates appraisal rights for any of such shares that



1259 are outstanding immediately prior to the effective date of such
1260 amendment or that the corporation is or may be required to issue
1261 or sell thereafter pursuant to any conversion, exchange or to
1262 other right existing immediately before the effective date of such
1263 amendment shall not apply to any corporate action that becomes
1264 effective within one (1) year of that date if such action would
1265 otherwise afford appraisal rights.

1266 **SECTION 37.** Section 79-13-101, Mississippi Code of 1972, is
1267 amended as follows:

1268 79-13-101. In this chapter:

1269 (1) "Business" includes every trade, occupation, and
1270 profession.

1271 (2) "Debtor in bankruptcy" means a person who is the
1272 subject of:

1273 (i) An order for relief under Title 11 of the
1274 United States Code or a comparable order under a successor statute
1275 of general application; or

1276 (ii) A comparable order under federal, state, or
1277 foreign law governing insolvency.

1278 (3) "Distribution" means a transfer of money or other
1279 property from a partnership to a partner in the partner's capacity
1280 as a partner or to the partner's transferee.

1281 (4) "Domestic partnership" means a partnership whose
1282 internal relations are governed by the laws of this state.



1283 (* * *5) "Foreign limited liability partnership" means
1284 a partnership that:

1285 (i) Is formed under laws other than the laws of
1286 this state; and

1287 (ii) Has the status of a limited liability
1288 partnership under those laws.

1289 (6) "Foreign partnership" means a partnership other
1290 than a domestic partnership.

1291 (* * *7) "Limited liability partnership" or "domestic
1292 limited liability partnership" means a partnership that has filed
1293 a statement of qualification under Section 79-13-1001 and does not
1294 have a similar statement in effect in any other jurisdiction.

1295 (* * *8) "Partnership" means an association of two (2)
1296 or more persons to carry on as co-owners a business for profit
1297 formed under Section 79-13-202, predecessor law, or comparable law
1298 of another jurisdiction.

1299 (* * *9) "Partnership agreement" means the agreement,
1300 whether written, oral, or implied, among the partners concerning
1301 the partnership, including amendments to the partnership
1302 agreement.

1303 (* * *10) "Partnership at will" means a partnership in
1304 which the partners have not agreed to remain partners until the
1305 expiration of a definite term or the completion of a particular
1306 undertaking.



1307 (* * *11) "Partnership interest" or "partner's
1308 interest in the partnership" means all of a partner's interests in
1309 the partnership, including the partner's transferable interest and
1310 all management and other rights.

1311 (* * *12) "Person" means an individual, corporation,
1312 business trust, estate, trust, partnership, association, joint
1313 venture, government, governmental subdivision, agency, or
1314 instrumentality, or any other legal or commercial entity.

1315 (* * *13) "Property" means all property, real,
1316 personal, or mixed, tangible or intangible, or any interest
1317 therein.

1318 (* * *14) "State" means a state of the United States,
1319 the District of Columbia, the Commonwealth of Puerto Rico, or any
1320 territory or insular possession subject to the jurisdiction of the
1321 United States.

1322 (* * *15) "Statement" means a statement of partnership
1323 authority under Section 79-13-303, a statement of denial under
1324 Section 79-13-304, a statement of dissociation under Section
1325 79-13-704, a statement of dissolution under Section 79-13-805, a
1326 statement of merger under Section 79-13-907, a statement of
1327 qualification under Section 79-13-1001, a statement of foreign
1328 qualification under Section 79-13-1102, or an amendment or
1329 cancellation of any of the foregoing.

1330 (16) "Surviving partnership" means a domestic or
1331 foreign partnership into which one or more domestic or foreign



1332 partnerships are merged. A surviving partnership may preexist the
1333 merger or be created by the merger.

1334 (* * *17) "Transfer" includes an assignment,
1335 conveyance, lease, mortgage, deed, and encumbrance.

1336 **SECTION 38.** Section 79-13-401, Mississippi Code of 1972, is
1337 amended as follows:

1338 79-13-401. (a) Each partner is deemed to have an account
1339 that is:

1340 (1) Credited with an amount equal to the money plus the
1341 value of any other property, net of the amount of any liabilities,
1342 the partner contributes to the partnership and the partner's share
1343 of the partnership profits; and

1344 (2) Charged with an amount equal to the money plus the
1345 value of any other property, net of the amount of any liabilities,
1346 distributed by the partnership to the partner and the partner's
1347 share of the partnership losses.

1348 (b) Each partner is entitled to an equal share of the
1349 partnership profits and is chargeable with a share of the
1350 partnership losses in proportion to the partner's share of the
1351 profits.

1352 (c) A partnership shall reimburse a partner for payments
1353 made and indemnify a partner for liabilities incurred by the
1354 partner in the ordinary course of the business of the partnership
1355 or for the preservation of its business or property.



1356 (d) A partnership shall reimburse a partner for an advance
1357 to the partnership beyond the amount of capital the partner agreed
1358 to contribute.

1359 (e) A payment or advance made by a partner which gives rise
1360 to a partnership obligation under subsection (c) or (d)
1361 constitutes a loan to the partnership which accrues interest from
1362 the date of the payment or advance.

1363 (f) Each partner has equal rights in the management and
1364 conduct of the partnership business.

1365 (g) A partner may use or possess partnership property only
1366 on behalf of the partnership.

1367 (h) A partner is not entitled to remuneration for services
1368 performed for the partnership, except for reasonable compensation
1369 for services rendered in winding up the business of the
1370 partnership.

1371 (i) Except as provided in Article 9 of this chapter or the
1372 Mississippi Entity Conversion and Domestication Act, a person may
1373 become a partner only with the consent of all of the partners.

1374 (j) A difference arising as to a matter in the ordinary
1375 course of business of a partnership may be decided by a majority
1376 of the partners. An act outside the ordinary course of business
1377 of a partnership and an amendment to the partnership agreement may
1378 be undertaken only with the consent of all of the partners.

1379 (k) This section does not affect the obligations of a
1380 partnership to other persons under Section 79-13-301.



1381 **SECTION 39.** Section 79-13-502, Mississippi Code of 1972, is
1382 amended as follows:

1383 79-13-502. Except as provided in Article 9 of this chapter
1384 or the Mississippi Entity Conversion and Domestication Act, the
1385 only transferable interest of a partner in the partnership is the
1386 partner's share of the profits and losses of the partnership and
1387 the partner's right to receive distributions. The interest of a
1388 partner, whether or not transferable, is personal property.

1389 **SECTION 40.** Section 79-13-908, Mississippi Code of 1972, is
1390 amended as follows:

1391 79-13-908. This article is not exclusive. Partnerships may
1392 be converted or merged in any other manner provided or permitted
1393 by law.

1394 **SECTION 41.** Section 79-14-101, Mississippi Code of 1972, is
1395 amended as follows:

1396 79-14-101. As used in this chapter, unless the context
1397 otherwise requires:

1398 (1) "Certificate of limited partnership" means the
1399 certificate referred to in Section 79-14-201, and the certificate
1400 as amended or restated.

1401 (2) "Contribution" means any cash, property, services
1402 rendered, or a promissory note or other obligation to contribute
1403 cash or property or to perform services, which a partner
1404 contributes to a limited partnership in his capacity as a partner.



1405 (3) "Deliver" or "delivery" means any method of
1406 delivery used in conventional commercial practice, including
1407 delivery by hand, mail, commercial delivery, and electronic
1408 transmission. If delivery is to the Secretary of State, delivery
1409 may be made by electronic transmission if, to the extent, and in
1410 the manner permitted by the Secretary of State.

1411 (4) "Electronic transmission" or "electronically
1412 transmitted" means any process of communication not directly
1413 involving the physical transfer of paper that is suitable for the
1414 retention, retrieval, and reproduction of information by the
1415 recipient.

1416 (5) "Entity" means any association or legal entity
1417 organized to conduct business, including, without limitation,
1418 limited partnerships, for-profit and nonprofit corporations,
1419 general partnerships, limited liability partnerships, limited
1420 liability companies, joint ventures, joint-stock companies and
1421 business trusts.

1422 (6) "Event of withdrawal of a general partner" means an
1423 event that causes a person to cease to be a general partner as
1424 provided in Section 79-14-402.

1425 (7) "Foreign limited partnership" means a partnership
1426 formed under the laws of another state or under the laws of a
1427 foreign country or foreign jurisdiction and having as partners one
1428 or more general partners and one or more limited partners (or
1429 their equivalence under any name).



1430 (8) "General partner" means a person who has been
1431 admitted to a limited partnership as a general partner in
1432 accordance with the partnership agreement or the provisions of
1433 this chapter and named in the certificate of limited partnership
1434 as a general partner.

1435 (9) "Limited partner" means a person who has been
1436 admitted to a limited partnership as a limited partner in
1437 accordance with the partnership agreement.

1438 (10) "Limited partnership" and "domestic limited
1439 partnership" mean a partnership formed by two (2) or more persons
1440 under the laws of this state and having one or more general
1441 partners and one or more limited partners. The terms include a
1442 limited liability limited partnership.

1443 (11) "Organizational documents" means the basic
1444 document or documents that create or determine the internal
1445 governance of an entity.

1446 (12) "Partner" means a limited or general partner.

1447 (13) "Partnership agreement" means any valid agreement,
1448 written or oral, of the partners as to the affairs of a limited
1449 partnership and the conduct of its business.

1450 (14) "Partnership interest" means a partner's share of
1451 the profits and losses of a limited partnership and the right to
1452 receive distributions of limited partnership assets.

1453 (15) "Person" means an individual, corporation,
1454 business trust, estate, trust, partnership, limited partnership,



1455 association, joint venture, government, governmental subdivision
1456 or agency, any other legal or commercial entity, nominee or any
1457 individual or entity in any representative capacity.

1458 (16) "Sign" or "signature" includes any manual,
1459 facsimile, conformed or electronic signature.

1460 (17) "State" means a state, territory, or possession of
1461 the United States, the District of Columbia, or the Commonwealth
1462 of Puerto Rico.

1463 **SECTION 42.** Section 79-14-105, Mississippi Code of 1972, is
1464 amended as follows:

1465 79-14-105. (a) Each limited partnership shall keep at the
1466 office referred to in Section 79-14-104(a)(1) the following:

1467 (1) A current list of the full name and last-known
1468 business address of each partner separately identifying in
1469 alphabetical order the general partners and the limited partners;

1470 (2) A copy of the certificate of limited partnership
1471 and all certificates of amendment thereto, together with executed
1472 copies of any powers of attorney pursuant to which any certificate
1473 has been executed;

1474 (3) Copies of the limited partnership's federal, state
1475 and local income tax returns and reports, if any, for the six (6)
1476 most recent years;

1477 (4) Copies of any then effective written partnership
1478 agreements and of any financial statements of the limited
1479 partnership for the six (6) most recent years; * * *



1480 (5) A copy of any statement of conversion or
1481 domestication filed under the Mississippi Entity Conversion and
1482 Domestication Act; and

1483 (* * *6) Unless contained in a written partnership
1484 agreement, a writing setting out:

1485 (i) The amount of cash and a description and
1486 statement of the agreed value of the other property or services
1487 contributed by each partner and which each partner has agreed to
1488 contribute;

1489 (ii) The times at which or events on the happening
1490 of which any additional contributions agreed to be made by each
1491 partner are to be made;

1492 (iii) Any right of a partner to receive, or of a
1493 general partner to make, distributions to a partner which include
1494 a return of all or any part of the partner's contribution; and

1495 (iv) Any events upon the happening of which the
1496 limited partnership is to be dissolved and its affairs wound up.

1497 (b) The records specified under this section are subject to
1498 inspection and copying at the reasonable request, and at the
1499 expense, of any partner during ordinary business hours.

1500 **SECTION 43.** Section 79-14-201, Mississippi Code of 1972, is
1501 amended as follows:

1502 79-14-201. (a) In order to form a limited partnership, a
1503 certificate of limited partnership must be signed and delivered to



1504 the Office of the Secretary of State for filing. The certificate
1505 must set forth:

1506 (1) The name of the limited partnership;

1507 (2) The information required by Section 79-35-5(a);

1508 (3) The name and the street and mailing address of each
1509 general partner;

1510 (4) The latest date upon which the limited partnership
1511 is to dissolve; and

1512 (5) Any other matters the general partners determine to
1513 include therein.

1514 (b) A limited partnership is formed at the date and time of
1515 the filing of the certificate of limited partnership in the Office
1516 of the Secretary of State, as evidenced by such means as the
1517 Secretary of State may use for the purpose of recording the date
1518 and time of filing, or at any later time specified in the
1519 certificate of limited partnership if, in either case, there has
1520 been substantial compliance with the requirements of this section.

1521 (c) For all purposes, a copy of the certificate of limited
1522 partnership duly certified by the Secretary of State is conclusive
1523 evidence of the formation of a limited partnership and prima facie
1524 evidence of its existence.

1525 (d) If any provision of a partnership agreement is
1526 inconsistent with the statement of conversion or domestication
1527 filed under the Mississippi Entity Conversion and Domestication
1528 Act:



1529 (1) The partnership agreement prevails as to partners
1530 and transferees; and

1531 (2) The filed document prevails as to persons, other
1532 than partners and transferees, that reasonably rely on the filed
1533 record to their detriment.

1534 **SECTION 44.** Section 79-14-202, Mississippi Code of 1972, is
1535 amended as follows:

1536 79-14-202. (a) A certificate of limited partnership is
1537 amended by delivery of a certificate of amendment thereto to the
1538 Office of the Secretary of State for filing. The certificate
1539 shall set forth:

1540 (1) The name of the limited partnership;

1541 (2) The future effective date of the amendment, which
1542 must be a date certain, unless it is effective upon the filing of
1543 the certificate of amendment; and

1544 (3) The amendment to the certificate.

1545 (b) A general partner who becomes aware that any statement
1546 in a certificate of limited partnership was false when made or
1547 that any arrangements or other facts described have changed,
1548 making the certificate inaccurate in any respect, shall promptly
1549 amend the certificate, or if appropriate, deliver to the Secretary
1550 of State for filing a statement of change of agent pursuant to
1551 Section 79-35-8.

1552 (c) Notwithstanding the requirements of subsection (b) of
1553 this section, within thirty (30) days after the happening of any



1554 of the following events an amendment to a certificate of limited
1555 partnership reflecting the occurrence of the event or events shall
1556 be delivered to the Office of the Secretary of State for filing:

- 1557 (1) The admission of a new general partner;
- 1558 (2) The withdrawal of a general partner;
- 1559 (3) The continuation of the business under Section
1560 79-14-801 after an event of withdrawal of a general partner;
- 1561 (4) A change in the name of the limited partnership; or
- 1562 (5) A change in the street or mailing address of the
1563 office of the limited partnership.

1564 (d) A certificate of limited partnership may be amended at
1565 any time for any other proper purpose the general partners may
1566 determine.

1567 (e) Except as provided in Section 79-14-402(b), if an
1568 amendment to a certificate of limited partnership is delivered to
1569 the Office of the Secretary of State in compliance with subsection
1570 (c) of this section, no person is subject to liability because the
1571 amendment was not filed earlier.

1572 (f) A certificate of limited partnership may also be amended
1573 by filing a statement of conversion or domestication under the
1574 Mississippi Entity Conversion and Domestication Act.

1575 **SECTION 45.** Section 79-14-204, Mississippi Code of 1972, is
1576 amended as follows:



1577 79-14-204. (a) Each certificate required by this article to
1578 be filed in the Office of the Secretary of State must be signed in
1579 the following manner:

1580 (1) An original certificate of limited partnership must
1581 be signed by all general partners;

1582 (2) A certificate of amendment must be signed by at
1583 least one (1) general partner and by each other general partner
1584 designated in the certificate as a new general partner; and

1585 (3) Certificates of dissolution and cancellation must
1586 be signed by all general partners or, if there is no general
1587 partner, by the limited partners conducting the winding up of the
1588 limited partnership affairs under Section 79-14-803. A document
1589 required or permitted to be filed under this chapter which
1590 contains a copy of a signature, however made, is acceptable for
1591 filing.

1592 (b) Any person may sign a certificate, a partnership
1593 agreement or any amendment to either by an attorney-in-fact, but a
1594 power of attorney to sign a certificate relating to the admission
1595 of a general partner must specifically describe the admission.

1596 (c) Each record delivered to the Secretary of State for
1597 filing pursuant to the Mississippi Entity Conversion and
1598 Domestication Act must be signed by each general partner listed in
1599 the certificate of limited partnership.

1600 **SECTION 46.** Section 79-14-701, Mississippi Code of 1972, is
1601 amended as follows:



1602 79-14-701. Except as provided in the Mississippi Entity
1603 Conversion and Domestication Act, the only interest of a partner
1604 which is transferable is the partner's transferable interest. A
1605 partnership interest of a partner, whether or not transferable, is
1606 personal property. A partner has no interest in specific limited
1607 partnership property.

1608 **SECTION 47.** Section 79-29-123, Mississippi Code of 1972, is
1609 amended as follows:

1610 79-29-123. (1) An operating agreement must initially be
1611 agreed to by all of the members. Except as otherwise provided in
1612 subsections (2) and (3) of this section, the certificate of
1613 formation or operating agreement governs:

1614 (a) The affairs of a limited liability company, the
1615 conduct of its business and the relations of its members among the
1616 members as members and between the members and the limited
1617 liability company;

1618 (b) The rights, powers and duties under this chapter of
1619 a person in the capacity of member, manager, officer or other
1620 person who is a party to or is otherwise bound by the operating
1621 agreement;

1622 (c) The activities of the limited liability company and
1623 the conduct of those activities; and

1624 (d) The means and conditions for amending the operating
1625 agreement.



1626 (2) To the extent that: (a) the provisions of the operating
1627 agreement are not inconsistent with the certificate of formation,
1628 the operating agreement governs the matters described in
1629 paragraphs (a) through (d) of subsection (1) of this section; (b)
1630 the certificate of formation or operating agreement does not
1631 provide for the method by which an operating agreement may be
1632 amended, then all of the members must agree to any amendment of an
1633 operating agreement, except an amendment that occurs as the result
1634 of a merger with a domestic or foreign limited liability company
1635 must be approved by a majority of the members; and (c) the
1636 certificate of formation or operating agreement does not otherwise
1637 provide for a matter described in paragraphs (a) through (d) of
1638 subsection (1) of this section, this chapter governs the matter.

1639 (3) Except as provided in this subsection (3), the
1640 provisions of this chapter that relate to the matters described in
1641 paragraphs (a) through (d) of subsection (1) of this section may
1642 be waived, restricted, limited, eliminated or varied by the
1643 certificate of formation or operating agreement. In addition to
1644 the restrictions set forth in subsections (4) and (5) of this
1645 section, the certificate of formation or the operating agreement
1646 may not:

1647 (a) Vary the requirement set forth in subsection (1) of
1648 this section that the initial operating agreement must be agreed
1649 to by all of the members;



1650 (b) Vary a limited liability company's capacity to sue
1651 and be sued in its own name;

1652 (c) Vary the law applicable under Section 79-29-119;

1653 (d) Vary the power of the court under Section
1654 79-29-209;

1655 (e) Restrict the right to approve a merger under
1656 Section 79-29-223(e) to a member who will have personal liability
1657 with respect to a survivor;

1658 (f) Restrict the right to approve a conversion under
1659 the Mississippi Entity Conversion and Domestication Act of a
1660 member that will have personal liability with respect to an entity
1661 following the conversion.

1662 (* * *g) Restrict the right to approve an asset sale
1663 agreement under Section 79-29-233(e) to a member who will have
1664 personal liability with respect to any entity;

1665 (* * *h) Eliminate the implied contractual covenant of
1666 good faith and fair dealing of a member, manager, officer or other
1667 person who is a party to the operating agreement or who is
1668 otherwise bound by the operating agreement;

1669 (* * *i) Unreasonably restrict the duties and rights
1670 stated in Section 79-29-315;

1671 (* * *j) Waive the requirement of Section 79-29-503(1)
1672 that a contribution obligation be in writing;



1673 (* * *k) Vary the requirement to windup a limited
1674 liability company's business following the filing of a certificate
1675 of dissolution as specified in Section 79-29-801;

1676 (* * *l) Vary the manner of the distribution of assets
1677 in connection with the winding-up of a limited liability company's
1678 business as required by Section 79-29-813(1) (a);

1679 (* * *m) Vary the power of a court to decree
1680 dissolution in the circumstances specified in Section 79-29-803(1)
1681 or to appoint trustees or receivers as specified in Section
1682 79-29-815;

1683 (* * *n) Vary the requirements of Sections 79-29-817
1684 and 79-29-819;

1685 (* * *o) Vary or modify any provision of Article 9 of
1686 this chapter unless otherwise expressly provided in Article 9 that
1687 the certificate of formation or the operating agreement may vary
1688 or modify such provision;

1689 (* * *p) Unreasonably restrict the right of a member
1690 to maintain an action under Article 11 of this chapter;

1691 (* * *q) Vary any requirement set forth in this
1692 chapter that an agreement must be contained in either the
1693 certificate of formation or a written operating agreement to be
1694 enforceable; or

1695 (* * *r) Vary any provision set forth in this chapter
1696 relating to filing, fees or any action with or by the Secretary of
1697 State's office.



1698 (4) The certificate of formation or an operating agreement
1699 may provide for the limitation or elimination of any and all
1700 liabilities of any manager, member, officer or other person who is
1701 a party to or is otherwise bound by the operating agreement for
1702 any action taken, or failure to take any action, as a manager or
1703 member or other person, including, for breach of contract and for
1704 breach of duties, including all or any fiduciary duties, of a
1705 member, manager, officer or other person to a limited liability
1706 company or to its members or to another member or manager or
1707 officer or to another person; provided, that the certificate of
1708 formation or an operating agreement may not limit or eliminate
1709 liability for:

1710 (a) The amount of a financial benefit by a member or
1711 manager to which the member or manager is not entitled;

1712 (b) An intentional infliction of harm on the limited
1713 liability company or the members;

1714 (c) An intentional violation of criminal law;

1715 (d) A violation of Section 79-29-611;

1716 (e) The amount of a distribution in violation of
1717 Section 79-29-813(1); or

1718 (f) Any act or omission that constitutes a bad faith
1719 violation of the implied contractual covenant of good faith and
1720 fair dealing.

1721 (5) Indemnification. (a) A limited liability company may,
1722 and shall have the power to, indemnify and hold harmless any



1723 member, manager, officer or other person from and against any and
1724 all claims and demands whatsoever, except a limited liability
1725 company and an operating agreement shall not indemnify any member,
1726 manager, officer or other person from and against any claims or
1727 demands in connection with a proceeding by or in the right of the
1728 limited liability company in which the member, manager or other
1729 person was:

1730 (i) Found to have engaged in acts or omissions
1731 that constitute fraudulent conduct and was adjudged liable for
1732 claims based on such conduct; or

1733 (ii) Was found to have engaged in any actions
1734 described in subsection (4) of this section and was adjudged
1735 liable for claims based on such actions.

1736 (b) A limited liability company shall indemnify a
1737 member, manager, officer or other person who was wholly
1738 successful, on the merits or otherwise, in the defense of any
1739 proceeding to which the person was a party because the person is
1740 or was a member, manager, officer or agent of the limited
1741 liability company against reasonable expenses incurred by the
1742 member, manager, officer or agent in connection with the
1743 proceeding.

1744 (c) Each such indemnity may continue as to a person who
1745 has ceased to have the capacity referred to in subsection (5) (a)
1746 of this section and may inure to the benefit of the heirs,
1747 beneficiaries and personal representatives of such person.



1748 (6) General standards of conduct. Subject to the
1749 certificate of formation or the terms of a written operating
1750 agreement or other written agreement, which may expand, eliminate
1751 or restrict the following, except as provided in subsection (4)(f)
1752 of this section,

1753 (a) A manager:

1754 (i) Shall discharge the duties of a manager;

1755 1. In good faith and with fair dealing;

1756 2. With the care an ordinarily prudent person
1757 in a like position would exercise under similar circumstances; and

1758 3. In a manner the manager reasonably
1759 believes to be in the best interests of the limited liability
1760 company.

1761 (ii) Shall not be liable to a limited liability
1762 company or to another member or manager or to another person who
1763 is a party to or is otherwise bound by an operating agreement for
1764 the following:

1765 1. For any action taken as a manager, or any
1766 failure to take any action, if such manager performed the duties
1767 of such manager in compliance with subsection (6)(a)(i) of this
1768 section.

1769 2. For breach of fiduciary duty for the
1770 manager's good-faith reliance on the provisions of the operating
1771 agreement.

1772 (b) An officer:



1773 (i) Shall discharge the duties of an officer;
1774 1. In good faith and with fair dealing;
1775 2. With the care an ordinarily prudent person
1776 in a like position would exercise under similar circumstances; and
1777 3. In a manner the officer reasonably
1778 believes to be in the best interests of the limited liability
1779 company.

1780 (ii) Shall not be liable to a limited liability
1781 company or to another member or manager or to another person who
1782 is a party to or is otherwise bound by an operating agreement for
1783 the following:

1784 1. For any action taken as an officer, or any
1785 failure to take any action, if such officer performed the duties
1786 of such member in compliance with subsection (6)(b)(i) of this
1787 section; and

1788 2. For breach of fiduciary duty for the
1789 officer's good-faith reliance on the provisions of the operating
1790 agreement.

1791 (c) A member of a member-managed limited liability
1792 company:

1793 (i) Shall discharge the duties of a member of a
1794 member-managed limited liability company;
1795 1. In good faith and with fair dealing;
1796 2. With the care an ordinarily prudent person
1797 in a like position would exercise under similar circumstances; and



1798 3. In a manner the person reasonably believes
1799 to be in the best interests of the limited liability company.

1800 (ii) Shall not be liable to a limited liability
1801 company or to another member or manager or to another person who
1802 is a party to or is otherwise bound by an operating agreement for
1803 the following:

1804 1. For any action taken as a member of a
1805 member-managed limited liability company, or any failure to take
1806 any action, if such member performed the duties of such member in
1807 compliance with subsection (6) (c) (i) of this section.

1808 2. For breach of fiduciary duty for the
1809 member's good faith reliance on the provisions of the operating
1810 agreement.

1811 (d) To the extent that, at law or in equity, a member
1812 of a manager-managed limited liability company or other person has
1813 duties, including fiduciary duties set forth in this chapter, to a
1814 limited liability company or to another member or manager or to
1815 another person who is a party to or is otherwise bound by an
1816 operating agreement, such member's or other person's fiduciary
1817 duties may be expanded, restricted or eliminated by provisions in
1818 the certificate of formation or the written operating agreement.

1819 (e) The operating agreement may:

1820 (i) Identify specific categories of activities
1821 that do not violate the duty of loyalty;



1822 (ii) Alter or eliminate any other fiduciary duty,
1823 including eliminating particular aspects of that duty; and
1824 (iii) If not manifestly unreasonable, prescribe
1825 the standards by which to measure the performance of the implied
1826 contractual covenant of good faith and fair dealing under Section
1827 79-29-123(3)(g).

1828 (7) Any agreement relating to or governing any event, act,
1829 omission, duty, right, power or liability under or pursuant to the
1830 following sections of this chapter must be expressly contained in
1831 either the certificate of formation or a written operating
1832 agreement in order to be enforceable:

- 1833 (a) Section 79-29-123(4);
- 1834 (b) Section 79-29-123(6);
- 1835 (c) Section 79-29-231;
- 1836 (d) Section 79-29-301(6);
- 1837 (e) Section 79-29-303;
- 1838 (f) Section 79-29-309;
- 1839 (g) Section 79-29-313(1);
- 1840 (h) Section 79-29-801; and
- 1841 (i) Section 79-29-1211.

1842 (8) A court of equity:
1843 (a) May enforce an operating agreement by injunction or
1844 by such other relief that the court in its discretion determines
1845 to be fair and appropriate in the circumstances or, when the



1846 provisions of Section 79-29-803 are applicable, the court may
1847 order dissolution of the limited liability company; and

1848 (b) Shall decide any claim under subsection (6)(e)(iii)
1849 of this section that such standard is manifestly unreasonable.

1850 The court:

1851 (i) Shall make its determination as of the time
1852 the challenged term became part of the operating agreement and by
1853 considering only circumstances existing at that time; and

1854 (ii) May invalidate the term only if, in light of
1855 the purposes and activities of the limited liability company, it
1856 is readily apparent that:

1857 1. The objective of the term is unreasonable;
1858 or

1859 2. The term is an unreasonable means to
1860 achieve the provision's objective.

1861 **SECTION 48.** Section 79-13-902, Mississippi Code of 1972,
1862 which provides for conversion of a partnership to a limited
1863 partnership, is repealed.

1864 **SECTION 49.** Section 79-13-903, Mississippi Code of 1972,
1865 which is reserved for future enactment, is repealed.

1866 **SECTION 50.** Section 79-13-904, Mississippi Code of 1972,
1867 which provides for the effect of a conversion, is repealed.

1868 **SECTION 51.** This act shall take effect and be in force from
1869 and after January 1, 2015.

