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13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15 NEW SECTION. SECTION 1. DEFINITIONS. AS USED IN [SECTIONS 1 THROUGH 9], THE FOLLOWING

16 DEFINITIONS APPLY:

17 (1) "DOMESTIC", WITH RESPECT TO AN ENTITY, MEANS GOVERNED AS TO ITS INTERNAL AFFAIRS BY THE
18 LAW OF THIS STATE.

20 (2) “DOMESTICATED ENTITY” MEANS THE DOMESTICATING ENTITY AS IT CONTINUES IN EXISTENCE AFTER A

22 (3) "DOMESTICATING ENTITY" MEANS THE DOMESTIC ENTITY THAT APPROVES A PLAN OF DOMESTICATION
23 PURSUANT TO [SECTION 3] OR THE FOREIGN ENTITY THAT APPROVES A DOMESTICATION PURSUANT TO THE LAW OF ITS
24 JURISDICTION OF FORMATION.

25 (4) "DOMESTICATION" MEANS A TRANSACTION AUTHORIZED BY [SECTION 2].

27 (5) "ENTITY" MEANS A LIMITED LIABILITY COMPANY, PROFESSIONAL LIMITED LIABILITY COMPANY, GENERAL
28 PARTNERSHIP, LIMITED LIABILITY PARTNERSHIP, PROFESSIONAL LIMITED LIABILITY PARTNERSHIP, LIMITED PARTNERSHIP,

1 LIMITED LIABILITY LIMITED PARTNERSHIP, BENEFIT CORPORATION, OR NONPROFIT CORPORATION.

2

3 (6) “FILING ENTITY” MEANS AN ENTITY WHOSE FORMATION REQUIRES THE FILING OF A PUBLIC ORGANIC

4 RECORD. THE TERM DOES NOT INCLUDE A LIMITED LIABILITY PARTNERSHIP.

5 (7) “FOREIGN”, WITH RESPECT TO AN ENTITY, MEANS GOVERNED AS TO ITS INTERNAL AFFAIRS BY THE LAW

6 OF A JURISDICTION OTHER THAN THIS STATE.

7 (8) “INTEREST” MEANS:

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9 (A) A MEMBERSHIP INTEREST IN A BENEFIT CORPORATION OR A NONPROFIT CORPORATION; AND

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11 (B) INTEREST AS DEFINED IN 35-14-140 FOR ANY OTHER ENTITY.

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13 (9) “INTEREST HOLDER” MEANS A PERSON WHO HOLDS OF RECORD AN INTEREST.

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15 (10) “INTEREST HOLDER LIABILITY” HAS THE SAME MEANING AS PROVIDED IN 35-14-140.

16

17 (11) “JURISDICTION”, USED TO REFER TO A POLITICAL ENTITY, MEANS THE UNITED STATES, A STATE, A

18 TRIBAL GOVERNMENT, A FOREIGN COUNTRY, OR A POLITICAL SUBDIVISION OF A FOREIGN COUNTRY.

19

20 (12) “ORGANIC RULES” MEANS THE PUBLIC ORGANIC RECORD AND PRIVATE ORGANIC RULES OF A DOMESTIC

21 OR FOREIGN ENTITY.

22

23 (13) “ORGANIC LAW” MEANS THE STATUTE GOVERNING THE INTERNAL AFFAIRS OF A DOMESTIC OR FOREIGN

24 ENTITY.

25

26 (14) “PLAN OF DOMESTICATION” MEANS A PLAN UNDER [SECTION 3].

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28 (14) “PRIVATE ORGANIC RULES” HAS THE SAME MEANING AS PROVIDED IN 35-14-140.

28 (16) “PUBLIC ORGANIC RECORD” HAS THE SAME MEANING AS PROVIDED IN 35-14-140.

1 (17) “RECORD”, USED AS A NOUN, MEANS INFORMATION THAT IS INSCRIBED ON A TANGIBLE MEDIUM THAT IS

2 STORED IN AN ELECTRONIC OR OTHER MEDIUM AND IS RETRIEVABLE IN PERCEIVABLE FORM.

3 (18) “REGISTERED FOREIGN ENTITY” MEANS A FOREIGN ENTITY THAT IS REGISTERED TO DO BUSINESS IN

4 THIS STATE PURSUANT TO THE APPLICABLE ORGANIC LAWS OF THIS STATE.

5 (19) “TYPE OF ENTITY” HAS THE SAME MEANING AS PROVIDED IN 35-14-140.

8 **NEW SECTION. Section 2. Domestication authorized.** (1) ~~Except as otherwise provided in this~~

9 ~~section, by~~ By complying with [sections 1 through 6_9], a domestic entity may become a domestic entity of the

10 same type of entity in a foreign jurisdiction if the domestication is authorized by the law of the foreign

11 jurisdiction.

12 (2) ~~Except as otherwise provided in this section, by~~ By complying with the provisions of [sections 1

13 through 6_9] applicable to foreign entities, a foreign entity may become a domestic entity of the same type of

14 entity in this state if the domestication is authorized by the law of the foreign entity's jurisdiction of formation.

16 (3) ~~For the purposes of [sections 1 through 6], the term "domestic entity" means a limited liability~~

17 ~~company, professional limited liability company, limited liability partnership, professional limited liability~~

18 ~~partnership, benefit corporation, or nonprofit corporation.~~

20 **NEW SECTION. Section 3. Plan of domestication.** (1) A domestic entity may become a foreign

21 entity in a domestication by approving a plan of domestication. The plan must be in a record and must contain:

22 (a) the name and type of entity of the domesticating entity;

23 (b) the name and jurisdiction of formation of the domesticated entity;

24 (c) the manner of converting the interests in the domesticating entity into interests, securities,

25 obligations, money, other property, rights to acquire interests or securities, or any combination of these;

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

27 (e) the full text of the private organic rules of the domesticated entity that are proposed to be in a

28 record;

7 **NEW SECTION. Section 4. Approval of domestication.** (1) A plan of domestication is not effective
8 unless it has been approved:

9 (a) by a domestic domesticating entity:

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

11 (ii) IF ITS ORGANIC RULES DO NOT PROVIDE FOR APPROVAL OF A DOMESTICATION, IN ACCORDANCE WITH

12 THE REQUIREMENTS, IF ANY, IN ITS ORGANIC LAW AND ORGANIC RULES FOR APPROVAL OF A MERGER, AS IF THE
13 DOMESTICATION WERE A MERGER; and OR

14 (ii) (iii) by all of the interest holders of the entity entitled to vote on or consent to any matter if its
15 organic law or organic rules do not provide for approval of a domestication OR A MERGER; and

16 (b) in a record, by each interest holder of a domestic domesticating entity that will have interest
17 holder liability for debts, obligations, and other liabilities that arise after the domestication becomes effective,
18 unless the entity is NOT a nonprofit corporation for which:

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

22 (ii) the interest holder consented in a record to or voted for that provision of the organic rules or
23 became an interest holder after the adoption of that provision

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

NEW SECTION. Section 5. Amendment or abandonment of plan of domestication. (1) A plan of domestication of a domestic domesticating entity may be amended:

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

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

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

12 (iii) any other terms or conditions of the plan if the change would adversely affect the interest
13 holder in any material respect.

14 (2) After a plan of domestication has been approved by a domestic domesticating entity and before
15 ~~a statement~~ ARTICLES of domestication becomes ~~BECOME~~ effective, the plan may be abandoned as provided in
16 the plan. Unless prohibited by the plan, a domestic domesticating entity may abandon the plan in the same
17 manner as the plan was approved.

18 (3) If a plan of domestication is abandoned after a statement ARTICLES of domestication has HAVE
19 been delivered to the secretary of state for filing and before the statement becomes ARTICLES OF DOMESTICATION
20 BECOME effective, a statement ARTICLES of abandonment, signed by the entity, must be delivered to the
21 secretary of state for filing before the statement ARTICLES of domestication becomes effective. The statement
22 ARTICLES of abandonment takes TAKE effect on filing, and the domestication is abandoned and does not become
23 effective. The statement ARTICLES of abandonment must contain:

24 (a) the name of the domesticating entity;

25 (b) the date on which the statement ARTICLES of domestication was WERE filed by the secretary of
26 state: and

27 (c) a statement that the domestication has been abandoned in accordance with this section.

1 **NEW SECTION. Section 6. Statement ARTICLES of domestication -- effective date of**

2 **domestication.** (1) A statement ARTICLES of domestication must be signed by the domesticating entity and
3 delivered to the secretary of state for filing.

4 (2) A statement ARTICLES of domestication must contain:

5 (a) the name, jurisdiction of formation, and type of entity of the domesticating entity;

6 (b) the name and jurisdiction of formation of the domesticated entity;

7 (c) if the statement ARTICLES of domestication is ARE not to be effective upon filing, the later date
8 and time on which it THEY will become effective, which may not be more than 90 days after the date of filing;

9 (d) if the domesticating entity is a domestic entity, a statement that the plan of domestication was
10 approved in accordance with [sections 1 through 6.9] or, if the domesticating entity is a foreign entity, a
11 statement that the domestication was approved in accordance with the law of its jurisdiction of formation;

12 (e) if the domesticated entity is a domestic filing entity, its public organic record as an attachment;

14 (F) IF THE DOMESTICATED ENTITY IS A DOMESTIC LIMITED LIABILITY PARTNERSHIP, ITS APPLICATION FOR

15 REGISTRATION OF A LIMITED LIABILITY PARTNERSHIP AS AN ATTACHMENT; and

16 (f) (G) if the domesticated entity is a foreign entity that is not a registered foreign entity, a statement
17 designating a registered agent.

18 (3) In addition to the requirements of subsection (2), a statement ARTICLES of domestication may
19 contain any other provision not prohibited by law.

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

23 (5) A plan of domestication that is signed by a domesticating domestic entity and meets all of the
24 requirements of subsection (2) may be delivered to the secretary of state for filing instead of a statement
25 ARTICLES of domestication and upon filing has the same effect. If a plan of domestication is filed as provided in
26 this subsection, references in this chapter to a statement ARTICLES of domestication refer to the plan of
27 domestication filed under this subsection.

28 (6) A statement ARTICLES of domestication is ARE effective on the date and time of filing or the later

1 date and time specified in the ~~statement~~ARTICLES of domestication.

2 (7) A domestication in which the domesticated entity is a domestic entity is effective when the

3 ~~statement~~ARTICLES of domestication isARE effective. A domestication in which the domesticated entity is a

4 foreign entity is effective on the later of:

5 (a) the date and time provided by the organic law of the domesticated entity; or

6 (b) when the ~~statement~~ isARTICLES OF DOMESTICATION ARE effective.

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8 **NEW SECTION. Section 7. Effect of domestication.** (1) When a domestication becomes effective:

9 (a) the domesticated entity:

10 (i) is organized under and subject to the organic law of the domesticated entity; and

11 (ii) is the same entity without interruption as the domesticating entity;

12 (b) all property of the domesticating entity continues to be vested in the domesticated entity

13 without transfer, reversion, or impairment;

14 (c) all debts, obligations, and other liabilities of the domesticating entity continue as debts,

15 obligations, and other liabilities of the domesticated entity;

16 (d) except as otherwise provided by law or by the plan of domestication, all of the rights, privileges,

17 immunities, powers, and purposes of the domesticating entity remain in the domesticated entity;

18 (e) the name of the domesticated entity may be substituted for the name of the domesticating

19 entity in any pending action or proceeding;

20 (f) if the domesticated entity is a filing entity, its public organic record is effective;

21 (g) the private organic rules of the domesticated entity that are to be in a record, if any, approved

22 as part of the plan of domestication are effective; and

23 (h) the interests in the domesticating entity are converted to the extent of and as approved in

24 connection with the domestication and the domesticating entity's organic law. The interest holders of the

25 domesticating entity are entitled only to the rights provided to them under the plan of domestication and to any

26 appraisal rights THEY MAY HAVE UNDER THE ORGANIC LAWS OF THE DOMESTICATING ENTITY AND ANY CONTRACTUAL

27 APPRAISAL RIGHTS THEY MAY HAVE UNDER THE ORGANIC RULES OF THE DOMESTICATING ENTITY.

28 (2) Except as otherwise provided in the organic law or organic rules of the domesticating entity, the

1 domestication does not give rise to any rights that an interest holder or third party would have following a
2 dissolution, liquidation, or winding up of the domesticating entity.

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

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

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

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

17 (c) The organic law of the domestic domesticating entity continues to apply to the release,
18 collection, or discharge of any interest holder liability preserved under subsection (4)(a) as if the domestication
19 had not occurred.

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

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

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

28 (7) A domestication does not require the entity to wind up its affairs and does not constitute or

1 cause the dissolution of the entity.

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3 **NEW SECTION. SECTION 8. NONEXCLUSIVITY.** A TRANSACTION UNDER [SECTIONS 1 THROUGH 9] THAT
4 PRODUCES A CERTAIN RESULT MAY NOT PRECLUDE THE SAME RESULT FROM BEING ACCOMPLISHED IN ANY OTHER
5 MANNER PERMITTED BY LAW OTHER THAN IN [SECTIONS 1 THROUGH 9].

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7 **NEW SECTION. SECTION 9. REFERENCE TO EXTERNAL FACTS.** A PLAN OF DOMESTICATION MAY REFER TO
8 FACTS ASCERTAINABLE OUTSIDE THE PLAN IF THE MANNER IN WHICH THE FACTS WILL OPERATE UPON THE PLAN IS
9 SPECIFIED IN THE PLAN. THE FACTS MAY INCLUDE THE OCCURRENCE OF AN EVENT OR A DETERMINATION OR ACTION BY A
10 PERSON, WHETHER OR NOT THE EVENT, DETERMINATION, OR ACTION IS WITHIN THE CONTROL OF A PARTY TO THE
11 TRANSACTION.

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13 **NEW SECTION. Section 10. Codification instruction.** [Sections 1 through 6 9] are intended to be
14 codified as a new part in Title 35, chapter 8, and the provisions of Title 35, chapter 8, apply to [sections 1
15 through 6 9].

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