

IN THE SENATE

SENATE BILL NO. 1380

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO THE IDAHO UNIFORM BUSINESS ORGANIZATION CODE; REPEALING CHAPTER 1, TITLE 30, IDAHO CODE, RELATING TO GENERAL BUSINESS CORPORATIONS; REPEALING CHAPTER 6, TITLE 30, IDAHO CODE, RELATING TO THE IDAHO UNIFORM LIMITED LIABILITY COMPANY ACT; REPEALING CHAPTER 18, TITLE 30, IDAHO CODE, RELATING TO THE IDAHO ENTITY TRANSACTIONS ACT; REPEALING CHAPTER 2, TITLE 53, IDAHO CODE, RELATING TO THE UNIFORM LIMITED PARTNERSHIP ACT; REPEALING CHAPTER 3, TITLE 53, IDAHO CODE, RELATING TO UNIFORM PARTNERSHIP LAW; AMENDING TITLE 30, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 21, TITLE 30, IDAHO CODE, RELATING TO THE UNIFORM BUSINESS ORGANIZATION CODE, TO PROVIDE SHORT TITLE, TO PROVIDE DEFINITIONS, TO PROVIDE FOR APPLICATION OF LAW, TO PROVIDE FOR DELIVERY OF RECORD, TO PROVIDE FOR RULES AND PROCEDURES, TO PROVIDE FOR ENTITY FILING REQUIREMENTS, TO PROVIDE FOR FORMS, TO PROVIDE FOR EFFECTIVE DATES AND TIMES, TO PROVIDE FOR WITHDRAWAL OF FILED RECORD BEFORE EFFECTIVENESS, TO PROVIDE FOR CORRECTING FILED RECORD, TO PROVIDE FOR DUTY OF SECRETARY OF STATE TO FILE AND REVIEW OF REFUSAL TO FILE, TO PROVIDE FOR EVIDENTIARY EFFECT OF COPY OF FILED RECORD, TO PROVIDE FOR CERTIFICATE OF GOOD STANDING OR REGISTRATION, TO PROVIDE FOR SIGNING OF ENTITY FILING, TO PROVIDE FOR SIGNING AND FILING PURSUANT TO JUDICIAL ORDER, TO PROVIDE FOR LIABILITY FOR INACCURATE INFORMATION IN FILED RECORD, TO PROVIDE FOR DELIVERY BY SECRETARY OF STATE, TO PROVIDE FOR ANNUAL REPORT FOR SECRETARY OF STATE, TO PROVIDE FOR FEES, TO PROVIDE FOR PERMITTED NAMES, TO PROVIDE FOR NAME REQUIREMENTS FOR CERTAIN TYPES OF ENTITIES, TO PROVIDE FOR RESERVATION OF NAME, TO PROVIDE FOR REGISTRATION OF NAME, TO PROVIDE DEFINITIONS, TO PROVIDE FOR ENTITIES REQUIRED TO DESIGNATE AND MAINTAIN REGISTERED AGENT, TO PROVIDE FOR ADDRESSES IN FILING, TO PROVIDE FOR DESIGNATION OF REGISTERED AGENT, TO PROVIDE FOR LISTING OF COMMERCIAL REGISTERED AGENT, TO PROVIDE FOR TERMINATION OF LISTING OF COMMERCIAL REGISTERED AGENT, TO PROVIDE FOR CHANGE OF REGISTERED AGENT BY ENTITY, TO PROVIDE FOR CHANGE OF NAME, ADDRESS, TYPE OF ENTITY, OR JURISDICTION OF FORMATION BY NONCOMMERCIAL REGISTERED AGENT, TO PROVIDE FOR CHANGE OF NAME, ADDRESS, TYPE OF ENTITY OR JURISDICTION OF FORMATION BY COMMERCIAL REGISTERED AGENT, TO PROVIDE FOR RESIGNATION OF REGISTERED AGENT, TO PROVIDE FOR DESIGNATION OF REGISTERED AGENT BY NONREGISTERED FOREIGN ENTITY OR NONFILING DOMESTIC ENTITY, TO PROVIDE FOR SERVICE OF PROCESS, NOTICE, OR DEMAND ON ENTITY, TO PROVIDE FOR DUTIES OF REGISTERED AGENT, TO PROVIDE FOR JURISDICTION AND VENUE, TO PROVIDE FOR GOVERNING LAW, TO PROVIDE FOR REGISTRATION TO DO BUSINESS IN THIS STATE, TO PROVIDE FOR FOREIGN REGISTRATION STATEMENT, TO PROVIDE FOR AMENDMENT OF FOREIGN REGISTRATION STATEMENT, TO PROVIDE FOR ACTIVITIES NOT CONSTITUTING DOING BUSINESS, TO PROVIDE FOR NONCOMPLYING NAME OF FOREIGN ENTITY, TO PROVIDE FOR WITHDRAWAL OF REGISTRATION OF REGISTERED FOREIGN ENTITY, TO PROVIDE FOR WITHDRAWAL DEEMED ON CONVERSION OR DOMESTICATION TO DOMESTIC FILING ENTITY OR DOMESTIC LIMITED LIABILITY

PARTNERSHIP, TO PROVIDE FOR WITHDRAWAL ON DISSOLUTION OR CONVERSION TO  
 NONFILING ENTITY OTHER THAN LIMITED LIABILITY PARTNERSHIP, TO PROVIDE  
 FOR TRANSFER OF REGISTRATION, TO PROVIDE FOR TERMINATION OF REGISTRA-  
 TION, TO PROVIDE FOR ACTION BY THE ATTORNEY GENERAL, TO PROVIDE FOR  
 GROUNDS FOR ADMINISTRATIVE DISSOLUTION, TO PROVIDE FOR PROCEDURE AND  
 EFFECT, TO PROVIDE FOR REINSTATEMENT, TO PROVIDE FOR JUDICIAL REVIEW OF  
 DENIAL OF REINSTATEMENT, TO PROVIDE FOR RESERVATION OF POWER TO AMEND OR  
 REPEAL, TO PROVIDE FOR SUPPLEMENTAL PRINCIPLES OF LAW, TO PROVIDE FOR  
 UNIFORMITY OR CONSISTENCY OF APPLICATION AND CONSTRUCTION, TO PROVIDE  
 FOR RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE  
 ACT, TO PROVIDE FOR SAVINGS CLAUSE, TO PROVIDE FOR SEVERABILITY, TO  
 PROVIDE AN EFFECTIVE DATE, TO PROVIDE A SHORT TITLE, TO PROVIDE A PUR-  
 POSE, TO PROVIDE DEFINITIONS, TO PROVIDE FOR A NAME USED AS AN ASSUMED  
 BUSINESS NAME, TO PROVIDE REQUIREMENTS FOR FILING OF CERTIFICATE, TO  
 PROVIDE CONTENTS OF CERTIFICATE, TO PROVIDE EFFECT OF FILING, DURATION  
 AND CONTINUATION, TO PROVIDE AMENDMENT OF CERTIFICATE, TO PROVIDE CAN-  
 CELLATION OF CERTIFICATE, TO PROVIDE CONSEQUENCES OF NONCOMPLIANCE,  
 TO PROVIDE FOR PROFESSIONAL ENTITIES; AMENDING TITLE 30, IDAHO CODE,  
 BY THE ADDITION OF A NEW CHAPTER 22, TITLE 30, IDAHO CODE, TO PROVIDE  
 A SHORT TITLE, TO PROVIDE DEFINITIONS, TO PROVIDE FOR RELATIONSHIP OF  
 THE CHAPTER TO OTHER LAWS, TO PROVIDE FOR REQUIRED NOTICE OR APPROVAL,  
 TO PROVIDE FOR STATUS OF FILINGS, TO PROVIDE FOR NONEXCLUSIVITY, TO  
 PROVIDE FOR REFERENCE TO EXTERNAL FACTS, TO PROVIDE FOR ALTERNATIVE  
 MEANS OF APPROVAL OF TRANSACTIONS, TO PROVIDE FOR APPRAISAL RIGHTS,  
 TO PROVIDE FOR EXCLUDED ENTITIES AND TRANSACTIONS, TO PROVIDE FOR AU-  
 THORIZATION OF MERGER, TO PROVIDE FOR PLAN OF MERGER, TO PROVIDE FOR  
 APPROVAL OF MERGER, TO PROVIDE FOR AMENDMENT OR ABANDONMENT OF PLAN OF  
 MERGER, TO PROVIDE FOR STATEMENT OF MERGER AND EFFECTIVE DATE, TO PRO-  
 VIDE FOR EFFECT OF MERGER, TO PROVIDE FOR INTEREST EXCHANGE AUTHORIZED,  
 TO PROVIDE FOR PLAN OF INTEREST EXCHANGE, TO PROVIDE FOR APPROVAL OF  
 INTEREST EXCHANGE, TO PROVIDE FOR AMENDMENT OR ABANDONMENT OF PLAN OF  
 INTEREST EXCHANGE, TO PROVIDE FOR STATEMENT OF INTEREST EXCHANGE AND  
 EFFECTIVE DATE OF INTEREST EXCHANGE, TO PROVIDE FOR EFFECT OF INTEREST  
 EXCHANGE, TO PROVIDE FOR CONVERSION AUTHORIZED, TO PROVIDE FOR PLAN  
 OF CONVERSION, TO PROVIDE FOR APPROVAL OF CONVERSION, TO PROVIDE FOR  
 AMENDMENT OR ABANDONMENT OF PLAN OF CONVERSION, TO PROVIDE FOR STATE-  
 MENT OF CONVERSION AND EFFECTIVE DATE OF CONVERSION, TO PROVIDE FOR EF-  
 FECT OF CONVERSION, TO PROVIDE FOR DOMESTICATION AUTHORIZED, TO PROVIDE  
 FOR PLAN OF DOMESTICATION, TO PROVIDE FOR APPROVAL OF DOMESTICATION,  
 TO PROVIDE FOR AMENDMENT OR ABANDONMENT OF PLAN OF DOMESTICATION, TO  
 PROVIDE FOR STATEMENT OF DOMESTICATION AND EFFECTIVE DATE OF DOMESTI-  
 CATION, AND TO PROVIDE FOR EFFECT OF DOMESTICATION; AMENDING TITLE 30,  
 IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 23, TITLE 30, IDAHO CODE, TO  
 PROVIDE A SHORT TITLE, TO PROVIDE DEFINITIONS, TO PROVIDE FOR KNOWLEDGE  
 AND NOTICE, TO PROVIDE FOR GOVERNING LAW, TO PROVIDE FOR PARTNERSHIP  
 AGREEMENT, SCOPE, FUNCTION AND LIMITATIONS, TO PROVIDE FOR PARTNERSHIP  
 AGREEMENT, EFFECT ON PARTNERSHIP AND PERSON BECOMING PARTNER AND PRE-  
 FORMATION AGREEMENT, TO PROVIDE FOR PARTNERSHIP AGREEMENT, EFFECT ON  
 THIRD PARTIES AND RELATIONSHIP TO RECORDS EFFECTIVE ON BEHALF OF PART-  
 NERSHIP, TO PROVIDE FOR SIGNING OF RECORDS TO BE DELIVERED FOR FILING TO

1 SECRETARY OF STATE, TO PROVIDE FOR LIABILITY FOR INACCURATE INFORMATION  
 2 IN FILED RECORDS, TO PROVIDE FOR APPLICATION TO EXISTING RELATIONSHIPS,  
 3 TO PROVIDE FOR SUBJECTS COVERED OUTSIDE CHAPTER, TO PROVIDE FOR PART-  
 4 NERSHIP AS ENTITY, TO PROVIDE FOR FORMATION OF PARTNERSHIP, TO PROVIDE  
 5 FOR PARTNERSHIP PROPERTY, TO PROVIDE FOR WHEN PROPERTY IS PARTNERSHIP  
 6 PROPERTY, TO PROVIDE FOR PARTNER AGENT OF PARTNERSHIP, TO PROVIDE FOR  
 7 TRANSFER OF PARTNERSHIP PROPERTY, TO PROVIDE FOR STATEMENT OF PART-  
 8 NERSHIP AUTHORITY, TO PROVIDE FOR STATEMENT OF DENIAL, TO PROVIDE FOR  
 9 PARTNERSHIP LIABLE FOR PARTNER'S ACTIONABLE CONDUCT, TO PROVIDE FOR  
 10 PARTNER'S LIABILITY, TO PROVIDE FOR ACTIONS BY AND AGAINST PARTNERSHIP  
 11 AND PARTNERS, TO PROVIDE FOR LIABILITY OF PURPORTED PARTNER, TO PROVIDE  
 12 FOR PARTNER'S RIGHTS AND DUTIES, TO PROVIDE FOR BECOMING PARTNER, TO  
 13 PROVIDE FOR FORM OF CONTRIBUTION, TO PROVIDE FOR LIABILITY FOR CONTRI-  
 14 BUTIONS, TO PROVIDE FOR SHARING OF AND RIGHT TO DISTRIBUTIONS BEFORE  
 15 DISSOLUTION, TO PROVIDE FOR LIMITATIONS ON DISTRIBUTIONS BY LIMITED  
 16 LIABILITY PARTNERSHIP, TO PROVIDE FOR LIABILITY OF IMPROPER DISTRI-  
 17 BUTIONS BY LIMITED LIABILITY PARTNERSHIP, TO PROVIDE FOR RIGHTS OF  
 18 PARTNERS AND PERSONS DISSOCIATED AS PARTNER TO INFORMATION, TO PROVIDE  
 19 FOR STANDARDS OF CONDUCT FOR PARTNERS, TO PROVIDE FOR ACTIONS BY PART-  
 20 NERSHIP AND PARTNERS, TO PROVIDE FOR CONTINUATION OF PARTNERSHIP BEYOND  
 21 DEFINITE TERM OR PARTICULAR UNDERTAKING, TO PROVIDE FOR PARTNER NOT  
 22 CO-OWNER OF PARTNERSHIP PROPERTY, TO PROVIDE FOR NATURE OF TRANSFERABLE  
 23 INTEREST, TO PROVIDE FOR TRANSFER OF TRANSFERABLE INTEREST, TO PROVIDE  
 24 FOR CHARGING ORDER, TO PROVIDE FOR POWER OF LEGAL REPRESENTATIVE OF  
 25 DECEASED PARTNER, TO PROVIDE FOR EVENTS CAUSING DISSOCIATION, TO PRO-  
 26 VIDE FOR POWER TO DISSOCIATE AS PARTNER AND WRONGFUL DISSOCIATION, TO  
 27 PROVIDE FOR EFFECT OF DISSOCIATION, TO PROVIDE FOR PERSONS DISSOCIATED  
 28 AS A PARTNER WITHOUT DISSOLUTION OF PARTNERSHIP, TO PROVIDE FOR POWER  
 29 TO BIND AND LIABILITY OF PERSON DISSOCIATED AS PARTNER, TO PROVIDE FOR  
 30 LIABILITY OF PERSON DISSOCIATED AS PARTNER TO OTHER PERSONS, TO PROVIDE  
 31 FOR STATEMENT OF DISSOCIATION, TO PROVIDE FOR CONTINUED USE OF PARTNER-  
 32 SHIP NAME, TO PROVIDE FOR EVENTS CAUSING DISSOLUTION, TO PROVIDE FOR  
 33 WINDING UP, TO PROVIDE FOR RESCINDING DISSOLUTION, TO PROVIDE FOR POWER  
 34 TO BIND PARTNERSHIP AFTER DISSOLUTION, TO PROVIDE FOR LIABILITY AFTER  
 35 DISSOLUTION OF PARTNER AND PERSON DISSOCIATED AS GENERAL PARTNER, TO  
 36 PROVIDE FOR DISPOSITION OF ASSETS IN WINDING UP AND WHEN CONTRIBUTIONS  
 37 REQUIRED, TO PROVIDE FOR KNOWN CLAIMS AGAINST DISSOLVED LIMITED LIABIL-  
 38 ITY PARTNERSHIP, TO PROVIDE FOR OTHER CLAIMS AGAINST DISSOLVED LIMITED  
 39 LIABILITY PARTNERSHIP, TO PROVIDE FOR COURT PROCEEDINGS, TO PROVIDE  
 40 FOR LIABILITY OF PARTNER AND PERSON DISSOCIATED AS PARTNER WHEN CLAIM  
 41 AGAINST PARTNERSHIP BARRED, TO PROVIDE FOR STATEMENT OF QUALIFICATION,  
 42 TO PROVIDE FOR PERMITTED NAMES, TO PROVIDE FOR ADMINISTRATIVE REVOCA-  
 43 TION OF STATEMENT OF QUALIFICATION, TO PROVIDE FOR REINSTATEMENT AND TO  
 44 PROVIDE FOR JUDICIAL REVIEW OF DENIAL OF REINSTATEMENT, TO PROVIDE FOR  
 45 SUBJECTS COVERED OUTSIDE CHAPTER; AMENDING TITLE 30, IDAHO CODE, BY THE  
 46 ADDITION OF A NEW CHAPTER 24, TITLE 30, IDAHO CODE, TO PROVIDE A SHORT  
 47 TITLE, TO PROVIDE DEFINITIONS, TO PROVIDE FOR KNOWLEDGE AND NOTICE,  
 48 TO PROVIDE FOR GOVERNING LAW, TO PROVIDE FOR PARTNERSHIP AGREEMENT,  
 49 SCOPE, FUNCTION AND LIMITATIONS, TO PROVIDE FOR PARTNERSHIP AGREEMENT,  
 50 EFFECT ON LIMITED PARTNERSHIP AND PERSON BECOMING PARTNER AND PREFORMA-

TION AGREEMENT, TO PROVIDE FOR PARTNERSHIP AGREEMENT, EFFECT ON THIRD  
 PARTIES AND RELATIONSHIP TO RECORDS EFFECTIVE ON BEHALF OF LIMITED  
 PARTNERSHIP, TO PROVIDE FOR REQUIRED INFORMATION, TO PROVIDE FOR DUAL  
 CAPACITY, TO PROVIDE FOR NATURE, PURPOSE AND DURATION OF LIMITED PART-  
 NERSHIP, TO PROVIDE FOR POWERS, TO PROVIDE FOR APPLICATION TO EXISTING  
 RELATIONSHIPS, TO PROVIDE FOR SUBJECTS COVERED OUTSIDE CHAPTER, TO PRO-  
 VIDE FOR FORMATION OF LIMITED PARTNERSHIP AND CERTIFICATE OF LIMITED  
 PARTNERSHIP, TO PROVIDE FOR AMENDMENT OR RESTATEMENT OF CERTIFICATE OF  
 LIMITED PARTNERSHIP, TO PROVIDE FOR SIGNING OF RECORDS TO BE DELIVERED  
 FOR FILING TO SECRETARY OF STATE, TO PROVIDE FOR SUBJECTS COVERED OUT-  
 SIDE CHAPTER, TO PROVIDE FOR BECOMING LIMITED PARTNER, TO PROVIDE FOR  
 NO AGENCY POWER OF LIMITED PARTNER AS LIMITED PARTNER, TO PROVIDE FOR  
 NO LIABILITY AS LIMITED PARTNER FOR LIMITED PARTNERSHIP OBLIGATIONS,  
 TO PROVIDE FOR RIGHTS TO INFORMATION OF LIMITED PARTNER AND PERSON  
 DISSOCIATED AS LIMITED PARTNER, TO PROVIDE FOR LIMITED DUTIES OF LIM-  
 ITED PARTNER, TO PROVIDE FOR LIABILITY FOR INACCURATE INFORMATION IN  
 FILED RECORD, TO PROVIDE FOR BECOMING GENERAL PARTNER, TO PROVIDE FOR  
 NO AGENCY POWER OF LIMITED PARTNER AS LIMITED PARTNER, TO PROVIDE FOR  
 LIMITED PARTNERSHIP LIABLE FOR GENERAL PARTNER'S ACTIONABLE CONDUCT,  
 TO PROVIDE FOR RIGHTS TO INFORMATION OF LIMITED PARTNER AND PERSON  
 DISSOCIATED AS LIMITED PARTNER, TO PROVIDE FOR ACTIONS BY AND AGAINST  
 PARTNERSHIP AND PARTNERS, TO PROVIDE FOR MANAGEMENT RIGHTS OF GENERAL  
 PARTNER, TO PROVIDE FOR RIGHTS TO INFORMATION OF GENERAL PARTNER AND  
 PERSON DISSOCIATED AS GENERAL PARTNER, TO PROVIDE FOR REIMBURSEMENT,  
 INDEMNIFICATION, ADVANCEMENT AND INSURANCE, TO PROVIDE FOR STANDARDS  
 OF CONDUCT FOR GENERAL PARTNERS, TO PROVIDE FOR FORM OF CONTRIBUTION, TO  
 PROVIDE FOR LIABILITY FOR CONTRIBUTION, TO PROVIDE FOR SHARING OF AND  
 RIGHT TO DISTRIBUTIONS BEFORE DISSOLUTION, TO PROVIDE FOR LIMITATIONS  
 ON DISTRIBUTIONS, TO PROVIDE FOR LIABILITY FOR IMPROPER DISTRIBUTIONS,  
 TO PROVIDE FOR DISSOCIATION AS LIMITED PARTNER, TO PROVIDE FOR EFFECT  
 OF DISSOCIATION AS LIMITED PARTNER, TO PROVIDE FOR DISSOCIATION AS GEN-  
 ERAL PARTNER, TO PROVIDE FOR POWER TO DISSOCIATE AS GENERAL PARTNER AND  
 WRONGFUL DISSOCIATION, TO PROVIDE FOR EFFECT OF DISSOCIATION AS GENERAL  
 PARTNER, TO PROVIDE FOR POWER TO BIND AND LIABILITY OF PERSON DISSOCI-  
 ATED AS GENERAL PARTNER, TO PROVIDE FOR LIABILITY OF PERSON DISSOCIATED  
 AS GENERAL PARTNER TO OTHER PERSONS, TO PROVIDE FOR NATURE OF TRANS-  
 FERABLE INTEREST, TO PROVIDE FOR TRANSFER OF TRANSFERABLE INTEREST, TO  
 PROVIDE FOR CHARGING ORDER, TO PROVIDE FOR POWER OF LEGAL REPRESENTA-  
 TIVE OF DECEASED PARTNER, TO PROVIDE FOR EVENTS CAUSING DISSOLUTION,  
 TO PROVIDE FOR WINDING UP, TO PROVIDE FOR RESCINDING DISSOLUTION, TO  
 PROVIDE FOR POWER TO BIND PARTNERSHIP AFTER DISSOLUTION, TO PROVIDE FOR  
 LIABILITY AFTER DISSOLUTION OF GENERAL PARTNER AND PERSON DISSOCIATED  
 AS GENERAL PARTNER, TO PROVIDE FOR KNOWN CLAIMS, TO PROVIDE FOR OTHER  
 CLAIMS AGAINST DISSOLVED LIMITED PARTNERSHIP, TO PROVIDE FOR COURT  
 PROCEEDINGS, TO PROVIDE FOR LIABILITY OF GENERAL PARTNER AND PERSON  
 DISSOCIATED AS GENERAL PARTNER WHEN CLAIM AGAINST LIMITED PARTNERSHIP  
 BARRED, TO PROVIDE FOR DISPOSITION OF ASSETS IN WINDING UP, WHEN CON-  
 TRIBUTIONS REQUIRED, TO PROVIDE FOR SUBJECTS COVERED OUTSIDE CHAPTER,  
 TO PROVIDE FOR DIRECT ACTION BY A PARTNER, TO PROVIDE FOR DERIVATIVE  
 ACTION, TO PROVIDE FOR PROPER PLAINTIFF, TO PROVIDE FOR PLEADING, TO

1 PROVIDE FOR SPECIAL LITIGATION COMMITTEE AND TO PROVIDE FOR PROCEEDS  
 2 AND EXPENSES; AMENDING TITLE 30, IDAHO CODE, BY THE ADDITION OF A NEW  
 3 CHAPTER 25, TITLE 30, IDAHO CODE, TO PROVIDE SHORT TITLE, TO PROVIDE  
 4 DEFINITIONS, TO PROVIDE FOR KNOWLEDGE AND NOTICE, TO PROVIDE FOR GOV-  
 5 ERNING LAW, TO PROVIDE FOR OPERATING AGREEMENT, SCOPE, FUNCTION AND  
 6 LIMITATIONS, TO PROVIDE FOR OPERATING AGREEMENT, EFFECT ON LIMITED LI-  
 7 ABILITY COMPANY AND PERSON BECOMING MEMBER AND PREFORMATION AGREEMENT,  
 8 TO PROVIDE FOR OPERATING AGREEMENT, EFFECT ON THIRD PARTIES AND RELA-  
 9 TIONSHIP TO RECORDS EFFECTIVE ON BEHALF OF LIMITED LIABILITY COMPANY,  
 10 TO PROVIDE FOR THE NATURE, PURPOSE AND DURATION OF LIMITED LIABILITY  
 11 COMPANY, TO PROVIDE POWERS, TO PROVIDE FOR APPLICATION TO EXISTING  
 12 RELATIONSHIPS, TO PROVIDE FOR SUBJECTS COVERED OUTSIDE CHAPTER, TO  
 13 PROVIDE FOR FORMATION OF LIMITED LIABILITY COMPANY AND CERTIFICATE OF  
 14 ORGANIZATION, TO PROVIDE FOR AMENDMENT OR RESTATEMENT OF CERTIFICATE  
 15 OF ORGANIZATION, TO PROVIDE FOR SIGNING OF RECORDS TO BE DELIVERED FOR  
 16 FILING TO SECRETARY OF STATE, TO PROVIDE FOR LIABILITY FOR INACCURATE  
 17 INFORMATION IN FILED RECORDS, TO PROVIDE FOR SUBJECTS COVERED OUTSIDE  
 18 CHAPTER, TO PROVIDE FOR NO AGENCY POWER OF MEMBER AS MEMBER, TO PROVIDE  
 19 FOR STATEMENT OF AUTHORITY, TO PROVIDE FOR STATEMENT OF DENIAL, TO PRO-  
 20 VIDE FOR LIABILITY OF MEMBERS AND MANAGERS, TO PROVIDE FOR BECOMING A  
 21 MEMBER, TO PROVIDE FOR FORM OF CONTRIBUTION, TO PROVIDE FOR LIABILITY  
 22 FOR CONTRIBUTIONS, TO PROVIDE FOR SHARING OF AND RIGHT TO DISTRIBUTIONS  
 23 BEFORE DISSOLUTION, TO PROVIDE FOR LIMITATIONS ON DISTRIBUTIONS, TO  
 24 PROVIDE FOR LIABILITY FOR IMPROPER DISTRIBUTIONS, TO PROVIDE FOR MAN-  
 25 AGEMENT OF A LIMITED LIABILITY COMPANY, TO PROVIDE FOR REIMBURSEMENT,  
 26 INDEMNIFICATION, ADVANCEMENT AND INSURANCE, TO PROVIDE FOR STANDARDS  
 27 OF CONDUCT FOR MEMBERS AND MANAGERS, TO PROVIDE FOR RIGHTS TO INFORMA-  
 28 TION OF MEMBER, MANAGER AND PERSON DISSOCIATED AS MEMBER, TO PROVIDE  
 29 FOR NATURE OF TRANSFERABLE INTEREST, TO PROVIDE FOR TRANSFER OF TRANS-  
 30 FERABLE INTEREST, TO PROVIDE FOR CHARGING ORDER, TO PROVIDE FOR POWER  
 31 OF LEGAL REPRESENTATIVE OF DECEASED MEMBER, TO PROVIDE FOR POWER TO  
 32 DISSOCIATE AS MEMBER AND WRONGFUL DISSOCIATION, TO PROVIDE FOR EVENTS  
 33 CAUSING DISSOCIATION, TO PROVIDE FOR EFFECT OF DISSOCIATION, TO PROVIDE  
 34 FOR EVENTS CAUSING DISSOLUTION, TO PROVIDE FOR WINDING UP, TO PROVIDE  
 35 FOR RESCINDING DISSOLUTION, TO PROVIDE FOR KNOWN CLAIMS AGAINST DIS-  
 36 SOLVED LIMITED LIABILITY COMPANY, TO PROVIDE FOR OTHER CLAIMS AGAINST  
 37 DISSOLVED LIMITED LIABILITY COMPANY, TO PROVIDE FOR COURT PROCEEDINGS,  
 38 TO PROVIDE FOR DISPOSITION OF ASSETS IN WINDING UP, TO PROVIDE FOR SUB-  
 39 JECTS COVERED OUTSIDE CHAPTER, TO PROVIDE FOR DIRECT ACTION BY MEMBER,  
 40 TO PROVIDE FOR DERIVATIVE ACTION, TO PROVIDE FOR PROPER PLAINTIFF, TO  
 41 PROVIDE FOR PLEADING, TO PROVIDE FOR SPECIAL LITIGATION COMMITTEE AND  
 42 TO PROVIDE FOR PROCEEDS AND EXPENSES; AMENDING TITLE 30, IDAHO CODE,  
 43 BY THE ADDITION OF A NEW CHAPTER 27, TITLE 30, IDAHO CODE, RELATING TO  
 44 UNINCORPORATED NONPROFIT ASSOCIATIONS; TO PROVIDE A SHORT TITLE, TO  
 45 PROVIDE DEFINITIONS, TO PROVIDE FOR RELATION TO OTHER LAWS, TO PROVIDE  
 46 FOR GOVERNING LAW, TO PROVIDE FOR ENTITY, PERPETUAL EXISTENCE AND POW-  
 47 ERS, TO PROVIDE FOR OWNERSHIP AND TRANSFER OF PROPERTY, TO PROVIDE FOR  
 48 STATEMENT OF AUTHORITY AS TO REAL PROPERTY, TO PROVIDE FOR LIABILITY,  
 49 TO PROVIDE FOR ASSERTION AND DEFENSE OF CLAIMS, TO PROVIDE FOR EFFECT  
 50 OF JUDGMENT OR ORDER, TO PROVIDE FOR SERVICE OF PROCESS, TO PROVIDE

1 FOR ACTION OR PROCEEDING NOT ABATED BY CHANGE, TO PROVIDE FOR VENUE, TO  
2 PROVIDE FOR MEMBER NOT AGENT, TO PROVIDE FOR DISTRIBUTIONS PROHIBITED,  
3 COMPENSATION AND OTHER PERMITTED PAYMENTS, TO PROVIDE FOR DISSOLUTION,  
4 TO PROVIDE FOR WINDING UP AND TERMINATION, TO PROVIDE FOR APPOINTMENT  
5 OF REGISTERED AGENT AND TO PROVIDE FOR TRANSITION CONCERNING REAL AND  
6 PERSONAL PROPERTY; AMENDING TITLE 30, IDAHO CODE, BY THE ADDITION OF  
7 A NEW CHAPTER 29, TITLE 30, IDAHO CODE, RELATING TO GENERAL BUSINESS  
8 CORPORATIONS, TO PROVIDE A SHORT TITLE, TO PROVIDE FOR REQUIREMENTS FOR  
9 DOCUMENTS AND EXTRINSIC FACTS, TO PROVIDE FOR CHAPTER DEFINITIONS, TO  
10 PROVIDE FOR NOTICE, TO PROVIDE FOR INCORPORATORS, TO PROVIDE FOR ARTI-  
11 CLES OF INCORPORATION, TO PROVIDE FOR INCORPORATION, TO PROVIDE FOR LI-  
12 ABILITY FOR PREINCORPORATION TRANSACTIONS, TO PROVIDE FOR ORGANIZATION  
13 OF CORPORATION, TO PROVIDE FOR BYLAWS, TO PROVIDE FOR EMERGENCY BYLAWS,  
14 TO PROVIDE FOR PURPOSES, TO PROVIDE FOR GENERAL POWERS, TO PROVIDE FOR  
15 EMERGENCY POWERS, TO PROVIDE FOR ULTRA VIRES, TO PROVIDE FOR AUTHORIZED  
16 SHARES, TO PROVIDE FOR TERMS OF CLASS OR SERIES DETERMINED BY BOARD OF  
17 DIRECTORS, TO PROVIDE FOR ISSUED AND OUTSTANDING SHARES, TO PROVIDE FOR  
18 FRACTIONAL SHARES, TO PROVIDE FOR SUBSCRIPTION FOR SHARES BEFORE INCOR-  
19 PORATION, TO PROVIDE FOR ISSUANCE OF SHARES, TO PROVIDE FOR LIABILITY  
20 OF SHAREHOLDERS, TO PROVIDE FOR SHARE DIVIDENDS, TO PROVIDE FOR SHARE  
21 OPTIONS, TO PROVIDE FOR FORM AND CONTENT OF CERTIFICATES, TO PROVIDE FOR  
22 SHARES WITHOUT CERTIFICATES, TO PROVIDE FOR RESTRICTION ON TRANSFER OF  
23 SHARES AND OTHER SECURITIES, TO PROVIDE FOR EXPENSE OF ISSUE, TO PROVIDE  
24 FOR SHAREHOLDERS' PREEMPTIVE RIGHTS, TO PROVIDE FOR CORPORATION'S AC-  
25 QUISSION OF ITS OWN SHARES, TO PROVIDE FOR DISTRIBUTIONS TO SHAREHOLD-  
26 ERS, TO PROVIDE FOR AN ANNUAL MEETING, TO PROVIDE FOR A SPECIAL MEETING,  
27 TO PROVIDE FOR A COURT-ORDERED MEETING, TO PROVIDE FOR ACTION WITHOUT  
28 MEETING, TO PROVIDE FOR NOTICE OF MEETING, TO PROVIDE FOR WAIVER OF NO-  
29 TICE, TO PROVIDE FOR RECORD DATE, TO PROVIDE FOR CONDUCT OF THE MEETING,  
30 TO PROVIDE FOR SHAREHOLDERS' LIST FOR MEETING, TO PROVIDE FOR VOTING  
31 ENTITLEMENT OF SHARES, TO PROVIDE FOR PROXIES, TO PROVIDE FOR SHARES  
32 HELD BY NOMINEES, TO PROVIDE FOR CORPORATION'S ACCEPTANCE OF VOTES, TO  
33 PROVIDE FOR QUORUM AND VOTING REQUIREMENTS FOR VOTING GROUPS, TO PRO-  
34 VIDE FOR ACTION BY SINGLE AND MULTIPLE VOTING GROUPS, TO PROVIDE FOR  
35 GREATER QUORUM OR VOTING REQUIREMENTS, TO PROVIDE FOR VOTING FOR DIREC-  
36 TORS AND CUMULATIVE VOTING, TO PROVIDE FOR INSPECTORS OF ELECTION, TO  
37 PROVIDE FOR VOTING TRUSTS, TO PROVIDE FOR VOTING AGREEMENTS, TO PROVIDE  
38 FOR SHAREHOLDER AGREEMENTS, TO PROVIDE FOR DEFINITIONS, TO PROVIDE FOR  
39 STANDING, TO PROVIDE FOR A DEMAND, TO PROVIDE FOR A STAY OF PROCEEDINGS,  
40 TO PROVIDE FOR DISMISSAL, TO PROVIDE FOR DISCONTINUANCE OR SETTLEMENT,  
41 TO PROVIDE FOR PAYMENT OF EXPENSES, TO PROVIDE FOR APPLICABILITY TO FOR-  
42 EIGN CORPORATIONS, TO PROVIDE FOR REQUIREMENT FOR AND DUTIES OF BOARD OF  
43 DIRECTORS, TO PROVIDE FOR QUALIFICATIONS OF DIRECTORS, TO PROVIDE FOR  
44 NUMBER AND ELECTION OF DIRECTORS, TO PROVIDE FOR ELECTION OF DIRECTORS  
45 BY CERTAIN CLASSES OF SHAREHOLDERS, TO PROVIDE FOR TERMS OF DIRECTORS  
46 GENERALLY, TO PROVIDE FOR STAGGERED TERMS FOR DIRECTORS, TO PROVIDE FOR  
47 RESIGNATION OF DIRECTORS, TO PROVIDE FOR REMOVAL OF DIRECTORS BY SHARE-  
48 HOLDERS, TO PROVIDE FOR REMOVAL OF DIRECTORS BY JUDICIAL PROCEEDING,  
49 TO PROVIDE FOR VACANCY ON BOARD, TO PROVIDE FOR COMPENSATION OF DIREC-  
50 TORS, TO PROVIDE FOR MEETINGS, TO PROVIDE FOR ACTION WITHOUT MEETING,

1 TO PROVIDE FOR NOTICE OF MEETING, TO PROVIDE FOR WAIVER OF NOTICE, TO  
2 PROVIDE FOR QUORUM AND VOTING, TO PROVIDE FOR COMMITTEES, TO PROVIDE  
3 FOR STANDARDS FOR DIRECTORS, TO PROVIDE FOR STANDARDS OF LIABILITY FOR  
4 DIRECTORS, TO PROVIDE FOR DIRECTORS' LIABILITY FOR UNLAWFUL DISTRI-  
5 BUTIONS, TO PROVIDE FOR REQUIRED OFFICERS, TO PROVIDE FOR DUTIES OF  
6 OFFICERS, TO PROVIDE FOR STANDARDS OF CONDUCT FOR OFFICERS, TO PROVIDE  
7 FOR RESIGNATION AND REMOVAL OF OFFICERS, TO PROVIDE FOR CONTRACT RIGHTS  
8 OF OFFICERS, TO PROVIDE DEFINITIONS, TO PROVIDE FOR PERMISSIBLE INDEM-  
9 NIFICATION, TO PROVIDE FOR MANDATORY INDEMNIFICATION, TO PROVIDE FOR  
10 ADVANCE FOR EXPENSES, TO PROVIDE FOR COURT-ORDERED INDEMNIFICATION AND  
11 ADVANCE FOR EXPENSES, TO PROVIDE FOR DETERMINATION AND AUTHORIZATION  
12 OF INDEMNIFICATION, TO PROVIDE FOR OFFICERS, TO PROVIDE FOR INSUR-  
13 ANCE, TO PROVIDE FOR VARIATION BY CORPORATE ACTION AND APPLICATION OF  
14 INDEMNIFICATION PROVISIONS, TO PROVIDE FOR EXCLUSIVITY, TO PROVIDE  
15 DEFINITIONS, TO PROVIDE FOR JUDICIAL ACTION, TO PROVIDE FOR DIRECTORS'  
16 ACTION, TO PROVIDE FOR SHAREHOLDERS' ACTION, TO PROVIDE FOR AUTHORITY  
17 TO AMEND ARTICLES OF INCORPORATION, TO PROVIDE FOR AMENDMENT BEFORE  
18 ISSUANCE OF SHARES, TO PROVIDE FOR AMENDMENT BY BOARD OF DIRECTORS AND  
19 SHAREHOLDERS, TO PROVIDE FOR VOTING ON AMENDMENTS BY VOTING GROUPS, TO  
20 PROVIDE FOR AMENDMENT BY BOARD OF DIRECTORS, TO PROVIDE FOR ARTICLES OF  
21 AMENDMENT, TO PROVIDE FOR RESTATED ARTICLES OF INCORPORATION, TO PRO-  
22 VIDE FOR AMENDMENT PURSUANT TO REORGANIZATION, TO PROVIDE FOR EFFECT  
23 OF AMENDMENT, TO PROVIDE FOR AMENDMENT BY BOARD OF DIRECTORS OR SHARE-  
24 HOLDERS, TO PROVIDE FOR A BYLAW INCREASING QUORUM OR VOTING REQUIREMENT  
25 FOR DIRECTORS, TO PROVIDE FOR ACTION ON A PLAN OF MERGER OR SHARE EX-  
26 CHANGE, TO PROVIDE FOR MERGER BETWEEN PARENT AND SUBSIDIARY OR BETWEEN  
27 SUBSIDIARIES, TO PROVIDE FOR DISPOSITION OF ASSETS NOT REQUIRING SHARE-  
28 HOLDER APPROVAL, TO PROVIDE FOR SHAREHOLDER APPROVAL OF CERTAIN DISPO-  
29 SITIONS, TO PROVIDE DEFINITIONS, TO PROVIDE FOR RIGHT TO APPRAISAL, TO  
30 PROVIDE FOR ASSERTION OF RIGHTS BY NOMINEES AND BENEFICIAL OWNERS, TO  
31 PROVIDE FOR NOTICE OF APPRAISAL RIGHTS, TO PROVIDE FOR NOTICE OF INTENT  
32 TO DEMAND PAYMENT, TO PROVIDE FOR APPRAISAL NOTICE AND FORM, TO PROVIDE  
33 FOR PERFECTION OF RIGHTS AND RIGHT TO WITHDRAW, TO PROVIDE FOR PAYMENT,  
34 TO PROVIDE FOR AFTER ACQUIRED SHARES, TO PROVIDE FOR PROCEDURE IF SHARE-  
35 HOLDER DISSATISFIED WITH PAYMENT OR OFFER, TO PROVIDE FOR COURT ACTION,  
36 TO PROVIDE FOR COURT COSTS AND COUNSEL FEES, TO PROVIDE FOR DISSOLUTION  
37 BY INCORPORATORS OR INITIAL DIRECTORS, TO PROVIDE FOR DISSOLUTION BY  
38 BOARD OF DIRECTORS AND SHAREHOLDERS, TO PROVIDE FOR ARTICLES OF DISSO-  
39 LUTION, TO PROVIDE FOR REVOCATION OF DISSOLUTION, TO PROVIDE FOR EFFECT  
40 OF DISSOLUTION, TO PROVIDE FOR KNOWN CLAIMS AGAINST DISSOLVED CORPO-  
41 RATION, TO PROVIDE FOR OTHER CLAIMS AGAINST DISSOLVED CORPORATION, TO  
42 PROVIDE FOR COURT PROCEEDING, TO PROVIDE FOR DIRECTOR DUTIES, TO PRO-  
43 VIDE FOR GROUNDS FOR JUDICIAL DISSOLUTION, TO PROVIDE FOR PROCEDURE FOR  
44 JUDICIAL DISSOLUTION, TO PROVIDE FOR RECEIVERSHIP OR CUSTODIANSHIP, TO  
45 PROVIDE FOR DECREE OF DISSOLUTION, TO PROVIDE FOR ELECTION TO PURCHASE  
46 IN LIEU OF DISSOLUTION, TO PROVIDE FOR DEPOSIT WITH THE STATE TREASURER,  
47 TO PROVIDE FOR CORPORATE RECORDS, TO PROVIDE FOR INSPECTION OF RECORDS  
48 BY SHAREHOLDERS, TO PROVIDE FOR SCOPE OF INSPECTION RIGHT, TO PROVIDE  
49 FOR COURT-ORDERED INSPECTION, TO PROVIDE FOR INSPECTION OF RECORDS  
50 BY DIRECTORS, TO PROVIDE FOR EXCEPTION TO NOTICE REQUIREMENT, TO PRO-

1 VIDE FOR FINANCIAL STATEMENTS FOR SHAREHOLDERS, TO PROVIDE FOR OTHER  
 2 REPORTS TO SHAREHOLDERS, TO PROVIDE FOR APPLICATION OF CHAPTER TO EX-  
 3 ISTING DOMESTIC CORPORATIONS, TO PROVIDE FOR APPLICATION TO QUALIFIED  
 4 FOREIGN CORPORATIONS, TO PROVIDE FOR SAVING PROVISIONS AND TO PROVIDE  
 5 FOR SEVERABILITY; AMENDING TITLE 30, IDAHO CODE, BY THE ADDITION OF A  
 6 NEW CHAPTER 30, TITLE 30, IDAHO CODE, RELATING TO THE IDAHO NONPROFIT  
 7 CORPORATION ACT, TO PROVIDE A SHORT TITLE, TO PROVIDE FOR FILING RE-  
 8 QUIREMENTS, TO PROVIDE DEFINITIONS, TO PROVIDE FOR NOTICE, TO PROVIDE  
 9 FOR A PRIVATE FOUNDATION, TO PROVIDE FOR JUDICIAL RELIEF, TO PROVIDE FOR  
 10 RELIGIOUS CORPORATIONS AND CONSTITUTIONAL PROTECTIONS, TO PROVIDE FOR  
 11 INCORPORATORS, TO PROVIDE FOR ARTICLES OF INCORPORATION, TO PROVIDE FOR  
 12 INCORPORATION, TO PROVIDE FOR LIABILITY, TO PROVIDE FOR ORGANIZATION  
 13 OF CORPORATION, TO PROVIDE FOR BYLAWS, TO PROVIDE FOR EMERGENCY BYLAWS  
 14 AND POWERS, TO PROVIDE FOR PURPOSES, TO PROVIDE FOR GENERAL POWERS, TO  
 15 PROVIDE FOR EMERGENCY POWERS, TO PROVIDE FOR ULTRA VIRES, TO PROVIDE  
 16 FOR ADMISSION OF MEMBERS, TO PROVIDE FOR CONSIDERATION, TO PROVIDE FOR  
 17 NO REQUIREMENT OF MEMBERS, TO PROVIDE FOR DIFFERENCES IN RIGHTS AND  
 18 OBLIGATIONS OF MEMBERS, TO PROVIDE FOR TRANSFERS, TO PROVIDE FOR MEM-  
 19 BER'S LIABILITY TO THIRD PARTIES, TO PROVIDE FOR MEMBER'S LIABILITY FOR  
 20 DUES, ASSESSMENTS AND FEES, TO PROVIDE FOR RESIGNATION, TO PROVIDE FOR  
 21 TERMINATION, EXPULSION AND SUSPENSION, TO PROVIDE FOR PURCHASE OF MEM-  
 22 BERSHIPS, TO PROVIDE FOR DERIVATIVE SUITS, TO PROVIDE FOR DELEGATES, TO  
 23 PROVIDE FOR ANNUAL AND REGULAR MEETINGS, TO PROVIDE FOR A SPECIAL MEET-  
 24 ING, TO PROVIDE FOR COURT-ORDERED MEETINGS, TO PROVIDE FOR ACTION BY  
 25 WRITTEN CONSENT, TO PROVIDE FOR NOTICE OF MEETING, TO PROVIDE FOR WAIVER  
 26 OF NOTICE, TO PROVIDE FOR RECORD DATE FOR DETERMINING MEMBERS ENTITLED  
 27 TO NOTICE AND VOTE, TO PROVIDE FOR ACTION BY MAILED WRITTEN BALLOT OR  
 28 ABSENTEE BALLOT, TO PROVIDE FOR MEMBERS' LIST FOR MEETING, TO PROVIDE  
 29 FOR VOTING ENTITLEMENT GENERALLY, TO PROVIDE FOR QUORUM REQUIREMENTS,  
 30 TO PROVIDE FOR VOTING REQUIREMENTS, TO PROVIDE FOR PROXIES, TO PROVIDE  
 31 FOR CUMULATIVE VOTING FOR DIRECTORS, TO PROVIDE FOR OTHER METHODS OF  
 32 ELECTING DIRECTORS, TO PROVIDE FOR CORPORATION'S ACCEPTANCE OF VOTES,  
 33 TO PROVIDE FOR VOTING AGREEMENTS, TO PROVIDE FOR REQUIREMENT FOR AND  
 34 DUTIES OF BOARD, TO PROVIDE FOR QUALIFICATIONS OF DIRECTORS, TO PROVIDE  
 35 FOR NUMBER OF DIRECTORS, TO PROVIDE FOR ELECTION, DESIGNATION AND AP-  
 36 POINTMENT OF DIRECTORS, TO PROVIDE FOR TERMS OF DIRECTORS GENERALLY, TO  
 37 PROVIDE FOR STAGGERED TERMS FOR DIRECTORS, TO PROVIDE FOR RESIGNATION  
 38 OF DIRECTORS, TO PROVIDE FOR REMOVAL OF DIRECTORS ELECTED BY MEMBERS  
 39 OR DIRECTORS, TO PROVIDE FOR REMOVAL OF DESIGNATED OR APPOINTED DIREC-  
 40 TORS, TO PROVIDE FOR VACANCY ON BOARD, TO PROVIDE FOR COMPENSATION OF  
 41 DIRECTORS, TO PROVIDE FOR REGULAR AND SPECIAL MEETINGS, TO PROVIDE FOR  
 42 ACTION WITHOUT MEETING, TO PROVIDE FOR CALL AND NOTICE OF MEETINGS, TO  
 43 PROVIDE FOR WAIVER OF NOTICE, TO PROVIDE FOR QUORUM AND VOTING, TO PRO-  
 44 VIDE FOR COMMITTEES OF THE BOARD, TO PROVIDE FOR GENERAL STANDARDS FOR  
 45 DIRECTORS, TO PROVIDE FOR DIRECTOR AND CONFLICT OF INTEREST, TO PROVIDE  
 46 FOR LOANS TO OR GUARANTEES FOR DIRECTORS AND OFFICERS, TO PROVIDE FOR  
 47 REQUIRED OFFICERS, TO PROVIDE FOR DUTIES AND AUTHORITY OF OFFICERS, TO  
 48 PROVIDE FOR STANDARDS OF CONDUCT FOR OFFICERS, TO PROVIDE FOR RESIG-  
 49 NATION AND REMOVAL OF OFFICERS, TO PROVIDE FOR OFFICERS' AUTHORITY TO  
 50 EXECUTE DOCUMENTS, TO PROVIDE FOR INDEMNIFICATION OF OFFICERS, DIREC-



TORS, EMPLOYEES AND AGENTS, TO PROVIDE FOR AUTHORITY TO AMEND ARTICLES, TO PROVIDE FOR AMENDMENT OF ARTICLES BY DIRECTORS, TO PROVIDE FOR AMENDMENT OF ARTICLES BY DIRECTORS AND MEMBERS, TO PROVIDE FOR CLASS VOTING BY MEMBERS ON AMENDMENTS TO ARTICLES, TO PROVIDE FOR ARTICLES OF AMENDMENT, TO PROVIDE FOR RESTATED ARTICLES OF INCORPORATION, TO PROVIDE FOR EFFECT OF AMENDMENT AND RESTATEMENT OF ARTICLES, TO PROVIDE FOR AMENDMENT OF BYLAWS BY DIRECTORS, TO PROVIDE FOR AMENDMENT OF BYLAWS BY DIRECTORS AND MEMBERS, TO PROVIDE FOR CLASS VOTING BY MEMBERS ON AMENDMENTS TO BYLAWS, TO PROVIDE FOR APPROVAL BY THIRD PERSONS, TO PROVIDE FOR APPROVAL OF PLAN OF MERGER, TO PROVIDE FOR ACTION ON PLAN BY BOARD, MEMBERS AND THIRD PERSONS, TO PROVIDE FOR BEQUESTS, DEVISES AND GIFTS, TO PROVIDE FOR THE SALE OF ASSETS IN THE REGULAR COURSE OF ACTIVITIES AND THE MORTGAGE OF ASSETS, TO PROVIDE FOR THE SALE OF ASSETS OTHER THAN IN THE REGULAR COURSE OF ACTIVITIES, TO PROVIDE FOR PROHIBITED DISTRIBUTIONS, TO PROVIDE FOR AUTHORIZED DISTRIBUTIONS, TO PROVIDE FOR THE DISSOLUTION BY INCORPORATORS OR DIRECTORS AND THIRD PERSONS, TO PROVIDE FOR THE DISSOLUTION BY DIRECTORS, MEMBERS AND THIRD PERSONS, TO PROVIDE FOR ARTICLES OF DISSOLUTION, TO PROVIDE FOR THE EFFECT OF DISSOLUTION, TO PROVIDE FOR KNOWN CLAIMS AGAINST A DISSOLVED CORPORATION, TO PROVIDE FOR UNKNOWN CLAIMS AGAINST A DISSOLVED CORPORATION, TO PROVIDE FOR CORPORATE RECORDS, TO PROVIDE FOR THE INSPECTION OF RECORDS BY MEMBERS, TO PROVIDE FOR THE SCOPE OF INSPECTION RIGHTS, TO PROVIDE FOR LIMITATIONS ON THE USE OF A MEMBERSHIP LIST, TO PROVIDE FOR FINANCIAL STATEMENTS FOR MEMBERS, TO PROVIDE FOR A REPORT OF INDEMNIFICATION TO MEMBERS, TO PROVIDE FOR THE APPLICATION OF LAWS TO EXISTING DOMESTIC NONPROFIT CORPORATIONS, TO PROVIDE FOR THE APPLICATION OF LAWS TO A QUALIFIED FOREIGN NONPROFIT CORPORATION, TO PROVIDE FOR THE APPLICATION OF LAWS TO CANAL COMPANIES AND CAREY ACT COMPANIES AND TO PROVIDE FOR SAVING PROVISIONS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Chapter 1, Title 30, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Chapter 6, Title 30, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Chapter 18, Title 30, Idaho Code, be, and the same is hereby repealed.

SECTION 4. That Chapter 2, Title 53, Idaho Code, be, and the same is hereby repealed.

SECTION 5. That Chapter 3, Title 53, Idaho Code, be, and the same is hereby repealed.

SECTION 6. That Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 21, Title 30, Idaho Code, and to read as follows:

CHAPTER 21  
IDAHO UNIFORM BUSINESS ORGANIZATION CODE

SECTION 7. That Chapter 21, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW PART, to be known and designated as Part 1, Chapter 21, Title 30, Idaho Code, and to read as follows:

PART 1  
PRELIMINARY PROVISIONS

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

(b) This chapter may be cited as the "Idaho Uniform Business Organizations Code - General Provisions."

(c) Part 4 of this chapter may be cited as the "Idaho Registered Agents of Entity Act."

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

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

(1) "Annual report" means the report required by section 30-21-213, Idaho Code.

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

(3) "Business trust" means a trust formed under the statutory law of another state which is not a foreign statutory trust and does not have a predominately donative purpose.

(4) "Commercial registered agent" means a person listed under section 30-21-405, Idaho Code.

(5) "Common-law business trust" means a common-law trust that does not have a predominately donative purpose.

(6) "Debtor in bankruptcy" means a person that is the subject of:

(A) An order for relief under title 11 of the United States Code or a comparable order under a successor statute of general application; or

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

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

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

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

(10) "Entity":

(A) Means:

(i) A business corporation;

(ii) A nonprofit corporation;

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

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

- 1 (v) A limited liability company;
- 2 (vi) A general cooperative association;
- 3 (vii) A limited cooperative association;
- 4 (viii) An unincorporated nonprofit association;
- 5 (ix) A statutory trust, business trust, or common-law business
- 6 trust; or
- 7 (x) Any other person that has:
  - 8 (I) A legal existence separate from any interest holder of
  - 9 that person; or
  - 10 (II) The power to acquire an interest in real property in its
  - 11 own name; and
- 12 (B) Does not include:
  - 13 (i) An individual;
  - 14 (ii) A trust with a predominately donative purpose or a charitable
  - 15 trust;
  - 16 (iii) An association or relationship that is not listed in sub-
  - 17 paragraph (A) of this paragraph and is not a partnership under the
  - 18 rules stated in section 30-23-202(c), Idaho Code, or a similar
  - 19 provision of the law of another jurisdiction;
  - 20 (iv) A decedent's estate; or
  - 21 (v) A government or a governmental subdivision, agency, or in-
  - 22 strumentality.
- 23 (11) "Entity filing" means a record delivered to the secretary of state
- 24 for filing pursuant to this title.
- 25 (12) "Filed record" means a record filed by the secretary of state pur-
- 26 suant to this title.
- 27 (13) "Filing entity" means an entity whose formation requires the fil-
- 28 ing of a public organic record. The term does not include a limited liability
- 29 partnership.
- 30 (14) "Foreign," with respect to an entity, means governed as to its in-
- 31 ternal affairs by the law of a jurisdiction other than this state.
- 32 (15) "General cooperative association" means a foreign general cooper-
- 33 ative association.
- 34 (16) "General partnership" means a domestic general partnership formed
- 35 under or subject to Chapter 3 or a foreign general partnership. The term in-
- 36 cludes a limited liability partnership.
- 37 (17) "Governance interest" means a right under the organic law or or-
- 38 ganic rules of an unincorporated entity, other than as a governor, agent, as-
- 39 signee, or proxy, to:
  - 40 (A) Receive or demand access to information concerning, or the books
  - 41 and records of, the entity;
  - 42 (B) Vote for or consent to the election of the governors of the entity;
  - 43 or
  - 44 (C) Receive notice of or vote on or consent to an issue involving the
  - 45 internal affairs of the entity.
- 46 (18) "Governor" means:
  - 47 (A) A director of a business corporation;
  - 48 (B) A director or trustee of a nonprofit corporation;
  - 49 (C) A general partner of a general partnership;
  - 50 (D) A general partner of a limited partnership;

1 (E) A manager of a manager-managed limited liability company;  
 2 (F) A member of a member-managed limited liability company;  
 3 (G) A director of a general cooperative association;  
 4 (H) A director of a limited cooperative association;  
 5 (I) A manager of an unincorporated nonprofit association;  
 6 (J) A trustee of a statutory trust, business trust, or common-law busi-  
 7 ness trust; or  
 8 (K) Any other person under whose authority the powers of an entity are  
 9 exercised and under whose direction the activities and affairs of the  
 10 entity are managed pursuant to the organic law and organic rules of the  
 11 entity.

12 (19) "Interest" means:

13 (A) A share in a business corporation;  
 14 (B) A membership in a nonprofit corporation;  
 15 (C) A governance interest in a general partnership;  
 16 (D) A governance interest in a limited partnership;  
 17 (E) A governance interest in a limited liability company;  
 18 (F) A share in a general cooperative association;  
 19 (G) A member's interest in a limited cooperative association;  
 20 (H) A membership in an unincorporated nonprofit association;  
 21 (I) A beneficial interest in a statutory trust, business trust, or com-  
 22 mon-law business trust; or  
 23 (J) A governance interest or distributional interest in any other type  
 24 of unincorporated entity.

25 (20) "Interest holder" means:

26 (A) A shareholder of a business corporation;  
 27 (B) A member of a nonprofit corporation;  
 28 (C) A general partner of a general partnership;  
 29 (D) A general partner of a limited partnership;  
 30 (E) A limited partner of a limited partnership;  
 31 (F) A member of a limited liability company;  
 32 (G) A shareholder of a general cooperative association;  
 33 (H) A member of a limited cooperative association;  
 34 (I) A member of an unincorporated nonprofit association;  
 35 (J) A beneficiary or beneficial owner of a statutory trust, business  
 36 trust, or common-law business trust; or  
 37 (K) Any other direct holder of an interest.

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

41 (22) "Jurisdiction of formation" means the jurisdiction whose law in-  
 42 cludes the organic law of an entity.

43 (23) "Limited cooperative association" means a foreign limited cooper-  
 44 ative association.

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

48 (25) "Limited liability limited partnership" means a domestic limited  
 49 liability limited partnership formed under or subject to chapter 24, title  
 50 30, Idaho Code, or a foreign limited liability limited partnership.

1 (26) "Limited liability partnership" means a domestic limited liability partnership registered under or subject to chapter 23, title 30, Idaho Code, or a foreign limited liability partnership.

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

3 (28) "Noncommercial registered agent" means a person that is not a commercial registered agent and is:

4 (A) An individual or domestic or foreign entity that serves in this state as the registered agent of an entity; or

5 (B) An individual who holds the office or other position in an entity which is designated as the registered agent pursuant to Section 30-21-404(a)(2)(B), Idaho Code.

6 (29) "Nonfiling entity" means an entity whose foundation does not require the filing of a public organic record.

7 (30) "Nonprofit corporation" means a domestic nonprofit corporation incorporated under or subject to chapter 30, title 30, Idaho Code, or a foreign nonprofit corporation.

8 (31) "Nonregistered foreign entity" means a foreign entity that is not registered to do business in this state pursuant to a statement of registration filed by the secretary of state.

9 (32) "Organic law" means the law of an entity's jurisdiction of formation governing the internal affairs of the entity.

10 (33) "Organic rules" means the public organic record and private organic rules of an entity.

11 (34) "Person" means an individual, business corporation, nonprofit corporation, partnership, limited partnership, limited liability company, general cooperative association, limited cooperative association, unincorporated nonprofit association, statutory trust, business trust, common-law business trust, estate trust, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

12 (35) "Principal office" means the principal executive office of an entity, whether or not the office is located in this state.

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

14 (A) The bylaws of a business corporation;

15 (B) The bylaws of a nonprofit corporation;

16 (C) The partnership agreement of a general partnership;

17 (D) The partnership agreement of a limited partnership;

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

19 (F) The bylaws of a general cooperative association;

20 (G) The bylaws of a limited cooperative association;

21 (H) The governing principles of an unincorporated nonprofit association; and

22 (I) The trust instrument of a statutory trust or similar rules of a business trust or common-law business trust.

1 (37) "Proceeding" includes a civil action, arbitration, mediation, ad-  
2 ministrative proceeding, criminal prosecution, and investigatory action.

3 (38) "Professional entity" means an entity formed for the sole and spe-  
4 cific purpose of rendering professional services, allied professional ser-  
5 vices, and services ancillary to the professional services and that has as  
6 its interest holders only:

7 (A) Natural persons who themselves are duly licensed or otherwise  
8 legally authorized to render one (1) or more of the same professional  
9 services as the professional entity; and

10 (B) Other professional entities.

11 (39) "Professional service" means any type of service to the public  
12 that can be rendered by a member of any profession within the purview of the  
13 member's profession.

14 (40) "Property" means all property, whether real, personal, or mixed or  
15 tangible or intangible, or any right or interest therein.

16 (41) "Public organic record" means the record the filing of which by the  
17 secretary of state is required to form an entity and any amendment to or re-  
18 statement of that record. The term includes:

19 (A) The articles of incorporation of a business corporation;

20 (B) The articles of incorporation of a nonprofit corporation;

21 (C) The certificate of limited partnership of a limited partnership;

22 (D) The certificate of organization of a limited liability company;

23 (E) The articles of incorporation of a general cooperative associa-  
24 tion;

25 (F) The articles of organization of a limited cooperative association;  
26 and

27 (G) The certificate of trust of a statutory trust or similar record of a  
28 business trust.

29 (42) "Receipt", as used in this chapter, means actual receipt. "Re-  
30 ceive" has a corresponding meaning.

31 (43) "Record", used as a noun, means information that is inscribed on  
32 a tangible medium or that is stored in an electronic or other medium and is  
33 retrievable in perceivable form.

34 (44) "Registered agent" means an agent of an entity which is authorized  
35 to receive service of any process, notice, or demand required or permitted  
36 by law to be served on the entity. The term includes a commercial registered  
37 agent and a noncommercial registered agent.

38 (45) "Registered foreign entity" means a foreign entity that is regis-  
39 tered to do business in this state pursuant to a statement of registration  
40 filed by the secretary of state.

41 (46) "Sign" means with present intent to authenticate or adopt a  
42 record:

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

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

46 (47) "State" means a state of the United States, the District of Colum-  
47 bia, Puerto Rico, the United States Virgin Islands, or any territory or insu-  
48 lar possession subject to the jurisdiction of the United States.

49 (48) "Statutory trust" means a trust formed under the statutory law of a  
50 jurisdiction other than this state.

1 (49) "Transfer" includes:

2 (A) An assignment;

3 (B) A conveyance;

4 (C) A sale;

5 (D) A lease;

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

7 (F) A gift; and

8 (G) A transfer by operation of law.

9 (50) "Type of entity" means a generic form of entity:

10 (A) Recognized at common law; or

11 (B) Formed under an organic law, whether or not some entities formed un-  
12 der that law are subject to provisions of that law that create different  
13 categories of the form of entity.

14 (51) "Unincorporated nonprofit association" means a domestic unincor-  
15 porated nonprofit association formed under or subject to chapter 27, title  
16 30, Idaho Code, or a nonprofit association formed under or subject to the law  
17 of a jurisdiction other than this state that would be an unincorporated non-  
18 profit association if formed under or subject to the law of this state.

19 (52) "Written" means inscribed on a tangible medium. "Writing" has a  
20 corresponding meaning.

21 30-21-103. APPLICABILITY OF CHAPTER. This chapter applies to an en-  
22 tity formed under or subject to this title.

23 30-21-104. DELIVERY OF RECORD. (a) Except as otherwise provided in  
24 this title, permissible means of delivery of a record including delivery by  
25 hand, mail, conventional commercial practice, and electronic transmission.

26 (b) Delivery to the secretary of state is effective only when a record  
27 is received by the secretary of state.

28 30-21-105. RULES AND PROCEDURES. The secretary of state may:

29 (1) Adopt rules to administer this title in accordance with this  
30 state's administrative procedure act; and

31 (2) Prescribe procedures that are reasonably necessary to perform the  
32 duties required of the secretary of state under this title and are not re-  
33 quired by this state's administrative procedure act to be adopted as rules.

34 30-21-106. RESERVED.

35 SECTION 8. That Chapter 21, Title 30, Idaho Code, be, and the same is  
36 hereby amended by the addition thereto of a NEW PART, to be known and desig-  
37 nated as Part 2, Chapter 21, Title 30, Idaho Code, and to read as follows:

## 38 PART 2

## 39 FILING

40 30-21-201. ENTITY FILING REQUIREMENTS. (a) To be filed by the secre-  
41 tary of state pursuant to this title, an entity filing must be received by the  
42 secretary of state, comply with this title, and satisfy the following:

43 (1) The entity filing must be required or permitted by this title.

(2) The entity filing must be physically delivered in written form unless and to the extent the secretary of state permits electronic delivery of entity filings.

(3) The words in the entity filing must be in English, and numbers must be in Arabic or Roman numerals, but the name of the entity need not be in English if written in English letters or Arabic or Roman numerals.

(4) The entity filing must be signed by or on behalf of a person authorized or required under this title to sign the filing.

(5) The entity filing must state the name and capacity, if any, of each individual who signed it, either on behalf of the individual or the person authorized or required to sign the filing, but need not contain a seal, attestation, acknowledgment, or verification.

(b) If law other than this title prohibits the disclosure by the secretary of state of information contained in an entity filing, the secretary of state shall file the entity filing if the filing otherwise complies with this title but may redact the information.

(c) When an entity filing is delivered to the secretary of state for filing, any fee required under this chapter and any fee, tax, interest, or penalty required to be paid under this chapter or law other than this title must be paid in a manner permitted by the secretary of state.

(d) The secretary of state may require that an entity filing delivered in written form be accompanied by an identical or conformed copy.

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

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

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

(1) On the date and at the time of its filing by the secretary of state as provided in section 30-21-206, Idaho Code;

(2) On the date of filing and at the time specified in the entity filing as its effective time, if later than the time under subsection (1) of this section;

(3) If permitted by this title, at a specified delayed effective date and time, which may not be more than ninety (90) days after the date of filing; or

(4) If a delayed effective date as permitted by this title is specified, but no time is specified, at 12:01 a.m. on the date specified, which may not be more than ninety (90) days after the date of filing.

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

(b) A statement of withdrawal must:



1 (1) Be signed by each person that signed the record being withdrawn, ex-  
 2 cept as otherwise agreed by those persons;

3 (2) Identify the record to be withdrawn; and

4 (3) If signed by fewer than all the persons that signed the record be-  
 5 ing withdrawn, state that the record is withdrawn in accordance with the  
 6 agreement of all the persons that signed the record.

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

10 30-21-205. CORRECTING FILED RECORD. (a) A person on whose behalf a  
 11 filed record was delivered to the secretary of state for filing may correct  
 12 the record if:

13 (1) The record at the time of filing was inaccurate;

14 (2) The record was defectively signed; or

15 (3) The electronic transmission of the record to the secretary of state  
 16 was defective.

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

20 (c) A statement of correction:

21 (1) May not state a delayed effective date;

22 (2) Must be signed by the person correcting the filed record;

23 (3) Must identify the filed record to be corrected;

24 (4) Must specify the inaccuracy or defect to be corrected; and

25 (5) Must correct the inaccuracy or defect.

26 (d) A statement of correction is effective as of the effective date of  
 27 the filed record that it corrects except as to persons relying on the uncor-  
 28 rected filed record and adversely affected by the correction. As to those  
 29 persons, the statement of correction is effective when filed.

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

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

39 (c) If the secretary of state refuses to file an entity filing, the sec-  
 40 retary of state, not later than 5 business days after the filing is deliv-  
 41 ered, shall:

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

44 (2) Provide a brief explanation in a record of the reason for the re-  
 45 fusals.

46 (d) If the secretary of state refuses to file an entity filing, the per-  
 47 son that submitted the filing may petition the district court to compel its  
 48 filing. The filing and the explanation of the secretary of state of the re-

1       fusal to file must be attached to the petition. The court may decide the mat-  
2       ter in a summary proceeding.

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

- 4       (1) Affect the validity or invalidity of the filing in whole or in part;  
5       or  
6       (2) Create a presumption that the information contained in the filing  
7       is correct or incorrect.

8       30-21-207. EVIDENTIARY EFFECT OF COPY OF FILED RECORD. A certifica-  
9       tion from the secretary of state accompanying a copy of a filed record is con-  
10      clusive evidence that the copy is an accurate representation of the original  
11      record on file with the secretary of state.

12      30-21-208. CERTIFICATE OF GOOD STANDING OR REGISTRATION. (a) On re-  
13      quest of any person, the secretary of state shall issue a certificate of good  
14      standing for a domestic filing entity or a certificate of registration for a  
15      registered foreign entity.

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

17      (1) The domestic filing entity's name or the registered foreign en-  
18      tity's name used in this state;

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

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

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

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

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

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

31      30-21-209. SIGNING OF ENTITY FILING. (a) Signing an entity filing is  
32      an affirmation under the penalties of perjury that the facts stated in the  
33      filing are true in all material respects.

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

38      (c) A person that signs a record as an agent or legal representative af-  
39      firms as a fact that the person is authorized to sign the record.

40      30-21-210. SIGNING AND FILING PURSUANT TO JUDICIAL ORDER. (a) If a  
41      person required by this title to sign or deliver a record to the secretary  
42      of state for filing under this title does not do so, any other person that is  
43      aggrieved may petition the district court to order:

44      (1) The person to sign the record;

45      (2) The person to deliver the record to the secretary of state for fil-  
46      ing; or

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

2 (b) If the petitioner under subsection (a) of this section is not the  
3 entity to which the record pertains, the petitioner shall make the entity a  
4 party to the action.

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

7 30-21-211. LIABILITY FOR INACCURATE INFORMATION IN FILED RECORD. If a  
8 record delivered to the secretary of state for filing under this title and  
9 filed by the secretary of state contains inaccurate information, a person  
10 that suffers a loss by reliance on the information may recover damages for  
11 the loss from a person that signed the record or caused another to sign it on  
12 the person's behalf and knew at the time the record was signed that the infor-  
13 mation was inaccurate.

14 30-21-212. DELIVERY BY SECRETARY OF STATE. Except as otherwise pro-  
15 vided by Section 30-21-412, Idaho Code, or by law of this state other than  
16 this title, the secretary of state may deliver a record to a person by deliv-  
17 ering it:

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

23 30-21-213. ANNUAL REPORT FOR SECRETARY OF STATE. (a) A domestic filing  
24 entity, domestic limited liability partnership, or registered foreign en-  
25 tity shall deliver to the secretary of state for filing an annual report that  
26 states:

- 27 (1) The name of the entity and its jurisdiction of formation;
- 28 (2) The information required by section 30-21-404 (a), Idaho Code;
- 29 (3) The street and mailing addresses of the entity's principal office;
- 30 and
- 31 (4) The name of at least one (1) governor.
- 32 (b) Information in an annual report must be current as of the date the  
33 report is signed by the entity.

34 (c) The annual report must be delivered to the secretary of state for  
35 filing each year before the end of the month during which the public organic  
36 record of a domestic filing entity became effective, the statement of quali-  
37 fication of a domestic limited liability partnership became effective, or a  
38 foreign filing entity registered to do business in this state. Beginning one  
39 (1) year after the public organic record of a domestic filing entity became  
40 effective, the statement of qualification of a domestic limited liability  
41 partnership became effective, or a foreign filing entity registered to do  
42 business in this state, and each year thereafter, the annual report must be  
43 received in the office of the secretary of state not later than the close of  
44 business on the final day of the applicable month. If the secretary of state  
45 finds that such report conforms to the requirements of this chapter, he shall  
46 file the same.

1 (d) If an annual report does not contain the information required by  
 2 this section, the secretary of state shall promptly notify the reporting en-  
 3 tity in a record and return the report for correction.

4 (e) If an annual report contains the name or address of a registered  
 5 agent that differs from the information shown in the records of the secretary  
 6 of state immediately before the report becomes effective, the differing in-  
 7 formation is considered a statement of change under section 30-21-407, Idaho  
 8 Code.

9 30-21-214. FEES. (a) The secretary of state shall collect the follow-  
 10 ing fees for copying and certifying the copy of any filed record:

11 (1) \$0.25 per page for copying; and

12 (2) \$10.00 for the certification.

13 (b) The secretary of state shall collect the following fees when an en-  
 14 tity filing is delivered for filing:

15 (1) Statement of merger, \$30.00.

16 (2) Statement of withdrawal, \$30.00.

17 (3) Statement of interest exchange, \$30.00.

18 (4) Statement of abandonment, \$30.00.

19 (5) Statement of conversion, \$30.00.

20 (6) Statement of domestication, \$30.00.

21 (7) Annual report, no fee.

22 (8) Articles of incorporation of a business corporation, \$100.

23 (9) Articles of incorporation of a nonprofit corporation, \$30.00.

24 (10) Statement of qualification of a limited liability partnership,  
 25 \$100.

26 (11) Certificate of amendment to certificate of assumed business name,  
 27 \$10.00.

28 (12) Certificate of amendment to certificate of assumed business name  
 29 with only an address change, no fee.

30 (13) Certificate of assumed business name, \$25.00.

31 (14) Certificate of cancellation of a certificate of assumed business  
 32 name, no fee.

33 (15) Certificate of limited partnership of a limited partnership,  
 34 \$100.

35 (16) Certificate of organization of a limited liability company, \$100.

36 (17) Other public organic documents or a statement not otherwise speci-  
 37 fied herein, \$30.00.

38 (18) Commercial registered agent listing statement, \$100.

39 (19) Commercial registered agent termination statement, \$20.00.

40 (20) Commercial registered agent statement of change, \$30.00.

41 (21) Registered agent statement of resignation, no fee

42 (22) Statement designating a registered agent, \$20.00.

43 (23) Foreign entity registration statement, \$100.

44 (24) Amendment of foreign entity registration statement, \$30.00.

45 (25) Notice of cancellation of foreign entity registration statement,  
 46 no fee.

47 (26) Statement of withdrawal of foreign entity registration statement,  
 48 \$20.00.

49 (27) Statement of correction, \$30.00.

1 (28) Application for reinstatement following administrative dissolution, \$30.00.

2 (29) Statement of dissolution of a limited liability company, no fee.

3 (30) Statement of authority, \$100.

4 (31) Combined statement of partnership authority and qualification of limited liability partnership, \$100.

5 (32) Certificate of existence, \$10.00.

6 (33) Application for use of deceptively similar name, \$20.00.

7 (34) Application for reserved name, \$20.00.

8 (35) Notice of transfer of reserved name, \$20.00.

9 (36) Application for registered name, \$ 60.00.

10 (37) Application for renewal of registered name, \$60.00.

11 (38) Amendment of articles of incorporation, \$30.00.

12 (39) Restatement of articles of incorporation with amendment of articles, \$30.00.

13 (40) Articles of dissolution, \$30.00.

14 (41) Articles of revocation of dissolution, \$30.00.

15 (42) Certificate of administrative dissolution, no fee.

16 (43) Certificate of reinstatement, no fee.

17 (44) Certificate of judicial dissolution, no fee.

18 (45) Statement of Termination, \$30.00.

19 (c) The withdrawal under section 30-21-204, Idaho Code, of a filed record before it is effective or the correction of a filed record under section 30-21-205, Idaho Code, does not entitle the person on whose behalf the record was filed to a refund of the filing fee.

20 (d) The secretary of state shall collect a surcharge of \$20.00 for providing evidence of filing an entity filing within eight (8) working hours after the entity filing is delivered for filing.

21 (e) The secretary of state shall collect a surcharge of \$20.00 for filing any non-typed record or any record that is not on a standard form prescribed by the secretary of state, except no surcharge will be collected for a non-typed certificate of assumed business name or a certificate of amendment to certificate of assumed business name.

22 SECTION 9. That Chapter 21, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW PART, to be known and designated as Part 3, Chapter 21, Title 30, Idaho Code, and to read as follows:

### 23 PART 3

#### 24 NAME OF ENTITY

25 30-21-301. PERMITTED NAMES. (a) Except as otherwise provided in subsection (d) or (f) of this section, the name of a domestic filing entity or domestic limited liability partnership, and the name under which a foreign entity may register to do business in this state, must be distinguishable on the records of the secretary of state from any:

26 (1) Name of an existing domestic filing entity which at the time is not administratively dissolved for more than six (6) months;

27 (2) Name of a limited liability partnership whose statement of qualification is in effect;

(3) Name under which a foreign entity registered to do business in this state under part 5 of this chapter;

(4) Name reserved under section 30-21-303, Idaho Code; or

(5) Name registered under section 30-21-304, Idaho Code.

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

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

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

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

(f) An entity may use a name that is not distinguishable from a name described in subsection (a)(1) through (6) of this section if the entity delivers to the secretary of state a certified copy of a final judgment of a court of competent jurisdiction establishing the right of the entity to use the name in this state.

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

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

30-21-302. NAME REQUIREMENTS FOR CERTAIN TYPES OF ENTITIES. (a) The name of a business corporation must contain the word "corporation", "incorporated", "company", or "limited", or the abbreviation "Corp.", "Inc.", "Co.", or "Ltd.", or words or abbreviations of similar import in another language; provided however, that if the word "company" or its abbreviation is

1 used it shall not be immediately preceded by the word "and" or by an abbrevi-  
 2 ation of or symbol representing the word "and." If the business corporation  
 3 is a professional entity, the name may alternatively contain the word "char-  
 4 tered," "professional association," or "professional corporation," or the  
 5 abbreviation "P.A.," "P.C.," or "CHTD" or words or abbreviations of similar  
 6 import in another language.

7 (b) The name of a limited partnership may contain the name of any part-  
 8 ner. The name of a limited partnership that is not a limited liability lim-  
 9 ited partnership must contain the phrase "limited partnership" or the abbrevi-  
 10 ation "L.P." or "LP" and may not contain the phrase "limited liability lim-  
 11 ited partnership" or "registered limited liability limited partnership" or  
 12 the abbreviation "L.L.L.P.", "LLLLP", "R.L.L.L.P.", or "RLLLLP". If the lim-  
 13 ited partnership is a limited liability limited partnership, the name must  
 14 contain the phrase "limited liability limited partnership" or the abbrevi-  
 15 ation "L.L.L.P." or "LLLLP" "R.L.L.L.P.", or "RLLLLP" and may not contain the  
 16 abbreviation "L.P." or "LP". If the limited partnership is a professional  
 17 entity, the name may include the word "professional" before the word "lim-  
 18 ited" or the letter "P" at the beginning of any one (1) of the permitted ab-  
 19 breviations.

20 (c) The name of a limited liability partnership must contain the words  
 21 "limited liability partnership" or "registered limited liability partner-  
 22 ship" or the abbreviation "L.L.P.", "R.L.L.P.", "LLP", or "RLLP". If the  
 23 limited liability partnership is a professional entity, the name may include  
 24 the word "professional" before the word "limited" or the letter "P" at the  
 25 beginning of any one of the permitted abbreviations.

26 (d) The name of a limited liability company must contain the phrase  
 27 "limited liability company" or "limited company" or the abbreviation  
 28 "L.L.C.", "LLC", "L.C.", or "LC". "Limited" may be abbreviated as "Ltd.",  
 29 and "company" may be abbreviated as "Co.". If the limited liability company  
 30 is a professional entity, the name may include the word "professional" be-  
 31 fore the word "limited" or the letter "P" at the beginning of any one (1) of  
 32 the permitted abbreviations.

33 (e) The name of a limited cooperative association must contain the  
 34 words "limited cooperative association" or "limited cooperative" or the  
 35 abbreviation "L.C.A." or "LCA". "Limited" may be abbreviated as "Ltd.". "Co-  
 36 operative" may be abbreviated as "Co-op.", "Coop.", "Co op", or "Coop".  
 37 "Association" may be abbreviated as "Assoc.", "Assoc", "Assn.", or "Assn".

38 (f) The name of a statutory trust may contain the words "company", "as-  
 39 sociation", "club", "foundation", "fund", "institute", "society", "union",  
 40 "syndicate", "limited", or "trust", or words or abbreviations of similar im-  
 41 port, and may contain the name of a beneficial owner, a trustee, or any other  
 42 person.

43 30-21-303. RESERVATION OF NAME. (a) A person may reserve the exclusive  
 44 use of an entity name by delivering an application to the secretary of state  
 45 for filing. The application must state the name and address of the applicant  
 46 and the name to be reserved. If the secretary of state finds that the entity  
 47 name is available, the secretary of state shall reserve the name for the ap-  
 48 plicant's exclusive use for one hundred twenty (120) days.

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

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

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

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

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

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

SECTION 10. That Chapter 21, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW PART, to be known and designated as Part 4, Chapter 21, Title 30, Idaho Code, and to read as follows:

#### PART 4

#### REGISTERED AGENT OF ENTITY

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

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

(A) Section 30-27-129, Idaho Code, the "Uniform Unincorporated Non-profit Association Act"; or

(B) Section 30-21-411, Idaho Code, by a nonregistered foreign entity or domestic nonfiling entity.

(2) "Registered agent filing" means:

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

(B) A statement of qualification of a domestic limited liability partnership;



1 (C) A registration statement filed pursuant to section 30-21-503,  
2 Idaho Code; or

3 (D) A designation of agent.

4 (3) "Represented entity" means:

5 (A) A domestic filing entity;

6 (B) A domestic limited liability partnership;

7 (C) A registered foreign entity;

8 (D) A domestic or foreign unincorporated nonprofit association for  
9 which a designation of agent is in effect;

10 (E) A domestic nonfiling entity for which a designation of agent is in  
11 effect; or

12 (F) A nonregistered foreign entity for which a designation of agent is  
13 in effect.

14 30-21-402. ENTITIES REQUIRED TO DESIGNATE AND MAINTAIN REGISTERED  
15 AGENT. The following shall designate and maintain a registered agent in this  
16 state:

17 (1) A domestic filing entity;

18 (2) A domestic limited liability partnership; and

19 (3) A registered foreign entity.

20 30-21-403. ADDRESSES IN FILING. If a provision of this part other than  
21 section 30-21-410(a)(4), Idaho Code, requires that a record state an ad-  
22 dress, the record must state:

23 (1) A street address in this state; and

24 (2) A mailing address in this state, if different from the address de-  
25 scribed in subsection (1) of this section.

26 30-21-404. DESIGNATION OF REGISTERED AGENT. (a) A registered agent  
27 filing must be signed by the represented entity and state:

28 (1) The name of the entity's commercial registered agent; or

29 (2) If the entity does not have a commercial registered agent:

30 (A) The name and address of the entity's noncommercial registered  
31 agent; or

32 (B) The title of an office or other position with the entity,  
33 if service of process, notices, and demands are to be sent to  
34 whichever individual is holding that office or position, and the  
35 address to which process, notices or demands are to be sent.

36 (b) The designation of a registered agent pursuant to subsection (a) (1)  
37 or (2) (A) of this section is an affirmation of fact by the represented entity  
38 that the agent has consented to serve.

39 (c) The secretary of state shall make available in a record as soon as  
40 practicable a daily list of filings that contain the name of a registered  
41 agent. The list must:

42 (1) Be available for at least fourteen (14) calendar days;

43 (2) List in alphabetical order the names of the registered agents; and

44 (3) State the type of filing and name of the represented entity making  
45 the filing.

1        30-21-405. LISTING OF COMMERCIAL REGISTERED AGENT. (a) A person may  
 2 become listed as a commercial registered agent by delivering to the secre-  
 3 tary of state for filing a commercial registered agent listing statement  
 4 signed by the person which states:

5        (1) The name of the individual or the name of the entity, type of entity,  
 6 and jurisdiction of formation of the entity;

7        (2) That the person is in the business of serving as a commercial regis-  
 8 tered agent in this state; and

9        (3) The address of a place of business of the person in this state to  
 10 which service of process, notices, and demands being served on or sent  
 11 to entities represented by the person may be delivered.

12        (b) A commercial registered agent listing statement may include the in-  
 13 formation regarding acceptance by the agent of service of process, notices,  
 14 and demands in a form other than a written record as provided in section  
 15 30-21-412(d), Idaho Code.

16        (c) If the name of a person delivering to the secretary of state for fil-  
 17 ing a commercial registered agent listing statement is not distinguishable  
 18 on the records of the secretary of state from the name of another commercial  
 19 registered agent listed under this section, the person shall adopt a fic-  
 20 titious name that is distinguishable and use that name in its statement and  
 21 when it does business in this state as a commercial registered agent.

22        (d) The secretary of state shall note the filing of a commercial regis-  
 23 tered agent listing statement in the index of filings maintained by the sec-  
 24 retary of state for each entity represented by the agent at the time of the  
 25 filing. The statement has the effect of amending the registered agent filing  
 26 for each of those entities to:

27        (1) Designate the person becoming listed as a commercial registered  
 28 agent as the commercial registered agent of each of those entities; and

29        (2) Delete the name and address of the former agent from the registered  
 30 agent filing of each of those entities.

31        30-21-406. TERMINATION OF LISTING OF COMMERCIAL REGISTERED AGENT. (a)  
 32 A commercial registered agent may terminate its listing as a commercial reg-  
 33 istered agent by delivering to the secretary of state for filing a commercial  
 34 registered agent termination statement signed by the agent which states:

35        (1) The name of the agent as listed under Section 30-21-405, Idaho Code;  
 36 and

37        (2) That the agent is no longer in the business of serving as a commer-  
 38 cial registered agent in this state.

39        (b) A commercial registered agent termination statement takes effect  
 40 at 12:01 a.m. on the thirty-first day after the day on which it is filed by  
 41 the secretary of state.

42        (c) The commercial registered agent promptly shall furnish each entity  
 43 represented by the agent notice in a record of the filing of the commercial  
 44 registered agent termination statement.

45        (d) When a commercial registered agent termination statement takes  
 46 effect, the commercial registered agent ceases to be the registered agent  
 47 for each entity formerly represented by it. Until an entity formerly rep-  
 48 resented by a terminated commercial registered agent designates a new  
 49 registered agent, service of process may be made on the entity pursuant to

1 section 30-21-412, Idaho Code. Termination of the listing of a commercial  
 2 registered agent under this section does not affect any contractual rights  
 3 a represented entity has against the agent or that the agent has against the  
 4 entity.

5 30-21-407. CHANGE OF REGISTERED AGENT BY ENTITY. (a) A represented en-  
 6 tity may change the information on file under section 30-21-404(a), Idaho  
 7 Code by delivering to the secretary of state for filing a statement of change  
 8 signed by the entity which states:

9 (1) The name of the entity; and

10 (2) The information that is to be in effect as a result of the filing of  
 11 the statement of change.

12 (b) The interest holders or governors of a domestic entity need not ap-  
 13 prove the filing of:

14 (1) A statement of change under this section; or

15 (2) A similar filing changing the registered agent or registered of-  
 16 fice, if any, of the entity in any other jurisdiction.

17 (c) A statement of change under this section designating a new reg-  
 18 istered agent is an affirmation of fact by the represented entity that the  
 19 agent has consented to serve.

20 (d) As an alternative to using the procedure in this section, a repre-  
 21 sented entity may change the information on file under section 30-21-404(a),  
 22 Idaho Code, by amending its most recent registered agent filing in a manner  
 23 provided by the law of this state other than this title for amending the fil-  
 24 ing.

25 30-21-408. CHANGE OF NAME OR ADDRESS BY NONCOMMERCIAL REGISTERED  
 26 AGENT. (a) If a noncommercial registered agent changes its name, its address  
 27 in effect with respect to a represented entity under section 30-21-404(a),  
 28 Idaho Code, the agent shall deliver to the secretary of state for filing,  
 29 with respect to each entity represented by the agent, a statement of change  
 30 signed by the agent which states:

31 (1) The name of the entity;

32 (2) the name and address of the agent in effect with respect to the en-  
 33 tity;

34 (3) If the name of the agent has changed, the new name;

35 (4) if the address of the agent has changed, the new address; and

36 (b) A noncommercial registered agent promptly shall furnish the rep-  
 37 represented entity with notice in a record of the delivery to the secretary of  
 38 state for filing of a statement of change and the changes made in the state-  
 39 ment.

40 30-21-409. CHANGE OF NAME, ADDRESS, TYPE OF ENTITY, OR JURISDICTION  
 41 OF FORMATION BY COMMERCIAL REGISTERED AGENT. (a) If a commercial registered  
 42 agent changes its name, its address as listed under section 30-21-405(a),  
 43 Idaho Code, its type of entity, or its jurisdiction of formation, the agent  
 44 shall deliver to the secretary of state for filing a statement of change  
 45 signed by the agent which states:

46 (1) The name of the agent as listed under section 30-21-405(a), Idaho  
 47 Code;

- 1 (2) If the name of the agent has changed, the new name;
- 2 (3) If the address of the agent has changed, the new address; and
- 3 (4) If the agent is an entity:
  - 4 (i) If the type of entity of the agent has changed, the new type of
  - 5 entity; and
  - 6 (ii) If the jurisdiction of formation of the agent has changed,
  - 7 the new jurisdiction of formation.
- 8 (b) The filing by the secretary of state of a statement of change un-  
 9 der subsection (a) of this section is effective to change the information re-  
 10 garding the agent with respect to each entity represented by the agent.
- 11 (c) A commercial registered agent shall promptly furnish to each entity  
 12 represented by it a notice in a record of the filing by the secretary of state  
 13 of a statement of change relating to the name or address of the agent and the  
 14 changes made in the statement.
- 15 (d) If a commercial registered agent changes its address without deliv-  
 16 ering for filing a statement of change as required by this section, the sec-  
 17 retary of state may cancel the listing of the agent under section 30-21-405,  
 18 Idaho Code. A cancellation under this subsection has the same effect as a  
 19 termination under section 30-21-406, Idaho Code. Promptly after canceling  
 20 the listing of an agent, the secretary of state shall serve notice in a record  
 21 in the manner provided in section 30-21-412(b) or (c), Idaho Code, on:
  - 22 (1) Each entity represented by the agent, stating that the agent has
  - 23 ceased to be the registered agent for the entity and that, until the en-  
 24 tity designates a new registered agent, service of process may be made  
 25 on the entity as provided in section 30-21-412, Idaho Code; and
  - 26 (2) The agent stating that the listing of the agent has been canceled  
 27 under this section.

28 30-21-410. RESIGNATION OF REGISTERED AGENT. (a) A registered agent  
 29 may resign as agent for a represented entity by delivering to the secretary  
 30 of state for filing a statement of resignation signed by the agent which  
 31 states:

- 32 (1) The name of the entity;
- 33 (2) The name of the agent;
- 34 (3) That the agent resigns from serving as registered agent for the en-  
 35 tity; and
- 36 (4) The address of the entity to which the agent will send the notice  
 37 required by subsection (c) of this section.
- 38 (b) A statement of resignation takes effect on the earlier of:
  - 39 (1) 12:01 a.m. on the thirty-first day after the day on which it is  
 40 filed by the secretary of state; or
  - 41 (2) The designation of a new registered agent for the represented en-  
 42 tity.
- 43 (c) A registered agent promptly shall furnish to the represented entity  
 44 notice in a record of the date on which a statement of resignation was filed.
- 45 (d) When a statement of resignation takes effect, the person that re-  
 46 signed ceases to have responsibility under this part for any matter there-  
 47 after tendered to it as agent for the represented entity. The resignation  
 48 does not affect any contractual rights the entity has against the agent or  
 49 that the agent has against the entity.

1 (e) A registered agent may resign with respect to a represented entity  
2 whether or not the entity is in good standing.

3 30-21-411. DESIGNATION OF REGISTERED AGENT BY NONREGISTERED FOREIGN  
4 ENTITY OR NONFILING DOMESTIC ENTITY. (a) A nonregistered foreign entity or  
5 domestic nonfiling entity may deliver to the secretary of state for filing a  
6 statement designating a registered agent signed by the entity which states:

7 (1) The name, type of entity, and jurisdiction of formation of the en-  
8 tity; and

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

10 (b) A statement under subsection (a) of this section is effective for  
11 five (5) years after the date of filing unless canceled or terminated ear-  
12 lier.

13 (c) A statement under subsection (a) of this section must be signed by a  
14 person authorized to manage the affairs of the nonregistered foreign entity  
15 or domestic nonfiling entity. The signing of the statement is an affirmation  
16 of fact that the person is authorized to manage the affairs of the entity and  
17 that the agent has consented to serve.

18 (d) Designation of a registered agent under subsection (a) of this sec-  
19 tion does not register a nonregistered foreign entity to do business in this  
20 state.

21 (e) A statement under subsection (a) of this section may not be rejected  
22 for filing because the name of the entity signing the statement is not dis-  
23 tinguishable on the records of the secretary of state from the name of an-  
24 other entity appearing on those records. The filing of such a statement does  
25 not make the name of the entity signing the statement unavailable for use by  
26 another entity.

27 (f) An entity that delivers to the secretary of state for filing a  
28 statement under subsection (a) of this section designating a registered  
29 agent may cancel the statement by delivering to the secretary of state for  
30 filing a statement of cancellation that states the name of the entity and  
31 that the entity is canceling its designation of a registered agent in this  
32 state.

33 (g) A statement under subsection (a) of this section for a nonregis-  
34 tered foreign entity terminates on the date the entity becomes a registered  
35 foreign entity.

36 30-21-412. SERVICE OF PROCESS, NOTICE, OR DEMAND ON ENTITY. (a) A rep-  
37 resented entity may be served with any process, notice, or demand required or  
38 permitted by law by serving its registered agent.

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

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

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

4 (3) Five (5) days after its deposit with the United States Postal Ser-  
5 vice or commercial delivery service, if correctly addressed and with  
6 sufficient postage or payment.

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

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

15 (e) Service of process, notice, or demand may be made by other means un-  
16 der law other than this title.

17 30-21-413. DUTIES OF REGISTERED AGENT. The only duties under this part  
18 of a registered agent that has complied with this part are:

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

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

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

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

29 30-21-414. JURISDICTION AND VENUE. The designation or maintenance in  
30 this state of a registered agent does not by itself create the basis for per-  
31 sonal jurisdiction over the represented entity in this state. The address of  
32 the agent does not determine venue in an action or a proceeding involving the  
33 entity.

34 SECTION 11. That Chapter 21, Title 30, Idaho Code, be, and the same is  
35 hereby amended by the addition thereto of a NEW PART, to be known and desig-  
36 nated as Part 5, Chapter 21, Title 30, Idaho Code, and to read as follows:

37 PART 5  
38 FOREIGN ENTITIES

39 30-21-501. GOVERNING LAW. (a) The law of the jurisdiction of formation  
40 of an entity governs:

41 (1) The internal affairs of the entity;

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

44 (3) The liability of a series of a limited liability company, a statu-  
45 tory trust, or any other unincorporated entity.

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

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

8 (d) A foreign professional entity rendering services in this state  
 9 shall be subject to the laws of this state and the code of ethics or profes-  
 10 sional responsibility that are applicable to the profession in which such  
 11 professional entity is rendering services in this state.

12 30-21-502. REGISTRATION TO DO BUSINESS IN THIS STATE. (a) A foreign  
 13 filing entity or foreign limited liability partnership may not do business  
 14 in this state until it registers with the secretary of state under this chap-  
 15 ter.

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

19 (c) The failure of a foreign filing entity or foreign limited liability  
 20 partnership to register to do business in this state does not impair the va-  
 21 lidity of a contract or act of the foreign filing entity or foreign limited  
 22 liability partnership or preclude it from defending an action or proceeding  
 23 in this state.

24 (d) A limitation on the liability of a series of foreign unincorporated  
 25 entity or an interest holder or governor of a foreign filing entity or of a  
 26 partner of a foreign limited liability partnership is not waived solely be-  
 27 cause the foreign unincorporated entity or any series thereof, foreign fil-  
 28 ing entity or foreign limited liability partnership does business in this  
 29 state without registering.

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

32 30-21-503. FOREIGN REGISTRATION STATEMENT. (a) To register to do  
 33 business in this state, a foreign filing entity or foreign limited liability  
 34 partnership must deliver a foreign registration statement to the secretary  
 35 of state for filing. The statement must be signed by the entity and state:

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

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

42 (3) The entity's jurisdiction of formation;

43 (4) The street and mailing addresses of the entity's principal office  
 44 and, if the law of the entity's jurisdiction of formation requires the  
 45 entity to maintain an office in that jurisdiction, the street and mail-  
 46 ing addresses of the office;

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

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

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

6 30-21-504. AMENDMENT OF FOREIGN REGISTRATION STATEMENT. (a) A reg-  
 7 istered foreign entity shall sign and deliver to the secretary of state  
 8 for filing an amendment to its foreign registration statement if there is a  
 9 change in:

- 10 (1) The name of the entity;
  - 11 (2) The type of entity, including, if it is a foreign limited partner-  
 12 ship, whether the entity became or ceased to be a foreign limited lia-  
 13 bility limited partnership;
  - 14 (3) The entity's jurisdiction of formation;
  - 15 (4) An address required by section 30-21-503(4), Idaho Code; or
  - 16 (5) The information required by section 30-21-404(a), Idaho Code.
- 17 (b) A registered foreign entity must deliver to the secretary of state  
 18 with an amendment to its foreign registration statement for a change under  
 19 subsection (a) (1), (2) or (3) of this section, a certificate of existence or  
 20 a record of similar import signed by the secretary of state or other official  
 21 having custody of the entity's public organic record in the entity's juris-  
 22 diction of formation.

23 30-21-505. ACTIVITIES NOT CONSTITUTING DOING BUSINESS. (a) Activi-  
 24 ties of a foreign filing entity or foreign limited liability partnership  
 25 that do not constitute doing business in this state under this chapter in-  
 26 clude:

- 27 (1) Maintaining, defending, mediating, arbitrating, or settling an ac-  
 28 tion or proceeding;
  - 29 (2) Carrying on any activity concerning its internal affairs, includ-  
 30 ing holding meetings of its interest holders or governors;
  - 31 (3) Maintaining accounts in financial institutions;
  - 32 (4) Maintaining offices or agencies for the transfer, exchange, and  
 33 registration of securities of the entity or maintaining trustees or de-  
 34 positories with respect to those securities;
  - 35 (5) Selling through independent contractors;
  - 36 (6) Soliciting or obtaining orders by any means if the orders require  
 37 acceptance outside this state before they become contracts;
  - 38 (7) Creating or acquiring indebtedness, mortgages, or security inter-  
 39 ests in property;
  - 40 (8) Securing or collecting debts or enforcing mortgages or security  
 41 interests in property securing the debts, and holding, protecting, or  
 42 maintaining property so acquired;
  - 43 (9) Conducting an isolated transaction that is not in the course of sim-  
 44 ilar transactions;
  - 45 (10) Owning, without more, property; and
  - 46 (11) Doing business in interstate commerce.
- 47 (b) A person does not do business in this state solely by being an inter-  
 48 est holder or governor of a foreign entity that does business in this state.



1 (c) This section does not apply in determining the contacts or activ-  
 2 ities that may subject a foreign filing entity or foreign limited liability  
 3 partnership to service of process, taxation, or regulation under the law of  
 4 this state other than this title.

5 30-21-506. NONCOMPLYING NAME OF FOREIGN ENTITY. (a) A foreign filing  
 6 entity or foreign limited liability partnership whose name does not comply  
 7 with section 30-21-301, Idaho Code, for an entity of its type may not reg-  
 8 ister to do business in this state until it adopts, for the purpose of doing  
 9 business in this state, an alternate name that complies with section 30-21-  
 10 301, Idaho Code. A foreign entity that registers under an alternate name un-  
 11 der this subsection need not comply with this state's assumed or fictitious  
 12 name statute. After registering to do business in this state with an alter-  
 13 nate name, a foreign entity shall do business in this state under:

14 (1) The alternate name;

15 (2) The foreign entity's name with the addition of its jurisdiction of  
 16 formation; or

17 (3) Name the foreign entity is authorized to use under this state's as-  
 18 sumed or fictitious name statute.

19 (b) If a registered foreign entity changes its name to one that does not  
 20 comply with section 30-21-301, Idaho Code, it may not do business in this  
 21 state until it complies with subsection (a) of this section by amending its  
 22 registration to adopt an alternate name that complies with section 30-21-  
 23 301, Idaho Code.

24 30-21-507. WITHDRAWAL OF REGISTRATION OF REGISTERED FOREIGN EN-  
 25 TITY. (a) A registered foreign entity may withdraw its registration by  
 26 delivering a statement of withdrawal to the secretary of state for filing.  
 27 The statement of withdrawal must be signed by the entity and state:

28 (1) The name of the entity and its jurisdiction of formation;

29 (2) That the entity is not doing business in this state and that it with-  
 30 draws its registration to do business in this state;

31 (3) That the entity revokes the authority of its registered agent to ac-  
 32 cept service on its behalf in this state; and

33 (4) An address to which service of process may be made under subsection  
 34 (b) of this section.

35 (b) After the withdrawal of the registration of an entity, service of  
 36 process in any action or proceeding based on a cause of action arising during  
 37 the time the entity was registered to do business in this state may be made  
 38 pursuant to section 30-21-412, Idaho Code.

39 30-21-508. WITHDRAWAL DEEMED ON CONVERSION OR DOMESTICATION TO DOMES-  
 40 TIC FILING ENTITY OR DOMESTIC LIMITED LIABILITY PARTNERSHIP. A registered  
 41 foreign entity that converts or domesticates to any type of domestic filing  
 42 entity or to a domestic limited liability partnership is deemed to have with-  
 43 drawn its registration on the effective date of the conversion or domestica-  
 44 tion.

45 30-21-509. WITHDRAWAL ON DISSOLUTION OR CONVERSION TO NONFILING EN-  
 46 TITY OTHER THAN LIMITED LIABILITY PARTNERSHIP. (a) A registered foreign en-

1 tity that has dissolved and completed winding up or has converted to a domes-  
 2 tic or foreign nonfiling entity other than a limited liability partnership  
 3 shall deliver a statement of withdrawal to the secretary of state for filing.  
 4 The statement must be signed by the dissolved or converted entity and state:

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

6 (A) Its name and jurisdiction of formation; and

7 (B) That the foreign entity surrenders its registration to do  
 8 business in this state; and

9 (2) In the case of a foreign entity that has converted to a domestic or  
 10 foreign nonfiling entity other than a limited liability partnership:

11 (A) The name of the converting foreign entity and its jurisdiction  
 12 of formation;

13 (B) The type of nonfiling entity to which it has converted and its  
 14 jurisdiction of formation;

15 (C) That it withdraws its registration to do business in this  
 16 state and revokes the authority of its registered agent to accept  
 17 service on its behalf; and

18 (D) A mailing address to which service of process may be made under  
 19 subsection (b) of this section.

20 (b) After a withdrawal under this section is effective, service of  
 21 process in any action or proceeding based on a cause of action arising dur-  
 22 ing the time the foreign filing entity was registered to do business in this  
 23 state may be made pursuant to section 30-21-412, Idaho Code.

24 30-21-510. TRANSFER OF REGISTRATION. (a) If a registered foreign en-  
 25 tity merges into a nonregistered foreign entity or converts to a foreign en-  
 26 tity required to register with the secretary of state to do business in this  
 27 state, the foreign entity shall deliver to the secretary of state for filing  
 28 an application for transfer of registration. The application must be signed  
 29 by the surviving or converted entity and state:

30 (1) The name of the registered foreign entity before the merger or con-  
 31 version;

32 (2) The type of entity it was before the merger or conversion;

33 (3) The name of the applicant entity and, if the name does not comply  
 34 with section 30-21-301, Idaho Code, an alternate name adopted pursuant  
 35 to section 30-21-506(a), Idaho Code;

36 (4) The type of entity of the applicant entity and its jurisdiction of  
 37 formation; and

38 (5) the following information regarding the applicant entity, if dif-  
 39 ferent than the information for the foreign entity before the merger or  
 40 conversion:

41 (A) The street and mailing addresses of the principal office of  
 42 the entity and, if the law of the entity's jurisdiction of forma-  
 43 tion requires it to maintain an office in that jurisdiction, the  
 44 street and mailing addresses of that office; and

45 (B) The information required pursuant to section 30-21-404(a),  
 46 Idaho Code.

47 (b) When an application for transfer of registration takes effect, the  
 48 registration of the registered foreign entity to do business in this state is

1 transferred without interruption to the entity into which it has merged or to  
2 which it has been converted.

3 30-21-511. TERMINATION OF REGISTRATION. (a) The secretary of state  
4 may terminate the registration of a registered foreign entity in the manner  
5 provided in subsections (b) and (c) of this section if the entity does not:

6 (1) Deliver its annual report to the secretary of state for filing not  
7 later than the date it is due;

8 (2) Have a registered agent as required by section 30-21-402, Idaho  
9 Code; or

10 (3) Deliver to the secretary of state for filing a statement of change  
11 under section 30-21-407, Idaho Code, not later than thirty (30) days af-  
12 ter a change occurs in the name or address of the entity's registered  
13 agent.

14 (b) The secretary of state may terminate the registration of a regis-  
15 tered foreign entity by:

16 (1) Filing a notice of termination or noting the termination in the  
17 records of the secretary of state; and

18 (2) Delivering a copy of the notice or the information in the notation  
19 to the entity's registered agent or, if the entity does not have a regis-  
20 tered agent, to the entity's principal office.

21 (c) The notice must state or the information in the notation under sub-  
22 section (b) of this section must include:

23 (1) The effective date of the termination, which must be at least 60  
24 days after the date the secretary of state delivers the copy; and

25 (2) the grounds for termination under subsection (a) of this section.

26 (d) The registration of a registered foreign entity to do business in  
27 this state ceases on the effective date of the notice of termination or nota-  
28 tion under subsection (b) of this section, unless before that date the entity  
29 cures each ground for termination stated in the notice or notation. If the  
30 entity cures each ground, the secretary of state shall file a record so stat-  
31 ing.

32 30-21-512. ACTION BY ATTORNEY GENERAL. The attorney general may main-  
33 tain an action to enjoin a foreign filing entity or foreign limited liability  
34 partnership from doing business in this state in violation of this title.

35 SECTION 12. That Chapter 21, Title 30, Idaho Code, be, and the same is  
36 hereby amended by the addition thereto of a NEW PART, to be known and desig-  
37 nated as Part 6, Chapter 21, Title 30, Idaho Code, and to read as follows:

#### 38 PART 6

#### 39 ADMINISTRATIVE DISSOLUTION

40 30-21-601. GROUNDS. The secretary of state may commence a proceeding  
41 under section 30-21-602, Idaho Code, to dissolve a domestic filing entity  
42 administratively if the entity does not:

43 (1) Deliver an annual report to the secretary of state by the date it is  
44 due;

45 (2) Have a registered agent in this state for sixty (60) consecutive  
46 days; or

1       (3) The secretary of state has credible information that the domestic  
2 filing entity has failed to notify the secretary of state within sixty (60)  
3 days after the occurrence that its registered agent has been changed or that  
4 its registered agent has resigned.

5       30-21-602. PROCEDURE AND EFFECT. (a) If the secretary of state deter-  
6 mines that one (1) or more grounds exist under section 30-21-601, Idaho Code,  
7 for administratively dissolving a domestic filing entity, the secretary of  
8 state shall serve the entity pursuant to section 30-21-212, Idaho Code, with  
9 notice in a record of the secretary of state's determination.

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

19       (c) A domestic filing entity that is dissolved administratively con-  
20 tinues its existence as the same type of entity but may not carry on any ac-  
21 tivities except as necessary to wind up its activities and affairs and liqui-  
22 date its assets in the manner provided in its organic law or to apply for re-  
23 instatement under section 30-21-603, Idaho Code.

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

26       30-21-603. REINSTATEMENT. (a) A domestic filing entity that is dis-  
27 solved administratively under section 30-21-602, Idaho Code, may apply to  
28 the secretary of state for reinstatement not later than ten (10) years after  
29 the effective date of dissolution. The application must be signed by the en-  
30 tity and state:

31       (1) The name of the entity at the time of its administrative dissolu-  
32 tion and, if needed, a different name that satisfies section 30-21-301,  
33 Idaho Code;

34       (2) The address of the principal office of the entity and the informa-  
35 tion required by section 30-21-404(a), Idaho Code;

36       (3) The effective date of the entity's administrative dissolution; and

37       (4) That the grounds for dissolution did not exist or have been cured.

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

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

1 (1) Cancel the statement of administrative dissolution and prepare a  
 2 statement of reinstatement that states the Secretary of State's deter-  
 3 mination and the effective date of reinstatement;

4 (2) File the statement of reinstatement; and

5 (3) Serve a copy on the entity.

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

8 (1) The reinstatement relates back to and takes effect as of the effec-  
 9 tive date of the administrative dissolution.

10 (2) The domestic filing entity resumes carrying on its activities and  
 11 affairs as if the administrative dissolution had never occurred.

12 (3) The rights of a person arising out of an act or omission in reliance  
 13 on the dissolution before the person knew or had notice of the rein-  
 14 statement are not affected.

15 30-21-604. JUDICIAL REVIEW OF DENIAL OF REINSTATEMENT. (a) If the  
 16 secretary of state denies a domestic filing entity's application for re-  
 17 instatement following administrative dissolution, the secretary of state  
 18 shall serve the entity with a notice in a record that explains the reasons for  
 19 denial.

20 (b) Within thirty (30) days after service of a notice of denial of rein-  
 21 statement under subsection (a) of this section, an entity may appeal from the  
 22 denial by petitioning the district court of Ada county to set aside the dis-  
 23 solution. The petition must be served on the secretary of state and contain a  
 24 copy of the secretary of state's notice of dissolution, the company's appli-  
 25 cation for reinstatement, and the secretary of state's notice of denial.

26 (c) The district court may, if grounds exist, order the secretary of  
 27 state to reinstate a dissolved entity or take other action the court consid-  
 28 ers appropriate.

29 SECTION 13. That Chapter 21, Title 30, Idaho Code, be, and the same is  
 30 hereby amended by the addition thereto of a NEW PART, to be known and desig-  
 31 nated as Part 7, Chapter 21, Title 30, Idaho Code, and to read as follows:

#### 32 PART 7

#### 33 MISCELLANEOUS PROVISIONS

34 30-21-701. RESERVATION OF POWER TO AMEND OR REPEAL. The legislature  
 35 of this state has power to amend or repeal all or part of this title at any  
 36 time, and all domestic and foreign entities subject to this title are gov-  
 37 erned by the amendment or repeal.

38 30-21-702. SUPPLEMENTAL PRINCIPLES OF LAW. Unless displaced by par-  
 39 ticular provisions of this title, the principles of law and equity supple-  
 40 ment this title.

41 30-21-703. UNIFORMITY OR CONSISTENCY OF APPLICATION AND CONSTRUC-  
 42 TION. In applying and construing the chapters of this title based on uniform  
 43 or model acts, consideration must be given to the need to promote uniformity  
 44 or consistency of the law with respect to its subject matter among states  
 45 that enact it.

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

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

(1) The operation of the statute or any action taken under it before its repeal;

(2) Any ratification, right, remedy, privilege, obligation, or liability acquired, accrued, or incurred under the statute before its repeal;

(3) Any violation of the statute or any penalty, forfeiture, or punishment incurred because of the violation before its repeal; or

(4) Any proceeding, reorganization, or dissolution commenced under the statute before its repeal, and the proceeding, reorganization, or dissolution may be completed in accordance with the statute as if it had not been repealed.

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

30-21-707. RESERVED.

30-21-708. EFFECTIVE DATE. This title takes effect July 1, 2014, except as otherwise provided.

SECTION 14. That Chapter 21, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW PART, to be known and designated as Part 8, Chapter 21, Title 30, Idaho Code, and to read as follows:

#### PART 8

#### ASSUMED BUSINESS NAMES

30-21-801. SHORT TITLE. This part may be cited as the "Idaho Assumed Business Names Act."

30-21-802. PURPOSE. The purpose of this part is to ensure disclosure on the public record of the true names of persons who transact business in Idaho. Compliance with the provisions of this chapter does not confer any exclusive right to the use of an assumed business name in Idaho.

30-21-803. DEFINITIONS. When used in this part, the terms defined in this section shall have the following meanings:

(1) "Assumed business name" means:

(A) Any name other than the true name of any filing entity or limited liability partnership, under which name the entity holds itself out for the transaction of business in the state of Idaho; or

(B) Any name under which any individual, any group of individuals or other persons, or any entity other than a filing entity or limited liability partnership, holds itself out for the transaction of business in the state of Idaho, if that name does not include in full the true names of all individuals and other persons who have a financial interest in the business which is or may be transacted; which name shall not include words or abbreviations which falsely state or imply governmental affiliation or the existence of a filing entity or limited liability partnership.

(2) "Individual" means a natural person.

(3) "Transact business" means to engage in any commercial or other activity that is intended to or likely to produce a financial benefit, whether it is for the purpose of profit to the person who engages in the activity or for the purpose of supporting a charitable, benevolent or other nonprofit function.

(4) "True name" has the following meanings:

(A) When applied to a formally organized or registered entity, the name by which the entity is identified on its public organic record, application for authority to do business or registration statement which is on file with the appropriate governmental entity. As to a foreign formally organized or registered entity which has been required to adopt an assumed business name on its application for authority to do business or its registration statement as a condition of obtaining authority to do business in Idaho, the term "true name" shall include the assumed business name which appears on the application for authority to do business or registration statement.

(B) When applied to an individual, the name that the individual uses to bind himself or herself to legal obligations, or to obtain privileges, licenses or benefits from government. The true name will include the surname and some combination of given names or initials, and may include other identifiers such as "Jr.," "3d" or "III."

30-21-804. NAME USED AS ASSUMED BUSINESS NAME. (a) On or after July 1, 2014, an assumed business name:

(1) Must comply with section 30-21-301(a) and (e), Idaho Code; and

(2) May not contain any of the words or abbreviations required for an entity under section 30-21-302, Idaho Code; and

(3) May not be only the true name of an individual.

(b) The name of a filing entity or limited liability partnership does not have to be distinguishable from an assumed business name in a certificate of assumed business name filed before the entity's public organic record, statement of qualification, or foreign entity registration statement is filed, and the assumed business name is not invalidated by the subsequent filing by the filing entity or limited liability partnership.

30-21-805. FILING OF CERTIFICATE REQUIRED. (a) Any person who proposes to or intends to transact business in Idaho under an assumed business

1 name shall, before beginning to transact business, deliver to the secretary  
2 of state for filing a certificate of assumed business name in a form pre-  
3 scribed by the secretary of state.

4 (b) A separate certificate of assumed business name must be filed for  
5 each assumed business name a person uses.

6 30-21-806. CONTENTS OF CERTIFICATE. The certificate of assumed busi-  
7 ness name shall include:

8 (1) The assumed business name as it is used in the transaction of busi-  
9 ness;

10 (2) The true names and business addresses of every person who has a fi-  
11 nancial or control interest in the business to be transacted under the as-  
12 sumed business name;

13 (3) The general type of business to be transacted under the assumed  
14 business name, using categories prescribed on the form by the secretary of  
15 state;

16 (4) The signature of each person included on the certificate, or the  
17 signature of an agent acting on behalf of all persons included on the cer-  
18 tificate; and

19 (5) Other information as the secretary of state may require.

20 30-21-807. EFFECT OF FILING -- DURATION -- CONTINUATION. (a) A person  
21 may conduct business under an assumed business name if a certificate of as-  
22 sumed business name has been filed with the secretary of state and is in ef-  
23 fect.

24 (b) A certificate of assumed business name is in effect upon filing un-  
25 til it is canceled pursuant to section 30-21-809, Idaho Code.

26 (c) A certificate of assumed business name does not create an entity  
27 separate from the person doing business under the assumed business name.

28 30-21-808. AMENDMENT OF CERTIFICATE. (a) If the identity or business  
29 address of any person who has a financial or control interest in the business  
30 transacted under the assumed business name changes, or if the certificate of  
31 assumed business name becomes materially misleading in any other way, the  
32 person who transacts that business shall, within ninety (90) days there-  
33 after, file with the secretary of state a certificate of amendment to the  
34 certificate of assumed business name in a form prescribed by the secretary of  
35 state. The form may be in any medium permitted by the secretary of state.

36 (b) The certificate of amendment shall specify how the certificate of  
37 assumed business name is to be amended, and shall be executed in the same man-  
38 ner as required for a certificate of assumed business name.

39 30-21-809. CANCELLATION OF CERTIFICATE. (a) A person who discontinues  
40 use of an assumed business name may cancel its certificate of assumed busi-  
41 ness name by filing with the secretary of state a certificate of cancellation  
42 in a form prescribed by the secretary of state. The form may be in any medium  
43 permitted by the secretary of state.

44 (b) The certificate of cancellation shall be executed in the same man-  
45 ner as required for a certificate of assumed business name.



10 (c) Noncompliance shall be held to include false, misleading or incom-  
11 plete information in a certificate of assumed business name, as well as fail-  
12 ure to file.

16 PART 9  
17 PROFESSIONAL ENTITIES

(b) For the purpose of this title, the professions shall include the practices of architecture, chiropractic, dentistry, engineering, landscape architecture, law, medicine, nursing, occupational therapy, optometry, physical therapy, podiatry, professional geology, psychology, certified or licensed public accountancy, social work, surveying and veterinary medicine, and no others.

(d) No professional entity may render professional services in this state except through its managers, members, employees and agents who are duly licensed or otherwise legally authorized to render such professional services within this state. The term "employee," as used in this section, does not include clerks, secretaries, bookkeepers, technicians and other assistants who are not usually and ordinarily considered by custom and practice to be rendering professional services to the public for which a license or other legal authorization is required.

(e) Nothing contained in this title shall be interpreted to abolish, repeal, modify, restrict or limit the law now in effect in this state applicable to the professional relationship and liabilities between the person furnishing the professional services and the person receiving such professional services or to the standards for professional conduct. Any governor, interest holder, agent, or employee of a professional entity shall remain personally and fully liable and accountable for any negligent or wrongful acts or misconduct committed by him, or by any person under his direct super-

1 vision and control, while rendering professional services on behalf of the  
 2 professional entity to the person for whom such professional services were  
 3 being rendered. The professional entity shall be liable up to the full value  
 4 of its property for any negligent or wrongful acts or misconduct committed  
 5 by any of its governors, interest holders, agents, or employees while they  
 6 are engaged on behalf of the professional entity in the rendering of profes-  
 7 sional services.

8 (f) The relationship of a person, whether as an individual or interest  
 9 holder of a professional entity, to a professional entity with which such  
 10 person is associated, whether as governor, interest holder, or employee,  
 11 shall in no way modify or diminish the jurisdiction over such person of the  
 12 governmental authority or state agency that licensed, certified, or regis-  
 13 tered such person for a particular profession.

14 (g) No professional entity may offer an interest to or accept as an in-  
 15 terest holder anyone other than an individual who is duly licensed or other-  
 16 wise legally authorized to render the same specific professional services as  
 17 those for which the entity was formed or professional entities, all of whose  
 18 interest holders are duly licensed or otherwise legally authorized to render  
 19 the same specific professional services as those for which the professional  
 20 entity was formed. No member of a professional entity shall enter into a vot-  
 21 ing trust agreement or any other type of agreement vesting another person  
 22 with the authority to exercise the voting power of his interest.

23 (h) If any governor, interest holder, agent, or employee of a profes-  
 24 sional entity who has been rendering professional services within this state  
 25 accepts employment that, pursuant to existing law, places restrictions or  
 26 limitations upon his continued rendering of such professional services, he  
 27 shall be dissociated, and the remaining governors and interest holders of  
 28 the professional entity shall take such action as is required to terminate  
 29 such interest.

30 (i) No member of a professional entity may sell or transfer his interest  
 31 in such professional entity except to another individual or professional en-  
 32 tity eligible to be a member of such professional entity.

33 (j) The provisions of this section shall not be considered as repeal-  
 34 ing, modifying or restricting the applicable provisions of law regulating  
 35 the several professions except insofar as such laws conflict with this sec-  
 36 tion.

37 SECTION 16. That Title 30, Idaho Code, be, and the same is hereby  
 38 amended by the addition thereto of a NEW CHAPTER, to be known and designated  
 39 as Chapter 22, Title 30, Idaho Code, and to read as follows:

40 CHAPTER 22  
 41 ENTITY TRANSACTIONS

42 SECTION 17. That Chapter 22, Title 30, Idaho Code, be, and the same is  
 43 hereby amended by the addition thereto of a NEW PART, to be known and desig-  
 44 nated as Part 1, Chapter 22, Title 30, Idaho Code, and to read as follows:

45 PART 1  
 46 GENERAL PROVISIONS

1        30-22-101.    SHORT TITLE. This chapter may be cited as the "Idaho Model  
2    Entity Transactions Act."

3        30-22-102.    DEFINITIONS. (a) In this chapter:

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

6        (2) "Acquiring entity" means the entity that acquires all of one (1) or  
7        more classes or series of interests of the acquired entity in an inter-  
8        est exchange.

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

12       (A) Propose a transaction subject to this part;

13       (B) Adopt and approve the terms and conditions of the transaction;  
14       and

15       (C) Conduct any required proceedings or otherwise obtain any re-  
16       quired votes or consents of the governors or interest holders.

17       (4) "Conversion" means a transaction authorized by part 4 of this chap-  
18       ter.

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

21       (6) "Converting entity" means the domestic entity that approves a plan  
22       of conversion pursuant to section 30-22-403, Idaho Code, or the foreign  
23       entity that approves a conversion pursuant to the law of its jurisdic-  
24       tion of formation.

25       (7) "Domesticated entity" means the domesticating entity as it contin-  
26       ues in existence after a domestication.

27       (8) "Domesticating entity" means the domestic entity that approves a  
28       plan of domestication pursuant to section 30-22-503, Idaho Code, or the  
29       foreign entity that approves a domestication pursuant to the law of its  
30       jurisdiction of formation.

31       (9) "Domestication" means a transaction authorized by part 5 of this  
32       chapter.

33       (10) "Interest exchange" means a transaction authorized by part 3 of  
34       this chapter.

35       (11) "Interest holder liability" means:

36       (A) Personal liability for a liability of an entity which is im-  
37       posed on a person:

38       (i) Solely by reason of the status of the person as an inter-  
39       est holder; or

40       (ii) By the organic rules of the entity which make one (1)  
41       or more specified interest holders or categories of interest  
42       holders liable in their capacity as interest holders for all  
43       or specified liabilities of the entity; or

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

46       (12) "Merger" means a transaction in which two (2) or more merging enti-  
47       ties are combined into a surviving entity pursuant to a record filed by  
48       the secretary of state.

- 1 (13) "Merging entity" means an entity that is a party to a merger and  
2 exists immediately before the merger becomes effective.
- 3 (14) "Plan" means a plan of merger, plan of interest exchange, plan of  
4 conversion, or plan of domestication.
- 5 (15) "Plan of conversion" means a plan under section 30-22-402, Idaho  
6 Code.
- 7 (16) "Plan of domestication" means a plan under section 30-22-502,  
8 Idaho Code.
- 9 (17) "Plan of interest exchange" means a plan under section 30-22-302,  
10 Idaho Code.
- 11 (18) "Plan of merger" means a plan under section 30-22-202, Idaho Code.
- 12 (19) "Protected agreement" means:
- 13 (A) A record evidencing indebtedness and any related agreement in  
14 effect on July 1, 2007;
- 15 (B) An agreement that is binding on an entity on July 1, 2007;
- 16 (C) The organic rules of an entity in effect on July 1, 2007; or
- 17 (D) An agreement that is binding on any of the governors or inter-  
18 est holders of an entity on July 1, 2007.
- 19 (20) "Statement of conversion" means a statement under section 30-22-  
20 405, Idaho Code.
- 21 (21) "Statement of domestication" means a statement under section  
22 30-22-505, Idaho Code.
- 23 (22) "Statement of interest exchange" means a statement under section  
24 30-22-305, Idaho Code.
- 25 (23) "Statement of merger" means a statement under section 30-22-205,  
26 Idaho Code.
- 27 (24) "Surviving entity" means the entity that continues in existence  
28 after or is created by a merger under part 2 of this chapter.
- 29 (b) The following definitions outside this chapter apply to this chap-  
30 ter:
- 31 (1) "Distributional interest" - section 30-21-102(7), Idaho Code.
- 32 (2) "Domestic" - section 30-21-102(8), Idaho Code.
- 33 (3) "Entity" - section 30-21-102(10), Idaho Code.
- 34 (4) "Filing entity" - section 30-21-102(13), Idaho Code.
- 35 (5) "Foreign" - section 30-21-102(14), Idaho Code.
- 36 (6) "Governance interest" - section 30-21-102(17), Idaho Code.
- 37 (7) "Governor" - section 30-21-102(18), Idaho Code.
- 38 (8) "Interest" - section 30-21-102(19), Idaho Code.
- 39 (9) "Interest holder" - section 30-21-102(20), Idaho Code.
- 40 (10) "Jurisdiction" - section 30-21-102(21), Idaho Code.
- 41 (11) "Jurisdiction of formation" - section 30-21-102(22), Idaho Code.
- 42 (12) "Organic law" - section 30-21-102(32), Idaho Code.
- 43 (13) "Organic rules" - section 30-21-102(33), Idaho Code.
- 44 (14) "Person" - section 30-21-102(34), Idaho Code.
- 45 (15) "Private organic rules" - section 30-21-102(36), Idaho Code.
- 46 (16) "Property" - section 30-21-102(40), Idaho Code.
- 47 (17) "Public organic record" - section 30-21-102(41), Idaho Code.
- 48 (18) "Record" - section 30-21-102(43), Idaho Code.
- 49 (19) "Registered foreign entity" - section 30-21-102(45), Idaho Code.
- 50 (20) "Sign" - section 30-21-102(46), Idaho Code.

1 (21) "State" - section 30-21-102(47), Idaho Code.

2 (22) "Transfer" - section 30-21-102(49), Idaho Code.

3 (23) "Type of entity" - section 30-21-102(50), Idaho Code.

4 30-22-103. RELATIONSHIP OF CHAPTER TO OTHER LAWS. (a) This title does  
5 not authorize an act prohibited by, and does not affect the application or  
6 requirements of, law other than this chapter.

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

13 (1) If the corporation does not survive the transaction, the transac-  
14 tion satisfies any requirements of the law; or

15 (2) If the corporation survives the transaction, the approval of the  
16 plan is by a vote of the shareholders or directors which would be suffi-  
17 cient to create or impair the right, duty or obligation directly under  
18 the law.

19 30-22-104. REQUIRED NOTICE OR APPROVAL. (a) A domestic or foreign en-  
20 tity that is required to give notice to, or obtain the approval of, a govern-  
21 mental agency or officer of this state before engaging in a merger transac-  
22 tion of a type covered by this chapter must give the notice or obtain the ap-  
23 proval in order to be a party to an interest exchange, conversion, or domes-  
24 tication.

25 (b) Property held for a charitable purpose under the law of this state  
26 by a domestic or foreign entity immediately before a transaction under this  
27 chapter becomes effective may not, as a result of the transaction, be di-  
28 verted from the objects for which it was donated, granted, devised, or other-  
29 wise transferred unless, to the extent required by or pursuant to the law of  
30 this state concerning cypres or other law dealing with nondiversion of char-  
31 itable assets, the entity obtains an appropriate order of the attorney gen-  
32 eral specifying the disposition of the property.

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

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

40 30-22-105. STATUS OF FILINGS. A filing under this chapter signed by a  
41 domestic entity becomes part of the public organic record of the entity if  
42 the entity's organic law provides that similar filings under that law become  
43 part of the public organic record of the entity.

44 30-22-106. NONEXCLUSIVITY. The fact that a transaction under this  
45 chapter produces a certain result does not preclude the same result from

1 being accomplished in any other manner permitted by law other than this chap-  
2 ter.

3 30-22-107. REFERENCE TO EXTERNAL FACTS. A plan may refer to facts as-  
4 certainable outside the plan if the manner in which the facts will operate  
5 upon the plan is specified in the plan. The facts may include the occur-  
6 rence of an event or a determination or action by a person, whether or not  
7 the event, determination, or action is within the control of a party to the  
8 transaction.

9 30-22-108. ALTERNATIVE MEANS OF APPROVAL OF TRANSACTIONS. Except as  
10 otherwise provided in the organic law or organic rules of a domestic entity,  
11 approval of a transaction under this chapter by the affirmative vote or con-  
12 sent of all its interest holders satisfies the requirements of this chapter  
13 for approval of the transaction.

14 30-22-109. APPRAISAL RIGHTS. (a) An interest holder of a domestic  
15 merging, acquired, converting, or domesticating entity is entitled to ap-  
16 praisal rights in connection with the transaction if the interest holder  
17 would have been entitled to appraisal rights under the entity's organic law  
18 in connection with a merger in which the interest of the interest holder was  
19 changed, converted, or exchanged unless:

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

22 (2) The organic rules provide such a limit.

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

26 (1) The entity's organic rules;

27 (2) The plan; or

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

29 (c) If an interest holder is entitled to contractual appraisal rights  
30 under subsection (b) of this section and the entity's organic law does not  
31 provide procedures for the conduct of an appraisal rights proceeding, part  
32 13, chapter 29, title 30, Idaho Code, applies to the extent practicable or as  
33 otherwise provided in the entity's organic rules or the plan.

34 30-22-110. CONFLICT OF LAWS AND EXCLUDED TRANSACTIONS. (a) In the  
35 event of any conflict between the provisions of this chapter and the provi-  
36 sions of the following laws, the following laws shall control:

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

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

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

40 (4) The business and industrial development corporation act, chapter  
41 27, title 26, Idaho Code.

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

1       SECTION 18. That Chapter 22, Title 30, Idaho Code, be, and the same is  
 2 hereby amended by the addition thereto of a NEW PART, to be known and desig-  
 3 nated as Part 2, Chapter 22, Title 30, Idaho Code, and to read as follows:

4                               PART 2  
 5                               MERGER

6       30-22-201. MERGER AUTHORIZED. (a) Except as otherwise provided in  
 7 this section, by complying with this part:

8       (1) One (1) or more domestic entities may merge with one (1) or more do-  
 9 mestic or foreign entities into a domestic or foreign surviving entity;  
 10 and

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

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

17       30-22-202. PLAN OF MERGER. (a) A domestic entity may become a party to  
 18 a merger under this part by approving a plan of merger. The plan must be in a  
 19 record and contain:

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

22       (2) If the surviving entity is to be created in the merger, a state-  
 23 ment to that effect and the entity's name, jurisdiction of formation,  
 24 and type of entity;

25       (3) The manner of converting the interests in each party to the merger  
 26 into interests, securities, obligations, money, other property, rights  
 27 to acquire interests or securities, or any combination of the forego-  
 28 ing;

29       (4) If the surviving entity exists before the merger, any proposed  
 30 amendments to:

31               (A) Its public organic record, if any; and

32               (B) Its private organic rules that are, or are proposed to be, in a  
 33 record;

34       (5) If the surviving entity is to be created in the merger:

35               (A) Its proposed public organic record, if any; and

36               (B) The full text of its private organic rules that are proposed to  
 37 be in a record;

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

39       (7) Any other provision required by the law of a merging entity's juris-  
 40 diction of formation or the organic rules of a merging entity.

41       (b) In addition to the requirements of subsection (a), a plan of merger  
 42 may contain any other provision not prohibited by law.

43       30-22-203. APPROVAL OF MERGER. (a) A plan of merger is not effective  
 44 unless it has been approved:

45       (1) By a domestic merging entity:

46               (A) In accordance with the requirements, if any, in its organic  
 47 law and organic rules for approval of:

1           (i) In the case of an entity that is not a limited coopera-  
 2           tive association, the merger; or  
 3           (ii) In the case of a limited cooperative association, a  
 4           transaction under this chapter; or  
 5       (B) By all of the interest holders of the entity entitled to vote  
 6       on or consent to any matter if:  
 7           (i) In the case of an entity that is not a business cor-  
 8           poration or limited cooperative association, neither its  
 9           organic law nor organic rules provide for approval of the  
 10          merger; or  
 11          (ii) In the case of an entity that is a limited cooperative  
 12          association, neither its organic law nor organic rules pro-  
 13          vide for approval of a transaction under this chapter; and  
 14       (2) In a record, by each interest holder of a domestic merging entity  
 15       that will have interest holder liability for debts, obligations, and  
 16       other liabilities that arise after the merger becomes effective, un-  
 17       less, in the case of an entity that is not a business corporation or non-  
 18       profit corporation:  
 19           (A) The organic rules of the entity provide in a record for the ap-  
 20           proval of a merger in which some or all of its interest holders be-  
 21           come subject to interest holder liability by the affirmative vote  
 22           or consent of fewer than all the interest holders; and  
 23           (B) The interest holder consented in a record to or voted for that  
 24           provision of the organic rules or became an interest holder after  
 25           the adoption of that provision.  
 26       (b) A merger under this part involving a foreign merging entity is not  
 27       effective unless the merger is approved by the foreign entity in accordance  
 28       with the law of the foreign entity's jurisdiction of formation.

29       30-22-204. AMENDMENT OR ABANDONMENT OF PLAN OF MERGER. (a) A plan of  
 30       merger may be amended only with the consent of each party to the plan, except  
 31       as otherwise provided in the plan.

32       (b) A domestic merging entity may approve an amendment of a plan of  
 33       merger:

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

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

40           (A) The amount or kind of interests, securities, obligations,  
 41           money, other property, rights to acquire interests or securities,  
 42           or any combination of the foregoing, to be received by the interest  
 43           holders of any party to the plan;

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



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

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

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

(1) The name of each party to the plan of merger;

(2) The date on which the statement of merger was filed; and

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

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

(b) A statement of merger must contain:

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

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

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

(4) A statement that the merger was approved by each domestic merging entity, if any, in accordance with this part and by each foreign merging entity, if any, in accordance with the law of its jurisdiction of formation;

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

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

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

(8) If the surviving entity is a foreign entity that is not a registered foreign entity, a statement designating a registered agent in compliance with section 30-21-411, Idaho Code.

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

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

1 any provision that is not required to be included in a restatement of the pub-  
 2 lic organic record.

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

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

11 (g) If the surviving entity is a domestic entity, the merger is effec-  
 12 tive when the statement of merger is effective. If the surviving entity is a  
 13 foreign entity, the merger is effective on the later of:

14 (1) The date and time provided by the organic law of the surviving en-  
 15 tity; or

16 (2) When the statement is effective.

17 30-22-206. EFFECT OF MERGER. (a) When a merger under this part becomes  
 18 effective:

19 (1) The surviving entity continues or comes into existence;

20 (2) Each merging entity that is not the surviving entity ceases to ex-  
 21 ist;

22 (3) All property of each merging entity vests in the surviving entity  
 23 without transfer, reversion, or impairment;

24 (4) All debts, obligations, and other liabilities of each merging en-  
 25 tity are debts, obligations, and other liabilities of the surviving en-  
 26 tity;

27 (5) Except as otherwise provided by law or the plan of merger, all the  
 28 rights, privileges, immunities, powers, and purposes of each merging  
 29 entity vest in the surviving entity;

30 (6) If the surviving entity exists before the merger:

31 (A) All its property continues to be vested in it without trans-  
 32 fer, reversion, or impairment;

33 (B) It remains subject to all its debts, obligations, and other  
 34 liabilities; and

35 (C) All its rights, privileges, immunities, powers, and purposes  
 36 continue to be vested in it;

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

39 (8) If the surviving entity exists before the merger:

40 (A) Its public organic record, if any, is amended to the extent  
 41 provided in the statement of merger; and

42 (B) Its private organic rules that are to be in a record, if any,  
 43 are amended to the extent provided in the plan of merger;

44 (9) If the surviving entity is created by the merger, its private or-  
 45 ganic rules are effective; and:

46 (A) If it is a filing entity, its public organic record is effec-  
 47 tive; and

48 (B) If it is a limited liability partnership, its statement of  
 49 qualification is effective; and

(10) The interests in each merging entity which are to be converted in the merger are converted, and the interest holders of those interests are entitled only to the rights provided to them under the plan of merger and to any appraisal rights they have under section 30-22-109 and the merging entity's organic law.

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

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

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

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

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

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

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

(e) When a merger under this part becomes effective, a foreign entity that is the surviving entity may be served with process in this state for the collection and enforcement of any debts, obligations, or other liabilities of a domestic merging entity in accordance with applicable law.

(f) When a merger under this part becomes effective, registration to do business in this state of any foreign merging entity that is not the surviving entity is canceled.

SECTION 19. That Chapter 21, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW PART, to be known and designated as Part 3, Chapter 21, Title 30, Idaho Code, and to read as follows:

### PART 3 INTEREST EXCHANGE

1        30-22-301. INTEREST EXCHANGE AUTHORIZED. (a) Except as otherwise pro-  
2        vided in this section, by complying with this part:

3        (1) A domestic entity may acquire all of one (1) or more classes or  
4        series of interests of another domestic entity or a foreign entity in  
5        exchange for interests, securities, obligations, money, other prop-  
6        erty, rights to acquire interests or securities, or any combination of  
7        the foregoing; or

8        (2) All of one (1) or more classes or series of interests of a domestic  
9        entity may be acquired by another domestic entity or a foreign entity  
10       in exchange for interests, securities, obligations, money, other prop-  
11       erty, rights to acquire interests or securities, or any combination of  
12       the foregoing.

13       (b) Except as otherwise provided in this section, by complying with the  
14       provisions of this part applicable to foreign entities a foreign entity may  
15       be the acquiring or acquired entity in an interest exchange under this part  
16       if the interest exchange is authorized by the law of the foreign entity's ju-  
17       risdiction of formation.

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

23       30-22-302. PLAN OF INTEREST EXCHANGE. (a) A domestic entity may be the  
24       acquired entity in an interest exchange under this part by approving a plan  
25       of interest exchange. The plan must be in a record and contain:

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

27       (2) The name, jurisdiction of formation, and type of entity of the ac-  
28       quiring entity;

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

32       (4) Any proposed amendments to:

33            (A) The public organic record, if any, of the acquired entity; and

34            (B) The private organic rules of the acquired entity that are, or  
35            are proposed to be, in a record;

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

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

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

42       30-22-303. APPROVAL OF INTEREST EXCHANGE. (a) A plan of interest ex-  
43       change is not effective unless it has been approved:

44       (1) By a domestic acquired entity:

45            (A) In accordance with the requirements, if any, in its organic  
46            law and organic rules for approval of an interest exchange;

47            (B) If neither its organic law nor organic rules provide for ap-  
48            proval of an interest exchange, in accordance with the require-

ments, if any, in its organic law and organic rules for approval of:

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

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

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

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

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

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

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

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

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

(b) An interest exchange involving a foreign acquired entity is not effective unless it is approved by the foreign entity in accordance with the law of the foreign entity's jurisdiction of formation.

(c) Except as otherwise provided in its organic law or organic rules, the interest holders of the acquiring entity are not required to approve the interest exchange.

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

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

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

(2) By its governors or interest holders in the manner provided in the plan, but an interest holder that was entitled to vote on or consent to

1 approval of the interest exchange is entitled to vote on or consent to  
2 any amendment of the plan that will change:

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

7 (B) The public organic record, if any, or private organic rules of  
8 the acquired entity that will be in effect immediately after the  
9 interest exchange becomes effective, except for changes that do  
10 not require approval of the interest holders of the acquired en-  
11 tity under its organic law or organic rules; or

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

14 (c) After a plan of interest exchange has been approved and before a  
15 statement of interest exchange becomes effective, the plan may be abandoned  
16 as provided in the plan. Unless prohibited by the plan, a domestic acquired  
17 entity may abandon the plan in the same manner as the plan was approved.

18 (d) If a plan of interest exchange is abandoned after a statement of  
19 interest exchange has been delivered to the secretary of state for filing  
20 and before the statement becomes effective, a statement of abandonment,  
21 signed by the acquired entity, must be delivered to the secretary of state  
22 for filing before the statement of interest exchange becomes effective. The  
23 statement of abandonment takes effect on filing, and the interest exchange  
24 is abandoned and does not become effective. The statement of abandonment  
25 must contain:

26 (1) The name of the acquired entity;

27 (2) The date on which the statement of interest exchange was filed by  
28 the secretary of state; and

29 (3) A statement that the interest exchange has been abandoned in accor-  
30 dance with this section.

31 30-22-305. STATEMENT OF INTEREST EXCHANGE -- EFFECTIVE DATE OF INTER-  
32 EST EXCHANGE. (a) A statement of interest exchange must be signed by a domes-  
33 tic acquired entity and delivered to the secretary of state for filing.

34 (b) A statement of interest exchange must contain:

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

36 (2) The name, jurisdiction of formation, and type of entity of the ac-  
37 quiring entity;

38 (3) If the statement of interest exchange is not to be effective upon  
39 filing, the later date and time on which it will become effective, which  
40 may not be more than ninety (90) days after the date of filing;

41 (4) A statement that the plan of interest exchange was approved by the  
42 acquired entity in accordance with this part; and

43 (5) Any amendments to the acquired entity's public organic record, if  
44 any, approved as part of the plan of interest exchange.

45 (c) In addition to the requirements of subsection (b) of this section,  
46 a statement of interest exchange may contain any other provision not prohib-  
47 ited by law.

48 (d) A plan of interest exchange that is signed by a domestic acquired  
49 entity and meets all the requirements of subsection (b) of this section may

1 be delivered to the secretary of state for filing instead of a statement of  
 2 interest exchange and on filing has the same effect. If a plan of interest  
 3 exchange is filed as provided in this subsection, references in this chapter  
 4 to a statement of interest exchange refer to the plan of interest exchange  
 5 filed under this subsection.

6 (e) A statement of interest exchange becomes effective on the date and  
 7 time of filing or the later date and time specified in the statement of inter-  
 8 est exchange.

9 (f) An interest exchange in which the acquired entity is a domestic en-  
 10 tity is effective when the statement of interest exchange is effective.

11 30-22-306. EFFECT OF INTEREST EXCHANGE. (a) When an interest exchange  
 12 in which the acquired entity is a domestic entity becomes effective:

13 (1) The interests in the domestic acquired entity that are the subject  
 14 of the interest exchange are converted, and the interest holders of  
 15 those interests are entitled only to the rights provided to them under  
 16 the plan of interest exchange and to any appraisal rights as provided in  
 17 section 30-22-109, Idaho Code, and the acquired entity's organic law;

18 (2) The acquiring entity becomes the interest holder of the interests  
 19 in the acquired entity stated in the plan of interest exchange to be ac-  
 20 quired by the acquiring entity;

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

23 (4) The private organic rules of the acquired entity that are to be in a  
 24 record, if any, are amended to the extent provided in the plan of inter-  
 25 est exchange.

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

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

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

41 (1) The interest exchange does not discharge any interest holder lia-  
 42 bility under the organic law of the domestic acquired entity to the ex-  
 43 tent the interest holder liability arose before the interest exchange  
 44 became effective.

45 (2) The person does not have interest holder liability under the or-  
 46 ganic law of the domestic acquired entity for any debt, obligation, or  
 47 other liability that arises after the interest exchange becomes effec-  
 48 tive.

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

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

SECTION 20. That Chapter 22, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW PART, to be known and designated as Part 4, Chapter 22, Title 30, Idaho Code, and to read as follows:

#### PART 4 CONVERSION

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

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

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

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

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

- (1) The name and type of entity of the converting entity;
- (2) The name, jurisdiction of formation, and type of entity of the converted entity;
- (3) The manner of converting the interests in the converting entity into interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing;
- (4) The proposed public organic record of the converted entity if it will be a filing entity;
- (5) The full text of the private organic rules of the converted entity that are proposed to be in a record;
- (6) The other terms and conditions of the conversion; and
- (7) Any other provision required by the law of this state or the organic rules of the converting entity.

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



1       30-22-403. APPROVAL OF CONVERSION. (a) A plan of conversion is not ef-  
2       fective unless it has been approved:

3       (1) By a domestic converting entity:

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

6       (B) If its organic rules do not provide for approval of a conver-  
7       sion, in accordance with the requirements, if any, in its organic  
8       law and organic rules for approval of:

9       (i) In the case of an entity that is not a business corpora-  
10       tion or limited cooperative association, a merger, as if the  
11       conversion were a merger; or

12       (ii) In the case of a business corporation, a merger re-  
13       quiring approval by a vote of the interest holders of the  
14       business corporation, as if the conversion were that type of  
15       merger; or

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

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

20       (i) In the case of any entity that is not a business corpo-  
21       ration or limited cooperative association, neither its or-  
22       ganic law nor organic rules provide for approval of a conver-  
23       sion or a merger; or

24       (ii) In the case of a limited cooperative association, nei-  
25       ther its organic law nor organic rules provide for approval  
26       of a conversion or a transaction under this chapter; and

27       (2) In a record, by each interest holder of a domestic converting entity  
28       that will have interest holder liability for debts, obligations, and  
29       other liabilities that arise after the conversion becomes effective,  
30       unless, in the case of an entity that is not a business or nonprofit cor-  
31       poration:

32       (A) The organic rules of the entity provide in a record for the ap-  
33       proval of a conversion or a merger in which some or all of its in-  
34       terest holders become subject to interest holder liability by the  
35       vote or consent of fewer than all the interest holders; and

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

39       (b) A conversion of a foreign converting entity is not effective unless  
40       it is approved by the foreign entity in accordance with the law of the foreign  
41       entity's jurisdiction of formation.

42       30-22-404. AMENDMENT OR ABANDONMENT OF PLAN OF CONVERSION. (a) A plan  
43       of conversion of a domestic converting entity may be amended:

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

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

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

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

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

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

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

(1) The name of the converting entity;

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

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

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

(b) A statement of conversion must contain:

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

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

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

(4) If the converting entity is a domestic entity, a statement that the plan of conversion was approved in accordance with this part or, if the converting entity is a foreign entity, a statement that the conversion was approved by the foreign entity in accordance with the law of its jurisdiction of formation;

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

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

(7) If the converted entity is a foreign entity, a statement designating a registered agent in compliance with section 30-21-411, Idaho Code.

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

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

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

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

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

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

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

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

(9) The interests in the converting entity are converted, and the interest holders of the converting entity are entitled only to the rights provided to them under the plan of conversion and to any appraisal rights they have under section 30-22-109, Idaho Code, and the converting entity's organic law.

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

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

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

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

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

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

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

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

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

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

SECTION 21. That Chapter 22, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW PART, to be known and designated as Part 5, Chapter 22, Title 30, Idaho Code, and to read as follows:

## DOMESTICATION

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

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

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

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

- (1) The name and type of entity of the domesticating entity;
- (2) The name and jurisdiction of formation of the domesticated entity;
- (3) The manner of converting the interests in the domesticating entity into interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing;
- (4) The proposed public organic record of the domesticated entity if it is a filing entity;
- (5) The full text of the private organic rules of the domesticated entity that are proposed to be in a record;
- (6) The other terms and conditions of the domestication; and
- (7) Any other provision required by the law of this state or the organic rules of the domesticating entity.

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

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

- (1) By a domestic domesticating entity:
  - (A) In accordance with the requirements, if any, in its organic rules for approval of a domestication;
  - (B) If its organic rules do not provide for approval of a domestication, in accordance with the requirements, if any, in its organic law and organic rules for approval of:
    - (i) In the case of an entity that is not a business corporation or limited cooperative association, a merger, as if the domestication were a merger; or
    - (ii) In the case of a business corporation, a merger requiring approval by a vote of the interest holders of the business corporation, as if the domestication were that type of merger; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 plan, a domestic domesticating entity may abandon the plan in the same manner  
2 as the plan was approved.

3 (c) If a plan of domestication is abandoned after a statement of domes-  
4 tication has been delivered to the secretary of state for filing and before  
5 the statement becomes effective, a statement of abandonment, signed by the  
6 entity, must be delivered to the secretary of state for filing before the  
7 statement of domestication becomes effective. The statement of abandonment  
8 takes effect on filing, and the domestication is abandoned and does not be-  
9 come effective. The statement of abandonment must contain:

10 (1) The name of the domesticating entity;

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

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

15 30-22-505. STATEMENT OF DOMESTICATION -- EFFECTIVE DATE OF DOMESTICA-  
16 TION. (a) A statement of domestication must be signed by the domesticating  
17 entity and delivered to the secretary of state for filing.

18 (b) A statement of domestication must contain:

19 (1) The name, jurisdiction of formation, and type of entity of the do-  
20 mesticating entity;

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

22 (3) If the statement of domestication is not to be effective upon fil-  
23 ing, the later date and time on which it will become effective, which may  
24 not be more than ninety (90) days after the date of filing;

25 (4) If the domesticating entity is a domestic entity, a statement that  
26 the plan of domestication was approved in accordance with this part or,  
27 if the domesticating entity is a foreign entity, a statement that the  
28 domestication was approved in accordance with the law of its jurisdic-  
29 tion of formation;

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

32 (6) If the domesticated entity is a domestic limited liability partner-  
33 ship, its statement of qualification, as an attachment; and

34 (7) If the domesticated entity is a foreign entity that is not a reg-  
35 istered foreign entity, a statement designating a registered agent in  
36 compliance with section 30-21-411, Idaho Code.

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

40 (d) If the domesticated entity is a domestic entity, its public organic  
41 record, if any, must satisfy the requirements of the law of this state, but  
42 the public organic record does not need to be signed and may omit any provi-  
43 sion that is not required to be included in a restatement of the public or-  
44 ganic record.

45 (e) A plan of domestication that is signed by a domesticating domes-  
46 tic entity and meets all the requirements of subsection (b) of this section  
47 may be delivered to the secretary of state for filing instead of a statement  
48 of domestication and on filing has the same effect. If a plan of domestica-  
49 tion is filed as provided in this subsection, references in this chapter to

1 a statement of domestication refer to the plan of domestication filed under  
2 this subsection.

3 (f) A statement of domestication is effective on the date and time of  
4 filing or the later date and time specified in the statement of domestica-  
5 tion.

6 (g) A domestication in which the domesticated entity is a domestic en-  
7 tity is effective when the statement of domestication is effective. A domes-  
8 tication in which the domesticated entity is a foreign entity is effective on  
9 the later of:

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

12 (2) When the statement is effective.

13 30-22-506. EFFECT OF DOMESTICATION. (a) When a domestication becomes  
14 effective:

15 (1) The domesticated entity is:

16 (A) Organized under and subject to the organic law of the domesti-  
17 cated entity; and

18 (B) The same entity without interruption as the domesticating en-  
19 tity;

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

22 (3) All debts, obligations, and other liabilities of the domesticating  
23 entity continue as debts, obligations, and other liabilities of the do-  
24 mesticated entity;

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

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

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

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

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

37 (9) The interests in the domesticating entity are converted to the  
38 extent and as approved in connection with the domestication, and the  
39 interest holders of the domesticating entity are entitled only to the  
40 rights provided to them under the plan of domestication and to any ap-  
41 praisal rights as provided in section 30-22-109, Idaho Code, and the  
42 domesticating entity's organic law.

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

47 (c) When a domestication becomes effective, a person that did not have  
48 interest holder liability with respect to the domesticating entity and be-  
49 comes subject to interest holder liability with respect to a domestic entity



1 as a result of the domestication has interest holder liability only to the  
 2 extent provided by the organic law of the entity and only for those debts,  
 3 obligations, and other liabilities that arise after the domestication be-  
 4 comes effective.

5 (d) When a domestication becomes effective, the interest holder lia-  
 6 bility of a person that ceases to hold an interest in a domestic domesticat-  
 7 ing entity with respect to which the person had interest holder liability is  
 8 subject to the following rules:

9 (1) The domestication does not discharge any interest holder liability  
 10 under the organic law of the domesticating domestic entity to the extent  
 11 the interest holder liability arose before the domestication became ef-  
 12 fective.

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

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

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

25 (e) When a domestication becomes effective, a foreign entity that is  
 26 the domesticated entity may be served with process in this state for the col-  
 27 lection and enforcement of any of its debts, obligations, and other liabili-  
 28 ties in accordance with applicable law.

29 (f) If a domesticating entity is a registered foreign entity, the reg-  
 30 istration to do business in this state of the domesticating entity is can-  
 31 celed when the domestication becomes effective.

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

34 SECTION 22. That Title 30, Idaho Code, be, and the same is hereby  
 35 amended by the addition thereto of a NEW CHAPTER, to be known and designated  
 36 as Chapter 23, Title 30, Idaho Code, and to read as follows:

## 37 CHAPTER 23 38 GENERAL PARTNERSHIPS

39 SECTION 23. That Chapter 23, Title 30, Idaho Code, be, and the same is  
 40 hereby amended by the addition thereto of a NEW PART, to be known and desig-  
 41 nated as Part 1, Chapter 23, Title 30, Idaho Code, and to read as follows:

## 42 PART 1 43 GENERAL PROVISIONS

44 30-23-101. SHORT TITLE. This chapter may be cited as the "Idaho Uni-  
 45 form Partnership Act."

30-23-102. DEFINITIONS. (a) In this chapter:

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

(2) "Contribution," except in the phrase "right of contribution," means property or a benefit described in section 30-23-403, Idaho Code, which is provided by a person to a partnership to become a partner or in the person's capacity as a partner.

(3) "Distribution" means a transfer of money or other property from a partnership to a person on account of a transferable interest or in a person's capacity as a partner. The term:

(A) Includes:

(i) A redemption or other purchase by a partnership of a transferable interest; and

(ii) A transfer to a partner in return for the partner's relinquishment of any right to participate as a partner in the management or conduct of the partnership's business or have access to records or other information concerning the partnership's business; and

(B) Does not include amounts constituting reasonable compensation for present or past service or payments made in the ordinary course of business under a bona fide retirement plan or other bona fide benefits program.

(4) "Foreign limited liability partnership" means a foreign partnership whose partners have limited liability for the debts, obligations, or other liabilities of the foreign partnership under a provision similar to section 30-23-306(c), Idaho Code.

(5) "Foreign partnership" means an unincorporated entity formed under the law of a jurisdiction other than this state which would be a partnership if formed under the law of this state. The term includes a foreign limited liability partnership.

(6) "Limited liability partnership" means a partnership that has filed a statement of qualification under section 30-21-503, Idaho Code, and does not have a similar statement in effect in any other jurisdiction.

(7) "Partner" means a person that:

(A) Has become a partner in a partnership under section 30-23-402, Idaho Code, or was a partner in a partnership when the partnership became subject to this chapter under section 30-23-110, Idaho Code; and

(B) Has not dissociated as a partner under section 30-23-601, Idaho Code.

(8) "Partnership" means an association of two (2) or more persons to carry on as co-owners a business for profit formed under this chapter or that becomes subject to this chapter under article 2 or section 30-23-110, Idaho Code. The term includes a limited liability partnership.

(9) "Partnership agreement" means the agreement, whether or not referred to as a partnership agreement and whether oral, implied, in a record, or in any combination thereof, of all the partners of a partnership concerning the matters described in section 33-22-105(a), Idaho Code. The term includes the agreement as amended or restated.

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

(11) "Transferable interest" means the right, as initially owned by a person in the person's capacity as a partner, to receive distributions from a partnership in accordance with the partnership agreement, whether or not the person remains a partner or continues to own any part of the right. The term applies to any fraction of the interest, by whomever owned.

(12) "Transferee" means a person to which all or part of a transferable interest has been transferred, whether or not the transferor is a partner.

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

- (1) "Debtor in bankruptcy" - section 30-21-102(6), Idaho Code.
- (2) "Jurisdiction" - section 30-21-102(21), Idaho Code.
- (3) "Jurisdiction of formation" - section 30-21-102(22), Idaho Code.
- (4) "Person" - section 30-21-102(34), Idaho Code.
- (5) "Principal office" - section 30-21-102(35), Idaho Code.
- (6) "Property" - section 30-21-102(40), Idaho Code.
- (7) "Record" - section 30-21-102(43), Idaho Code.
- (8) "Registered agent" - section 30-21-102(44), Idaho Code.
- (9) "Sign" - section 30-21-102(46), Idaho Code.
- (10) "State" - section 30-21-102(47), Idaho Code.
- (11) "Transfer" - section 30-21-102(49), Idaho Code.

30-23-103. KNOWLEDGE -- NOTICE. (a) A person knows a fact if the person:

- (1) Has actual knowledge of it; or
- (2) Is deemed to know it under subsection (d)(1) of this section or law other than this chapter.

(b) A person has notice of a fact if the person:

- (1) Has reason to know the fact from all the facts known to the person at the time in question; or
- (2) As deemed to have notice of the fact under subsection (d)(2) of this section.

(c) Subject to section 30-21-212, Idaho Code, a person notifies another person of a fact by taking steps reasonably required to inform the other person in ordinary course, whether or not those steps cause the other person to know the fact.

(d) A person not a partner is deemed:

- (1) To know of a limitation on authority to transfer real property as provided in section 30-23-303(g), Idaho Code; and
- (2) To have notice of:
  - (A) A person's dissociation as a partner ninety (90) days after a statement of dissociation under section 30-23-704, Idaho Code, becomes effective; and
  - (B) A partnership's:

(i) Dissolution ninety (90) days after a statement of dissolution under section 30-23-802, Idaho Code, becomes effective;

(ii) Termination ninety (90) days after a statement of termination under section 30-23-802, Idaho Code, becomes effective; and

(iii) Participation in a merger, interest exchange, conversion, or domestication ninety (90) days after articles of merger, interest exchange, conversion, or domestication under Chapter 21, title 30, Idaho Code, become effective.

(e) A partner's knowledge or notice of a fact relating to the partnership is effective immediately as knowledge of or notice to the partnership, except in the case of a fraud on the partnership committed by or with the consent of that partner.

30-23-104. GOVERNING LAW. The internal affairs of a partnership and the liability of a partner as a partner for the debts, obligations, or other liabilities of the partnership are governed by:

(1) In the case of a limited liability partnership, the law of this state; and

(2) In the case of a partnership that is not a limited liability partnership, the law of the jurisdiction in which the partnership has its principal office.

30-23-105. PARTNERSHIP AGREEMENT -- SCOPE, FUNCTION AND LIMITATIONS. (a) Except as otherwise provided in subsections (c) and (d) of this section, the partnership agreement governs:

(1) Relations among the partners as partners and between the partners and the partnership;

(2) The business of the partnership and the conduct of that business; and

(3) The means and conditions for amending the partnership agreement.

(b) To the extent the partnership agreement does not provide for a matter described in subsection (a) of this section, this chapter governs the matter.

(c) A partnership agreement may not:

(1) Vary the provisions of section 30-23-110, Idaho Code;

(2) Vary the law applicable under section 30-23-104(1), Idaho Code;

(3) Vary the provisions of section 30-21-210, Idaho Code;

(4) Vary the provisions of section 30-23-307, Idaho Code;

(5) Unreasonably restrict the duties and rights under section 30-23-408, Idaho Code, but the partnership agreement may impose reasonable restrictions on the availability and use of information obtained under that section and may define appropriate remedies, including liquidated damages, for a breach of any reasonable restriction on use;

(6) Alter or eliminate the duty of loyalty or the duty of care, except as otherwise provided in subsection (d) of this section;

(7) Eliminate the contractual obligation of good faith and fair dealing under section 30-23-409(d), Idaho Code, but the partnership agreement

1 may prescribe the standards, if not manifestly unreasonable, by which  
 2 the performance of the obligation is to be measured;

3 (8) Unreasonably restrict the right of a person to maintain an action  
 4 under section 30-23-410(b), Idaho Code;

5 (9) Relieve or exonerate a person from liability for conduct involving  
 6 bad faith, willful or intentional misconduct, or a knowing violation of  
 7 the law;

8 (10) Vary the power of a person to dissociate as a partner under section  
 9 30-23-602(a), Idaho Code, except to require that the notice under sec-  
 10 tion 30-23-601(1), Idaho Code, be in a record;

11 (11) Vary the right of a court to expel a partner in the events specified  
 12 in section 30-23-601(5), Idaho Code;

13 (12) Vary the causes of dissolution specified in section 30-23-801(4)  
 14 or (5), Idaho Code;

15 (13) Vary the requirement to wind up the partnership's business as  
 16 specified in section 30-23-802(a), (b) (1), and (d), Idaho Code;

17 (14) Vary the right of a partner under section 30-23-901(f), Idaho Code,  
 18 to vote on or consent to a cancellation of a statement of qualification;

19 (15) Vary the right of a partner to approve a merger, interest ex-  
 20 change, conversion, or domestication under section 30-22-203(a) (2),  
 21 30-22-303(a) (2), 30-22-403(a) (2), or 30-22-503(a) (2), Idaho Code;

22 (16) Vary the required contents of a plan of merger under section  
 23 30-22-202(a), Idaho Code, plan of interest exchange under sec-  
 24 tion 30-22-302(a), Idaho Code, plan of conversion under section  
 25 30-22-402(a), Idaho Code, or plan of domestication under section  
 26 30-22-502(a), Idaho Code;

27 (17) Vary any requirement, procedure, or other provision of this title  
 28 pertaining to:

29 (A) Registered agents; or

30 (B) The secretary of state, including provisions pertaining to  
 31 records authorized or required to be delivered to the secretary of  
 32 state for filing under this title; or

33 (18) Except as otherwise provided in sections 30-23-106 and 30-23-  
 34 107(2), Idaho Code, restrict the rights under this title of a person  
 35 other than a partner.

36 (d) Subject to subsection (c) (8) of this section, without limiting  
 37 other terms that may be included in a partnership agreement, the following  
 38 rules apply:

39 (1) The partnership agreement may:

40 (A) Specify the method by which a specific act or transaction that  
 41 would otherwise violate the duty of loyalty may be authorized or  
 42 ratified by one or more disinterested and independent persons af-  
 43 ter full disclosure of all material facts; and

44 (B) Alter the prohibition stated in section 30-23-406(2) (b),  
 45 Idaho Code, so that the prohibition requires only that the part-  
 46 nership's total assets not be less than the sum of its total  
 47 liabilities.

48 (2) To the extent the partnership agreement expressly relieves a part-  
 49 ner of a responsibility that the partner would otherwise have under this  
 50 chapter and imposes the responsibility on one (1) or more other part-

ners, the agreement also may eliminate or limit any fiduciary duty of the partner relieved of the responsibility that would have pertained to the responsibility.

(3) If not manifestly unreasonable, the partnership agreement may:

(A) Alter or eliminate the aspects of the duty of loyalty stated in section 30-23-409(b), Idaho Code;

(B) Identify specific types or categories of activities that do not violate the duty of loyalty;

(C) Alter the duty of care, but may not authorize conduct involving bad faith, willful or intentional misconduct or a knowing violation of the law; and

(D) Alter or eliminate any other fiduciary duty.

(e) The court shall decide as a matter of law whether a term of a partnership agreement is manifestly unreasonable under subsection (c)(6) or (d)(3) of this section. The court:

(1) Shall make its determination as of the time the challenged term became part of the partnership agreement and by considering only circumstances existing at that time; and

(2) May invalidate the term only if, in light of the purposes and business of the partnership, it is readily apparent that:

(A) The objective of the term is unreasonable; or

(B) The term is an unreasonable means to achieve the provision's objective.

30-23-106. PARTNERSHIP AGREEMENT -- EFFECT ON PARTNERSHIP AND PERSON BECOMING PARTNER -- PREFORMATION AGREEMENT. (a) A partnership is bound by and may enforce the partnership agreement, whether or not the partnership has itself manifested assent to the agreement.

(b) A person that becomes a partner is deemed to assent to the partnership agreement.

(c) Two (2) or more persons intending to become the initial partners of a partnership may make an agreement providing that upon the formation of the partnership the agreement will become the partnership agreement.

30-23-107. PARTNERSHIP AGREEMENT -- EFFECT ON THIRD PARTIES AND RELATIONSHIP TO RECORDS EFFECTIVE ON BEHALF OF PARTNERSHIP. (a) A partnership agreement may specify that its amendment requires the approval of a person that is not a party to the agreement or the satisfaction of a condition. An amendment is ineffective if its adoption does not include the required approval or satisfy the specified condition.

(b) The obligations of a partnership and its partners to a person in the person's capacity as a transferee or person dissociated as a partner are governed by the partnership agreement. Subject only to a court order issued under section 30-23-504(b)(2), Idaho Code, to effectuate a charging order, an amendment to the partnership agreement made after a person becomes a transferee or is dissociated as a partner:

(1) Is effective with regard to any debt, obligation, or other liability of the partnership or its partners to the person in the person's capacity as a transferee or person dissociated as a partner; and

(2) Is not effective to the extent the amendment:

1 (A) Imposes a new debt, obligation, or other liability on the  
2 transferee or person dissociated as a partner; or

3 (B) Prejudices the rights under section 30-23-701, Idaho Code,  
4 of a person that dissociated as a partner before the amendment was  
5 made.

6 (c) If a record delivered by a partnership to the secretary of state  
7 for filing becomes effective under this title and contains a provision that  
8 would be ineffective under section 33-22-105(c) or (d) (3), Idaho Code, if  
9 contained in the partnership agreement, the provision is ineffective in the  
10 record.

11 (d) Subject to subsection (c) of this section, if a record delivered by  
12 a partnership to the secretary of state for filing becomes effective and con-  
13 flicts with a provision of the partnership agreement:

14 (1) The agreement prevails as to partners, persons dissociated as part-  
15 ners, and transferees; and

16 (2) The record prevails as to other persons to the extent they reason-  
17 ably rely on the record.

18 30-23-108. SIGNING OF RECORDS TO BE DELIVERED FOR FILING TO SECRETARY  
19 OF STATE. (a) A record delivered to the secretary of state for filing pur-  
20 suant to this title must be signed as follows:

21 (1) Except as otherwise provided in subsections (2) and (3) of this sec-  
22 tion, a record signed by a partnership must be signed by a person autho-  
23 rized by the partnership.

24 (2) A record filed on behalf of a dissolved partnership that has no  
25 partner must be signed by the person winding up the partnership's busi-  
26 ness under section 30-23-802(3), Idaho Code, or a person appointed  
27 under section 30-23-802(4), Idaho Code, to wind up the business.

28 (3) A statement of denial by a person under section 30-23-304, Idaho  
29 Code, must be signed by that person.

30 (4) Any other record delivered on behalf of a person to the secretary of  
31 state for filing must be signed by that person.

32 (b) A record filed under this chapter may be signed by an agent. When-  
33 ever this chapter requires a particular individual to sign a record and the  
34 individual is deceased or incompetent, the record may be signed by a legal  
35 representative of the individual.

36 (c) A person that signs a record as an agent or legal representative af-  
37 firms as a fact that the person is authorized to sign the record.

38 30-23-109. LIABILITY FOR INACCURATE INFORMATION IN FILED RECORD. (a)  
39 If a record delivered to the secretary of state for filing under this title  
40 and filed by the secretary of state contains inaccurate information, a per-  
41 son that suffers loss by reliance on the information may recover damages for  
42 the loss from a partner if:

43 (1) A person that signed the record, or caused another to sign it on the  
44 person's behalf, and knew the information to be inaccurate at the time  
45 the record was signed; and

46 (2) Subject to subsection (b) of this section:

47 (A) The record was delivered for filing on behalf of the partner-  
48 ship; and

(B) The partner had notice of the inaccuracy for a reasonably sufficient time before the information was relied upon so that, before the reliance, the partner reasonably could have:

- (i) Effected an amendment under section 30-23-901(f), Idaho Code;
- (ii) Filed a petition under section 30-23-112, Idaho Code; or
- (iii) Delivered to the secretary of state for filing a statement of change under section 30-23-906, Idaho Code, or a statement of correction under section 30-23-116, Idaho Code.

(b) To the extent the partnership agreement expressly relieves a partner of responsibility for maintaining the accuracy of information contained in records delivered on behalf of the partnership to the secretary of state for filing under this title and imposes that responsibility on one (1) or more other partners, the liability stated in subsection (a) (2) of this section applies to those other partners and not to the partner that the partnership agreement relieves of the responsibility.

(c) An individual who signs a record authorized or required to be filed under this title affirms under penalty of perjury that the information stated in the record is accurate.

30-23-110. APPLICATION TO EXISTING RELATIONSHIPS. (a) Before July 1, 2016, this chapter governs only:

- (1) A partnership formed on or after July 1, 2014; and
- (2) Except as otherwise provided in subsection (c) of this section, a partnership formed before July 1, 2014, that elects, in the manner provided in its partnership agreement or by law for amending the partnership agreement, to be subject to this chapter.

(b) Except as otherwise provided in subsection (c) of this section, on and after July 1, 2016, this chapter governs all partnerships.

(c) With respect to a partnership that elects pursuant to subsection (a) (2) of this section to be subject to this chapter, after the election takes effect the provisions of this chapter relating to the liability of the partnership's partners to third parties apply:

- (1) Before July 1, 2015, to:
  - (A) A third party that had not done business with the partnership in the year before the election took effect; and
  - (B) A third party that had done business with the partnership in the year before the election took effect only if the third party knows or has been notified of the election; and
- (2) On and after July 1, 2016, to all third parties, but those provisions remain inapplicable to any obligation incurred while those provisions were inapplicable under paragraph (1) (B) of this subsection.

30-23-111. SUBJECTS COVERED OUTSIDE CHAPTER. The following subjects are covered outside this chapter:

- (1) Delivery of record - section 30-21-104, Idaho Code.
- (2) Signing and filing pursuant to judicial order - section 30-21-210, Idaho Code.



- 1 (3) Filing requirements - section 30-21-201, Idaho Code.
- 2 (4) Effective date and time - section 30-21-203, Idaho Code.
- 3 (5) Withdrawal of filed record before effectiveness - section 30-21-
- 4 204, Idaho Code.
- 5 (6) Correcting filed record - section 30-21-205, Idaho Code.
- 6 (7) Duty of secretary of state to file; review of refusal to file; de-
- 7 livery of record by secretary of state - sections 30-21-206 and 30-21-211,
- 8 Idaho Code.
- 9 (8) Reservation of power to amend or repeal - section 30-21-701, Idaho
- 10 Code.
- 11 (9) Supplemental principles of law - section 30-21-702, Idaho Code.

12 SECTION 24. That Chapter 23, Title 30, Idaho Code, be, and the same is  
 13 hereby amended by the addition thereto of a NEW PART, to be known and desig-  
 14 nated as Part 2, Chapter 23, Title 30, Idaho Code, and to read as follows:

15 PART 2  
 16 NATURE OF PARTNERSHIP

17 30-23-201. PARTNERSHIP AS ENTITY. (a) A partnership is an entity dis-  
 18 tinct from its partners.

19 (b) A partnership is the same entity regardless of whether the part-  
 20 nership has a statement of qualification in effect under section 30-23-901,  
 21 Idaho Code.

22 30-23-202. FORMATION OF PARTNERSHIP. (a) Except as otherwise provided  
 23 in subsection (b) of this section, the association of two (2) or more persons  
 24 to carry on as co-owners a business for profit forms a partnership, whether  
 25 or not the persons intend to form a partnership.

26 (b) An association formed under a statute other than this chapter, a  
 27 predecessor statute, or a comparable statute of another jurisdiction is not  
 28 a partnership under this chapter.

29 (c) In determining whether a partnership is formed, the following rules  
 30 apply:

31 (1) Joint tenancy, tenancy in common, tenancy by the entireties, joint  
 32 property, common property, or part ownership does not by itself estab-  
 33 lish a partnership, even if the co-owners share profits made by the use  
 34 of the property.

35 (2) The sharing of gross returns does not by itself establish a partner-  
 36 ship, even if the persons sharing them have a joint or common right or  
 37 interest in property from which the returns are derived.

38 (3) A person who receives a share of the profits of a business is pre-  
 39 sumed to be a partner in the business, unless the profits were received  
 40 in payment:

41 (A) Of a debt by installments or otherwise;

42 (B) For services as an independent contractor or of wages or other  
 43 compensation to an employee;

44 (C) Of rent;

45 (D) Of an annuity or other retirement or health benefit to a de-  
 46 ceased or retired partner or a beneficiary, representative, or de-  
 47 signee of a deceased or retired partner;

(E) Of interest or other charge on a loan, even if the amount of payment varies with the profits of the business, including a direct or indirect present or future ownership of the collateral, or rights to income, proceeds, or increase in value derived from the collateral; or

(F) For the sale of the goodwill of a business or other property by installments or otherwise.

30-23-203. PARTNERSHIP PROPERTY. Property acquired by a partnership is property of the partnership and not of the partners individually.

30-23-204. WHEN PROPERTY IS PARTNERSHIP PROPERTY. (a) Property is partnership property if acquired in the name of:

(1) The partnership; or

(2) One (1) or more partners with an indication in the instrument transferring title to the property of the person's capacity as a partner or of the existence of a partnership but without an indication of the name of the partnership.

(b) Property is acquired in the name of the partnership by a transfer to:

(1) The partnership in its name; or

(2) One (1) or more partners in their capacity as partners in the partnership, if the name of the partnership is indicated in the instrument transferring title to the property.

(c) Property is presumed to be partnership property if purchased with partnership assets, even if not acquired in the name of the partnership or of one (1) or more partners with an indication in the instrument transferring title to the property of the person's capacity as a partner or of the existence of a partnership.

(d) Property acquired in the name of one (1) or more of the partners, without an indication in the instrument transferring title to the property of the person's capacity as a partner or of the existence of a partnership and without use of partnership assets, is presumed to be separate property, even if used for partnership purposes.

SECTION 25. That Chapter 23, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW PART, to be known and designated as Part 3, Chapter 23, Title 30, Idaho Code, and to read as follows:

### PART 3

#### RELATIONS OF PARTNERS TO PERSONS DEALING WITH PARTNERSHIP

30-23-301. PARTNER AGENT OF PARTNERSHIP. Subject to the effect of a statement of partnership authority under section 30-23-303, Idaho Code, the following rules apply:

(1) Each partner is an agent of the partnership for the purpose of its business. An act of a partner, including the signing of an instrument in the partnership name, for apparently carrying on in the ordinary course of the partnership business or business of the kind carried on by the partnership binds the partnership, unless the partner did not have authority to act for

1 the partnership in the particular matter and the person with which the part-  
2 ner was dealing knew, or had notice, that the partner lacked authority.

3 (2) An act of a partner that is not apparently for carrying on in the or-  
4 dinary course of the partnership's business or business of the kind carried  
5 on by the partnership binds the partnership only if the act was actually au-  
6 thorized by all the other partners.

7 30-23-302. TRANSFER OF PARTNERSHIP PROPERTY. (a) Partnership prop-  
8 erty may be transferred as follows:

9 (1) Subject to the effect of a statement of partnership authority under  
10 section 30-23-303, partnership property held in the name of the part-  
11 nership may be transferred by an instrument of transfer executed by a  
12 partner in the partnership name.

13 (2) Partnership property held in the name of one (1) or more partners  
14 with an indication in the instrument transferring the property to them  
15 of their capacity as partners or of the existence of a partnership, but  
16 without an indication of the name of the partnership, may be transferred  
17 by an instrument of transfer executed by the persons in whose name the  
18 property is held.

19 (3) Partnership property held in the name of one (1) or more persons  
20 other than the partnership, without an indication in the instrument  
21 transferring the property to them of their capacity as partners or of  
22 the existence of a partnership, may be transferred by an instrument of  
23 transfer executed by the persons in whose name the property is held.

24 (b) A partnership may recover partnership property from a transferee  
25 only if it proves that execution of the instrument of initial transfer did  
26 not bind the partnership under section 30-23-301, Idaho Code, and:

27 (1) As to a subsequent transferee who gave value for property trans-  
28 ferred under subsection (a) (1) and (2) of this section, proves that the  
29 subsequent transferee knew or had been notified that the person who ex-  
30 ecuted the instrument of initial transfer lacked authority to bind the  
31 partnership; or

32 (2) As to a transferee who gave value for property transferred under  
33 subsection (a) (3) of this section, proves that the transferee knew or  
34 had been notified that the property was partnership property and that  
35 the person who executed the instrument of initial transfer lacked au-  
36 thority to bind the partnership.

37 (c) A partnership may not recover partnership property from a subse-  
38 quent transferee if the partnership would not have been entitled to recover  
39 the property, under subsection (b) of this section, from any earlier trans-  
40 feree of the property.

41 (d) If a person holds all the partners' interests in the partnership,  
42 all the partnership property vests in that person. The person may sign a  
43 record in the name of the partnership to evidence vesting of the property in  
44 that person and may file or record the record.

45 30-23-303. STATEMENT OF PARTNERSHIP AUTHORITY. (a) A partnership may  
46 deliver to the secretary of state for filing a statement of partnership au-  
47 thority. The statement:

1 (1) Must include the name of the partnership; and if the partnership is  
2 not a limited liability partnership, the street and mailing addresses  
3 of its principal office;  
4 (2) With respect to any position that exists in or with respect to the  
5 partnership, may state the authority, or limitations on the authority,  
6 of all persons holding the position to:  
7 (A) Execute an instrument transferring real property held in the  
8 name of the partnership; or  
9 (B) Enter into other transactions on behalf of, or otherwise act  
10 for or bind, the partnership; and  
11 (3) May state the authority, or limitations on the authority, of a spe-  
12 cific person to:  
13 (A) Execute an instrument transferring real property held in the  
14 name of the partnership; or  
15 (B) Enter into other transactions on behalf of, or otherwise act  
16 for or bind, the partnership.  
17 (b) To amend or cancel a statement of authority filed by the secretary  
18 of state, a partnership must deliver to the secretary of state for filing an  
19 amendment or cancellation stating:  
20 (1) The name of the partnership;  
21 (2) If the partnership is not a limited liability partnership, the  
22 street and mailing addresses of the partnership's principal office;  
23 (3) If the partnership is a limited liability partnership, the name and  
24 street and mailing addresses of its registered agent;  
25 (4) The date the statement being affected became effective; and  
26 (5) The contents of the amendment or a declaration that the statement is  
27 canceled.  
28 (c) A statement of authority affects only the power of a person to bind a  
29 partnership to persons that are not partners.  
30 (d) Subject to subsection (c) of this section and section 30-23-  
31 103(4)(a), Idaho Code, and except as otherwise provided in subsections (f),  
32 (g), and (h) of this section, a limitation on the authority of a person or a  
33 position contained in an effective statement of authority is not by itself  
34 evidence of any person's knowledge or notice of the limitation.  
35 (e) Subject to subsection (c) of this section, a grant of authority  
36 not pertaining to transfers of real property and contained in an effective  
37 statement of authority is conclusive in favor of a person that gives value in  
38 reliance on the grant, except to the extent that if the person gives value:  
39 (1) The person has knowledge to the contrary;  
40 (2) The statement has been canceled or restrictively amended under sub-  
41 section (b) of this section; or  
42 (3) A limitation on the grant is contained in another statement of au-  
43 thority that became effective after the statement containing the grant  
44 became effective.  
45 (f) Subject to subsection (c) of this section, an effective statement  
46 of authority that grants authority to transfer real property held in the name  
47 of the partnership is conclusive in favor of a person that gives value in re-  
48 liance on the grant without knowledge to the contrary, except to the extent  
49 that when the person gives value:

(1) The statement has been canceled or restrictively amended under subsection (b) of this section; or

(2) A limitation on the grant is contained in another statement of authority that became effective after the statement containing the grant became effective.

(g) Subject to subsection (c) of this section, if an effective statement of authority containing a limitation on the authority to transfer real property held in the name of a partnership is filed by the secretary of state, all persons are deemed to know of the limitation.

(h) Subject to subsection (i) of this section, an effective statement of dissolution is a cancellation of any filed statement of authority for the purposes of subsection (f) of this section and is a limitation on authority for purposes of subsection (g) of this section.

(i) After a statement of dissolution becomes effective, a partnership may deliver to the secretary of state for filing a statement of authority that is designated as a post-dissolution statement of authority. The statement operates as provided in subsections (f) and (g) of this section.

(j) Unless canceled earlier, an effective statement of authority is canceled by operation of law five years after the date on which the statement, or its most recent amendment, becomes effective.

(k) An effective statement of denial operates as a restrictive amendment under this section.

30-23-304. STATEMENT OF DENIAL. A person named in a filed statement of authority granting that person authority may deliver to the secretary of state for filing a statement of denial that:

(1) Provides the name of the partnership and the caption of the statement of authority to which the statement of denial pertains; and

(2) Denies the grant of authority.

30-23-305. PARTNERSHIP LIABLE FOR PARTNER'S ACTIONABLE CONDUCT. (a) A partnership is liable for loss or injury caused to a person, or for a penalty incurred, as a result of a wrongful act or omission, or other actionable conduct, of a partner acting in the ordinary course of business of the partnership or with the actual or apparent authority of the partnership.

(b) If, in the course of the partnership's business or while acting with actual or apparent authority of the partnership, a partner receives or causes the partnership to receive money or property of a person not a partner, and the money or property is misapplied by a partner, the partnership is liable for the loss.

30-23-306. PARTNER'S LIABILITY. (a) Except as otherwise provided in subsections (b) and (c) of this section, all partners are liable jointly and severally for all debts, obligations, and other liabilities of the partnership unless otherwise agreed by the claimant or provided by law.

(b) A person that becomes a partner is not personally liable for a debt, obligation, or other liability of the partnership incurred before the person became a partner.

(c) A debt, obligation, or other liability of a partnership incurred while the partnership is a limited liability partnership is solely the debt,

obligation, or other liability of the limited liability partnership. A partner is not personally liable, directly or indirectly, by way of contribution or otherwise, for a debt, obligation, or other liability of the limited liability partnership solely by reason of being or so acting as a partner. This subsection applies:

(1) Despite anything inconsistent in the partnership agreement that existed immediately before the vote or consent required to become a limited liability partnership under section 30-23-901(b), Idaho Code; and

(2) Regardless of the dissolution of the limited liability partnership.

(d) The failure of a limited liability partnership to observe formalities relating to the exercise of its powers or management of its business is not a ground for imposing liability on a partner for a debt, obligation, or other liability of the partnership.

(e) The cancellation or administrative revocation of a limited liability partnership's statement of qualification does not affect the limitation in this section on the liability of a partner for a debt, obligation, or other liability of the partnership incurred while the statement was in effect.

30-23-307. ACTIONS BY AND AGAINST PARTNERSHIP AND PARTNERS. (a) A partnership may sue and be sued in the name of the partnership.

(b) To the extent not inconsistent with section 30-23-306, Idaho Code, a partner may be joined in an action against the partnership or named in a separate action.

(c) A judgment against a partnership is not by itself a judgment against a partner. A judgment against a partnership may not be satisfied from a partner's assets unless there is also a judgment against the partner.

(d) A judgment creditor of a partner may not levy execution against the assets of the partner to satisfy a judgment based on a claim against the partnership unless the partner is personally liable for the claim under section 30-23-306, Idaho Code, and:

(1) A judgment based on the same claim has been obtained against the partnership and a writ of execution on the judgment has been returned unsatisfied in whole or in part;

(2) The partnership is a debtor in bankruptcy;

(3) The partner has agreed that the creditor need not exhaust partnership assets;

(4) A court grants permission to the judgment creditor to levy execution against the assets of a partner based on a finding that partnership assets subject to execution are clearly insufficient to satisfy the judgment, that exhaustion of partnership assets is excessively burdensome, or that the grant of permission is an appropriate exercise of the court's equitable powers; or

(5) Liability is imposed on the partner by law or contract independent of the existence of the partnership.

(e) This section applies to any partnership liability or obligation resulting from a representation by a partner or purported partner under section 30-23-308, Idaho Code.

26 (c) A person is not liable as a partner merely because the person is  
27 named by another in a statement of partnership authority.

32 (e) Except as otherwise provided in subsections (a) and (b) of this sec-  
33 tion, persons who are not partners as to each other are not liable as partners  
34 to other persons.

38 PART 4  
39 RELATIONS OF PARTNERS TO EACH OTHER AND TO PARTNERSHIP

44 (b) A partnership shall reimburse a partner for any payment made by the  
45 partner in the course of the partner's activities on behalf of the partner-  
46 ship, if the partner complied with this section and section 30-23-409, Idaho  
47 Code, in making the payment.

1 (c) A partnership shall indemnify and hold harmless a person with re-  
 2 spect to any claim or demand against the person and any debt, obligation,  
 3 or other liability incurred by the person by reason of the person's former  
 4 or present capacity as partner, if the claim, demand, debt, obligation, or  
 5 other liability does not arise from the person's breach of this section or  
 6 section 30-23-407 or 30-23-409, Idaho Code.

7 (d) In the ordinary course of its business, a partnership may advance  
 8 reasonable expenses, including attorney's fees and costs, incurred by a per-  
 9 son in connection with a claim or demand against the person by reason of the  
 10 person's former or present capacity as a partner, if the person promises to  
 11 repay the partnership if the person ultimately is determined not to be enti-  
 12 tled to be indemnified under subsection (c) of this section.

13 (e) A partnership may purchase and maintain insurance on behalf of  
 14 a partner against liability asserted against or incurred by the part-  
 15 ner in that capacity or arising from that status even if, under section  
 16 33-22-105(c) (7), Idaho Code, the partnership agreement could not eliminate  
 17 or limit the person's liability to the partnership for the conduct giving  
 18 rise to the liability.

19 (f) A partnership shall reimburse a partner for an advance to the part-  
 20 nership beyond the amount of capital the partner agreed to contribute.

21 (g) A payment or advance made by a partner which gives rise to a part-  
 22 nership obligation under subsection (b) or (f) of this section constitutes a  
 23 loan to the partnership which accrues interest from the date of the payment  
 24 or advance.

25 (h) Each partner has equal rights in the management and conduct of the  
 26 partnership's business.

27 (i) A partner may use or possess partnership property only on behalf of  
 28 the partnership.

29 (j) A partner is not entitled to remuneration for services performed  
 30 for the partnership, except for reasonable compensation for services ren-  
 31 dered in winding up the business of the partnership.

32 (k) A difference arising as to a matter in the ordinary course of busi-  
 33 ness of a partnership may be decided by a majority of the partners. An act  
 34 outside the ordinary course of business of a partnership, and an amendment to  
 35 the partnership agreement may be undertaken only with the affirmative vote  
 36 or consent of all of the partners.

37 30-23-402. BECOMING PARTNER. (a) Upon formation of a partnership, a  
 38 person becomes a partner under section 30-23-202(a), Idaho Code.

39 (b) After formation of a partnership, a person becomes a partner:

40 (1) As provided in the partnership agreement;

41 (2) As a result of a transaction effective under chapter 21, title 30,  
 42 Idaho Code; or

43 (3) With the affirmative vote or consent of all the partners.

44 (c) A person may become a partner without:

45 (1) Acquiring a transferable interest; or

46 (2) Making or being obligated to make a contribution to the partner-  
 47 ship.



1        30-23-403. FORM OF CONTRIBUTION. A contribution may consist of prop-  
 2 erty transferred to, services performed for, or another benefit provided to  
 3 the partnership or an agreement to transfer property to, perform services  
 4 for, or provide another benefit to the partnership.

5        30-23-404. LIABILITY FOR CONTRIBUTION. (a) A person's obligation to  
 6 make a contribution to a partnership is not excused by the person's death,  
 7 disability, termination, or other inability to perform personally.

8        (b) If a person does not fulfill an obligation to make a contribution  
 9 other than money, the person is obligated at the option of the partnership to  
 10 contribute money equal to the value of the part of the contribution which has  
 11 not been made.

12        (c) The obligation of a person to make a contribution may be compromised  
 13 only by the affirmative vote or consent of all the partners. If a creditor  
 14 of a limited liability partnership extends credit or otherwise acts in re-  
 15 liance on an obligation described in subsection (a) of this section, without  
 16 knowledge or notice of a compromise under this subsection, the creditor may  
 17 enforce the obligation.

18        30-23-405. SHARING OF AND RIGHT TO DISTRIBUTIONS BEFORE DISSOLU-  
 19 TION. (a) Any distributions made by a partnership before its dissolution  
 20 and winding up must be in equal shares among partners, except to the extent  
 21 necessary to comply with a transfer effective under section 30-23-503, Idaho  
 22 Code, or charging order in effect under section 30-23-504, Idaho Code.

23        (b) Subject to section 30-23-701, Idaho Code, a person has a right to a  
 24 distribution before the dissolution and winding up of a partnership only if  
 25 the partnership decides to make an interim distribution.

26        (c) A person does not have a right to demand or receive a distribution  
 27 from a partnership in any form other than money. Except as otherwise pro-  
 28 vided in section 30-23-806, a partnership may distribute an asset in kind  
 29 only if each part of the asset is fungible with each other part and each per-  
 30 son receives a percentage of the asset equal in value to the person's share of  
 31 distributions.

32        (d) If a partner or transferee becomes entitled to receive a distribu-  
 33 tion, the partner or transferee is entitled to all remedies available to,  
 34 a creditor of the partnership with respect to the distribution. However,  
 35 the partnership's obligation to make a distribution is subject to offset for  
 36 any amount owed to the partnership by the partner or a person dissociated as  
 37 partner on whose account the distribution is made.

38        30-23-406. LIMITATIONS ON DISTRIBUTIONS BY LIMITED LIABILITY PART-  
 39 NERSHIP. (a) A limited liability partnership may not make a distribution,  
 40 including a distribution under section 30-23-806, Idaho Code, if after the  
 41 distribution:

42        (1) The partnership would not be able to pay its debts as they become due  
 43 in the ordinary course of the partnership's business; or

44        (2) The partnership's total assets would be less than the sum of its to-  
 45 tal liabilities plus the amount that would be needed, if the partner-  
 46 ship were to be dissolved and wound up at the time of the distribution,  
 47 to satisfy the preferential rights upon dissolution and winding up of

1 partners and transferees whose preferential rights are superior to the  
2 rights of persons receiving the distribution.

3 (b) A limited liability partnership may base a determination that a  
4 distribution is not prohibited under subsection (a) of this section on:

5 (1) Financial statements prepared on the basis of accounting practices  
6 and principles that are reasonable in the circumstances; or

7 (2) A fair valuation or other method that is reasonable under the cir-  
8 cumstances.

9 (c) Except as otherwise provided in subsection (e) of this section, the  
10 effect of a distribution under subsection (a) of this section is measured:

11 (1) In the case of a distribution as defined in section 30-23-  
12 102(4) (A), Idaho Code, as of the earlier of the date:

13 (A) The date money or other property is transferred or debt is in-  
14 curred by the limited liability partnership; or

15 (B) The date the person entitled to the distribution ceases to own  
16 the interest or rights being acquired by the partnership in return  
17 for the distribution;

18 (2) In the case of any other distribution of indebtedness, as of the  
19 date the indebtedness is distributed; and

20 (3) In all other cases, as of the date:

21 (A) The distribution is authorized, if the payment occurs not  
22 later than one hundred twenty (120) days after that date; or

23 (B) The payment is made, if the payment occurs more than one hun-  
24 dred twenty (120) days after the distribution is authorized.

25 (d) A limited liability partnership's indebtedness to a partner or  
26 transferee incurred by reason of a distribution made in accordance with this  
27 section is at parity with the partnership's indebtedness to its general,  
28 unsecured creditors, except to the extent subordinated by agreement.

29 (e) A limited liability partnership's indebtedness, including indebt-  
30 edness issued as a distribution, is not a liability for purposes of subsec-  
31 tion (a) of this section if the terms of the indebtedness provide that pay-  
32 ment of principal and interest is made only if and to the extent that a pay-  
33 ment of a distribution could then be made under this section. If the indebt-  
34 edness is issued as a distribution, each payment of principal or interest is  
35 treated as a distribution, the effect of which is measured on the date the  
36 payment is made.

37 (f) In measuring the effect of a distribution under section 30-23-806,  
38 Idaho Code, the liabilities of a dissolved limited liability partnership do  
39 not include any claim that has been disposed of under sections 30-23-807,  
40 30-23-808, or 30-23-809, Idaho Code.

41 30-23-407. LIABILITY OF IMPROPER DISTRIBUTIONS BY LIMITED LIABILITY  
42 PARTNERSHIP. (a) Except as provided in subsection (b) of this section if a  
43 partner of a limited liability partnership consents to a distribution made  
44 in violation of section 30-23-406, Idaho Code, and in consenting to the dis-  
45 tribution fails to comply with section 30-23-409, Idaho Code, the partner is  
46 personally liable to the partnership for the amount of the distribution that  
47 exceeds the amount that could have been distributed without the violation of  
48 section 30-23-406, Idaho Code.

1 (b) To the extent the partnership agreement of a limited liability  
 2 partnership expressly relieves a partner of the authority and responsibil-  
 3 ity to consent to distributions and imposes that authority and responsibil-  
 4 ity on one (1) or more other partners, the liability stated in subsection (a)  
 5 of this section applies to the other partners and not to the partner that the  
 6 partnership agreement relieves of the authority and responsibility.

7 (c) A person that receives a distribution knowing that the distribution  
 8 violated section 30-23-406, Idaho Code, is personally liable to the limited  
 9 liability partnership but only to the extent that the distribution received  
 10 by the person exceeded the amount that could have been properly paid under  
 11 section 30-23-406, Idaho Code.

12 (d) A person against which an action is commenced because the person is  
 13 liable under subsection (a) of this section may:

14 (1) Implead any other person that is liable under subsection (a) of this  
 15 section and seek to enforce a right of contribution from the person; and

16 (2) Implead any person that received a distribution in violation of  
 17 subsection (c) of this section and seek to enforce a right of contribu-  
 18 tion from the person in the amount the person received in violation of  
 19 subsection (c) of this section.

20 (e) An action under this section is barred unless commenced not later  
 21 than two years after the distribution.

22 30-23-408. RIGHTS TO INFORMATION OF PARTNERS AND PERSONS DISSOCIATED  
 23 AS PARTNER. (a) A partnership shall keep its books and records, if any, at its  
 24 principal office.

25 (b) On reasonable notice, a partner may inspect and copy during regular  
 26 business hours, at a reasonable location specified by the partnership, any  
 27 record maintained by the partnership regarding the partnership's business,  
 28 financial condition, and other circumstances, to the extent the information  
 29 is material to the partner's rights and duties under the partnership agree-  
 30 ment or this title.

31 (c) The partnership shall furnish to each partner:

32 (1) Without demand, any information concerning the partnership's  
 33 business, financial condition, and other circumstances that the part-  
 34 nership knows and is material to the proper exercise of the partner's  
 35 rights and duties under the partnership agreement or this title, except  
 36 to the extent the partnership can establish that it reasonably believes  
 37 the member already knows the information; and

38 (2) On demand, any other information concerning the partnership's  
 39 business, financial condition, and other circumstances, except to the  
 40 extent the demand or the information demanded is unreasonable or other-  
 41 wise improper under the circumstances.

42 (d) The duty to furnish information under subsection (c) of this sec-  
 43 tion also applies to each partner to the extent the partner knows any of the  
 44 information described in subsection (c) of this section.

45 (e) Subject to subsection (j) of this section, on ten (10) days' demand  
 46 made in a record received by a partnership, a person dissociated as a partner  
 47 may have access to information to which the person was entitled while a part-  
 48 ner if:

1 (1) The information pertains to the period during which the person was a  
2 partner;

3 (2) The person seeks the information in good faith; and

4 (3) The person satisfies the requirements imposed on a partner by sub-  
5 section (b) of this section.

6 (f) Not later than ten (10) days after receiving a demand under subsec-  
7 tion (e) of this section, the partnership in a record shall inform the person  
8 that made the demand of:

9 (1) The information that the partnership will provide in response to  
10 the demand and when and where the partnership will provide the informa-  
11 tion; and

12 (2) The partnership's reasons for declining, if the partnership de-  
13 clines to provide any demanded information.

14 (g) A partnership may charge a person that makes a demand under this  
15 section the reasonable costs of copying, limited to the costs of labor and  
16 material.

17 (h) A partner or person dissociated as a partner may exercise the rights  
18 under this section through an agent or, in the case of an individual under  
19 legal disability, a legal representative. Any restriction or condition im-  
20 posed by the partnership agreement or under subsection (j) of this section  
21 applies both to the agent or legal representative and to the partner or per-  
22 son dissociated as a partner.

23 (i) Subject to section 30-23-505, Idaho Code, the rights under this  
24 section do not extend to a person as transferee.

25 (j) In addition to any restriction or condition stated in the partner-  
26 ship agreement, a partnership, as a matter within the ordinary course of its  
27 business, may impose reasonable restrictions and conditions on access to and  
28 use of information to be furnished under this section, including designating  
29 information confidential and imposing nondisclosure and safeguarding obli-  
30 gations on the recipient. In a dispute concerning the reasonableness of a  
31 restriction under this subsection, the partnership has the burden of proving  
32 reasonableness.

33 30-23-409. STANDARDS OF CONDUCT FOR PARTNERS. (a) A partner owes to  
34 the partnership and the other partners the duties of loyalty and care stated  
35 in subsections (b) and (c) of this section.

36 (b) The fiduciary duty of loyalty of a partner includes the duties:

37 (1) To account to the partnership and hold as trustee for it any prop-  
38 erty, profit, or benefit derived by the partner:

39 (A) In the conduct or winding up of the partnership's business;

40 (B) From a use by the partner of the partnership's property; or

41 (C) From the appropriation of a partnership opportunity;

42 (2) To refrain from dealing with the partnership in the conduct or wind-  
43 ing up of the partnership business as or on behalf of a person having an  
44 interest adverse to the partnership; and

45 (3) To refrain from competing with the partnership in the conduct of the  
46 partnership's business before the dissolution of the partnership.

47 (c) The duty of care of a partner in the conduct or winding up of the  
48 partnership business is to refrain from engaging in grossly negligent or

reckless conduct, willful or intentional misconduct, or a knowing violation of law.

(d) A partner shall discharge the duties and obligations under this title or under the partnership agreement and exercise any rights consistently with the contractual obligation of good faith and fair dealing.

(e) A partner does not violate a duty or obligation under this title or under the partnership agreement solely because the partner's conduct furthers the partner's own interest.

(f) All the partners may authorize or ratify, after full disclosure of all material facts, a specific act or transaction by a partner that otherwise would violate the duty of loyalty.

(g) It is a defense to a claim under subsection (b) (2) of this section and any comparable claim in equity or at common law that the transaction was fair to the partnership.

(h) If, as permitted by subsection (f) of this section or the partnership agreement, a partner enters into a transaction with the partnership that otherwise would be prohibited by subsection (b) (2) of this section, the partner's rights and obligations arising from the transaction are the same as those of a person that is not a partner.

30-23-410. ACTIONS BY PARTNERSHIP AND PARTNERS. (a) A partnership may maintain an action against a partner for a breach of the partnership agreement, or for the violation of a duty to the partnership, causing harm to the partnership.

(b) A partner may maintain an action against the partnership or another partner, with or without an accounting as to partnership business, to enforce the partner's rights and protect the partner's interests, including rights and interests under the partnership agreement or this title or arising independently of the partnership relationship.

(c) A right to an accounting on dissolution and winding up does not revive a claim barred by law.

30-23-411. CONTINUATION OF PARTNERSHIP BEYOND DEFINITE TERM OR PARTICULAR UNDERTAKING. (a) If a partnership for a definite term or particular undertaking is continued, without an express agreement, after the expiration of the term or completion of the undertaking, the rights and duties of the partners remain the same as they were at the expiration or completion, so far as is consistent with a partnership at will.

(b) If the partners, or those of them who habitually acted in the business during the term or undertaking, continue the business without any settlement or liquidation of the partnership, they are presumed to have agreed that the partnership will continue.

SECTION 27. That Chapter 23, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW PART, to be known and designated as Part 5, Chapter 23, Title 30, Idaho Code, and to read as follows:

#### PART 5

#### TRANSFERABLE INTERESTS AND RIGHTS OF TRANSFEREES AND CREDITORS

1        30-23-501. PARTNER NOT CO-OWNER OF PARTNERSHIP PROPERTY. A partner is  
 2 not a co-owner of partnership property and has no interest in partnership  
 3 property which can be transferred, either voluntarily or involuntarily.

4        30-23-502. NATURE OF TRANSFERABLE INTEREST. A transferable interest  
 5 is personal property.

6        30-23-503. TRANSFER OF TRANSFERABLE INTEREST. (a) A transfer, in  
 7 whole or in part, of a transferable interest:

8        (1) Is permissible, except the transfer of a transferable interest in a  
 9 professional entity is not permissible without compliance with section  
 10 30-21-901(i), Idaho Code;

11        (2) Does not by itself cause a partner's dissociation or a dissolution  
 12 and winding up of the partnership business; and

13        (3) Subject to section 30-23-505, Idaho Code, does not entitle the  
 14 transferee to:

15            (A) Participate in the management or conduct of the partnership's  
 16 business; or

17            (B) Except as otherwise provided in subsection (c) of this sec-  
 18 tion, have access to records or other information concerning the  
 19 partnership's business.

20        (b) A transferee has the right to:

21        (1) Receive, in accordance with the transfer, distributions to which  
 22 the transferor would otherwise be entitled; and

23        (2) Seek under section 30-23-801(5), Idaho Code, a judicial determina-  
 24 tion that it is equitable to wind up the partnership business.

25        (c) In a dissolution and winding up of a partnership, a transferee is  
 26 entitled to an account of the partnership's transactions only from the date  
 27 of dissolution.

28        (d) A partnership need not give effect to a transferee's rights under  
 29 this section until the partnership knows or has notice of the transfer.

30        (e) A transfer of a transferable interest in violation of a restriction  
 31 on transfer contained in the partnership agreement is ineffective as to a  
 32 person having knowledge or notice of the restriction at the time of transfer.

33        (f) Except as otherwise provided in Section 30-23-601(4)(B), Idaho  
 34 Code, if a partner transfers a transferable interest, the transferor retains  
 35 the rights of a partner other than the transferable interest transferred and  
 36 retains all the duties and obligations of a partner.

37        (g) If a partner transfers a transferable interest to a person that  
 38 becomes a partner with respect to the transferred interest, the trans-  
 39 feree is liable for the partner's obligations under sections 30-23-404 and  
 40 30-23-407, Idaho Code, known to the transferee when the transferee becomes a  
 41 partner.

42        30-23-504. CHARGING ORDER. (a) On application by a judgment creditor  
 43 of a partner or transferee, a court may enter a charging order against the  
 44 transferable interest of the judgment debtor for the unsatisfied amount of  
 45 the judgment. A charging order constitutes a lien on a judgment debtor's  
 46 transferable interest and requires the partnership to pay over to the person

1 to which the charging order was issued any distribution that otherwise would  
2 be paid to the judgment debtor.

3 (b) To the extent necessary to effectuate the collection of distribu-  
4 tions pursuant to a charging order in effect under subsection (a) of this  
5 section, the court may:

6 (1) Appoint a receiver of the distributions subject to the charging or-  
7 der, with the power to make all inquiries the judgment debtor might have  
8 made; and

9 (2) Make all other orders necessary to give effect to the charging or-  
10 der.

11 (c) Upon a showing that distributions under a charging order will not  
12 pay the judgment debt within a reasonable time, the court may foreclose the  
13 lien and order the sale of the transferable interest. The purchaser at the  
14 foreclosure sale obtains only the transferable interest, does not thereby  
15 become a partner, and is subject to section 30-23-503, Idaho Code.

16 (d) At any time before foreclosure under subsection (c) of this sec-  
17 tion, the partner or transferee whose transferable interest is subject to  
18 a charging order under subsection (a) of this section may extinguish the  
19 charging order by satisfying the judgment and filing a certified copy of the  
20 satisfaction with the court that issued the charging order.

21 (e) At any time before foreclosure under subsection (c) of this sec-  
22 tion, a partnership or one (1) or more partners whose transferable interests  
23 are not subject to the charging order may pay to the judgment creditor the  
24 full amount due under the judgment and thereby succeed to the rights of the  
25 judgment creditor, including the charging order.

26 (f) This chapter does not deprive any partner or transferee of the bene-  
27 fit of any exemption law applicable to the transferable interest of the part-  
28 ner or transferee.

29 (g) This section provides the exclusive remedy by which a person seek-  
30 ing in the capacity of a judgment creditor, to enforce a judgment against a  
31 partner or transferee may satisfy the judgment from the judgment debtor's  
32 transferable interest.

33 30-23-505. POWER OF LEGAL REPRESENTATIVE OF DECEASED PARTNER. If a  
34 partner dies, the deceased partner's legal representative may exercise:

35 (1) The rights of a transferee provided in section 30-23-503(c), Idaho  
36 Code; and

37 (2) For purposes of settling the estate, the rights the deceased part-  
38 ner had under section 30-23-408, Idaho Code.

39 SECTION 28. That Chapter 23, Title 30, Idaho Code, be, and the same is  
40 hereby amended by the addition thereto of a NEW PART, to be known and desig-  
41 nated as Part 6, Chapter 23, Title 30, Idaho Code, and to read as follows:

42 PART 6  
43 DISSOCIATION

44 30-23-601. EVENTS CAUSING DISSOCIATION. A person is dissociated as a  
45 partner when:

1       (1) The partnership has notice of the person's express will to withdraw  
 2 as a partner, but, if the person has specified a withdrawal date later than  
 3 the date the partnership knew or had notice, on that later date;

4       (2) An event stated in the partnership agreement as causing the per-  
 5 son's dissociation occurs;

6       (3) The person is expelled as a partner pursuant to the partnership  
 7 agreement;

8       (4) The person is expelled as a partner by the affirmative vote or con-  
 9 sent of all the other partners if:

10       (A) It is unlawful to carry on the partnership business with the person  
 11 as a partner;

12       (B) There has been a transfer of all of the person's transferable inter-  
 13 est in the partnership, other than:

14           (i) A transfer for security purposes; or

15           (ii) A charging order in effect under section 30-23-504, Idaho  
 16 Code, that has not been foreclosed;

17       (C) The person is an entity and:

18           (i) The partnership notifies the person that it will be expelled  
 19 as a partner because the person has filed a statement of dissolu-  
 20 tion or the equivalent, the person has been administratively dis-  
 21 solved, the person's charter or the equivalent has been revoked,  
 22 or the person's right to conduct business has been suspended by the  
 23 person's jurisdiction of formation; and

24           (ii) Not later than ninety (90) days after the notification, the  
 25 statement of dissolution or the equivalent has not been withdrawn,  
 26 rescinded or revoked or the person's charter or the equivalent or  
 27 right to conduct business has not been reinstated; or

28       (D) The person is an unincorporated entity that has been dissolved and  
 29 whose activities and affairs are being wound up;

30       (5) On application by the partnership or another partner, the person is  
 31 expelled as a partner by judicial order because the person:

32       (A) Has engaged or is engaging in wrongful conduct that has affected  
 33 adversely and materially, or will affect adversely and materially, the  
 34 partnership's business;

35       (B) Has committed willfully or persistently, or is committing will-  
 36 fully or persistently, a material breach of the partnership agreement  
 37 or a duty or obligation under section 30-23-409, Idaho Code; or

38       (C) Has engaged or is engaging in conduct relating to the partnership's  
 39 business which makes it not reasonably practicable to carry on the busi-  
 40 ness with the person as a partner;

41       (6) The person:

42           (A) Becomes a debtor in bankruptcy;

43           (B) Executes an assignment for the benefit of creditors; or

44           (C) Seeks, consents to, or acquiesces in the appointment of a trustee,  
 45 receiver, or liquidator of the person or of all or substantially all the  
 46 person's property;

47       (7) In the case of an individual:

48           (A) The individual dies;

49           (B) A guardian or general conservator for the individual is appointed;  
 50 or



(C) A court orders that the individual has otherwise become incapable of performing the individual's duties as a partner under this chapter or the partnership agreement;

(8) In the case of a person that is a testamentary or inter vivos trust or is acting as a partner by virtue of being a trustee of such a trust, the trust's entire transferable interest in the partnership is distributed;

(9) In the case of a person that is an estate or is acting as a partner by virtue of being a personal representative of an estate, the estate's entire transferable interest in the partnership is distributed;

(10) In the case of a person that is not an individual, the existence of the person terminates;

(11) The partnership participates in a merger under chapter 21, title 30, Idaho Code, and:

(A) The partnership is not the surviving entity; or

(B) Otherwise as a result of the merger, the person ceases to be a partner;

(12) The partnership participates in an interest exchange under chapter 21, title 30, Idaho Code, and, as a result of the interest exchange, the person ceases to be a partner;

(13) The partnership participates in a conversion under chapter 21, title 30, Idaho Code;

(14) The partnership participates in a domestication under chapter 21, title 30, Idaho Code, and, as a result of the domestication, the person ceases to be a partner;

(15) The partnership dissolves and completes winding up;

(16) In the case of a professional entity, restrictions or limitations are placed upon a partner's ability to continue to render professional services.

30-23-602. POWER TO DISSOCIATE AS PARTNER -- WRONGFUL DISSOCIATION. (a) A person has the power to dissociate as a partner at any time, rightfully or wrongfully, by withdrawing as a partner by express will under section 30-23-601(1), Idaho Code.

(b) A person's dissociation as a partner is wrongful only if the dissociation:

(1) Is in breach of an express provision of the partnership agreement; or

(2) In the case of a partnership for a definite term or particular undertaking, occurs before the expiration of the term or the completion of the undertaking and:

(A) The person withdraws as a partner by express will, unless the withdrawal follows not later than ninety (90) days after another person's dissociation by death or otherwise under section 30-23-601(6) through (10), Idaho Code, or wrongful dissociation under this subsection;

(B) The person is expelled as a partner by judicial order under section 30-23-601(5), Idaho Code;

(C) The person is dissociated under section 30-23-601(6), Idaho Code; or

(D) In the case of a person that is not a trust other than a business trust, an estate, or an individual, the person is expelled or otherwise dissociated because it willfully dissolved or terminated.

(c) A person that wrongfully dissociates as a partner is liable to the partnership and to the other partners for damages caused by the dissociation. The liability is in addition to any debt, obligation, or other liability of the partner to the partnership or the other partners.

30-23-603. EFFECT OF DISSOCIATION. (a) If a person's dissociation results in a dissolution and winding up of the partnership business, part 8 of this chapter applies; otherwise, part 7 of this chapter applies.

(b) If a person is dissociated as a partner:

(1) The person's right to participate in the management and conduct of the partnership business terminates, except as otherwise provided in section 30-23-802(c), Idaho Code; and

(2) The person's duties and obligations under section 30-23-409, Idaho Code, end with regard to matters arising and events occurring after the person's dissociation except to the extent the partner participates in winding up the partnership's business pursuant to section 30-23-802, Idaho Code;

(c) A person's dissociation does not of itself discharge the person from a debt, obligation, or other liability to the partnership or the other partners which the person incurred while a partner.

SECTION 29. That Chapter 23, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW PART, to be known and designated as Part 7, Chapter 23, Title 30, Idaho Code, and to read as follows:

#### PART 7

#### PARTNER'S DISSOCIATION WHEN BUSINESS NOT WOUND UP

30-23-701. PERSONS DISSOCIATED AS A PARTNER WITHOUT DISSOLUTION OF PARTNERSHIP. (a) If a person is dissociated as a partner without the dissociation resulting in a dissolution and winding up of the partnership business under section 30-23-801, Idaho Code, the partnership shall cause the person's interest in the partnership to be purchased for a buyout price determined pursuant to subsection (b) of this section.

(b) The buyout price of the interest of a person dissociated as a partner is the amount that would have been distributable to the person under section 30-23-806(b), Idaho Code, if, on the date of dissociation, the assets of the partnership were sold and the partnership were wound up, with the sale price equal to the greater of:

(1) The liquidation value; or

(2) The value based on a sale of the entire business as a going concern without the person.

(c) Interest accrues on the buyout price from the date of dissociation to the date of payment, but damages for wrongful dissociation under section 30-23-602(b), Idaho Code, and all other amounts owing, whether or not presently due, from the person dissociated as a partner to the partnership, must be offset against the buyout price.

1 (d) A partnership shall defend, indemnify, and hold harmless a person  
2 dissociated as a partner whose interest is being purchased against all part-  
3 nership liabilities, whether incurred before or after the dissociation, ex-  
4 cept liabilities incurred by an act of the person under section 30-23-702,  
5 Idaho Code.

6 (e) If no agreement for the purchase of the interest of a person disso-  
7 ciated as a partner is reached not later than one hundred twenty (120) days  
8 after a written demand for payment, the partnership shall pay, or cause to be  
9 paid, in money to the person the amount the partnership estimates to be the  
10 buyout price and accrued interest, reduced by any offsets and accrued inter-  
11 est under subsection (c) of this section.

12 (f) If a deferred payment is authorized under subsection (h) of this  
13 section, the partnership may tender a written offer to pay the amount it es-  
14 timates to be the buyout price and accrued interest, reduced by any offsets  
15 under subsection (c) of this section, stating the time of payment, the amount  
16 and type of security for payment, and the other terms and conditions of the  
17 obligation.

18 (g) The payment or tender required by subsection (e) or (f) of this sec-  
19 tion must be accompanied by the following:

20 (1) A statement of partnership assets and liabilities as of the date of  
21 dissociation;

22 (2) The latest available partnership balance sheet and income state-  
23 ment, if any;

24 (3) An explanation of how the estimated amount of the payment was calcu-  
25 lated; and

26 (4) Written notice that the payment is in full satisfaction of the obli-  
27 gation to purchase unless, not later than one hundred twenty (120) days  
28 after the written notice, the person dissociated as a partner commences  
29 an action to determine the buyout price, any offsets under subsection  
30 (c) of this section, or other terms of the obligation to purchase.

31 (h) A person that wrongfully dissociates as a partner before the expi-  
32 ration of a definite term or the completion of a particular undertaking is  
33 not entitled to payment of any part of the buyout price until the expiration  
34 of the term or completion of the undertaking, unless the person establishes  
35 to the satisfaction of the court that earlier payment will not cause undue  
36 hardship to the business of the partnership. A deferred payment must be ade-  
37 quately secured and bear interest.

38 (i) A person dissociated as a partner may maintain an action against  
39 the partnership, pursuant to section 30-23-410(2)(b), Idaho Code, to deter-  
40 mine the buyout price of that person's interest, any offsets under subsec-  
41 tion (c) of this section, or other terms of the obligation to purchase. The  
42 action must be commenced not later than one hundred twenty (120) days after  
43 the partnership has tendered payment or an offer to pay or within one (1)  
44 year after written demand for payment if no payment or offer to pay is ten-  
45 dered. The court shall determine the buyout price of the person's interest,  
46 any offset due under subsection (c) of this section, and accrued interest,  
47 and enter judgment for any additional payment or refund. If deferred pay-  
48 ment is authorized under subsection (h) of this section, the court shall also  
49 determine the security for payment and other terms of the obligation to pur-  
50 chase. The court may assess reasonable attorney's fees and the fees and ex-

1   penses of appraisers or other experts for a party to the action, in amounts  
 2   the court finds equitable, against a party that the court finds acted arbi-  
 3   trarily, vexatiously, or not in good faith. The finding may be based on the  
 4   partnership's failure to tender payment or an offer to pay or to comply with  
 5   subsection (g) of this section.

6       30-23-702.   POWER TO BIND AND LIABILITY OF PERSON DISSOCIATED AS PART-  
 7   NER. (a) After a person is dissociated as a partner without the dissociation  
 8   resulting in a dissolution and winding up of the partnership business and  
 9   before the partnership is merged out of existence, converted, or domesti-  
 10   cated under chapter 21, title 30, Idaho Code, or dissolved, the partnership  
 11   is bound by an act of the person only if:

12       (1) The act would have bound the partnership under section 30-23-301,  
 13       Idaho Code, before dissociation; and

14       (2) At the time the other party enters into the transaction:

15           (A) Less than two (2) years has passed since the dissociation; and

16           (B) The other party does not know or have notice of the dissocia-  
 17           tion and reasonably believes that the person is a partner.

18       (b) If a partnership is bound under subsection (a) of this section, the  
 19   person dissociated as a partner that caused the partnership to be bound is  
 20   liable:

21       (1) To the partnership for any damage caused to the partnership arising  
 22       from the obligation incurred under subsection (a) of this section; and

23       (2) If a partner or another person dissociated as a partner is liable  
 24       for the obligation, to the partner or other person for any damage caused  
 25       to the partner or other person arising from the liability.

26       30-23-703.   LIABILITY OF PERSON DISSOCIATED AS PARTNER TO OTHER PER-  
 27   SONS. (a) Except as otherwise provided in subsection (b) of this section, a  
 28   person dissociated as a partner is not liable for a partnership obligation  
 29   incurred after dissociation.

30       (b) A person that is dissociated as a partner is liable on a transaction  
 31   entered into by the partnership after the dissociation only if:

32       (1) The partner would be liable on the transaction; and

33       (2) At the time the other party enters into the transaction:

34           (A) Less than two (2) years has passed since the dissociation; and

35           (B) The other party does not have knowledge or notice of the disso-  
 36           ciation and reasonably believes that the person is a partner.

37       (c) By agreement with a creditor of a partnership and the partnership,  
 38   a person dissociated as a partner may be released from liability for a debt,  
 39   obligation, or other liability of the partnership.

40       (d) A person dissociated as a partner is released from liability for a  
 41   debt, obligation, or other liability of the partnership if the partnership's  
 42   creditor, with knowledge or notice of the person's dissociation but without  
 43   the person's consent, agrees to a material alteration in the nature or time  
 44   of payment of the debt, obligation, or other liability.

45       30-23-704.   STATEMENT OF DISSOCIATION. (a) A person dissociated as a  
 46   partner or the partnership may deliver to the secretary of state for filing

1 a statement of dissociation stating the name of the partnership and that the  
2 person has dissociated from the partnership.

3 (b) A statement of dissociation is a limitation on the authority of a  
4 person dissociated as a partner for the purposes of section 30-23-303(d) and  
5 (e), Idaho Code.

6 30-23-705. CONTINUED USE OF PARTNERSHIP NAME. Continued use of a part-  
7 nership name, or the name of a person dissociated as a partner as part of  
8 the partnership name, by partners continuing the business does not of it-  
9 self make the person dissociated as a partner liable for an obligation of the  
10 partners or the partnership continuing the business.

11 SECTION 30. That Chapter 23, Title 30, Idaho Code, be, and the same is  
12 hereby amended by the addition thereto of a NEW PART, to be known and desig-  
13 nated as Part 8, Chapter 23, Title 30, Idaho Code, and to read as follows:

#### 14 PART 8

#### 15 DISSOLUTION AND WINDING UP

16 30-23-801. EVENTS CAUSING DISSOLUTION. A partnership is dissolved,  
17 and its business must be wound up, upon the occurrence of any of the follow-  
18 ing:

19 (1) In a partnership at will, the partnership knows or has notice of a  
20 person's express will to withdraw as a partner, other than a partner that has  
21 dissociated under section 30-23-601(2) through (10), Idaho Code, but, if the  
22 person has specified a withdrawal date later than the date the partnership  
23 knew or had notice, on the later date;

24 (2) In a partnership for a definite term or particular undertaking:

25 (A) Within ninety (90) days after a person's dissociation by death  
26 or otherwise under section 30-23-601(6) through (10), Idaho Code, or  
27 wrongful dissociation under section 30-23-602(b), Idaho Code, the af-  
28 firmative vote or consent of at least half of the remaining partners to  
29 wind up the partnership business, for which purpose a person's rightful  
30 dissociation pursuant to section 30-23-602(b) (2) (A), Idaho Code, con-  
31 stitutes the expression of that partner's expression of consent to wind  
32 up the partnership business;

33 (B) The affirmative vote or consent of all the partners to wind up the  
34 partnership business; or

35 (C) The expiration of the term or the completion of the undertaking;

36 (3) An event or circumstance that the partnership agreement states  
37 causes dissolution;

38 (4) On application by a partner, the entry by the district court of an  
39 order dissolving the partnership on the ground that:

40 (A) Conduct of all or substantially all the partnership's business is  
41 unlawful;

42 (B) The economic purpose of the partnership is likely to be unreason-  
43 ably frustrated;

44 (C) Another partner has engaged in conduct relating to the partnership  
45 business which makes it not reasonably practicable to carry on the busi-  
46 ness in partnership with that partner; or

(D) It is otherwise not reasonably practicable to carry on the partnership business in conformity with the partnership agreement;

(5) On application by a transferee, the entry by the district court of an order dissolving the partnership on the ground that it is equitable to wind up the partnership business:

(A) After the expiration of the term or completion of the undertaking, if the partnership was for a definite term or particular undertaking at the time of the transfer or entry of the charging order that gave rise to the transfer; or

(B) At any time, if the partnership was a partnership at will at the time of the transfer or entry of the charging order that gave rise to the transfer; or

(6) The passage of ninety (90) consecutive days during which the partnership does not have at least two (2) partners.

30-23-802. WINDING UP. (a) A dissolved partnership shall wind up its business and, except as otherwise provided in section 30-23-803, Idaho Code, the partnership continues after dissolution only for the purpose of winding up.

(b) In winding up its business, the partnership:

(1) Shall discharge the partnership's debts, obligations, and other liabilities, settle and close the partnership's business, and marshal and distribute the assets of the partnership; and

(2) May:

(A) Deliver to the secretary of state for filing a statement of dissolution stating the name of the partnership and that the partnership is dissolved;

(B) Preserve the partnership business and property as a going concern for a reasonable time;

(C) Prosecute and defend actions and proceedings, whether civil, criminal, or administrative;

(D) Transfer the partnership's property;

(E) Settle disputes by mediation or arbitration;

(F) Deliver to the secretary of state for filing a statement of termination stating the name of the partnership and that the partnership is terminated; and

(G) Perform other acts necessary or appropriate to the winding up.

(c) A person whose dissociation as a partner resulted in dissolution may participate in winding up as if still a partner, unless the dissociation was wrongful.

(d) If a dissolved partnership does not have a partner and no person has the right to participate in winding up under subsection (c) of this section, the personal or legal representative of the last person to have been a partner may wind up the partnership's business. If the representative does not exercise that right, a person to wind up the partnership's business may be appointed by the affirmative vote or consent of transferees owning a majority of the rights to receive distributions at the time the consent is to be effective. A person appointed under this subsection has the powers of a partner under section 30-23-804, Idaho Code, but is not liable for the debts, obligations, and other liabilities of the partnership solely by reason of

1 having or exercising those powers or otherwise acting to wind up the partner-  
2 ship's business.

3 (e) On the application of any partner or person entitled under subsec-  
4 tion (c) of this section to participate in winding up, the district court may  
5 order judicial supervision of the winding up of a dissolved partnership, in-  
6 cluding the appointment of a person to wind up the partnership's business,  
7 if:

8 (1) The partnership does not have a partner and within a reasonable time  
9 following the dissolution no person has been appointed under subsection

10 (d) of this section; or

11 (2) The applicant establishes other good cause.

12 30-23-803. RESCINDING DISSOLUTION. (a) A partnership may rescind its  
13 dissolution, unless a statement of termination applicable to the partner-  
14 ship is effective or the district court has entered an order under section  
15 30-23-801(4) or (5), Idaho Code, dissolving the partnership.

16 (b) Rescinding dissolution under this section requires:

17 (1) The affirmative vote or consent of each partner;

18 (2) If the partnership has delivered to the secretary of state for fil-  
19 ing a statement of dissolution and:

20 (A) The statement of dissolution has not become effective, de-  
21 livery to the secretary of state for filing of a statement of  
22 withdrawal under section 30-21-114, Idaho Code, applicable to the  
23 statement of dissolution; or

24 (B) If a statement of dissolution applicable to the partnership  
25 is effective, the delivery to the secretary of state for filing of  
26 a statement of recession stating the name of the partnership and  
27 that dissolution has been rescinded under this section.

28 (c) If a partnership rescinds its dissolution:

29 (1) The partnership resumes carrying on its business as if dissolution  
30 had never occurred;

31 (2) Subject to paragraph (3) of this subsection, any liability incurred  
32 by the partnership after the dissolution and before the rescission is  
33 effective is determined as if dissolution had never occurred; and

34 (3) The rights of a third party arising out of conduct in reliance on the  
35 dissolution before the third party knew or had notice of the rescission  
36 may not be adversely affected.

37 30-23-804. POWER TO BIND PARTNERSHIP AFTER DISSOLUTION. (a) A part-  
38 nership is bound by a partner's act after dissolution which:

39 (1) Is appropriate for winding up the partnership business; or

40 (2) Would have bound the partnership under section 30-23-301, Idaho  
41 Code, before dissolution, if, at the time the other party enters into  
42 the transaction, the other party does not know or have notice of the  
43 dissolution.

44 (b) A person dissociated as a general partner binds a partnership  
45 through an act occurring after dissolution if:

46 (1) At the time the other party enters into the transaction:

47 (A) Less than two (2) years has passed since the dissociation; and

- 1 (B) The other party does not know or have notice of the dissocia-  
 2 tion and reasonably believes that the person is a partner; and  
 3 (2) The act:  
 4 (A) Is appropriate for winding up the partnership's business; or  
 5 (B) Would have bound the partnership under section 30-23-301,  
 6 Idaho Code, before dissolution and at the time the other party  
 7 enters into the transaction the other party does not know or have  
 8 notice of the dissolution.

9 30-23-805. LIABILITY AFTER DISSOLUTION OF PARTNER AND PERSON DISSOCI-  
 10 ATED AS GENERAL PARTNER. (a) If a partner having knowledge of the dissolu-  
 11 tion causes a partnership to incur an obligation under section 30-23-804(a),  
 12 Idaho Code, by an act that is not appropriate for winding up the partnership  
 13 business, the partner is liable:

14 (1) To the partnership for any damage caused to the partnership arising  
 15 from the obligation; and

16 (2) If another partner or person dissociated as a partner is liable for  
 17 the obligation, to that other partner or person for any damage caused to  
 18 that other partner or person arising from the liability.

19 (b) Except as otherwise provided in this subsection (c) of this sec-  
 20 tion, if a person dissociated as a partner causes a partnership to incur an  
 21 obligation under section 30-23-804(b), Idaho Code, the person is liable:

22 (1) To the partnership for any damage caused to the partnership arising  
 23 from the obligation; and

24 (2) If a partner or another person dissociated as a partner is liable  
 25 for the obligation, to the partner or other person for any damage caused  
 26 to the partner or other person arising from the obligation.

27 (c) A person dissociated as a general partner is not liable under sub-  
 28 section (c) of this section if:

29 (1) Section 30-23-802(c), Idaho Code, permits the person to partici-  
 30 pate in winding up; and

31 (2) The act that causes the partnership to be bound under section  
 32 30-23-804(b), Idaho Code, is appropriate for winding up the partner-  
 33 ship's business.

34 30-23-806. DISPOSITION OF ASSETS IN WINDING UP -- WHEN CONTRIBUTIONS  
 35 REQUIRED. (a) In winding up its business, a partnership shall apply its as-  
 36 sets, including the contributions required by this section, to discharge the  
 37 partnership's obligations to creditors, including partners that are credi-  
 38 tors.

39 (b) After a partnership complies with subsection (a) of this section,  
 40 any surplus must be distributed in the following order, subject to any charg-  
 41 ing order in effect under section 30-23-504, Idaho Code:

42 (1) To each person owning a transferable interest that reflects contri-  
 43 butions made and not previously returned, an amount equal to the value  
 44 of the unreturned contributions; and

45 (2) Among partners in proportion to their respective rights to share in  
 46 distributions immediately before the dissolution of the partnership,  
 47 except to the extent necessary to comply with any transfer effective un-  
 48 der section 30-23-503, Idaho Code.



1 (c) If a partnership's assets are insufficient to satisfy all its obli-  
 2 gations under subsection (a) of this section, with respect to each unsatis-  
 3 fied obligation incurred when the partnership was not a limited liability  
 4 partnership, the following rules apply:

5 (1) Each person that was a partner when the obligation was incurred  
 6 and that has not been released from the obligation under section  
 7 30-23-703(c) and (d), Idaho Code, shall contribute to the partnership  
 8 for the purpose of enabling the partnership to satisfy the obligation.  
 9 The contribution due from each of those persons is in proportion to the  
 10 right to receive distributions in the capacity of a partner in effect  
 11 for each of those persons when the obligation was incurred.

12 (2) If a person does not contribute the full amount required under para-  
 13 graph (1) of this subsection with respect to an unsatisfied obligation  
 14 of the partnership, the other persons required to contribute by para-  
 15 graph (a) on account of the obligation shall contribute the additional  
 16 amount necessary to discharge the obligation. The additional contribu-  
 17 tion due from each of those other persons is in proportion to the right  
 18 to receive distributions in the capacity of a partner in effect for each  
 19 of those other persons when the obligation was incurred.

20 (3) If a person does not make the additional contribution required by  
 21 paragraph (2) of this subsection, further additional contributions are  
 22 determined and due in the same manner as provided in that paragraph.

23 (d) A person that makes an additional contribution under subsection  
 24 (c) (2) or (3) of this section may recover from any person whose failure to  
 25 contribute under subsection (c) (1) or (2) of this section necessitated the  
 26 additional contribution. A person may not recover under this subsection  
 27 more than the amount additionally contributed. A person's liability under  
 28 this subsection may not exceed the amount the person failed to contribute.

29 (e) If a partnership does not have sufficient surplus to comply with  
 30 subsection (b) (1) of this section, any surplus must be distributed among the  
 31 owners of transferable interests in proportion to the value of the respec-  
 32 tive unreturned contributions.

33 (f) All distributions made under subsections (b) and (c) of this sec-  
 34 tion must be paid in money.

35 30-23-807. KNOWN CLAIMS AGAINST DISSOLVED LIMITED LIABILITY PARTNER-  
 36 SHIP. (a) Except as otherwise provided in subsection (d) of this section, a  
 37 dissolved limited liability partnership may give notice of a known claim un-  
 38 der subsection (b) of this section, that has the effect provided in subsec-  
 39 tion (c) of this section.

40 (b) A dissolved limited liability partnership may in a record notify  
 41 its known claimants of the dissolution. The notice must:

- 42 (1) Specify the information required to be included in a claim;
- 43 (2) State that a claim must be in writing and provide a mailing address  
 44 to which the claim is to be sent;
- 45 (3) State the deadline for receipt of a claim, that may not be less than  
 46 one hundred twenty (120) days after the date the notice is received by  
 47 the claimant;
- 48 (4) State that the claim will be barred if not received by the deadline;  
 49 and

(5) Unless the partnership has been throughout its existence a limited liability partnership, state that the barring of a claim against the partnership will also bar any corresponding claim against any partner or person dissociated as a partner which is based on section 30-23-306, Idaho Code.

(c) A claim against a dissolved limited liability partnership is barred if the requirements of subsection (b) of this section are met and:

(1) The claim is not received by the specified deadline; or

(2) If the claim is timely received but rejected by the limited liability partnership:

(A) The partnership causes the claimant to receive a notice in a record stating that the claim is rejected and will be barred unless the claimant commences an action against the partnership to enforce the claim not later than ninety (90) days after the claimant receives the notice; and

(B) The claimant does not commence the required action not later than ninety (90) days after the claimant receives the notice.

(d) This section does not apply to a claim based on an event occurring after the date of dissolution or a liability that on that date is contingent.

30-23-808. OTHER CLAIMS AGAINST DISSOLVED LIMITED LIABILITY PARTNERSHIP. (a) A dissolved limited liability partnership may publish notice of its dissolution and request persons having claims against the partnership to present them in accordance with the notice.

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

(1) Be published at least once in a newspaper of general circulation in the county in this state in which the dissolved limited liability partnership's principal office is located or, if the principal office is not located in this state, in the county in which the office of the partnership's registered agent is or was last located;

(2) Describe the information required to be contained in a claim, state that the claim must be in writing, and provide a mailing address to which the claim is to be sent;

(3) State that a claim against the partnership is barred unless an action to enforce the claim is commenced not later than three (3) years after publication of the notice; and

(4) Unless the partnership has been throughout its existence a limited liability partnership, state that the barring of a claim against the partnership will also bar any corresponding claim against any partner or person dissociated as a partner that is based on section 30-23-306, Idaho Code.

(c) If a dissolved limited liability partnership publishes a notice in accordance with subsection (b) of this section, the claim of each of the following claimants is barred unless the claimant commences an action to enforce the claim against the partnership not later than three (3) years after the publication date of the notice:

(1) A claimant that did not receive notice in a record under section 30-23-807, Idaho Code;

(2) A claimant whose claim was timely sent to the partnership but not acted on; and

1 (3) A claimant whose claim is contingent at, or based on an event occur-  
 2 ring after, the date of dissolution.

3 (d) A claim not barred under this section or section 30-23-807, Idaho  
 4 Code, may be enforced:

5 (1) Against a dissolved limited liability partnership, to the extent of  
 6 its undistributed assets;

7 (2) Except as otherwise provided in section 30-23-809, Idaho Code,  
 8 if assets of the partnership have been distributed after dissolution,  
 9 against a partner or transferee to the extent of that person's propor-  
 10 tionate share of the claim or of the partnership's assets distributed  
 11 to the partner or transferee after dissolution, whichever is less, but  
 12 a person's total liability for all claims under this paragraph may not  
 13 exceed the total amount of assets distributed to the person after disso-  
 14 lution; and

15 (3) Against any person liable on the claim under sections 30-23-306,  
 16 30-23-703, and 30-23-805, Idaho Code.

17 30-23-809. COURT PROCEEDINGS. (a) A dissolved limited liability part-  
 18 nership that has published a notice under section 30-23-808, Idaho Code, may  
 19 file an application with the district court in the county where the partner-  
 20 ship's principal office is located or, if the principal office is not located  
 21 in this state, where the office of its registered agent is or was last lo-  
 22 cated, for a determination of the amount and form of security to be provided  
 23 for payment of claims that are reasonably expected to arise after the date of  
 24 dissolution based on facts known to the partnership and:

25 (1) At the time of the application;

26 (A) Are contingent; or

27 (B) Have not been made known to the partnership; or

28 (2) Are based on an event occurring after the date of dissolution.

29 (b) Security is not required for any claim that is or is reasonably an-  
 30 ticipated to be barred under section 30-23-807, Idaho Code.

31 (c) Not later than ten (10) days after the filing of an application un-  
 32 der subsection (a) of this section, the dissolved limited liability partner-  
 33 ship shall give notice of the proceeding to each claimant holding a contin-  
 34 gent claim known to the partnership.

35 (d) In any proceeding under this section, the court may appoint a  
 36 guardian ad litem to represent all claimants whose identities are unknown.  
 37 The reasonable fees and expenses of the guardian, including all reasonable  
 38 expert witness fees, must be paid by the dissolved limited liability part-  
 39 nership.

40 (e) A dissolved limited liability partnership that provides security  
 41 in the amount and form ordered by the court under subsection (a) of this sec-  
 42 tion satisfies the partnership's obligations with respect to claims that are  
 43 contingent, have not been made known to the partnership, or are based on an  
 44 event occurring after the date of dissolution, and such claims may not be en-  
 45 forced against a partner or transferee on account of assets received in liq-  
 46 uidation.

47 30-23-810. LIABILITY OF PARTNER AND PERSON DISSOCIATED AS PARTNER  
 48 WHEN CLAIM AGAINST PARTNERSHIP BARRED. If a claim against a dissolved

partnership is barred under section 30-23-807, 30-23-808, or 30-23-809, Idaho Code, any corresponding claim under section 30-23-306, 30-23-703, or 30-23-805, Idaho Code, is also barred.

SECTION 31. That Chapter 23, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW PART, to be known and designated as Part 9, Chapter 23, Title 30, Idaho Code, and to read as follows:

PART 9  
LIMITED LIABILITY PARTNERSHIP

30-23-901. STATEMENT OF QUALIFICATION. (a) A partnership may become a limited liability partnership pursuant to this section.

(b) The terms and conditions on which a partnership becomes a limited liability partnership must be approved by the affirmative vote or consent necessary to amend the partnership agreement except, in the case of a partnership agreement that expressly addresses obligations to contribute to the partnership, the affirmative vote or consent necessary to amend those provisions.

(c) After the approval required by subsection (b) of this section, a partnership may become a limited liability partnership by delivering to the secretary of state for filing a statement of qualification. The statement must contain:

- (1) The name of the partnership;
- (2) The street and mailing addresses of the partnership's principal office and, if different, the street address of an office in this state, if any;
- (3) The information required by section 30-21-404(a), Idaho Code;
- (4) A statement that the partnership elects to become a limited liability partnership; and
- (5) If the partnership is a professional entity, a statement that the partnership is a professional limited liability partnership and the principal profession or professions for which the partnership's partners are duly licensed or otherwise legally authorized to render professional services.

(d) A partnership's status as a limited liability partnership remains effective, regardless of changes in the partnership, until it is canceled pursuant to subsection (f) of this section or administratively revoked pursuant to section 30-23-902, Idaho Code.

(e) The status of a partnership as a limited liability partnership and the protection against liability of its partners for the debts, obligations, or other liabilities of the partnership while it is a limited liability partnership is not affected by errors or later changes in the information required to be contained in the statement of qualification.

(f) A limited liability partnership may amend or cancel its statement of qualification by delivering to the secretary of state for filing a statement of amendment or cancellation. The statement must be approved by the affirmative vote or consent of all the partners and state the name of the limited liability partnership and in the case of:

- (1) An amendment, state the text of the amendment; and

1 (2) A cancellation, state that the statement of qualification is can-  
2 celed.

3 30-23-902. PERMITTED NAMES. The name of a partnership that is not  
4 a limited liability partnership may not contain the phrase "Registered  
5 Limited Liability Partnership" or "Limited Liability Partnership" or the  
6 abbreviation "R.L.L.P.", "L.L.P.", "RLLP" or "LLP".

7 30-23-903. ADMINISTRATIVE REVOCATION OF STATEMENT OF QUALIFICA-  
8 TION. (a) The secretary of state may commence a proceeding under subsection  
9 (b) of this section to revoke the statement of qualification of a limited  
10 liability partnership administratively if the partnership does not:

11 (1) Deliver an annual report to the secretary of state by the date it is  
12 due;

13 (2) Have a registered agent in this state for sixty (60) consecutive  
14 days; or

15 (3) The secretary of state has credible information that the lim-  
16 ited liability partnership has failed to notify the secretary of state  
17 within sixty (60) days after the occurrence that its registered agent  
18 has been changed or that its registered agent has resigned.

19 (b) If the secretary of state determines that one (1) or more grounds  
20 exist for administratively revoking a statement of qualification, the sec-  
21 retary of state shall serve the partnership pursuant to section 30-21-212,  
22 Idaho Code, with notice in a record of the secretary of state's determina-  
23 tion.

24 (c) If a limited liability partnership, not later than sixty (60) days  
25 after service of the notice is effected under subsection (b) of this section,  
26 does not cure or demonstrate to the satisfaction of the secretary of state  
27 the nonexistence of each ground determined by the secretary of state, the  
28 secretary of state shall administratively revoke the statement of qualifi-  
29 cation by signing a statement of administrative revocation that recites the  
30 grounds for revocation and the effective date of the revocation. The sec-  
31 retary of state shall file the statement and serve a copy on the partnership  
32 pursuant to section 30-21-212, Idaho Code.

33 (d) An administrative revocation under subsection (c) of this section  
34 affects only a partnership's status as a limited liability partnership and  
35 is not an event causing dissolution of the partnership.

36 (e) The administrative revocation of a statement of qualification of a  
37 limited liability partnership does not terminate the authority of its regis-  
38 tered agent.

39 30-23-904. REINSTATEMENT. (a) A partnership whose statement of qual-  
40 ification has been revoked administratively under section 30-23-903, Idaho  
41 Code, may apply to the secretary of state for reinstatement of the statement  
42 of qualification not later than ten (10) years after the effective date of  
43 the revocation. The application must state:

44 (1) The name of the partnership at the time of the administrative re-  
45 vocation of its statement of qualification and, if needed, a different  
46 name that satisfies section 30-21-301 and 30-21-302, Idaho Code;

1 (2) The address of the principal office of the partnership and the in-  
 2 formation required by section 30-21-404(a), Idaho Code;

3 (3) The effective date of administrative revocation of the partner-  
 4 ship's statement of qualification; and

5 (4) That the grounds for revocation did not exist or have been cured.

6 (b) To have its statement of qualification reinstated, a partnership  
 7 must pay all fees, taxes, interest and penalties that were due to the sec-  
 8 retary of state at the time of the administrative revocation and all fees,  
 9 taxes, interest and penalties that would have been due to the secretary of  
 10 state while the partnership's statement of qualification was revoked admin-  
 11 istratively.

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

17 (1) Cancel the statement of revocation and prepare a statement of re-  
 18 instatement that states the secretary of state's determination and the  
 19 effective date of reinstatement; and

20 (2) File the statement of reinstatement and serve a copy on the partner-  
 21 ship.

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

24 (1) The reinstatement relates back to and takes effect as of the effec-  
 25 tive date of the administrative revocation;

26 (2) The partnership's status as a limited liability partnership con-  
 27 tinues as if the revocation had not occurred; and

28 (3) The rights of a person arising out of an act or omission in reliance  
 29 on the revocation before the person knew or had notice of the reinstate-  
 30 ment.

31 30-23-905. JUDICIAL REVIEW OF DENIAL OF REINSTATEMENT. (a) If the sec-  
 32 retary of state denies a partnership's application for reinstatement fol-  
 33 lowing administrative revocation of the partnership's statement of qualifi-  
 34 cation, the secretary of state shall serve the partnership with notice in a  
 35 record that explains the reasons for the denial.

36 (b) Within thirty (30) days after service of a notice of denial of re-  
 37 instatement under subsection (a) of this section, a partnership may appeal  
 38 from the denial by petitioning the district court of Ada county to set aside  
 39 the revocation. The petition must be served on the secretary of state and  
 40 contain a copy of the secretary of state's notice of revocation, the com-  
 41 pany's application for reinstatement, and the secretary of state's notice of  
 42 denial.

43 (c) The district court may, if grounds exist, order the secretary of  
 44 state to reinstate a partnership or take other action the court considers ap-  
 45 propriate.

46 30-23-906. SUBJECTS COVERED OUTSIDE CHAPTER. The following subjects  
 47 are covered outside this chapter:

48 (1) Reservation of name - section 30-21-303, Idaho Code.

- 1 (2) Registration of name - section 30-21-304, Idaho Code.
- 2 (3) Registered agent - section 30-21-404, Idaho Code.
- 3 (4) Change of registered agent or address for registered agent by lim-
- 4 ited liability partnership - section 30-21-407, Idaho Code.
- 5 (5) Resignation of registered agent - section 30-21-410, Idaho Code.
- 6 (6) Change of name or address by registered agent - sections 30-21-408
- 7 and 30-21-409, Idaho Code.
- 8 (7) Service of process, notice, or demand - section 30-21-412, Idaho
- 9 Code.
- 10 (8) Annual report for secretary of state - section 30-21-213, Idaho
- 11 Code.

12 SECTION 32. That Title 30, Idaho Code, be, and the same is hereby  
 13 amended by the addition thereto of a NEW CHAPTER, to be known and designated  
 14 as Chapter 24, Title 30, Idaho Code, and to read as follows:

15 CHAPTER 24  
 16 LIMITED PARTNERSHIPS

17 SECTION 33. That Chapter 24, Title 30, Idaho Code, be, and the same is  
 18 hereby amended by the addition thereto of a NEW PART, to be known and desig-  
 19 nated as Part 1, Chapter 24, Title 30, Idaho Code, and to read as follows:

20 PART 1  
 21 GENERAL PROVISIONS

22 30-24-101. SHORT TITLE. This chapter may be cited as the Idaho Uniform  
 23 Limited Partnership Act.

24 30-24-102. DEFINITIONS. (a) In this chapter:

25 (1) "Certificate of limited partnership" means the certificate re-  
 26 quired by section 30-24-201, Idaho Code. The term includes the certifi-  
 27 cate as amended or restated.

28 (2) "Contribution", except in the phrase "right of contribution,"  
 29 means property or a benefit described in section 30-24-501, Idaho Code,  
 30 which is provided by a person to a limited partnership to become a part-  
 31 ner or in the person's capacity as a partner.

32 (3) "Distribution" means a transfer of money or other property from a  
 33 limited partnership to a person on account of a transferable interest or  
 34 in the person's capacity as a partner. The term:

35 (A) Includes:

36 (i) A redemption or other purchase by a limited partnership  
 37 of a transferable interest; and

38 (ii) A transfer to a partner in return for the partner's  
 39 relinquishment of any right to participate as a partner in  
 40 the management or conduct of the partnership's activities  
 41 and affairs or to have access to records or other information  
 42 concerning the partnership's activities and affairs; and

43 (B) Does not include amounts constituting reasonable compensa-  
 44 tion for present or past service or payments made in the ordinary

- 1 course of business under a bona fide retirement plan or other bona  
2 fide benefits program.
- 3 (4) "General partner" means a person that:  
4 (A) Has become a general partner under section 30-24-401, Idaho  
5 Code, or was a general partner in a partnership when the partner-  
6 ship became subject to this chapter under section 30-24-112, Idaho  
7 Code; and  
8 (B) Has not dissociated as a general partner under section 30-24-  
9 603, Idaho Code.
- 10 (5) "Limited liability limited partnership" means a limited partner-  
11 ship whose certificate of limited partnership states that the partner-  
12 ship is a limited liability limited partnership.
- 13 (6) "Limited partner" means a person that:  
14 (A) Has become a limited partner under section 30-24-301, Idaho  
15 Code, or was a limited partner in a limited partnership when the  
16 partnership became subject to this chapter under section 30-24-  
17 112, Idaho Code; and  
18 (B) Has not dissociated under section 30-24-601, Idaho Code.
- 19 (7) "Limited partnership" means an entity formed under this chapter or  
20 that becomes subject to this chapter under chapter 22, title 30, Idaho  
21 Code, or section 30-24-112, Idaho Code. The term includes a limited li-  
22 ability limited partnership.
- 23 (8) "Partner" means a limited partner or general partner.
- 24 (9) "Partnership agreement" means the agreement, whether or not re-  
25 ferred to as a partnership agreement and whether oral, implied, in a  
26 record, or in any combination thereof, of all the partners of a limited  
27 partnership concerning the matters described in section 30-24-105(a),  
28 Idaho Code. The term includes the agreement as amended or restated.
- 29 (10) "Required information" means the information that a limited part-  
30 nership is required to maintain under section 30-24-108, Idaho Code.
- 31 (11) "Transferable interest" means the right, as initially owned by a  
32 person in the person's capacity as a partner, to receive distributions  
33 from a limited partnership, whether or not the person remains a partner  
34 or continues to own any part of the right. The term applies to any frac-  
35 tion of the interest, by whomever owned.
- 36 (12) "Transferee" means a person to which all or part of a transferable  
37 interest has been transferred, whether or not the transferor is a part-  
38 ner. The term includes a person that owns a transferable interest under  
39 section 30-24-602(a) (3) or 30-24-605(a) (4), Idaho Code.
- 40 (b) The following definitions outside this chapter apply to this chap-  
41 ter:
- 42 (1) "Debtor in bankruptcy" - section 30-21-102(6), Idaho Code.  
43 (2) "Foreign" - section 30-21-102(14), Idaho Code.  
44 (3) "Jurisdiction" - section 30-21-102(21), Idaho Code.  
45 (4) "Jurisdiction of formation" - section 30-21-102(22), Idaho Code.  
46 (5) "Person" - section 30-21-102(34), Idaho Code.  
47 (6) "Principal office" - section 30-21-102(35), Idaho Code.  
48 (7) "Property" - section 30-21-102(40), Idaho Code.  
49 (8) "Record" - section 30-21-102(43), Idaho Code.  
50 (9) "Registered agent" - section 30-21-102(44), Idaho Code.



- 1 (10) "Sign" - section 30-21-102(46), Idaho Code.
- 2 (11) "State" - section 30-21-102(47), Idaho Code.
- 3 (12) "Transfer" - section 30-21-102(49), Idaho Code.

4 30-24-103. KNOWLEDGE -- NOTICE. (a) A person knows a fact if the per-  
5 son:

- 6 (1) Has actual knowledge of it; or
- 7 (2) Is deemed to know it under law other than this chapter.
- 8 (b) A person has notice of a fact if the person:
- 9 (1) Has reason to know the fact from all the facts known to the person at
- 10 the time in question; or
- 11 (2) Is deemed to have notice of the fact under subsection (c) or (d) of
- 12 this section.

13 (c) A certificate of limited partnership on file in the office of the  
14 secretary of state is notice that the partnership is a limited partnership  
15 and the persons designated in the certificate as general partners are gen-  
16 eral partners. Except as otherwise provided in subsection (d) of this sec-  
17 tion, the certificate is not notice of any other fact.

18 (d) A person not a partner is deemed to have notice of:

- 19 (1) Another person's dissociation as a general partner ninety (90)
- 20 days after an amendment to the certificate of limited partnership
- 21 which states that the other person has dissociated becomes effective
- 22 or ninety (90) days after a statement of dissociation pertaining to the
- 23 other person becomes effective, whichever occurs first;
- 24 (2) A limited partnership's:

25 (A) Dissolution ninety (90) days after an amendment to the  
26 certificate of limited partnership stating that the limited  
27 partnership is dissolved becomes effective;

28 (B) Termination ninety (90) days after a statement of ter-  
29 mination under section 30-24-802(b) (2) (F), Idaho Code, be-  
30 comes effective; and

31 (C) Participation in a merger, interest exchange, conver-  
32 sion, or domestication ninety (90) days after articles of  
33 merger, interest exchange, conversion, or domestication un-  
34 der chapter 22, title 30, Idaho Code, become effective.

35 (e) Subject to section 30-21-212, Idaho Code, a person notifies another  
36 person of a fact by taking steps reasonably required to inform the other per-  
37 son in ordinary course, whether or not those steps cause the other person to  
38 know the fact.

39 (f) A general partner's knowledge or notice of a fact relating to the  
40 limited partnership is effective immediately as knowledge of or notice to  
41 the partnership, except in the case of a fraud on the partnership committed  
42 by or with the consent of the general partner. A limited partner's knowledge  
43 or notice of a fact relating to the partnership is not effective as knowledge  
44 of or notice to the partnership.

45 30-24-104. GOVERNING LAW. The law of this state governs:

- 46 (1) The internal affairs of a limited partnership; and
- 47 (2) The liability of a partner as partner for the debts, obligations, or
- 48 other liabilities of a limited partnership.

1        30-24-105. PARTNERSHIP AGREEMENT -- SCOPE -- FUNCTION -- LIMITA-  
 2 TIONS. (a) Except as otherwise provided in subsections (c) and (d) of this  
 3 section, the partnership agreement governs:

4        (1) Relations among the partners as partners and between the partners  
 5 and the limited partnership;

6        (2) The activities and affairs of the partnership and the conduct of  
 7 those activities and affairs; and

8        (3) The means and conditions for amending the partnership agreement.

9        (b) To the extent the partnership agreement does not provide for a mat-  
 10 ter described in subsection (a) of this section, this chapter governs the  
 11 matter.

12        (c) A partnership agreement may not:

13        (1) Vary the provisions of chapter 21, title 30, Idaho Code;

14        (2) Vary the law applicable under section 30-24-104, Idaho Code;

15        (3) Vary a limited partnership's capacity under section 30-24-111,  
 16 Idaho Code, to sue and be sued in its own name;

17        (4) Vary any requirement, procedure, or other provision of this title  
 18 pertaining to:

19            (A) Registered agents; or

20            (B) The secretary of state, including provisions pertaining to  
 21 records authorized or required to be delivered to the secretary of  
 22 state for filing under this title;

23        (5) Vary the provisions of section 30-21-210, Idaho Code;

24        (6) Vary the right of a general partner under section 30-24-406(b)(2),  
 25 Idaho Code, to vote on or consent to an amendment to the certificate of  
 26 limited partnership which deletes a statement that the limited partner-  
 27 ship is a limited liability limited partnership;

28        (7) Alter or eliminate the duty of loyalty or the duty of care except as  
 29 otherwise provided in subsection (d) of this section;

30        (8) Eliminate the contractual obligation of good faith and fair dealing  
 31 under sections 30-24-305(a) and 30-24-409(d), Idaho Code, but the part-  
 32 nership agreement may prescribe the standards, if not manifestly unrea-  
 33 sonable, by which the performance of the obligation is to be measured;

34        (9) Relieve or exonerate a person from liability for conduct involving  
 35 bad faith, willful or intentional misconduct, or knowing violation of  
 36 law;

37        (10) Vary the information required under section 30-24-108, Idaho Code,  
 38 or unreasonably restrict the duties and rights under section 30-24-304  
 39 or 30-24-407, Idaho Code, but the partnership agreement may impose  
 40 reasonable restrictions on the availability and use of information  
 41 obtained under those sections and may define appropriate remedies, in-  
 42 cluding liquidated damages, for a breach of any reasonable restriction  
 43 on use;

44        (11) Vary the power of a person to dissociate as a general partner under  
 45 section 30-24-604(a), Idaho Code, except to require that the notice un-  
 46 der section 30-24-603(1), Idaho Code, be in a record;

47        (12) Vary the causes of dissolution specified in section 30-24-  
 48 801(a)(6), Idaho Code;

- 1 (13) Vary the requirement to wind up the partnership's activities and  
2 affairs as specified in section 30-24-802(a), (b)(1), and (d), Idaho  
3 Code;
- 4 (14) Unreasonably restrict the right of a partner to maintain an action  
5 under part 9 of this chapter;
- 6 (15) Vary the provisions of section 30-24-905, Idaho Code, but the  
7 partnership agreement may provide that the partnership may not have a  
8 special litigation committee;
- 9 (16) Vary the right of a partner to approve a merger, interest ex-  
10 change, conversion, or domestication under section 30-22-203(a)(2),  
11 30-22-303(a)(2), 30-22-403(a)(2), or 30-22-503(a)(2), Idaho Code; or
- 12 (17) Vary any requirement, procedure, or other provision of this chap-  
13 ter pertaining to the secretary of state, including provisions pertain-  
14 ing to records authorized or required to be delivered to the secretary  
15 of state for filing under this chapter; or
- 16 (18) Except as otherwise provided in sections 30-24-106 and 30-24-  
17 107(b), Idaho Code, restrict the rights under this chapter of a person  
18 other than a partner.
- 19 (d) Subject to subsection (c)(8) of this section, without limiting  
20 other terms that may be included in a partnership agreement, the following  
21 rules apply:
- 22 (1) The partnership agreement may:
- 23 (A) Specify the method by which a specific act or transaction that  
24 would otherwise violate the duty of loyalty may be authorized or  
25 ratified by one or more disinterested and independent persons af-  
26 ter full disclosure of all material facts; and
- 27 (B) Alter the prohibition in section 30-24-405(a)(2), Idaho Code,  
28 so that the prohibition requires only that the company's total as-  
29 sets not be less than the sum of its total liabilities.
- 30 (2) If not manifestly unreasonable, the partnership agreement may:
- 31 (A) Alter or eliminate the aspects of the duty of loyalty stated in  
32 section 30-24-409(b), Idaho Code;
- 33 (B) Identify specific types or categories of activities that do  
34 not violate the duty of loyalty;
- 35 (C) Alter the duty of care, but may not authorize conduct involv-  
36 ing bad faith, willful or intentional misconduct, or knowing vio-  
37 lation of law; and
- 38 (D) Alter or eliminate any other fiduciary duty.
- 39 (e) The court shall decide as a matter of law whether a term of a part-  
40 nership agreement is manifestly unreasonable under subsection (c)(7) or  
41 (d)(2) of this section. The court:
- 42 (1) Shall make its determination as of the time the challenged term be-  
43 came part of the partnership agreement and by considering only circum-  
44 stances existing at that time; and
- 45 (2) May invalidate the term only if, in light of the purposes, activ-  
46 ities, and affairs of the limited partnership, it is readily apparent  
47 that:
- 48 (A) The objective of the term is unreasonable; or
- 49 (B) The term is an unreasonable means to achieve the provision's  
50 objective.

1        30-24-106. PARTNERSHIP AGREEMENT -- EFFECT ON LIMITED PARTNERSHIP AND  
 2 PERSON BECOMING PARTNER -- PREFORMATION AGREEMENT. (a) A limited partner-  
 3 ship is bound by and may enforce the partnership agreement, whether or not  
 4 the partnership has itself manifested assent to the agreement.

5        (b) A person that becomes a partner of a limited partnership is deemed  
 6 to assent to the partnership agreement.

7        (c) Two (2) or more persons intending to become the initial partners of  
 8 a limited partnership may make an agreement providing that upon the forma-  
 9 tion of the partnership the agreement will become the partnership agreement.

10       30-24-107. PARTNERSHIP AGREEMENT -- EFFECT ON THIRD PARTIES -- RELA-  
 11 TIONSHIP TO RECORDS EFFECTIVE ON BEHALF OF LIMITED PARTNERSHIP. (a) A part-  
 12 nership agreement may specify that its amendment requires the approval of a  
 13 person that is not a party to the agreement or the satisfaction of a condi-  
 14 tion. An amendment is ineffective if its adoption does not include the re-  
 15 quired approval or satisfy the specified condition.

16       (b) The obligations of a limited partnership and its partners to a per-  
 17 son in the person's capacity as a transferee or person dissociated as a part-  
 18 ner are governed by the partnership agreement. Subject only to a court order  
 19 issued under section 30-24-703(b) (2), Idaho Code, to effectuate a charging  
 20 order, an amendment to the partnership agreement made after a person becomes  
 21 a transferee or is dissociated as a partner:

22       (1) Is effective with regard to any debt, obligation, or other liabil-  
 23 ity of the partnership or its partners to the person in the person's ca-  
 24 pacity as a transferee or person dissociated as a partner; and

25       (2) Is not effective to the extent the amendment imposes a new debt,  
 26 obligation, or other liability on the transferee or person dissociated  
 27 as a partner.

28       (c) If a record delivered by a limited partnership to the secretary of  
 29 state for filing becomes effective and contains a provision that would be in-  
 30 effective under section 30-24-105(c) or (d) (2), Idaho Code, if contained in  
 31 the partnership agreement, the provision is ineffective in the record.

32       (d) Subject to subsection (c) of this section, if a record delivered by  
 33 a limited partnership to the secretary of state for filing becomes effective  
 34 and conflicts with a provision of the partnership agreement:

35       (1) The agreement prevails as to partners, persons dissociated as part-  
 36 ners, and transferees; and

37       (2) The record prevails as to other persons to the extent they reason-  
 38 ably rely on the record.

39       30-24-108. REQUIRED INFORMATION. A limited partnership shall main-  
 40 tain at its principal office the following information:

41       (1) A current list showing the full name and last known street and mail-  
 42 ing address of each partner, separately identifying the general partners, in  
 43 alphabetical order, and the limited partners, in alphabetical order;

44       (2) A copy of the initial certificate of limited partnership and all  
 45 amendments to and restatements of the certificate, together with signed  
 46 copies of any powers of attorney under which any certificate, amendment, or  
 47 restatement has been signed;

1 (3) A copy of any filed articles of merger, interest exchange, conver-  
2 sion, or domestication;

3 (4) A copy of the partnership's federal, state, and local income tax re-  
4 turns and reports, if any, for the three (3) most recent years;

5 (5) A copy of any partnership agreement made in a record and any amend-  
6 ment made in a record to any partnership agreement;

7 (6) A copy of any financial statement of the partnership for the three  
8 (3) most recent years;

9 (7) A copy of the three (3) most recent annual reports delivered by the  
10 partnership to the secretary of state pursuant to section 30-21-213, Idaho  
11 Code;

12 (8) A copy of any record made by the partnership during the past three  
13 (3) years of any consent given by or vote taken of any partner pursuant to  
14 this title or the partnership agreement; and

15 (9) Unless contained in a partnership agreement made in a record, a  
16 record stating:

17 (A) A description and statement of the agreed value of contributions  
18 other than money made and agreed to be made by each partner;

19 (B) The times at which, or events on the happening of which, any addi-  
20 tional contributions agreed to be made by each partner are to be made;

21 (C) For any person that is both a general partner and a limited partner,  
22 a specification of what transferable interest the person owns in each  
23 capacity; and

24 (D) Any events upon the happening of which the partnership is to be dis-  
25 solved and its activities and affairs wound up.

26 30-24-109. DUAL CAPACITY. A person may be both a general partner and  
27 a limited partner. A person that is both a general and limited partner has  
28 the rights, powers, duties, and obligations provided by this chapter and  
29 the partnership agreement in each of those capacities. When the person acts  
30 as a general partner, the person is subject to the obligations, duties, and  
31 restrictions under this chapter and the partnership agreement for general  
32 partners. When the person acts as a limited partner, the person is subject to  
33 the obligations, duties, and restrictions under this chapter and the part-  
34 nership agreement for limited partners.

35 30-24-110. NATURE, PURPOSE AND DURATION OF LIMITED PARTNERSHIP. (a) A  
36 limited partnership is an entity distinct from its partners. A limited part-  
37 nership is the same entity regardless of whether its certificate states that  
38 the limited partnership is a limited liability limited partnership.

39 (b) A limited partnership may have any lawful purpose.

40 (c) A limited partnership has perpetual duration.

41 30-24-111. POWERS. A limited partnership has the capacity to sue and  
42 be sued in its own name and the power to do all things necessary or convenient  
43 to carry on its activities and affairs.

44 30-24-112. APPLICATION TO EXISTING RELATIONSHIPS. (a) Before July 1,  
45 2016, this chapter governs only:

46 (1) A limited partnership formed on or after July 1, 2014; and

(2) Except as otherwise provided in subsections (c) and (d) of this section, a limited partnership formed before July 1, 2014, which elects, in the manner provided in its partnership agreement or by law for amending the partnership agreement, to be subject to this chapter.

(b) Except as otherwise provided in subsections (c) and (d) of this section, on and after July 1, 2016, this chapter governs all limited partnerships.

(c) With respect to a limited partnership formed before July 1, 2006, the following rules apply except as the partners otherwise elect in the manner provided in the partnership agreement or by law for amending the partnership agreement:

(1) Section 30-24-110(c), Idaho Code, does not apply and the limited partnership has whatever duration it had under the law applicable immediately before July 1, 2006.

(2) The limited partnership is not required to amend its certificate of limited partnership to comply with section 30-24-201(b)(5), Idaho Code.

(3) Sections 30-24-601 and 30-24-602, Idaho Code, do not apply and a limited partner has the same right and power to dissociate from the limited partnership, with the same consequences, as existed immediately before July 1, 2006.

(4) Section 30-24-603(4), Idaho Code, does not apply.

(5) Section 30-24-603(5), Idaho Code, does not apply and a court has the same power to expel a general partner as the court had immediately before July 1, 2006.

(6) Section 30-24-801(a)(3) and (4), Idaho Code, does not apply and the connection between a person's dissociation as a general partner and the dissolution of the limited partnership is the same as existed immediately before July 1, 2006.

(d) With respect to a limited partnership that elects pursuant to subsection (a)(2) of this section to be subject to this chapter, after the election takes effect the provisions of this chapter relating to the liability of the limited partnership's general partners to third parties apply:

(1) Before July 1, 2016, to:

(A) A third party that had not done business with the limited partnership in the year before the election took effect; and

(B) A third party that had done business with the limited partnership in the year before the election took effect only if the third party knows or has been notified of the election; and

(2) On and after July 1, 2016, to all third parties, but those provisions remain inapplicable to any obligation incurred while those provisions were inapplicable under paragraph (1)(B) of this subsection.

30-24-113. SUBJECTS COVERED OUTSIDE CHAPTER. The following subjects are covered outside this chapter:

(1) Supplemental principles of law - section 30-21-702, Idaho Code.

(2) Permitted names - sections 30-21-301 and 30-21-302, Idaho Code.

(3) Preservation of name - section 30-21-303, Idaho Code.

(4) Registration of name - section 30-21-304, Idaho Code.

(5) Registered agent - sections 30-21-402 and 30-21-404, Idaho Code.

1 (6) Change of registered agent or address for registered agent by lim-  
 2 ited partnership - section 30-21-407, Idaho Code.

3 (7) Resignation of registered agent - section 30-21-410, Idaho Code.

4 (8) Change of name or address by registered agent - sections 30-21-408  
 5 and 30-21-409, Idaho Code.

6 (9) Service of process, notice, or demand - section 30-21-412, Idaho  
 7 Code.

8 (10) Delivery of record - section 30-21-104, Idaho Code.

9 (11) Reservation of power to amend or repeal - section 30-21-701, Idaho  
 10 Code.

11 SECTION 34. That Chapter 24, Title 30, Idaho Code, be, and the same is  
 12 hereby amended by the addition thereto of a NEW PART, to be known and desig-  
 13 nated as Part 2, Chapter 24, Title 30, Idaho Code, and to read as follows:

## 14 PART 2

### 15 FORMATION -- CERTIFICATE OF LIMITED PARTNERSHIP AND OTHER FILINGS

16 30-24-201. FORMATION OF LIMITED PARTNERSHIP -- CERTIFICATE OF LIMITED  
 17 PARTNERSHIP. (a) To form a limited partnership, a person must deliver a cer-  
 18 tificate of limited partnership to the secretary of state for filing.

19 (b) A certificate of limited partnership must state:

20 (1) The name of the limited partnership, which must comply with sec-  
 21 tions 30-21-301 and 30-21-302(b), Idaho Code;

22 (2) The street and mailing addresses of the partnership's principal of-  
 23 fice;

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

25 (4) The name and the street and mailing addresses of each general part-  
 26 ner;

27 (5) Whether the limited partnership is a limited liability limited  
 28 partnership; and

29 (6) If the partnership is a professional entity, a statement that the  
 30 partnership is a professional limited partnership or professional lim-  
 31 ited liability limited partnership and the principal profession or pro-  
 32 fessions for which the partnership's partners are duly licensed or oth-  
 33 erwise legally authorized to render professional services.

34 (c) A certificate of limited partnership may contain statements as  
 35 to matters other than those required by subsection (b) of this section,  
 36 but may not vary or otherwise affect the provisions specified in section  
 37 30-24-105(c) and (d), Idaho Code, in a manner inconsistent with that sec-  
 38 tion. The secretary of state shall not accept partnership agreements for  
 39 filing.

40 (d) A limited partnership is formed when:

41 (1) The certificate of limited partnership becomes effective;

42 (2) At least two (2) persons have become partners;

43 (3) At least one (1) person has become a general partner; and

44 (4) At least one (1) person has become a limited partner.

45 30-24-202. AMENDMENT OR RESTATEMENT OF CERTIFICATE OF LIMITED PART-  
 46 NERSHIP. (a) A certificate of limited partnership may be amended or restated  
 47 at any time.

1 (b) To amend its certificate of limited partnership, a limited partner-  
 2 ship must deliver to the secretary of state for filing an amendment stating:

- 3 (1) The name of the partnership;
- 4 (2) The date of filing of its initial certificate; and
- 5 (3) The text of the amendment.

6 (c) To restate its certificate of limited partnership, a limited part-  
 7 nership must deliver to the secretary of state for filing a restatement des-  
 8 ignated as such in its heading.

9 (d) A limited partnership shall promptly deliver to the secretary of  
 10 state for filing an amendment to a certificate of limited partnership to re-  
 11 flect:

- 12 (1) The admission of a new general partner;
- 13 (2) The dissociation of a person as a general partner; or
- 14 (3) The appointment of a person to wind up the limited partnership's ac-  
 15 tivities and affairs under section 30-24-802(c) or (d), Idaho Code.

16 (e) If a general partner knows that any information in a filed certifi-  
 17 cate of limited partnership was inaccurate when the certificate was filed  
 18 or has become inaccurate due to changed circumstances, the general partner  
 19 shall promptly:

- 20 (1) Cause the certificate to be amended; or
- 21 (2) If appropriate, deliver to the secretary of state for filing a  
 22 statement of change under section 30-21-407, Idaho Code, or a statement  
 23 of correction under section 30-21-205, Idaho Code.

24 30-24-203. SIGNING OF RECORDS TO BE DELIVERED FOR FILING TO SECRETARY  
 25 OF STATE. (a) A record delivered to the secretary of state for filing pur-  
 26 suant to this title must be signed as follows:

27 (1) An initial certificate of limited partnership must be signed by all  
 28 general partners listed in the certificate.

29 (2) An amendment to the certificate of limited partnership adding or  
 30 deleting a statement that the limited partnership is a limited liabil-  
 31 ity limited partnership must be signed by all general partners listed in  
 32 the certificate.

33 (3) An amendment to the certificate of limited partnership designating  
 34 as general partner a person admitted under section 30-24-801(a) (3) (B),  
 35 Idaho Code, following the dissociation of a limited partnership's last  
 36 general partner must be signed by that person.

37 (4) An amendment to the certificate of limited partnership required by  
 38 section 30-24-802(c), Idaho Code, following the appointment of a person  
 39 to wind up the dissolved limited partnership's activities and affairs  
 40 must be signed by that person.

41 (5) Any other amendment to the certificate of limited partnership must  
 42 be signed by:

- 43 (A) At least one general partner listed in the certificate;
- 44 (B) Each other person designated in the amendment as a new general  
 45 partner; and
- 46 (C) Each person that the amendment indicates has dissociated as a  
 47 general partner, unless:



(i) The person is deceased or a guardian or general conservator has been appointed for the person and the amendment so states; or

(ii) The person has previously delivered to the secretary of state for filing a statement of dissociation.

(6) A restated certificate of limited partnership must be signed by at least one (1) general partner listed in the certificate, and, to the extent the restated certificate effects a change under any other paragraph of this subsection, the certificate must be signed in a manner that satisfies that paragraph.

(7) A statement of termination must be signed by all general partners listed in the certificate of limited partnership or, if the certificate of a dissolved limited partnership lists no general partners, by the person appointed pursuant to section 30-24-802(c) or (d), Idaho Code, to wind up the dissolved limited partnership's activities and affairs.

(8) Any other record delivered by a limited partnership to the secretary of state for filing must be signed by at least one (1) general partner listed in the certificate of limited partnership.

(9) A statement by a person pursuant to section 30-24-605(a)(3), Idaho Code, stating that the person has dissociated as a general partner must be signed by that person.

(10) A statement of negation by a person pursuant to section 30-24-306, Idaho Code, must be signed by that person.

(11) Any other record delivered on behalf of any person to the secretary of state for filing must be signed by that person.

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

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

30-24-204. SUBJECTS COVERED OUTSIDE CHAPTER. The following subjects are covered outside this chapter:

(1) Signing and filing pursuant to judicial order - section 30-21-210, Idaho Code;

(2) Liability for inaccurate information in filed record - section 30-21-211, Idaho Code.

(3) Filing requirements - section 30-21-201, Idaho Code.

(4) Effective date and time - section 30-21-203, Idaho Code.

(5) Withdrawal of filed record before effectiveness - section 30-21-204, Idaho Code.

(6) Correcting filed record - section 30-21-205, Idaho Code.

(7) Duty of secretary of state to file; review of refusal to file; delivery of record by secretary of state - sections 30-21-206 and 30-21-211, Idaho Code.

(8) Certificate of good standing or registration - section 30-21-208, Idaho Code.

(9) Annual report for secretary of state - section 30-21-213, Idaho Code.

1       SECTION 35. That Chapter 24, Title 30, Idaho Code, be, and the same is  
2 hereby amended by the addition thereto of a NEW PART, to be known and desig-  
3 nated as Part 3, Chapter 24, Title 30, Idaho Code, and to read as follows:

4                               PART 3  
5                               LIMITED PARTNERS

6       30-24-301. BECOMING LIMITED PARTNER. (a) Upon formation of a limited  
7 partnership, a person becomes a limited partner as agreed among the persons  
8 that are to be the initial partners.

9       (b) After formation, a person becomes a limited partner:

10       (1) As provided in the partnership agreement;

11       (2) As the result of a transaction effective under chapter 22, title 30,  
12 Idaho Code;

13       (3) With the affirmative vote or consent of all the partners; or

14       (4) As provided in section 30-24-801(a) (4) or (5), Idaho Code.

15       (c) A person may become a limited partner without:

16       (1) Acquiring a transferable interest; or

17       (2) Making or being obligated to make a contribution to the limited  
18 partnership.

19       30-24-302. NO AGENCY POWER OF LIMITED PARTNER AS LIMITED PART-  
20 NER. (1) A limited partner is not an agent of a limited partnership solely by  
21 reason of being a limited partner.

22       (2) A person's status as a limited partner does not prevent or restrict  
23 law other than this chapter from imposing liability on a limited partnership  
24 because of the person's conduct.

25       30-24-303. NO LIABILITY AS LIMITED PARTNER FOR LIMITED PARTNERSHIP  
26 OBLIGATIONS. (a) A debt, obligation, or other liability of a limited part-  
27 nership is not the debt, obligation, or other liability of a limited partner.  
28 A limited partner is not personally liable, directly or indirectly, by way of  
29 contribution or otherwise, for a debt, obligation, or other liability of the  
30 limited partnership solely by reason of being or acting as a limited partner,  
31 even if the limited partner participates in the management and control of the  
32 limited partnership. This subsection applies regardless of the dissolution  
33 of the partnership.

34       (b) The failure of a limited partnership to observe formalities relat-  
35 ing to the exercise of its powers or management of its activities and affairs  
36 is not a ground for imposing liability on a limited partner for a debt, obli-  
37 gation, or other liability of the partnership.

38       30-24-304. RIGHTS TO INFORMATION OF LIMITED PARTNER AND PERSON DISO-  
39 CIATED AS LIMITED PARTNER. (a) On ten (10) days' demand, made in a record  
40 received by the limited partnership, a limited partner may inspect and copy  
41 required information during regular business hours in the limited partner-  
42 ship's principal office. The limited partner need not have any particular  
43 purpose for seeking the information.

44       (b) During regular business hours and at a reasonable location speci-  
45 fied by the limited partnership, a limited partner may inspect and copy in-

1 formation regarding the activities, affairs, financial condition, and other  
2 circumstances of the limited partnership as is just and reasonable if:

3 (1) The limited partner seeks the information for a purpose reasonably  
4 related to the partner's interest as a limited partner;

5 (2) The limited partner makes a demand in a record received by the lim-  
6 ited partnership, describing with reasonable particularity the infor-  
7 mation sought and the purpose for seeking the information; and

8 (3) the information sought is directly connected to the limited part-  
9 ner's purpose.

10 (c) Not later than 10 days after receiving a demand pursuant to subsec-  
11 tion (b) of this section, the limited partnership shall inform in a record  
12 the limited partner that made the demand of:

13 (1) What information the partnership will provide in response to the  
14 demand and when and where the partnership will provide the information;  
15 and

16 (2) The partnership's reasons for declining, if the partnership de-  
17 clines to provide any demanded information.

18 (d) Whenever this title or a partnership agreement provides for a lim-  
19 ited partner to vote on or give or withhold consent to a matter, before the  
20 vote is cast or consent is given or withheld, the limited partnership shall,  
21 without demand, provide the limited partner with all information that is  
22 known to the partnership and is material to the limited partner's decision.

23 (e) Subject to subsection (j) of this section, on 10 days' demand made  
24 in a record received by a limited partnership, a person dissociated as a lim-  
25 ited partner may have access to information to which the person was entitled  
26 while a limited partner if:

27 (1) The information pertains to the period during which the person was a  
28 limited partner;

29 (2) The person seeks the information in good faith; and

30 (3) The person satisfies the requirements imposed on a limited partner  
31 by subsection (b) of this section.

32 (f) A limited partnership shall respond to a demand made pursuant to  
33 subsection (e) in the manner provided in subsection (c) of this section.

34 (g) A limited partnership may charge a person that makes a demand under  
35 this section reasonable costs of copying, limited to the costs of labor and  
36 material.

37 (h) A limited partner or person dissociated as a limited partner may ex-  
38 ercise the rights under this section through an agent or, in the case of an  
39 individual under legal disability, a legal representative. Any restriction  
40 or condition imposed by the partnership agreement or under subsection (j)  
41 of this section applies both to the agent or legal representative and to the  
42 limited partner or person dissociated as a limited partner.

43 (i) Subject to section 30-24-704, Idaho Code, the rights under this  
44 section do not extend to a person as transferee.

45 (j) In addition to any restriction or condition stated in its part-  
46 nership agreement, a limited partnership, as a matter within the ordinary  
47 course of its activities and affairs, may impose reasonable restrictions  
48 and conditions on access to and use of information to be furnished under  
49 this section, including designating information confidential and imposing  
50 nondisclosure and safeguarding obligations on the recipient. In a dispute

1 concerning the reasonableness of a restriction under this subsection, the  
2 partnership has the burden of proving reasonableness.

3 30-24-305. LIMITED DUTIES OF LIMITED PARTNERS. (a) A limited partner  
4 shall discharge any duties to the partnership and the other partners under  
5 the partnership agreement and exercise any rights under this title or the  
6 partnership agreement consistently with the contractual obligation of good  
7 faith and fair dealing.

8 (b) Except as otherwise provided in subsection (a) of this section, a  
9 limited partner does not have any duty to the limited partnership or to any  
10 other partner solely by reason of acting as a limited partner.

11 (c) If a limited partner enters into a transaction with a limited  
12 partnership, the limited partner's rights and obligations arising from the  
13 transaction are the same as those of a person that is not a partner.

14 30-24-306. LIABILITY FOR INACCURATE INFORMATION IN FILED  
15 RECORD. (a) Except as otherwise provided in subsection (b) of this section,  
16 a person that makes an investment in a business enterprise and erroneously  
17 but in good faith believes that the person has become a limited partner in  
18 the enterprise is not liable for the enterprise's obligations by reason  
19 of making the investment, receiving distributions from the enterprise,  
20 or exercising any rights of or appropriate to a limited partner, if, on  
21 ascertaining the mistake, the person:

22 (1) Causes an appropriate certificate of limited partnership, amend-  
23 ment, or statement of correction to be signed and delivered to the sec-  
24 retary of state for filing; or

25 (2) Withdraws from future participation as an owner in the enterprise  
26 by signing and delivering to the secretary of state for filing a state-  
27 ment of negation under this section.

28 (b) A person that makes an investment described in subsection (a) of  
29 this section is liable to the same extent as a general partner to any third  
30 party that enters into a transaction with the enterprise, believing in good  
31 faith that the person is a general partner, before the secretary of state  
32 files a statement of negation, certificate of limited partnership, amend-  
33 ment, or statement of correction to show that the person is not a general  
34 partner.

35 (c) If a person makes a diligent effort in good faith to comply with sub-  
36 section (a) (1) of this section and is unable to cause the appropriate cer-  
37 tificate of limited partnership, amendment, or statement of correction to be  
38 signed and delivered to the secretary of state for filing, the person has the  
39 right to withdraw from the enterprise pursuant to subsection (a) (2) of this  
40 section even if the withdrawal would otherwise breach an agreement with oth-  
41 ers that are or have agreed to become co-owners of the enterprise.

42 SECTION 36. That Chapter 24, Title 30, Idaho Code, be, and the same is  
43 hereby amended by the addition thereto of a NEW PART, to be known and desig-  
44 nated as Part 4, Chapter 24, Title 30, Idaho Code, and to read as follows:

45 PART 4  
46 GENERAL PARTNERS

1       30-24-401. BECOMING GENERAL PARTNER. (a) Upon formation of a limited  
2 partnership, a person becomes a general partner as agreed among the persons  
3 that are to be the initial partners.

4       (b) After formation of a limited partnership, a person becomes a gen-  
5 eral partner:

6       (1) As provided in the partnership agreement;

7       (2) As the result of a transaction effective under chapter 22, title 30,  
8 Idaho Code;

9       (3) With the affirmative vote or consent of all the partners: or

10       (4) Under section 30-24-801(a) (3) (B), Idaho Code, following the disso-  
11 ciation of a limited partnership's last general partner.

12       (c) A person may become a general partner without:

13       (a) Acquiring a transferable interest; or

14       (b) Making or being obligated to make a contribution to the partner-  
15 ship.

16       30-24-402. NO AGENCY POWER OF LIMITED PARTNER AS LIMITED PART-  
17 NER. (a) Each general partner is an agent of the limited partnership for  
18 the purposes of its activities and affairs. An act of a general partner,  
19 including the signing of a record in the partnership's name, for apparently  
20 carrying on in the ordinary course the partnership's activities and affairs  
21 or activities and affairs of the kind carried on by the partnership binds the  
22 partnership, unless the general partner did not have authority to act for the  
23 partnership in the particular matter and the person with which the general  
24 partner was dealing knew or had notice that the general partner lacked au-  
25 thority.

26       (b) An act of a general partner that is not apparently for carrying on  
27 in the ordinary course the limited partnership's activities and affairs or  
28 activities and affairs of the kind carried on by the partnership binds the  
29 partnership only if the act was actually authorized by all the other part-  
30 ners.

31       30-24-403. LIMITED PARTNERSHIP LIABLE FOR GENERAL PARTNER'S ACTION-  
32 ABLE CONDUCT. (a) A limited partnership is liable for loss or injury caused  
33 to a person, or for a penalty incurred, as a result of a wrongful act or omis-  
34 sion, or other actionable conduct, of a general partner acting in the ordi-  
35 nary course of activities and affairs of the partnership or with the actual  
36 or apparent authority of the partnership.

37       (b) If, in the course of a limited partnership's activities and affairs  
38 or while acting with actual or apparent authority of the partnership, a gen-  
39 eral partner receives or causes the partnership to receive money or property  
40 of a person not a partner, and the money or property is misapplied by a gen-  
41 eral partner, the partnership is liable for the loss.

42       30-24-404. RIGHTS TO INFORMATION OF LIMITED PARTNER AND PERSON DIS-  
43 SOCIATED AS LIMITED PARTNER. (a) Except as otherwise provided in subsec-  
44 tions (b) and (c) of this section, all general partners are liable jointly  
45 and severally for all debts, obligations, and other liabilities of the lim-  
46 ited partnership unless otherwise agreed by the claimant or provided by law.

1 (b) A person that becomes a general partner is not personally liable for  
 2 a debt, obligation, or other liability of the limited partnership incurred  
 3 before the person became a general partner.

4 (c) A debt, obligation, or other liability of a limited partnership  
 5 incurred while the partnership is a limited liability limited partnership  
 6 is solely the debt, obligation, or other liability of the limited liability  
 7 limited partnership. A general partner is not personally liable, directly  
 8 or indirectly, by way of contribution or otherwise, for a debt, obligation,  
 9 or other liability of the limited liability limited partnership solely by  
 10 reason of being or acting as a general partner. This subsection applies:

11 (1) Despite anything inconsistent in the partnership agreement that  
 12 existed immediately before the vote or consent required to become a  
 13 limited liability limited partnership under section 30-24-406(b) (2),  
 14 Idaho Code; and

15 (2) Regardless of the dissolution of the partnership.

16 (d) The failure of a limited liability limited partnership to observe  
 17 formalities relating to the exercise of its powers or management of its  
 18 activities and affairs is not a ground for imposing liability on a general  
 19 partner for a debt, obligation, or other liability of the partnership.

20 (e) An amendment of a certificate of limited partnership which deletes  
 21 a statement that the limited partnership is a limited liability limited  
 22 partnership does not affect the limitation in this section on the liability  
 23 of a general partner for a debt, obligation, or other liability of the lim-  
 24 ited partnership incurred before the amendment became effective.

25 30-24-405. ACTIONS BY AND AGAINST PARTNERSHIP AND PARTNERS. (a) To  
 26 the extent not inconsistent with section 30-24-404, Idaho Code, a general  
 27 partner may be joined in an action against the limited partnership or named  
 28 in a separate action.

29 (b) A judgment against a limited partnership is not by itself a judgment  
 30 against a general partner. A judgment against a limited partnership may not  
 31 be satisfied from a general partner's assets unless there is also a judgment  
 32 against the general partner.

33 (c) A judgment creditor of a general partner may not levy execution  
 34 against the assets of the general partner to satisfy a judgment based on a  
 35 claim against the limited partnership, unless the partner is personally li-  
 36 able for the claim under section 30-24-404, Idaho Code, and:

37 (1) A judgment based on the same claim has been obtained against the  
 38 limited partnership and a writ of execution on the judgment has been re-  
 39 turned unsatisfied in whole or in part;

40 (2) The partnership is a debtor in bankruptcy;

41 (3) The general partner has agreed that the creditor need not exhaust  
 42 partnership assets;

43 (4) A court grants permission to the judgment creditor to levy execu-  
 44 tion against the assets of a general partner based on a finding that  
 45 partnership assets subject to execution are clearly insufficient to  
 46 satisfy the judgment, that exhaustion of assets is excessively burden-  
 47 some, or that the grant of permission is an appropriate exercise of the  
 48 court's equitable powers; or

1 (5) Liability is imposed on the general partner by law or contract inde-  
2 pendent of the existence of the partnership.

3 30-24-406. MANAGEMENT RIGHTS OF GENERAL PARTNER. (a) Each general  
4 partner has equal rights in the management and conduct of the limited part-  
5 nership's activities and affairs. Except as otherwise provided in this  
6 title, any matter relating to the activities and affairs of the partnership  
7 is decided exclusively by the general partner or, if there is more than one  
8 general partner, by a majority of the general partners.

9 (b) The affirmative vote or consent of all the partners is required to:

10 (1) Amend the partnership agreement;

11 (2) Amend the certificate of limited partnership to add or delete a  
12 statement that the limited partnership is a limited liability limited  
13 partnership; and

14 (3) Sell, lease, exchange, or otherwise dispose of all, or substan-  
15 tially all, of the limited partnership's property, with or without the  
16 good will, other than in the usual and regular course of the limited  
17 partnership's activities and affairs.

18 (c) A limited partnership shall reimburse a general partner for an ad-  
19 vance to the partnership beyond the amount of capital the general partner  
20 agreed to contribute.

21 (d) A payment or advance made by a general partner that gives rise to an  
22 obligation of the limited partnership under subsection (c) of this section  
23 or section 30-24-408(a), Idaho Code, constitutes a loan to the limited part-  
24 nership which accrues interest from the date of the payment or advance.

25 (e) A general partner is not entitled to remuneration for services per-  
26 formed for the partnership.

27 30-24-407. RIGHTS TO INFORMATION OF GENERAL PARTNER AND PERSON DIS-  
28 SOCIATED AS GENERAL PARTNER. (a) A general partner may inspect and copy  
29 required information during regular business hours in the limited partner-  
30 ship's principal office, without having any particular purpose for seeking  
31 the information.

32 (b) On reasonable notice, a general partner may inspect and copy during  
33 regular business hours, at a reasonable location specified by the lim-  
34 ited partnership, any record maintained by the partnership regarding the  
35 partnership's activities, affairs, financial condition, and other circum-  
36 stances, to the extent the information is material to the general partner's  
37 rights and duties under the partnership agreement or this title.

38 (c) A limited partnership shall furnish to each general partner:

39 (1) Without demand, any information concerning the partnership's ac-  
40 tivities, affairs, financial condition, and other circumstances that  
41 the partnership knows and is material to the proper exercise of the  
42 general partner's rights and duties under the partnership agreement or  
43 this title, except to the extent the partnership can establish that it  
44 reasonably believes the general partner already knows the information;  
45 and

46 (2) On demand, any other information concerning the partnership's ac-  
47 tivities, affairs, financial condition, and other circumstances, ex-

cept to the extent the demand or the information demanded is unreasonable or otherwise improper under the circumstances.

(d) The duty to furnish information under subsection (c) of this section also applies to each general partner to the extent the general partner knows any of the information described in subsection (b) of this section.

(e) Subject to subsection (j) of this section, on 10 days' demand made in a record received by a limited partnership, a person dissociated as a general partner may have access to the information and records described in subsections (a) and (b) of this section at the locations specified in those subsections if:

(1) The information or record pertains to the period during which the person was a general partner;

(2) The person seeks the information or record in good faith; and

(3) The person satisfies the requirements imposed on a limited partner by section 30-24-304(b), Idaho Code.

(f) A limited partnership shall respond to a demand made pursuant to subsection (e) of this section in the manner provided in section 30-24-304(c), Idaho Code.

(g) A limited partnership may charge a person that makes a demand under this section the reasonable costs of copying, limited to the costs of labor and material.

(h) A general partner or person dissociated as a general partner may exercise the rights under this section through an agent or, in the case of an individual under legal disability, a legal representative. Any restriction or condition imposed by the partnership agreement or under subsection (j) of this section applies both to the agent or legal representative and to the general partner or person dissociated as a general partner.

(i) The rights under this section do not extend to a person as transferee, but if:

(1) A general partner dies, section 30-24-704, Idaho Code, applies; and

(2) An individual dissociates as a general partner under section 30-24-603(6)(B) or (C), Idaho Code, the legal representative of the individual may exercise the rights under subsection (d) of this section of a person dissociated as a general partner.

(j) In addition to any restriction or condition stated in its partnership agreement, a limited partnership, as a matter within the ordinary course of its activities and affairs, may impose reasonable restrictions and conditions on access to and use of information to be furnished under this section, including designating information confidential and imposing nondisclosure and safeguarding obligations on the recipient. In a dispute concerning the reasonableness of a restriction under this subsection, the partnership has the burden of proving reasonableness.

30-24-408. REIMBURSEMENT -- INDEMNIFICATION -- ADVANCEMENT -- INSURANCE. (a) A limited partnership shall reimburse a general partner for any payment made by the general partner in the course of the general partner's activities on behalf of the partnership, if the general partner complied with sections 30-24-406, 30-24-409, and 30-24-504, Idaho Code, in making the payment.



(b) A limited partnership shall indemnify and hold harmless a person with respect to any claim or demand against the person and any debt, obligation, or other liability incurred by the person by reason of the person's former or present capacity as a general partner, if the claim, demand, debt, obligation, or other liability does not arise from the person's breach of section 30-24-406, 30-24-409, or 30-24-504, Idaho Code.

(c) In the ordinary course of its activities and affairs, a limited partnership may advance reasonable expenses, including attorney's fees and costs, incurred by a person in connection with a claim or demand against the person by reason of the person's former or present capacity as a general partner, if the person promises to repay the partnership if the person ultimately is determined not to be entitled to be indemnified under subsection (b) of this section.

(d) A limited partnership may purchase and maintain insurance on behalf of a general partner against liability asserted against or incurred by the general partner in that capacity or arising from that status even if, under section 30-24-105(c) (8), Idaho Code, the partnership agreement could not eliminate or limit the person's liability to the partnership for the conduct giving rise to the liability.

30-24-409. STANDARDS OF CONDUCT FOR GENERAL PARTNERS. (a) A general partner owes to the limited partnership and, subject to section 30-24-901, Idaho Code, the other partners the duties of loyalty and care stated in subsections (b) and (c) of this section.

(b) The fiduciary duty of loyalty of a general partner includes the duties:

(1) To account to the limited partnership and hold as trustee for it any property, profit, or benefit derived by the general partner:

(A) In the conduct or winding up of the partnership's activities and affairs;

(B) A use by the general partner of the partnership's property; or

(C) From the appropriation of a partnership opportunity;

(2) To refrain from dealing with the partnership in the conduct or winding up of the partnership's activities and affairs as or on behalf of a person having an interest adverse to the partnership; and

(3) To refrain from competing with the partnership in the conduct or winding up of the partnership's activities and affairs.

(c) The duty of care of a general partner in the conduct or winding up of the limited partnership's activities and affairs is to refrain from engaging in grossly negligent or reckless conduct, willful or intentional misconduct, or knowing violation of law.

(d) A general partner shall discharge the duties and obligations under this title or under the partnership agreement and exercise any rights consistently with the contractual obligation of good faith and fair dealing.

(e) A general partner does not violate a duty or obligation under this title or under the partnership agreement solely because the general partner's conduct furthers the general partner's own interest.

(f) All the partners of a limited partnership may authorize or ratify, after full disclosure of all material facts, a specific act or transaction by a general partner that otherwise would violate the duty of loyalty.

1 (g) It is a defense to a claim under subsection (b) (2) of this section  
2 and any comparable claim in equity or at common law that the transaction was  
3 fair to the limited partnership.

4 (h) If, as permitted by subsection (f) of this section or the partner-  
5 ship agreement, a general partner enters into a transaction with the lim-  
6 ited partnership that otherwise would be prohibited by subsection (b) (2) of  
7 this section, the general partner's rights and obligations arising from the  
8 transaction are the same as those of a person that is not a general partner.

9 SECTION 37. That Chapter 24, Title 30, Idaho Code, be, and the same is  
10 hereby amended by the addition thereto of a NEW PART, to be known and desig-  
11 nated as Part 5, Chapter 24, Title 30, Idaho Code, and to read as follows:

12 PART 5  
13 CONTRIBUTIONS AND DISTRIBUTIONS

14 30-24-501. FORM OF CONTRIBUTION. A contribution may consist of prop-  
15 erty transferred to, services performed for, or another benefit provided  
16 to the limited partnership or an agreement to transfer property to, perform  
17 services for, or provide another benefit to the partnership.

18 30-24-502. LIABILITY FOR CONTRIBUTION. (a) A person's obligation to  
19 make a contribution to a limited partnership is not excused by the person's  
20 death, disability, termination, or other inability to perform personally.

21 (b) If a person does not fulfill an obligation to make a contribution  
22 other than money, the person is obligated at the option of the limited part-  
23 nership to contribute money equal to the value, as stated in the required in-  
24 formation, of the part of the contribution that has not been made.

25 (c) The obligation of a person to make a contribution may be compro-  
26 mised only by the affirmative vote or consent of all partners. If a credi-  
27 tor of a limited partnership extends credit or otherwise acts in reliance on  
28 an obligation described in subsection (a) of this section without knowledge  
29 or notice of a compromise under this subsection, the creditor may enforce the  
30 obligation.

31 30-24-503. SHARING OF AND RIGHT TO DISTRIBUTIONS BEFORE DISSOLU-  
32 TION. (a) Any distribution made by a limited partnership before its disso-  
33 lution and winding up must be shared among the partners on the basis of the  
34 value, as stated in the required information when the limited partnership  
35 decides to make the distribution, of the contributions the limited partner-  
36 ship has received from each partner, except to the extent necessary to comply  
37 with a transfer effective under section 30-24-702, Idaho Code, or charging  
38 order in effect under section 30-24-703, Idaho Code.

39 (b) A person has a right to a distribution before the dissolution and  
40 winding up of a limited partnership only if the partnership decides to make  
41 an interim distribution. A person's dissociation does not entitle the per-  
42 son to a distribution.

43 (c) A person does not have a right to demand or receive a distribution  
44 from a limited partnership in any form other than money. Except as otherwise  
45 provided in section 30-24-810(f), Idaho Code, a partnership may distribute  
46 an asset in kind only if each part of the asset is fungible with each other

1 part and each person receives a percentage of the asset equal in value to the  
2 person's share of distributions.

3 (d) If a partner or transferee becomes entitled to receive a distribu-  
4 tion, the partner or transferee is entitled to all remedies available to, a  
5 creditor of the limited partnership with respect to the distribution. How-  
6 ever, the partnership's obligation to make a distribution is subject to off-  
7 set for any amount owed to the partnership by the partner or a person dissoci-  
8 ated as a partner on whose account the distribution is made.

9 30-24-504. LIMITATIONS ON DISTRIBUTIONS. (a) A limited partnership  
10 may not make a distribution, including a distribution under section 30-24-  
11 810, Idaho Code, if after the distribution:

12 (1) The partnership would not be able to pay its debts as they become due  
13 in the ordinary course of the partnership's activities and affairs; or

14 (2) The partnership's total assets would be less than the sum of its to-  
15 tal liabilities plus, the amount that would be needed, if the partner-  
16 ship were to be dissolved and wound up at the time of the distribution,  
17 to satisfy the preferential rights upon dissolution and winding up of  
18 partners and transferees whose preferential rights are superior to the  
19 rights of persons receiving the distribution.

20 (b) A limited partnership may base a determination that a distribution  
21 is not prohibited under subsection (a) of this section on:

22 (1) Financial statements prepared on the basis of accounting practices  
23 and principles that are reasonable in the circumstances; or

24 (2) A fair valuation or other method that is reasonable under the cir-  
25 cumstances.

26 (c) Except as otherwise provided in subsection (e) of this section, the  
27 effect of a distribution under subsection (a) of this section is measured:

28 (1) In the case of distribution as defined in section 30-24-102(4)(A),  
29 Idaho Code, as of the earlier of:

30 (A) The date money or other property is transferred or debt is in-  
31 curred by the limited partnership; or

32 (B) The date the person entitled to the distribution ceases to own  
33 the interest or right being acquired by the partnership in return  
34 for the distribution;

35 (2) In the case of any other distribution of indebtedness, as of the  
36 date the indebtedness is distributed; and

37 (3) In all other cases, as of the date:

38 (A) The distribution is authorized, if the payment occurs not  
39 later than one hundred twenty (120) days after that date; or

40 (B) The payment is made, if the payment occurs more than one hun-  
41 dred twenty (120) days after the distribution is authorized.

42 (d) A limited partnership's indebtedness to a partner or transferee in-  
43 curred by reason of a distribution made in accordance with this section is at  
44 parity with the partnership's indebtedness to its general, unsecured credi-  
45 tors, except to the extent subordinated by agreement.

46 (e) A limited partnership's indebtedness, including indebtedness is-  
47 sued as a distribution, is not a liability for purposes of subsection (a) of  
48 this section if the terms of the indebtedness provide that payment of princi-  
49 pal and interest is made only if and to the extent that payment of a distribu-

tion could then be made under this section. If the indebtedness is issued as a distribution, each payment of principal or interest is treated as a distribution, the effect of which is measured on the date the payment is made.

(f) In measuring the effect of a distribution under section 30-24-810, Idaho Code, the liabilities of a dissolved limited partnership do not include any claim that has been disposed of under section 30-24-806, 30-24-807, or 30-24-808, Idaho Code.

30-24-505. LIABILITY FOR IMPROPER DISTRIBUTIONS. (a) If a general partner consents to a distribution made in violation of section 30-24-504, Idaho Code, and in consenting to the distribution fails to comply with section 30-24-409, Idaho Code, the general partner is personally liable to the limited partnership for the amount of the distribution which exceeds the amount that could have been distributed without the violation of section 30-24-504, Idaho Code.

(b) A person that receives a distribution knowing that the distribution violated section 30-24-504, Idaho Code, is personally liable to the limited partnership but only to the extent that the distribution received by the person exceeded the amount that could have been properly paid under section 30-24-504, Idaho Code.

(c) A general partner against which an action is commenced because the general partner is liable under subsection (a) of this section may:

(1) Implead any other person that is liable under subsection (a) of this section and seek to enforce a right of contribution from the person; and

(2) Implead any person that received a distribution in violation of subsection (b) of this section and seek to enforce a right of contribution from the person in the amount the person received in violation of subsection (b) of this section.

(d) An action under this section is barred unless commenced not later than two (2) years after the distribution.

SECTION 38. That Chapter 24, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW PART, to be known and designated as Part 6, Chapter 24, Title 30, Idaho Code, and to read as follows:

## PART 6 DISSOCIATION

30-24-601. DISSOCIATION AS LIMITED PARTNER. (a) A person does not have a right to dissociate as a limited partner before the completion of the winding up of the limited partnership.

(b) A person is dissociated as a limited partner when:

(1) The limited partnership knows or has notice of the person's express will to withdraw as a limited partner, but, if the person has specified a withdrawal date later than the date the partnership knew of had notice, on that later date;

(2) An event stated in the partnership agreement as causing the person's dissociation as a limited partner occurs;

(3) The person is expelled as a limited partner pursuant to the partnership agreement;

- 1 (4) The person is expelled as a limited partner by the affirmative vote  
2 or consent of all the other partners if:
- 3 (A) It is unlawful to carry on the limited partnership's activi-  
4 ties and affairs with the person as a limited partner;
- 5 (B) There has been a transfer of all of the person's transferable  
6 interest in the partnership, other than:
- 7 (i) A transfer for security purposes; or  
8 (ii) A charging order in effect under section 30-24-703,  
9 Idaho Code, which has not been foreclosed;
- 10 (C) The person is an entity and:
- 11 (i) The partnership notifies the person that it will be ex-  
12 pelled as a limited partner because the person has filed a  
13 statement of dissolution or the equivalent, the person has  
14 been administratively dissolved, the person's charter or  
15 the equivalent has been revoked, or the person's right to  
16 conduct business has been suspended by the person's juris-  
17 diction of formation; and
- 18 (ii) Not later than ninety (90) days after the notification,  
19 the statement of dissolution or the equivalent has not been  
20 withdrawn, rescinded, or revoked, the person has not been  
21 reinstated, or the person's charter or the equivalent or  
22 right to conduct business has not been reinstated; or
- 23 (D) The person is an unincorporated entity that has been dissolved  
24 and whose activities and affairs are being wound up;
- 25 (5) On application by the limited partnership or a partner in a direct  
26 action under section 30-24-901, Idaho Code, the person is expelled as a  
27 limited partner by judicial order because the person:
- 28 (A) Has engaged or is engaging in wrongful conduct that has af-  
29 fected adversely and materially, or will affect adversely and ma-  
30 terially, the partnership's activities and affairs;
- 31 (B) Has committed willfully or persistently, or is committing  
32 willfully and persistently, a material breach of the partnership  
33 agreement or the contractual obligation of good faith and fair  
34 dealing under section 30-24-305(a), Idaho Code; or
- 35 (C) Has engaged or is engaging in conduct relating to the partner-  
36 ship's activities and affairs that makes it not reasonably practi-  
37 cable to carry on the activities and affairs with the person as a  
38 limited partner;
- 39 (6) In the case of an individual, the individual dies;
- 40 (7) In the case of a person that is a testamentary or inter vivos trust  
41 or is acting as a limited partner by virtue of being a trustee of such a  
42 trust, the trust's entire transferable interest in the limited partner-  
43 ship is distributed;
- 44 (8) In the case of a person that is an estate or is acting as a limited  
45 partner by virtue of being a personal representative of an estate, the  
46 estate's entire transferable interest in the limited partnership is  
47 distributed;
- 48 (9) In the case of a person that is not an individual, the existence of  
49 the person terminates;

1 (10) The limited partnership participates in a merger under chapter 22,  
2 title 30, Idaho Code, and:

3 (A) The partnership is not the surviving entity; or

4 (B) Otherwise as a result of the merger, the person ceases to be a  
5 limited partner;

6 (11) The limited partnership participates in an interest exchange un-  
7 der chapter 22, title 30, Idaho Code, and as a result of the interest ex-  
8 change, the person ceases to be a limited partner;

9 (12) The limited partnership participates in a conversion under chap-  
10 ter 22, title 30, Idaho Code;

11 (13) The limited partnership participates in a domestication under  
12 chapter 22, title 30, Idaho Code, and as a result of the domestication,  
13 the person ceases to be a limited partner;

14 (14) The limited partnership dissolves and completes winding up; or

15 (15) In the case of a professional entity, restrictions or limitations  
16 are placed upon a limited partner's ability to continue to render pro-  
17 fessional services.

18 30-24-602. EFFECT OF DISSOCIATION AS LIMITED PARTNER. (a) If a person  
19 is dissociated as a limited partner:

20 (1) Subject to section 30-24-704, Idaho Code, the person does not have  
21 further rights as a limited partner;

22 (2) The person's contractual obligation of good faith and fair dealing  
23 as a limited partner under section 30-24-305(a), Idaho Code, ends with  
24 regard to matters arising and events occurring after the person's dis-  
25 sociation; and

26 (3) Subject to section 30-24-704, Idaho Code, and chapter 22, title 30,  
27 Idaho Code, any transferable interest owned by the person in the per-  
28 son's capacity as a limited partner immediately before dissociation is  
29 owned by the person solely as a transferee.

30 (b) A person's dissociation as a limited partner does not of itself dis-  
31 charge the person from any debt, obligation, or other liability to the lim-  
32 ited partnership or the other partners that the person incurred while a lim-  
33 ited partner.

34 30-24-603. DISSOCIATION AS GENERAL PARTNER. A person is dissociated  
35 as a general partner when:

36 (1) The limited partnership knows or has notice of the person's express  
37 will to withdraw as a general partner, but, if the person has specified a  
38 withdrawal date later than the date the partnership knew or had notice, on  
39 that later date;

40 (2) An event stated in the partnership agreement as causing the per-  
41 son's dissociation as a general partner occurs;

42 (3) The person is expelled as a general partner pursuant to the partner-  
43 ship agreement;

44 (4) The person is expelled as a general partner by the affirmative vote  
45 or consent of all the other partners if:

46 (A) It is unlawful to carry on the limited partnership's activities and  
47 affairs with the person as a general partner;

- 1 (B) There has been a transfer all of the person's transferable interest  
2 in the partnership, other than:
- 3 (i) A transfer for security purposes; or  
4 (ii) A charging order in effect under section 30-24-703, Idaho  
5 Code, which has not been foreclosed;
- 6 (C) The person is an entity and:
- 7 (i) The partnership notifies the person that it will be expelled  
8 as a general partner because the person has filed a statement of  
9 dissolution or the equivalent, the person has been administra-  
10 tively dissolved, the person's charter or its equivalent has been  
11 revoked, or the person's right to conduct business has been sus-  
12 pended by the person's jurisdiction of its formation; and  
13 (ii) Not later than ninety (90) days after the notification the  
14 statement of dissolution or the equivalent has not been withdrawn,  
15 rescinded, or revoked, the person has not been reinstated, or the  
16 person's charter or the equivalent of right to conduct business  
17 has not been reinstated; or
- 18 (D) The person is an unincorporated entity that has been dissolved and  
19 whose activities and affairs are being wound up;
- 20 (5) On application by the limited partnership or a partner in a direct  
21 action under section 30-24-901, Idaho Code, the person is expelled as a gen-  
22 eral partner by judicial order because the person:
- 23 (A) Has engaged or is engaging in wrongful conduct that has affected  
24 adversely and materially, or will affect adversely and materially, the  
25 partnership's activities and affairs;
- 26 (B) Has committed willfully or persistently, or is committing will-  
27 fully or persistently, a material breach of the partnership agreement  
28 or a duty or obligation under section 30-24-409, Idaho Code; or
- 29 (C) Has engaged or is engaging in conduct relating to the partnership's  
30 activities and affairs that makes it not reasonably practicable to  
31 carry on the activities and affairs of the limited partnership with the  
32 person as a general partner;
- 33 (6) In the case of an individual:
- 34 (A) The individual dies;
- 35 (B) A guardian or general conservator for the individual is appointed;  
36 or
- 37 (C) A court orders that the individual has otherwise become incapable  
38 of performing the individual's duties as a general partner under this  
39 title or the partnership agreement;
- 40 (7) The person:
- 41 (A) Becomes a debtor in bankruptcy;
- 42 (B) Executes an assignment for the benefit of creditors; or
- 43 (C) Seeks, consents to, or acquiesces in the appointment of a trustee,  
44 receiver, or liquidator of the person or of all or substantially all the  
45 person's property;
- 46 (8) In the case of a person that is a testamentary or inter vivos trust  
47 or is acting as a general partner by virtue of being a trustee of such a trust,  
48 the trust's entire transferable interest in the limited partnership is dis-  
49 tributed;

1 (9) In the case of a person that is an estate or is acting as a gen-  
 2 eral partner by virtue of being a personal representative of an estate, the  
 3 estate's entire transferable interest in the limited partnership is dis-  
 4 tributed;

5 (10) In the case of a person that is not an individual, the existence of  
 6 the person terminates;

7 (11) The limited partnership participates in a merger under chapter 22,  
 8 title 30, Idaho Code, and:

9 (A) The partnership is not the surviving entity; or

10 (B) Otherwise as a result of the merger, the person ceases to be a gen-  
 11 eral partner;

12 (12) The limited partnership participates in an interest exchange under  
 13 chapter 22, title 30, Idaho Code, and as a result of the interest exchange,  
 14 the person ceases to be a general partner;

15 (13) The limited partnership participates in a conversion under chapter  
 16 22, title 30, Idaho Code;

17 (14) The limited partnership participates in a domestication under  
 18 chapter 22, title 30, Idaho Code and as a result of the domestication, the  
 19 person ceases to be a general partner;

20 (15) The limited partnership dissolves and completes winding up; or

21 (16) In the case of a professional entity, restrictions or limitations  
 22 are placed upon a general partner's ability to continue to render profes-  
 23 sional services.

24 30-24-604. POWER TO DISSOCIATE AS GENERAL PARTNER -- WRONGFUL DISSO-  
 25 CIATION. (a) A person has the power to dissociate as a general partner at any  
 26 time, rightfully or wrongfully, by withdrawing as a general partner by ex-  
 27 press will under section 30-24-603(1), Idaho Code.

28 (b) A person's dissociation as a general partner is wrongful only if the  
 29 dissociation:

30 (1) Is in breach of an express provision of the partnership agreement;  
 31 or

32 (2) Occurs before the completion of the winding up of the limited part-  
 33 nership, and:

34 (A) The person withdraws as a general partner by express will;

35 (B) The person is expelled as a general partner by judicial order  
 36 under section 30-24-603(5), Idaho Code;

37 (C) The person is dissociated as a general partner under section  
 38 30-24-603(7), Idaho Code; or

39 (D) In the case of a person that is not a trust other than a busi-  
 40 ness trust, an estate, or an individual, the person is expelled or  
 41 otherwise dissociated as a general partner because it willfully  
 42 dissolved or terminated.

43 (c) A person that wrongfully dissociates as a general partner is liable  
 44 to the limited partnership and, subject to section 30-24-901, Idaho Code, to  
 45 the other partners for damages caused by the dissociation. The liability is  
 46 in addition to any debt, obligation, or other liability of the general part-  
 47 ner to the partnership or the other partners.



1        30-24-605.    EFFECT OF DISSOCIATION AS GENERAL PARTNER. (a) If a person  
2 is dissociated as a general partner:

3        (1) The person's right to participate as a general partner in the man-  
4 agement and conduct of the limited partnership's activities and affairs  
5 terminates;

6        (2) The person's duties and obligations as a general partner under  
7 section 30-24-409, Idaho Code, end with regard to matters arising and  
8 events occurring after the person's dissociation;

9        (3) The person may sign and deliver to the secretary of state for filing  
10 a statement of dissociation pertaining to the person and, at the request  
11 of the limited partnership, shall sign an amendment to the certificate  
12 of limited partnership that states the person has dissociated as a gen-  
13 eral partner; and

14        (4) Subject to section 30-24-704, Idaho Code, and chapter 22, title 30,  
15 Idaho Code, any transferable interest owned by the person in the per-  
16 son's capacity as a general partner immediately before dissociation is  
17 owned by the person solely as a transferee.

18        (b) A person's dissociation as a general partner does not of itself dis-  
19 charge the person from any debt, obligation, or other liability to the lim-  
20 ited partnership or the other partners that the person incurred while a gen-  
21 eral partner.

22        30-24-606.    POWER TO BIND AND LIABILITY OF PERSON DISSOCIATED AS GEN-  
23 ERAL PARTNER. (a) After a person is dissociated as a general partner and be-  
24 fore the limited partnership is merged out of existence, converted, or do-  
25 mesticated under chapter 22, title 30, Idaho Code, or dissolved, the part-  
26 nership is bound by an act of the person only if:

27        (1) The act would have bound the partnership under section 30-24-402,  
28 Idaho Code, before the dissociation; and

29        (2) At the time the other party enters into the transaction:

30            (A) Less than two (2) years has passed since the dissociation; and

31            (B) The other party does not know or have notice of the dissocia-  
32 tion and reasonably believes that the person is a general partner.

33        (b) If a limited partnership is bound under subsection (a) of this sec-  
34 tion, the person dissociated as a general partner that caused the partner-  
35 ship to be bound is liable:

36        (1) To the partnership for any damage caused to the partnership arising  
37 from the obligation incurred under subsection (a) of this section; and

38        (2) If a general partner or another person dissociated as a general  
39 partner is liable for the obligation, to the general partner or other  
40 person for any damage caused to the general partner or other person  
41 arising from the liability.

42        30-24-607.    LIABILITY OF PERSON DISSOCIATED AS GENERAL PARTNER TO  
43 OTHER PERSONS. (a) A person's dissociation as a general partner does not  
44 of itself discharge the person's liability as a general partner for a debt,  
45 obligation, or other liability of the limited partnership incurred before  
46 dissociation. Except as otherwise provided in subsections (b) and (c) of  
47 this section, the person is not liable for a limited partnership obligation  
48 incurred after dissociation.

(b) A person whose dissociation as a general partner results in a dissolution and winding up of the limited partnership's activities and affairs is liable on an obligation incurred by the limited partnership under section 30-24-805, Idaho Code, to the same extent as a general partner under section 30-24-404, Idaho Code.

(c) A person that is dissociated as a general partner without the dissociation resulting in a dissolution and winding up of the limited partnership's activities and affairs is liable on a transaction entered into by the partnership after the dissociation only if:

(1) A general partner would be liable on the transaction; and

(2) At the time the other party enters into the transaction:

(A) Less than two (2) years has passed since the dissociation; and

(B) The other party does not have knowledge or notice of the dissociation and reasonably believes that the person is a general partner.

(d) By agreement with a creditor of a limited partnership and the partnership, a person dissociated as a general partner may be released from liability for a debt, obligation, or other liability of the partnership.

(e) A person dissociated as a general partner is released from liability for a debt, obligation, or other liability of the limited partnership if the partnership's creditor, with knowledge or notice of the person's dissociation as a general partner but without the person's consent, agrees to a material alteration in the nature or time of payment of the debt, obligation, or other liability.

SECTION 39. That Chapter 24, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW PART, to be known and designated as Part 7, Chapter 24, Title 30, Idaho Code, and to read as follows:

#### PART 7

#### TRANSFERABLE INTERESTS AND RIGHTS OF TRANSFEREES AND CREDITORS

30-24-701. NATURE OF TRANSFERABLE INTEREST. A transferable interest is personal property.

30-24-702. TRANSFER OF TRANSFERABLE INTEREST. (a) A transfer, in whole or in part, of a transferable interest:

(1) Is permissible, except the transfer of a transferable interest in a professional entity is not permissible without compliance with section 30-21-901(i), Idaho Code;

(2) Does not by itself cause a partner's dissociation or a dissolution and winding up of the limited partnership's activities and affairs; and

(3) Subject to section 30-24-704, Idaho Code, does not entitle the transferee to:

(A) Participate in the management or conduct of the partnership's activities and affairs; or

(B) Except as otherwise provided in subsection (c) of this section, have access to required information, records, or other information concerning the partnership's activities and affairs.

(b) A transferee has the right to receive, in accordance with the transfer, distributions to which the transferor would otherwise be entitled.

1 (c) In a dissolution and winding up of a limited partnership, a trans-  
 2 feree is entitled to an account of the partnership's transactions only from  
 3 the date of dissolution.

4 (d) A transferable interest may be evidenced by a certificate of the in-  
 5 terest issued by a limited partnership in a record, and, subject to this sec-  
 6 tion, the interest represented by the certificate may be transferred by a  
 7 transfer of the certificate.

8 (e) A limited partnership need not give effect to a transferee's rights  
 9 under this section until the partnership knows or has notice of the transfer.

10 (f) A transfer of a transferable interest in violation of a restriction  
 11 on transfer contained in the partnership agreement is ineffective as to a  
 12 person having knowledge or notice of the restriction at the time of transfer.

13 (g) Except as otherwise provided in sections 30-24-601(b)(4)(B) and  
 14 30-24-603(4)(B), Idaho Code, if a general or limited partner transfers a  
 15 transferable interest, the transferor retains the rights of a general or  
 16 limited partner other than the transferable interest transferred and re-  
 17 tains all the duties and obligations of a general or limited partner.

18 (h) If a general or limited partner transfers a transferable interest  
 19 to a person that becomes a general or limited partner with respect to the  
 20 transferred interest, the transferee is liable for the transferor's obli-  
 21 gations under sections 30-24-502 and 30-24-505, Idaho Code, known to the  
 22 transferee when the transferee becomes a partner.

23 30-24-703. CHARGING ORDER. (a) On application by a judgment creditor  
 24 of a partner or transferee, a court may enter a charging order against the  
 25 transferable interest of the judgment debtor for the unsatisfied amount of  
 26 the judgment. A charging order constitutes a lien on a judgment debtor's  
 27 transferable interest and requires the limited partnership to pay over to  
 28 the person to which the charging order was issued any distribution that oth-  
 29 erwise would be paid to the judgment debtor.

30 (b) To the extent necessary to effectuate the collection of distribu-  
 31 tions pursuant to a charging order in effect under subsection (a) of this  
 32 section, the court may:

33 (1) Appoint a receiver of the distributions subject to the charging or-  
 34 der, with the power to make all inquiries the judgment debtor might have  
 35 made; and

36 (2) Make all other orders necessary to give effect to the charging or-  
 37 der.

38 (c) Upon a showing that distributions under a charging order will not  
 39 pay the judgment debt within a reasonable time, the court may foreclose the  
 40 lien and order the sale of the transferable interest. The purchaser at the  
 41 foreclosure sale obtains only the transferable interest, does not thereby  
 42 become a partner, and is subject to section 30-24-702, Idaho Code.

43 (d) At any time before foreclosure under subsection (c) of this sec-  
 44 tion, the partner or transferee whose transferable interest is subject to  
 45 a charging order under subsection (a) of this section may extinguish the  
 46 charging order by satisfying the judgment and filing a certified copy of the  
 47 satisfaction with the court that issued the charging order.

48 (e) At any time before foreclosure under subsection (c) of this sec-  
 49 tion, a limited partnership or one (1) or more partners whose transferable

1 interests are not subject to the charging order may pay to the judgment cred-  
 2 itor the full amount due under the judgment and thereby succeed to the rights  
 3 of the judgment creditor, including the charging order.

4 (f) This title does not deprive any partner or transferee of the benefit  
 5 of any exemption law applicable to the transferable interest of the partner  
 6 or transferee.

7 (g) This section provides the exclusive remedy by which a person seek-  
 8 ing, in the capacity of a judgment creditor, to enforce a judgment against  
 9 a partner or transferee may satisfy the judgment from the judgment debtor's  
 10 transferable interest.

11 30-24-704. POWER OF LEGAL REPRESENTATIVE OF DECEASED PARTNER. If a  
 12 partner dies, the deceased partner's legal representative may exercise:

13 (1) The rights of a transferee provided in section 30-24-702(c), Idaho  
 14 Code; and

15 (2) For the purposes of settling the estate, the rights of a current  
 16 limited partner under section 30-24-304, Idaho Code.

17 SECTION 40. That Chapter 24, Title 30, Idaho Code, be, and the same is  
 18 hereby amended by the addition thereto of a NEW PART, to be known and desig-  
 19 nated as Part 8, Chapter 24, Title 30, Idaho Code, and to read as follows:

## 20 PART 8

### 21 DISSOLUTION AND WINDING UP

22 30-24-801. EVENTS CAUSING DISSOLUTION. (a) A limited partnership is  
 23 dissolved, and its activities and affairs must be wound up, upon the occur-  
 24 rence of any of the following:

25 (1) An event or circumstance that the partnership agreement states  
 26 causes dissolution;

27 (2) The affirmative vote or consent of all general partners and of lim-  
 28 ited partners owning a majority of the rights to receive distributions  
 29 as limited partners at the time the vote or consent is to be effective;

30 (3) After the dissociation of a person as a general partner:

31 (A) If the partnership has at least one (1) remaining general  
 32 partner, the affirmative vote or consent to dissolve the part-  
 33 nership not later than ninety (90) days after the dissociation by  
 34 partners owning a majority of the rights to receive distributions  
 35 as partners at the time the vote or consent is to be effective; or

36 (B) If the partnership does not have a remaining general partner,  
 37 the passage of ninety (90) days after the dissociation, unless be-  
 38 fore the end of the period:

39 (i) Consent to continue the activities and affairs of the  
 40 partnership and admit at least one (1) general partner is  
 41 given by limited partners owning a majority of the rights to  
 42 receive distributions as limited partners at the time the  
 43 consent is to be effective; and

44 (ii) At least one (1) person is admitted as a general partner  
 45 in accordance with the consent;

(4) The passage of ninety (90) consecutive days after the dissociation of the partnership's last limited partner, unless before the end of the period the partnership admits at least one (1) limited partner;

(5) The passage of ninety (90) consecutive days during which the partnership has only one (1) partner, unless before the end of the period:

(A) The partnership admits at least one (1) person as a partner;

(B) If the previously sole remaining partner is only a general partner, the partnership admits the person as a limited partner; and

(C) If the previously sole remaining partner is only a limited partner, the partnership admits a person as a general partner;

(6) On application by a partner, the entry by the district court of an order dissolving the partnership on the grounds that:

(A) The conduct of all or substantially all the partnership's activities and affairs is unlawful; or

(B) It is not reasonably practicable to carry on the partnership's activities and affairs in conformity with the certificate of limited partnership and partnership agreement; or

(7) The signing and filing of a statement of administrative dissolution by the secretary of state under section 30-21-811, Idaho Code.

(b) If an event occurs that imposes a deadline on a limited partnership under subsection (a) of this section and before the partnership has met the requirements of the deadline, another event occurs that imposes a different deadline on the partnership under subsection (a) of this section:

(1) The occurrence of the second event does not affect the deadline caused by the first event; and

(2) The partnership's meeting of the requirements of the first deadline does not extend the second deadline.

30-24-802. WINDING UP. (a) A dissolved limited partnership shall wind up its activities and affairs, and, except as otherwise provided in section 30-24-803, Idaho Code, the partnership continues after dissolution only for the purpose of winding up.

(b) In winding up its activities and affairs, the limited partnership:

(1) Shall discharge the partnership's debts, obligations, and other liabilities, settle and close the partnership's activities and affairs, and marshal and distribute the assets of the partnership; and

(2) May:

(A) Amend its certificate of limited partnership to state that the limited partnership is dissolved;

(B) Preserve the partnership activities, affairs, and property as a going concern for a reasonable time;

(C) Prosecute and defend actions and proceedings, whether civil, criminal, or administrative;

(D) Transfer the partnership's property;

(E) Settle disputes by mediation or arbitration;

(F) Deliver to the secretary of state for filing a statement of termination stating the name of the partnership and that the partnership is terminated; and

(G) Perform other acts necessary or appropriate to the winding up.

1 (c) If a dissolved limited partnership does not have a general partner,  
 2 a person to wind up the dissolved partnership's activities and affairs may  
 3 be appointed by the affirmative vote or consent of limited partners owning  
 4 a majority of the rights to receive distributions as limited partners at the  
 5 time the vote or consent is to be effective. A person appointed under this  
 6 subsection:

7 (1) Has the powers of a general partner under section 30-24-804, Idaho  
 8 Code, but is not liable for the debts, obligations, and other liabilities  
 9 of the partnership solely by reason of having or exercising those  
 10 powers or otherwise acting to wind up the dissolved partnership's ac-  
 11 tivities and affairs; and

12 (2) Shall deliver promptly to the secretary of state for filing an  
 13 amendment to the partnership's certificate of limited partnership  
 14 stating:

15 (A) That the partnership does not have a general partner;

16 (B) The name and street and mailing addresses of the person; and

17 (C) That the person has been appointed pursuant to this subsection  
 18 to wind up the partnership.

19 (d) On the application of a partner, the district court may order judi-  
 20 cial supervision of the winding up of a dissolved limited partnership, in-  
 21 cluding the appointment of a person to wind up the partnership's activities  
 22 and affairs, if:

23 (1) The partnership does not have a general partner and within a reason-  
 24 able time following the dissolution no person has been appointed pur-  
 25 suant to subsection (c) of this section; or

26 (2) The applicant establishes other good cause.

27 30-24-803. RESCINDING DISSOLUTION. (a) A limited partnership may re-  
 28 scind its dissolution, unless a statement of termination applicable to the  
 29 partnership is effective, the district court has entered an order under sec-  
 30 tion 30-24-801(a) (6), Idaho Code, dissolving the partnership, or the secre-  
 31 tary of state has dissolved the partnership under section 30-24-811, Idaho  
 32 Code.

33 (b) Rescinding dissolution under this section requires:

34 (1) The affirmative vote or consent of each partner; and

35 (2) If the limited partnership has delivered to the secretary of state  
 36 for filing an amendment to the certificate of limited partnership stat-  
 37 ing that the partnership is dissolved and:

38 (A) The amendment is not effective, the filing by the partnership  
 39 of a statement of withdrawal under section 30-21-204, Idaho Code,  
 40 applicable to the amendment; or

41 (B) The amendment is effective, the delivery by the partnership to  
 42 the secretary of state for filing of an amendment to the certifi-  
 43 cate of limited partnership stating that dissolution has been re-  
 44 scinded under this section.

45 (c) If a limited partnership rescinds its dissolution:

46 (1) The partnership resumes carrying on its activities and affairs as  
 47 if dissolution had never occurred;

(2) Subject to paragraph (3) of this subsection, any liability incurred by the partnership after the dissolution and before the rescission is effective is determined as if dissolution had never occurred; and

(3) The rights of a third party arising out of conduct in reliance on the dissolution before the third party knew or had notice of the rescission may not be adversely affected.

30-24-804. POWER TO BIND PARTNERSHIP AFTER DISSOLUTION. (a) A limited partnership is bound by a general partner's act after dissolution which:

(1) Is appropriate for winding up the partnership's activities and affairs; or

(2) Would have bound the partnership under section 30-24-402, Idaho Code, before dissolution, if, at the time the other party enters into the transaction, the other party does not know or have notice of the dissolution.

(b) A person dissociated as a general partner binds a limited partnership through an act occurring after dissolution if:

(1) At the time the other party enters into the transaction:

(A) Less than two (2) years has passed since the dissociation; and

(B) The other party does not know or have notice of the dissociation and reasonably believes that the person is a general partner; and

(2) The act:

(A) Is appropriate for winding up the partnership's activities and affairs; or

(B) Would have bound the partnership under section 30-24-402, Idaho Code, before dissolution and at the time the other party enters into the transaction the other party does not know or have notice of the dissolution.

30-24-805. LIABILITY AFTER DISSOLUTION OF GENERAL PARTNER AND PERSON DISSOCIATED AS GENERAL PARTNER. (a) If a general partner having knowledge of the dissolution causes a limited partnership to incur an obligation under section 30-24-804(a), Idaho Code, by an act that is not appropriate for winding up the partnership's activities and affairs, the general partner is liable:

(1) To the partnership for any damage caused to the partnership arising from the obligation; and

(2) If another general partner or a person dissociated as a general partner is liable for the obligation, to that other general partner or person for any damage caused to that other general partner or person arising from the liability.

(b) If a person dissociated as a general partner causes a limited partnership to incur an obligation under section 30-24-804(b), Idaho Code, the person is liable:

(1) To the partnership for any damage caused to the partnership arising from the obligation; and

(2) If a general partner or another person dissociated as a general partner is liable for the obligation, to the general partner or other

1 person for any damage caused to the general partner or other person  
2 arising from the obligation.

3 30-24-806. KNOWN CLAIMS AGAINST DISSOLVED LIMITED PARTNER-  
4 SHIP. (a) Except as otherwise provided in subsection (d) of this section,  
5 a dissolved limited partnership may give notice of a known claim under  
6 subsection (b) of this section, which has the effect provided in subsection  
7 (c) of this section.

8 (b) A dissolved limited partnership may in a record notify its known  
9 claimants of the dissolution. The notice must:

10 (1) Specify the information required to be included in a claim;

11 (2) State that a claim must be in writing and provide a mailing address  
12 to which the claim is to be sent;

13 (3) State the deadline for receipt of a claim, which may not be less than  
14 one hundred twenty (120) days after the date the notice is received by  
15 the claimant;

16 (4) State that the claim will be barred if not received by the deadline;  
17 and

18 (5) Unless the partnership has been throughout its existence a lim-  
19 ited liability limited partnership, state that the barring of a claim  
20 against the partnership will also bar any corresponding claim against  
21 any general partner or person dissociated as a general partner that is  
22 based on section 30-24-404, Idaho Code.

23 (c) A claim against a dissolved limited partnership is barred if the re-  
24 quirements of subsection (b) of this section are met and:

25 (1) The claim is not received by the specified deadline; or

26 (2) If the claim is timely received but rejected by the partnership:

27 (A) The partnership causes the claimant to receive a notice in a  
28 record stating that the claim is rejected and will be barred unless  
29 the claimant commences an action against the partnership to en-  
30 force the claim not later than ninety (90) days after the claimant  
31 receives the notice; and

32 (B) The claimant does not commence the required action not later  
33 than ninety (90) days after the claimant receives the notice.

34 (d) This section does not apply to a claim based on an event occurring  
35 after the date of dissolution or a liability that on that date is contingent.

36 30-24-807. OTHER CLAIMS AGAINST DISSOLVED LIMITED PARTNERSHIP. (a) A  
37 dissolved limited partnership may publish notice of its dissolution and re-  
38 quest persons having claims against the partnership to present them in ac-  
39 cordance with the notice.

40 (b) A notice under subsection (a) of this section must:

41 (1) Be published at least once in a newspaper of general circulation in  
42 the county in this state in which the dissolved limited partnership's  
43 principal office is located or, if the principal office is not located  
44 in this state, in the county in which the office of the partnership's  
45 registered agent is or was last located;

46 (2) Describe the information required to be contained in a claim, state  
47 that the claim must be in writing, and provide a mailing address to which  
48 the claim is to be sent;



(3) State that a claim against the partnership is barred unless an action to enforce the claim is commenced not later than three (3) years after publication of the notice; and

(4) Unless the partnership has been throughout its existence a limited liability limited partnership, state that the barring of a claim against the partnership will also bar any corresponding claim against any general partner or person dissociated as a general partner that is based on section 30-24-404, Idaho Code.

(c) If a dissolved limited partnership publishes a notice in accordance with subsection (b) of this section, the claim of each of the following claimants is barred unless the claimant commences an action to enforce the claim against the partnership not later than three (3) years after the publication date of the notice:

(1) A claimant that did not receive notice in a record under section 30-24-806, Idaho Code;

(2) A claimant whose claim was timely sent to the partnership but not acted on; and

(3) A claimant whose claim is contingent at, or based on an event occurring after, the date of dissolution.

(d) A claim not barred under this section or section 30-24-806, Idaho Code, may be enforced:

(1) Against the dissolved limited partnership, to the extent of its undistributed assets;

(2) Except as otherwise provided in section 30-24-808, Idaho Code, if assets of the partnership have been distributed after dissolution, against a partner or transferee to the extent of that person's proportionate share of the claim or of the partnership's assets distributed to the partner or transferee after dissolution, whichever is less, but a person's total liability for all claims under this paragraph may not exceed the total amount of assets distributed to the person after dissolution; and

(3) Against any person liable on the claim under sections 30-24-404 and 30-24-607, Idaho Code.

30-24-808. COURT PROCEEDINGS. (1) A dissolved limited partnership that has published a notice under section 30-24-807, Idaho Code, may file an application with the district court in the county where the partnership's principal office is located or, if the principal office is not located in this state, where the office of its registered agent is or was last located, for a determination of the amount and form of security to be provided for payment of claims that are reasonably expected to arise after the date of dissolution based on facts known to the partnership and:

(1) At the time of the application:

(A) Are contingent; or

(B) Have not been made known to the partnership; or

(2) Are based on an event occurring after the date of dissolution.

(b) Security is not required for any claim that is or is reasonably anticipated to be barred under section 30-24-807, Idaho Code.

(c) Not later than ten (10) days after the filing of an application under subsection (a) of this section, the dissolved limited partnership shall

1 give notice of the proceeding to each claimant holding a contingent claim  
2 known to the partnership.

3 (d) In a proceeding brought under this section, the court may appoint a  
4 guardian ad litem to represent all claimants whose identities are unknown.  
5 The reasonable fees and expenses of the guardian, including all reasonable  
6 expert witness fees, must be paid by the dissolved limited partnership.

7 (e) A dissolved limited partnership that provides security in the  
8 amount and form ordered by the court under subsection (a) of this section  
9 satisfies the partnership's obligations with respect to claims that are  
10 contingent, have not been made known to the partnership, or are based on an  
11 event occurring after the date of dissolution, and such claims may not be  
12 enforced against a partner or transferee on account of assets received in  
13 liquidation.

14 30-24-809. LIABILITY OF GENERAL PARTNER AND PERSON DISSOCIATED AS  
15 GENERAL PARTNER WHEN CLAIM AGAINST LIMITED PARTNERSHIP BARRED. If a claim  
16 against a dissolved limited partnership is barred under section 30-24-806,  
17 30-24-807, or 30-24-808, Idaho Code, any corresponding claim under section  
18 30-24-404 or 30-24-607, Idaho Code, is also barred.

19 30-24-810. DISPOSITION OF ASSETS IN WINDING UP -- WHEN CONTRIBUTIONS  
20 REQUIRED. (a) In winding up its activities and affairs, a limited partner-  
21 ship shall apply its assets, including the contributions required by this  
22 section, to discharge the partnership's obligations to creditors, including  
23 partners that are creditors.

24 (b) After a limited partnership complies with subsection (a) of this  
25 section, any surplus must be distributed in the following order, subject to  
26 any charging order in effect under section 30-24-703, Idaho Code:

27 (1) To each person owning a transferable interest that reflects contri-  
28 butions made and not previously returned, an amount equal to the value  
29 of the unreturned contributions; and

30 (2) Among partners and persons dissociated as partners in proportion  
31 to their respective rights to share in distributions immediately before  
32 the dissolution of the partnership, except to the extent necessary to  
33 comply with any transfer effective under section 30-24-702, Idaho Code.

34 (c) If a limited partnership's assets are insufficient to satisfy all  
35 of its obligations under subsection (a) of this section, with respect to each  
36 unsatisfied obligation incurred when the partnership was not a limited lia-  
37 bility limited partnership, the following rules apply:

38 (1) Each person that was a general partner when the obligation was in-  
39 curred and that has not been released from the obligation under section  
40 30-24-607, Idaho Code, shall contribute to the partnership for the pur-  
41 pose of enabling the partnership to satisfy the obligation. The contri-  
42 bution due from each of those persons is in proportion to the right to  
43 receive distributions in the capacity of a general partner in effect for  
44 each of those persons when the obligation was incurred.

45 (2) If a person does not contribute the full amount required under  
46 paragraph (1) of this subsection with respect to an unsatisfied obli-  
47 gation of the partnership, the other persons required to contribute  
48 by paragraph (1) of this subsection on account of the obligation shall

1 contribute the additional amount necessary to discharge the obliga-  
 2 tion. The additional contribution due from each of those other persons  
 3 is in proportion to the right to receive distributions in the capacity  
 4 of a general partner in effect for each of those other persons when the  
 5 obligation was incurred.

6 (3) If a person does not make the additional contribution required by  
 7 paragraph (2) of this subsection, further additional contributions are  
 8 determined and due in the same manner as provided in that paragraph.

9 (d) A person that makes an additional contribution under subsection  
 10 (c) (2) or (3) of this section may recover from any person whose failure to  
 11 contribute under subsection (c) (1) or (2) of this section necessitated the  
 12 additional contribution. A person may not recover under this subsection  
 13 more than the amount additionally contributed. A person's liability under  
 14 this subsection may not exceed the amount the person failed to contribute.

15 (e) If a limited partnership does not have sufficient surplus to com-  
 16 ply with subsection (b) (1) of this section, any surplus must be distributed  
 17 among the owners of transferable interests in proportion to the value of the  
 18 respective unreturned contributions.

19 (f) All distributions made under subsections (b) and (c) of this sec-  
 20 tion must be paid in money.

21 30-24-811. SUBJECTS COVERED OUTSIDE CHAPTER. The following subjects  
 22 are covered outside this chapter:

23 (1) Administrative dissolution - sections 30-21-601 and 30-21-602,  
 24 Idaho Code.

25 (2) Reinstatement - section 30-21-603, Idaho Code.

26 (3) Judicial review of denial of reinstatement - section 30-21-604,  
 27 Idaho Code.

28 SECTION 41. That Chapter 24, Title 30, Idaho Code, be, and the same is  
 29 hereby amended by the addition thereto of a NEW PART, to be known and desig-  
 30 nated as Part 9, Chapter 24, Title 30, Idaho Code, and to read as follows:

## 31 PART 9

### 32 ACTIONS BY PARTNERS

33 30-24-901. DIRECT ACTION BY PARTNER. (a) Subject to subsection (b) of  
 34 this section, a partner may maintain a direct action against another partner  
 35 or the limited partnership, with or without an accounting as to the partner-  
 36 ship's activities and affairs, to enforce the partner's rights and protect  
 37 the partner's interests, including rights and interests under the partner-  
 38 ship agreement or this title or arising independently of the partnership re-  
 39 lationship.

40 (b) A partner maintaining a direct action under this section must plead  
 41 and prove an actual or threatened injury that is not solely the result of an  
 42 injury suffered or threatened to be suffered by the limited partnership.

43 (c) A right to an accounting upon a dissolution and winding up does not  
 44 revive a claim barred by law.

45 30-24-902. DERIVATIVE ACTION. A partner may maintain a derivative ac-  
 46 tion to enforce a right of a limited partnership if:

1       (1) The partner first makes a demand on the general partners, request-  
2       ing that they cause the partnership to bring an action to enforce the right,  
3       and the general partners do not bring the action within a reasonable time; or

4       (2) A demand under subsection (1) of this section would be futile.

5       30-24-903. PROPER PLAINTIFF. A derivative action to enforce a right of  
6       a limited partnership may be maintained only by a person that is a partner at  
7       the time the action is commenced and:

8       (1) Was a partner when the conduct giving rise to the action occurred;  
9       or

10       (2) Whose status as a partner devolved on the person by operation of law  
11       or pursuant to the terms of the partnership agreement from a person that was a  
12       partner at the time of the conduct.

13       30-24-904. PLEADING. In a derivative action, the complaint must state  
14       with particularity:

15       (1) The date and content of plaintiff's demand and the response to the  
16       demand by the general partner; or

17       (2) Why demand should be excused as futile.

18       30-24-905. SPECIAL LITIGATION COMMITTEE. (a) If a limited partner-  
19       ship is named as or made a party in a derivative proceeding, the partner-  
20       ship may appoint a special litigation committee to investigate the claims  
21       asserted in the proceeding and determine whether pursuing the action is in  
22       the best interests of the partnership. If the partnership appoints a spe-  
23       cial litigation committee, on motion by the committee made in the name of the  
24       partnership, except for good cause shown, the court shall stay discovery for  
25       the time reasonably necessary to permit the committee to make its investiga-  
26       tion. This subsection does not prevent the court from:

27       (1) Enforcing a person's right to information under section 30-24-304  
28       or 30-24-407, Idaho Code; or

29       (2) Granting extraordinary relief in the form of a temporary restrain-  
30       ing order or preliminary injunction.

31       (b) A special litigation committee must be composed of one (1) or more  
32       disinterested and independent individuals, who may be partners.

33       (c) A special litigation committee may be appointed:

34       (1) By a majority of the general partners not named as parties in the  
35       proceeding; or

36       (2) If all general partners are named as parties in the proceeding, by a  
37       majority of the general partners named as defendants.

38       (d) After appropriate investigation, a special litigation committee  
39       may determine that it is in the best interests of the limited partnership  
40       that the proceeding:

41       (1) Continue under the control of the plaintiff;

42       (2) Continue under the control of the committee;

43       (3) Be settled on terms approved by the committee; or

44       (4) Be dismissed.

45       (e) After making a determination under subsection (d) of this section,  
46       a special litigation committee shall file with the court a statement of its  
47       determination and its report supporting its determination and shall serve

each party with a copy of the determination and report. The court shall determine whether the members of the committee were disinterested and independent and whether the committee conducted its investigation and made its recommendation in good faith, independently, and with reasonable care, with the committee having the burden of proof. If the court finds that the members of the committee were disinterested and independent and that the committee acted in good faith, independently, and with reasonable care, the court shall enforce the determination of the committee. Otherwise, the court shall dissolve the stay of discovery entered under subsection (a) of this section and allow the action to continue under the control of the plaintiff.

30-24-906. PROCEEDS AND EXPENSES. (a) Except as otherwise provided in subsection (b) of this section:

(1) Any proceeds or other benefits of a derivative action, whether by judgment, compromise, or settlement, belong to the limited partnership and not to the plaintiff; and

(2) If the plaintiff receives any proceeds, the plaintiff shall remit them immediately to the partnership.

(b) If a derivative action is successful in whole or in part, the court may award the plaintiff reasonable expenses, including reasonable attorney's fees and costs, from the recovery of the limited partnership.

(c) A derivative action on behalf of a limited partnership may not be voluntarily dismissed or settled without the court's approval.

SECTION 42. That Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 25, Title 30, Idaho Code, and to read as follows:

## CHAPTER 25 LIMITED LIABILITY COMPANIES

SECTION 43. That Chapter 25, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW PART, to be known and designated as Part 1, Chapter 25, Title 30, Idaho Code, and to read as follows:

## PART 1 GENERAL PROVISIONS

30-25-101. SHORT TITLE. This chapter may be cited as the "Idaho Uniform Limited Liability Company Act."

30-25-102. DEFINITIONS. (a) In this chapter:

(1) "Certificate of organization" means the certificate required by section 30-25-201, Idaho Code. The term includes the certificate as amended or restated.

(2) "Contribution," except in the phrase "right of contribution," means property or a benefit described in section 30-25-402, Idaho Code, that is provided by a person to a limited liability company to become a member or in the person's capacity as a member.

1 (3) "Distribution" means a transfer of money or other property from a  
2 limited liability company to a person on account of a transferable in-  
3 terest or in the person's capacity as a member. The term:

4 (A) Includes:

5 (i) A redemption or other purchase by a limited liability  
6 company of a transferable interest; and

7 (ii) A transfer to a member in return for the member's relin-  
8 quishment of any right to participate as a member in the man-  
9 agement or conduct of the company's activities and affairs  
10 or to have access to records or other information concerning  
11 the company's activities and affairs; and

12 (B) Does not include amounts constituting reasonable compensa-  
13 tion for present or past service or payments made in the ordinary  
14 course of business under a bona fide retirement plan or other bona  
15 fide benefits program.

16 (4) "Limited liability company" means an entity formed under this chap-  
17 ter or that becomes subject to this chapter under chapter 22, title 30,  
18 Idaho Code, or section 30-25-110, Idaho Code.

19 (5) "Manager" means a person that under the operating agreement of a  
20 manager-managed limited liability company is responsible, alone or in  
21 concert with others, for performing the management functions stated in  
22 section 30-25-407(c), Idaho Code.

23 (6) "Manager-managed limited liability company" means a limited lia-  
24 bility company that qualifies under section 30-25-407(a), Idaho Code.

25 (7) "Member" means a person that:

26 (A) Has become a member of a limited liability company under sec-  
27 tion 30-25-401, Idaho Code, or was a member in a company when the  
28 company became subject to this chapter under section 30-25-110,  
29 Idaho Code; and

30 (B) Has not dissociated under section 30-25-602, Idaho Code.

31 (8) "Member-managed limited liability company" means a limited liabil-  
32 ity company that is not a manager-managed limited liability company.

33 (9) "Operating agreement" means the agreement, whether or not referred  
34 to as an operating agreement and whether oral, implied, in a record, or  
35 in any combination thereof, of all the members of a limited liability  
36 company, including a sole member, concerning the matters described in  
37 section 30-25-105(a), Idaho Code. The term includes the agreement as  
38 amended or restated.

39 (10) "Organizer" means a person that acts under section 30-25-201,  
40 Idaho Code, to form a limited liability company.

41 (11) "Transferable interest" means the right, as initially owned by a  
42 person in the person's capacity as a member, to receive distributions  
43 from a limited liability company, whether or not the person remains a  
44 member or continues to own any part of the right. The term applies to any  
45 fraction of the interest, by whomever owned.

46 (12) "Transferee" means a person to which all or part of a transferable  
47 interest has been transferred, whether or not the transferor is a mem-  
48 ber. The term includes a person that owns a transferable interest under  
49 section 30-25-603(a) (3), Idaho Code.

1 (b) The following definitions outside this chapter apply to this chap-  
2 ter:

- 3 (1) "Debtor in bankruptcy" - section 30-21-102(6), Idaho Code.
- 4 (2) "Foreign" - section 30-21-102(14), Idaho Code.
- 5 (3) "Jurisdiction" - section 30-21-102(21), Idaho Code.
- 6 (4) "Jurisdiction of formation" - section 30-21-102(22), Idaho Code.
- 7 (5) "Person" - section 30-21-102(34), Idaho Code.
- 8 (6) "Principal office" - section 30-21-102(35), Idaho Code.
- 9 (7) "Property" - section 30-21-102(40), Idaho Code.
- 10 (8) "Record" - section 30-21-102(43), Idaho Code.
- 11 (9) "Registered agent" - section 30-21-102(44), Idaho Code.
- 12 (10) "Sign" - section 30-21-102(46), Idaho Code.
- 13 (11) "State" - section 30-21-102(47), Idaho Code.
- 14 (12) "Transfer" - section 30-21-102(49), Idaho Code.

15 30-25-103. KNOWLEDGE -- NOTICE. (a) A person knows a fact if the per-  
16 son:

- 17 (1) Has actual knowledge of it; or
- 18 (2) Is deemed to know it under subsection (d)(1) of this section or law
- 19 other than this title.

20 (b) A person has notice of a fact if the person:

- 21 (1) Has reason to know the fact from all the facts known to the person at
- 22 the time in question; or
- 23 (2) Is deemed to have notice of the fact under subsection (d)(2) of this
- 24 section.

25 (c) Subject to section 30-25-210(f), Idaho Code, a person notifies  
26 another person of a fact by taking steps reasonably required to inform the  
27 other person in ordinary course, whether or not those steps cause the other  
28 person to know the fact.

29 (d) A person not a member is deemed:

- 30 (1) To know of a limitation on authority to transfer real property as
- 31 provided in section 30-25-302(g), Idaho Code; and
- 32 (2) To have notice of a limited liability company's:
  - 33 (A) Dissolution ninety (90) days after a statement of dissolution
  - 34 under section 30-25-702(b)(2)(A), Idaho Code, becomes effective;
  - 35 (B) Termination ninety (90) days after a statement of termination
  - 36 under section 30-25-702(b)(2)(F), Idaho Code, becomes effective;
  - 37 and
  - 38 (C) Participation in a merger, interest exchange, conversion, or
  - 39 domestication, ninety (90) days after articles of merger, inter-
  - 40 est exchange, conversion, or domestication under chapter 22, ti-
  - 41 tle 30, Idaho Code, become effective.

42 30-25-104. GOVERNING LAW. The law of this state governs:

- 43 (1) The internal affairs of a limited liability company; and
- 44 (2) The liability of a member as member and a manager as manager for the
- 45 debts, obligations, or other liabilities of a limited liability company.

1        30-25-105. OPERATING AGREEMENT -- SCOPE -- FUNCTION -- LIMITA-  
 2 TIONS. (a) Except as otherwise provided in subsections (c) and (d) of this  
 3 section, the operating agreement governs:

4        (1) Relations among the members as members and between the members and  
 5 the limited liability company;

6        (2) The rights and duties under this title of a person in the capacity of  
 7 manager;

8        (3) The activities and affairs of the company and the conduct of those  
 9 activities and affairs; and

10       (4) The means and conditions for amending the operating agreement.

11       (b) To the extent the operating agreement does not provide for a matter  
 12 described in subsection (a) of this section, this chapter governs the mat-  
 13 ter.

14       (c) An operating agreement may not:

15       (1) Vary the law applicable under section 30-25-104, Idaho Code;

16       (2) Vary a limited liability company's capacity under Section 30-25-  
 17 109, Idaho Code, to sue and be sued in its own name;

18       (3) Vary any requirement, procedure, or other provision of this title  
 19 pertaining to:

20           (A) Registered agents; or

21           (B) The secretary of state, including provisions pertaining to  
 22 records authorized or required to be delivered to the secretary of  
 23 state for filing under this title;

24       (4) Vary the provisions of section 30-25-204, Idaho Code;

25       (5) Alter or eliminate the duty of loyalty or the duty of care, except as  
 26 otherwise provided in subsection (d) of this section;

27       (6) Eliminate the contractual obligation of good faith and fair dealing  
 28 under section 30-25-409(d), Idaho Code, but the operating agreement may  
 29 prescribe the standards, if not manifestly unreasonable, by which the  
 30 performance of the obligation is to be measured;

31       (7) Relieve or exonerate a person from liability for conduct involving  
 32 bad faith, willful or intentional misconduct, or knowing violation of  
 33 law;

34       (8) Unreasonably restrict the duties and rights under section  
 35 30-25-410, Idaho Code, but the operating agreement may impose reason-  
 36 able restrictions on the availability and use of information obtained  
 37 under that section and may define appropriate remedies, including liq-  
 38 uidated damages, for a breach of any reasonable restriction on use;

39       (9) Vary the causes of dissolution specified in section 30-25-  
 40 701(a)(4), Idaho Code;

41       (10) Vary the requirement to wind up the company's activities and af-  
 42 fairs as specified in section 30-25-702(a), (b)(1), and (e), Idaho  
 43 Code;

44       (11) Unreasonably restrict the right of a member to maintain an action  
 45 under part 8 of this chapter;

46       (12) Vary the provisions of section 30-25-805, Idaho Code, but the op-  
 47 erating agreement may provide that the company may not have a special  
 48 litigation committee;



(13) Vary the right of a member to approve a merger, interest exchange, conversion, or domestication under section 30-22-203(a) (2), 30-22-303(a) (2), 30-22-403(a) (2) or 30-22-503(a) (2), Idaho Code; or

(14) Vary the required contents of a plan of merger under section 30-22-202(a), Idaho Code, plan of interest exchange under section 30-22-302(a), Idaho Code, plan of conversion under section 30-22-402(a), Idaho Code, or plan of domestication under section 30-22-502(a), Idaho Code; or

(15) Except as otherwise provided in sections 30-25-106 and 30-25-107(b), Idaho Code, restrict the rights under this chapter of a person other than a member or manager.

(d) Subject to subsection (c) (7) of this section, without limiting other terms that may be included in an operating agreement, the following rules apply:

(1) The operating agreement may:

(A) Specify the method by which a specific act or transaction that would otherwise violate the duty of loyalty may be authorized or ratified by one or more disinterested and independent persons after full disclosure of all material facts; and

(B) Alter the prohibition in section 30-25-405(a) (2), Idaho Code, so that the prohibition requires only that the company's total assets not be less than the sum of its total liabilities.

(2) To the extent the operating agreement of a member-managed limited liability company expressly relieves a member of a responsibility that the member otherwise would have under this chapter and imposes the responsibility on one (1) or more other members, the agreement also may eliminate or limit any fiduciary duty of the member relieved of the responsibility that would have pertained to the responsibility.

(3) If not manifestly unreasonable, the operating agreement may:

(A) Alter or eliminate the aspects of the duty of loyalty stated in section 30-25-409(b) and (i), Idaho Code;

(B) Identify specific types or categories of activities that do not violate the duty of loyalty;

(C) Alter the duty of care, but may not authorize conduct involving bad faith, willful or intentional misconduct, or knowing violation of law; and

(D) Alter or eliminate any other fiduciary duty.

(e) The court shall decide as a matter of law whether a term of an operating agreement is manifestly unreasonable under subsection (c) (6) or (d) (3) of this section. The court:

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

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

(A) The objective of the term is unreasonable; or

(B) The term is an unreasonable means to achieve the provision's objective.

1        30-25-106. OPERATING AGREEMENT -- EFFECT ON LIMITED LIABILITY COMPANY  
2 AND PERSON BECOMING MEMBER -- PREFORMATION AGREEMENT. (a) A limited liabil-  
3 ity company is bound by and may enforce the operating agreement, whether or  
4 not the company has itself manifested assent to the operating agreement.

5        (b) A person that becomes a member is deemed to assent to the operating  
6 agreement.

7        (c) Two (2) or more persons intending to become the initial members may  
8 make an agreement providing that upon the formation of the company the agree-  
9 ment will become the operating agreement. One person intending to become the  
10 initial member of a limited liability company may assent to terms providing  
11 that upon the formation of the company the terms will become the operating  
12 agreement.

13        30-25-107. OPERATING AGREEMENT -- EFFECT ON THIRD PARTIES AND RELA-  
14 TIONSHIP TO RECORDS EFFECTIVE ON BEHALF OF LIMITED LIABILITY COMPANY. (a) An  
15 operating agreement may specify that its amendment requires the approval of  
16 a person that is not a party to the agreement or the satisfaction of a condi-  
17 tion. An amendment is ineffective if its adoption does not include the re-  
18 quired approval or satisfy the specified condition.

19        (b) The obligations of a limited liability company and its members to a  
20 person in the person's capacity as a transferee or a person dissociated as a  
21 member are governed by the operating agreement. Subject only to a court or-  
22 der issued under section 30-25-503(b) (2), Idaho Code, to effectuate a charg-  
23 ing order, an amendment to the operating agreement made after a person be-  
24 comes a transferee or is dissociated as a member:

25        (1) Is effective with regard to any debt, obligation, or other liabil-  
26 ity of the limited liability company or its members to the person in the  
27 person's capacity as a transferee or person dissociated as a member; and

28        (2) Is not effective to the extent the amendment imposes a new debt,  
29 obligation, or other liability on the transferee or person dissociated  
30 as a member.

31        (c) If a record delivered by a limited liability company to the sec-  
32 retary of state for filing becomes effective and contains a provision that  
33 would be ineffective under section 30-25-105(c) or (d) (3), Idaho Code, if  
34 contained in the operating agreement, the provision is ineffective in the  
35 record.

36        (d) Subject to subsection (c) of this section, if a record delivered by  
37 a limited liability company to the secretary of state for filing becomes ef-  
38 fective and conflicts with a provision of the operating agreement:

39        (1) The agreement prevails as to members, persons dissociated as mem-  
40 bers, transferees, and managers; and

41        (2) The record prevails as to other persons to the extent they reason-  
42 ably rely on the record.

43        30-25-108. NATURE, PURPOSE AND DURATION OF LIMITED LIABILITY COM-  
44 PANY. (a) A limited liability company is an entity distinct from its member  
45 or members.

46        (b) A limited liability company may have any lawful purpose.

47        (c) A limited liability company has perpetual duration.

30-25-109. POWERS. A limited liability company has the capacity to sue and be sued in its own name and the power to do all things necessary or convenient to carry on its activities and affairs.

30-25-110. APPLICATION TO EXISTING RELATIONSHIPS. (a) Before July 1, 2016, this chapter governs only:

(1) A limited liability company formed on or after July 1, 2014; and

(2) Except as otherwise provided in subsection (c) of this section, a limited liability company formed before July 1, 2014, which elects, in the manner provided in its operating agreement or by law for amending the operating agreement, to be subject to this chapter.

(b) Except as otherwise provided in subsection (c) of this section, on and after July 1, 2016, this chapter governs all limited liability companies.

(c) For purposes of applying this chapter to a limited liability company formed before July 1, 2008:

(1) The company's articles of organization are deemed to be the company's certificate of organization; and

(2) For purposes of applying section 30-25-102(10), Idaho Code, and subject to section 30-25-107(d), Idaho Code, language in the company's articles of organization designating the company's management structure operates as if that language were in the operating agreement.

30-25-111. SUBJECTS COVERED OUTSIDE CHAPTER. The following subjects are covered outside this chapter:

(1) Delivery of record - section 30-21-104, Idaho Code.

(2) Permitted names - section 30-21-301, Idaho Code.

(3) Reservation of name- section 30-21-303, Idaho Code.

(4) Registration of name- section 30-21-304, Idaho Code.

(5) Registered agent- section 30-21-404, Idaho Code.

(6) Change of registered agent or address for registered agent by limited liability company - section 30-21-407, Idaho Code.

(7) Resignation of registered agent - section 30-21-410, Idaho Code.

(8) Change of name or address by registered agent - section 30-21-408 and 409, Idaho Code.

(9) Service of process, notice, or demand - section 30-21-412, Idaho Code.

(10) Reservation of power to amend or repeal - section 30-21-701, Idaho Code.

(11) Supplemental principles of law - section 30-21-702, Idaho Code.

SECTION 44. That Chapter 25, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW PART, to be known and designated as Part 2, Chapter 25, Title 30, Idaho Code, and to read as follows:

## PART 2

FORMATION -- CERTIFICATE OF ORGANIZATION AND OTHER FILINGS

30-25-201. FORMATION OF LIMITED LIABILITY COMPANY -- CERTIFICATE OF ORGANIZATION. (a) One (1) or more persons may act as organizers to form a lim-

1 ited liability company by delivering to the secretary of state for filing a  
2 certificate of organization.

3 (b) A certificate of organization must state:

4 (1) The name of the limited liability company that must comply with sec-  
5 tions 30-21-301 and 30-21-302(d), Idaho Code;

6 (2) The street and mailing addresses of the company's principal office;

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

8 (4) The name and mailing address of at least one (1) governor of the com-  
9 pany; and

10 (5) If the company is a professional entity, a statement that the com-  
11 pany is a professional limited liability company and the principal  
12 profession or professions for which the company's members are duly  
13 licensed or otherwise legally authorized to render professional ser-  
14 vices.

15 (c) A certificate of organization may contain statements as to matters  
16 other than those required by subsection (b) of this section, but may not  
17 vary or otherwise affect the provisions specified in section 30-25-105(c)  
18 and (d), Idaho Code, in a manner inconsistent with that section. However, a  
19 statement in a certificate of organization is not effective as a statement  
20 of authority. The secretary of state shall not accept operating agreements  
21 for filing.

22 (d) A limited liability company is formed when the certificate of or-  
23 ganization becomes effective.

24 30-25-202. AMENDMENT OR RESTATEMENT OF CERTIFICATE OF ORGANIZA-  
25 TION. (a) A certificate of organization may be amended or restated at any  
26 time.

27 (b) To amend its certificate of organization, a limited liability com-  
28 pany must deliver to the secretary of state for filing an amendment stating:

29 (1) The name of the company;

30 (2) The date of filing of its initial certificate of organization; and

31 (3) The text of the amendment.

32 (c) To restate its certificate of organization, a limited liability  
33 company must deliver to the secretary of state for filing a restatement des-  
34 ignated as such in its heading.

35 (d) If a member of a member-managed limited liability company, or a man-  
36 ager of a manager-managed limited liability company, knows that any informa-  
37 tion in a filed certificate of organization was inaccurate when the certifi-  
38 cate was filed or has become inaccurate due to changed circumstances, the  
39 member or manager shall promptly:

40 (1) Cause the certificate to be amended; or

41 (2) If appropriate, deliver to the secretary of state for filing a  
42 statement of change under section 30-21-407, Idaho Code, or a statement  
43 of correction under section 30-21-205, Idaho Code.

44 30-25-203. SIGNING OF RECORDS TO BE DELIVERED FOR FILING TO SECRETARY  
45 OF STATE. (a) A record delivered to the secretary of state for filing pur-  
46 suant to this title must be signed as follows:

(1) Except as otherwise provided in paragraphs (2) and (3) of this subsection, a record signed by a limited liability company must be signed by a person authorized by the company.

(2) A company's initial certificate of organization must be signed by at least one (1) person acting as an organizer.

(3) A record delivered on behalf of a dissolved company that has no member must be signed by the person winding up the company's activities and affairs under section 30-25-702(c), Idaho Code, or a person appointed under section 30-25-702(d), Idaho Code, to wind up the activities and affairs.

(4) A statement of denial by a person under section 30-25-303, Idaho Code, must be signed by that person.

(5) Any other record delivered on behalf of a person to the secretary of state for filing must be signed by that person.

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

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

30-25-204. LIABILITY FOR INACCURATE INFORMATION IN FILED RECORD. (a) If a record delivered to the secretary of state for filing under this title and filed by the secretary of state contains inaccurate information, a person that suffers loss by reliance on the information may recover damages for the loss from:

(1) A person that signed the record, or caused another to sign it on the person's behalf, and knew the information to be inaccurate at the time the record was signed; and

(2) Subject to subsection (b) of this section, a member of a member-managed limited liability company or the manager of a manager-managed limited liability company, if:

(A) The record was delivered for filing on behalf of the company; and

(B) The member or manager knew or had notice of the inaccuracy for a reasonably sufficient time before the information was relied upon so that, before the reliance, the member or manager reasonably could have:

(i) Effected an amendment under section 30-25-202, Idaho Code;

(ii) Filed a petition under section 30-25-204, Idaho Code; or

(iii) Delivered to the secretary of state for filing a statement of change under section 30-21-407, Idaho Code, or a statement of correction under section 30-21-205, Idaho Code.

(b) To the extent the operating agreement of a member-managed limited liability company expressly relieves a member of responsibility for maintaining the accuracy of information contained in records delivered on behalf of the company to the secretary of state for filing under this title and im-

poses that responsibility on one or more other members, the liability stated in subsection (a) (2) of this section applies to those other members and not to the member that the operating agreement relieves of the responsibility.

(c) An individual who signs a record authorized or required to be filed under this title affirms under penalty of perjury that the information stated in the record is accurate.

30-25-205. SUBJECTS COVERED OUTSIDE CHAPTER. The following subjects are covered outside this chapter:

(1) Signing and filing pursuant to judicial order - section 30-21-210, Idaho Code.

(2) Filing requirements - section 30-21-201, Idaho Code.

(3) Effective date and time - section 30-21-203, Idaho Code.

(4) Withdrawal of filed record before effectiveness - section 30-21-204, Idaho Code.

(5) Correcting filed record - section 30-21-205, Idaho Code.

(6) Duty of secretary of state to file; review of refusal to file; delivery of record by secretary of state - section 30-21-206 and section 30-21-211, Idaho Code.

(7) Certificate of good standing or registration - section 30-21-208, Idaho Code.

(8) Annual report for secretary of state - section 30-21-213, Idaho Code.

SECTION 45. That Chapter 25, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW PART, to be known and designated as Part 3, Chapter 25, Title 30, Idaho Code, and to read as follows:

### PART 3

#### RELATIONS OF MEMBERS AND MANAGERS TO PERSONS DEALING WITH LIMITED LIABILITY COMPANY

30-25-301. NO AGENCY POWER OF MEMBER AS MEMBER. (a) A member is not an agent of a limited liability company solely by reason of being a member.

(b) A person's status as a member does not prevent or restrict law other than this chapter from imposing liability on a limited liability company because of the person's conduct.

30-25-302. STATEMENT OF AUTHORITY. (a) A limited liability company may deliver to the secretary of state for filing a statement of authority. The statement:

(1) Must include the name of the company and the information required by section 30-21-404(a), Idaho Code;

(2) With respect to any position that exists in or with respect to the company, may state the authority, or limitations on the authority, of all persons holding the position to:

(A) Execute an instrument transferring real property held in the name of the company; or

(B) Enter into other transactions on behalf of, or otherwise act for or bind, the company; and

1 (3) May state the authority, or limitations on the authority, of a spe-  
2 cific person to:

3 (A) Execute an instrument transferring real property held  
4 in the name of the company; or

5 (B) Enter into other transactions on behalf of, or otherwise  
6 act for or bind, the company.

7 (b) To amend or cancel a statement of authority filed by the secretary  
8 of state, a limited liability company must deliver to the secretary of state  
9 for filing an amendment or cancellation stating:

10 (1) The name of the company;

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

12 (3) The date the statement being affected became effective; and

13 (4) The contents of the amendment or a declaration that the statement is  
14 canceled.

15 (c) A statement of authority affects only the power of a person to bind a  
16 limited liability company to persons that are not members.

17 (d) Subject to subsection (c) of this section and section 30-25-103(d),  
18 Idaho Code, and except as otherwise provided in subsections (f), (g) and (h)  
19 of this section, a limitation on the authority of a person or a position con-  
20 tained in an effective statement of authority is not by itself evidence of  
21 any person's knowledge or notice of the limitation.

22 (e) Subject to subsection (c) of this section, a grant of authority  
23 not pertaining to transfers of real property and contained in an effective  
24 statement of authority is conclusive in favor of a person that gives value in  
25 reliance on the grant, except to the extent that when the person gives value:

26 (1) The person has knowledge to the contrary;

27 (2) The statement has been canceled or restrictively amended under sub-  
28 section (b) of this section; or

29 (3) A limitation on the grant is contained in another statement of au-  
30 thority that became effective after the statement containing the grant  
31 became effective.

32 (f) Subject to subsection (c) of this section, an effective statement  
33 of authority that grants authority to transfer real property held in the  
34 name of the limited liability company is conclusive in favor of a person  
35 that gives value in reliance on the grant without knowledge to the contrary,  
36 except to the extent that when the person gives value:

37 (1) The statement has been canceled or restrictively amended under sub-  
38 section (b) of this section; or

39 (2) A limitation on the grant is contained in another statement of au-  
40 thority that became effective after the statement containing the grant  
41 became effective.

42 (g) Subject to subsection (c) of this section, if an effective state-  
43 ment of authority contains a limitation on the authority to transfer real  
44 property held in the name of a limited liability company, all persons are  
45 deemed to know of the limitation.

46 (h) Subject to subsection (i) of this section, an effective statement  
47 of dissolution or termination is a cancellation of any filed statement of au-  
48 thority for the purposes of subsection (f) of this section and is a limita-  
49 tion on authority for the purposes of subsection (g) of this section.

(i) After a statement of dissolution becomes effective, a limited liability company may deliver to the secretary of state for filing a statement of authority that is designated as a post-dissolution statement of authority. The statement operates as provided in subsections (f) and (g) of this section.

(j) Unless earlier canceled, an effective statement of authority is canceled by operation of law five (5) years after the date on which the statement, or its most recent amendment, becomes effective.

(k) An effective statement of denial operates as a restrictive amendment under this section.

30-25-303. STATEMENT OF DENIAL. A person named in a filed statement of authority granting that person authority may deliver to the secretary of state for filing a statement of denial that:

- (1) Provides the name of the limited liability company and the caption of the statement of authority to which the statement of denial pertains; and
- (2) Denies the grant of authority.

30-25-304. LIABILITY OF MEMBERS AND MANAGERS. (a) A debt, obligation, or other liability of a limited liability company is solely the debt, obligation, or other liability of the company. A member or manager is not personally liable, directly or indirectly, by way of contribution or otherwise, for a debt, obligation, or other liability of the company solely by reason of being or acting as a member or manager. This subsection applies regardless of the dissolution of the company.

(b) The failure of a limited liability company to observe formalities relating to the exercise of its powers or management of its activities and affairs is not a ground for imposing liability on a member or manager for a debt, obligation, or other liability of the company.

SECTION 46. That Chapter 25, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW PART, to be known and designated as Part 4, Chapter 25, Title 30, Idaho Code, and to read as follows:

#### PART 4

##### RELATIONS OF MEMBERS TO EACH OTHER AND TO LIMITED LIABILITY COMPANY

30-25-401. BECOMING MEMBER. (a) If a limited liability company is to have only one (1) member upon formation, the person becomes a member as agreed by that person and the organizer of the company. That person and the organizer may be, but need not be, different persons. If different, the organizer acts on behalf of the initial member.

(b) If a limited liability company is to have more than one (1) member upon formation, those persons become members as agreed by the persons before the formation of the company. The organizer acts on behalf of the persons in forming the company and may be, but need not be, one (1) of the persons.

(c) After formation of a limited liability company, a person becomes a member:

- (1) As provided in the operating agreement;
- (2) As the result of a transaction effective under chapter 22, title 30, Idaho Code;



- 1 (3) With the affirmative vote or consent of all the members; or  
2 (4) As provided in section 30-25-701(a)(3), Idaho Code.  
3 (d) A person may become a member without:  
4 (1) Acquiring a transferable interest; or  
5 (2) Making or being obligated to make a contribution to the limited lia-  
6 bility company.

7 30-25-402. FORM OF CONTRIBUTION. A contribution may consist of prop-  
8 erty transferred to, services performed for, or another benefit provided to  
9 the limited liability company or an agreement to transfer property to, per-  
10 form services for, or provide another benefit to the company.

11 30-25-403. LIABILITY FOR CONTRIBUTIONS. (a) A person's obligation to  
12 make a contribution to a limited liability company is not excused by the per-  
13 son's death, disability, termination, or other inability to perform person-  
14 ally.

15 (b) If a person does not fulfill an obligation to make a contribution  
16 other than money, the person is obligated at the option of the limited lia-  
17 bility company to contribute money equal to the value of the part of the con-  
18 tribution which has not been made.

19 (c) The obligation of a person to make a contribution may be compromised  
20 only by the affirmative vote or consent of all the members. If a creditor of  
21 a limited liability company extends credit or otherwise acts in reliance on  
22 an obligation described in subsection (a) of this section without knowledge  
23 or notice of a compromise under this subsection, the creditor may enforce the  
24 obligation.

25 30-25-404. SHARING OF AND RIGHT TO DISTRIBUTIONS BEFORE DISSOLU-  
26 TION. (a) Any distributions made by a limited liability company before its  
27 dissolution and winding up must be in equal shares among members and per-  
28 sons dissociated as members, except to the extent necessary to comply with a  
29 transfer effective under section 30-25-502, Idaho Code, or charging order in  
30 effect under section 30-25-503, Idaho Code.

31 (b) A person has a right to a distribution before the dissolution and  
32 winding up of a limited liability company only if the company decides to make  
33 an interim distribution. A person's dissociation does not entitle the per-  
34 son to a distribution.

35 (c) A person does not have a right to demand or receive a distribution  
36 from a limited liability company in any form other than money. Except as oth-  
37 erwise provided in section 30-25-707(d), Idaho Code, a company may distrib-  
38 ute an asset in kind only if each part of the asset is fungible with each other  
39 part and each person receives a percentage of the asset equal in value to the  
40 person's share of distributions.

41 (d) If a member or transferee becomes entitled to receive a distribu-  
42 tion, the member or transferee is entitled to all remedies available to a  
43 creditor of the limited liability company with respect to the distribution.  
44 However, the company's obligation to make a distribution is subject to off-  
45 set for any amount owed to the company by the member or a person dissociated  
46 as a member on whose account the distribution is made.

1 30-25-405. LIMITATIONS ON DISTRIBUTIONS. (a) A limited liability  
 2 company may not make a distribution, including a distribution under section  
 3 30-25-707, Idaho Code, if after the distribution:

4 (1) The company would not be able to pay its debts as they become due in  
 5 the ordinary course of the company's activities and affairs; or

6 (2) The company's total assets would be less than the sum of its total  
 7 liabilities plus the amount that would be needed, if the company were  
 8 to be dissolved and wound up at the time of the distribution, to sat-  
 9 isfy the preferential rights upon dissolution and winding up of members  
 10 and transferees whose preferential rights are superior to the rights of  
 11 persons receiving the distribution.

12 (b) A limited liability company may base a determination that a distri-  
 13 bution is not prohibited under subsection (a) of this section on:

14 (1) Financial statements prepared on the basis of accounting practices  
 15 and principles that are reasonable in the circumstances; or

16 (2) A fair valuation or other method that is reasonable under the cir-  
 17 cumstances.

18 (c) Except as otherwise provided in subsection (e) of this section, the  
 19 effect of a distribution under subsection (a) of this section is measured:

20 (1) In the case of a distribution as defined in section 30-25-  
 21 102(3)(A), Idaho Code, as of the earlier of:

22 (A) The date money or other property is transferred or debt is in-  
 23 curred by the limited liability company; or

24 (B) The date the person entitled to the distribution ceases to own  
 25 the interest or right being acquired by the company in return for  
 26 the distribution;

27 (2) In the case of any other distribution of indebtedness, as of the  
 28 date the indebtedness is distributed; and

29 (3) In all other cases, as of the date:

30 (A) The distribution is authorized, if the payment occurs not  
 31 later than one hundred twenty (120) days after that date; or

32 (B) The payment is made, if the payment occurs more than one hun-  
 33 dred twenty (120) days after the distribution is authorized.

34 (d) A limited liability company's indebtedness to a member or trans-  
 35 feree incurred by reason of a distribution made in accordance with this sec-  
 36 tion is at parity with the company's indebtedness to its general, unsecured  
 37 creditors, except to the extent subordinated by agreement.

38 (e) A limited liability company's indebtedness, including indebted-  
 39 ness issued as a distribution, is not a liability for purposes of subsection  
 40 (a) of this section if the terms of the indebtedness provide that payment of  
 41 principal and interest is made only if and to the extent that payment of a  
 42 distribution could then be made under this section. If the indebtedness is  
 43 issued as a distribution, each payment of principal or interest is treated  
 44 as a distribution, the effect of which is measured on the date the payment is  
 45 made.

46 (f) In measuring the effect of a distribution under section 30-25-707,  
 47 Idaho Code, the liabilities of a dissolved limited liability company do not  
 48 include any claim that has been disposed of under section 30-25-704, 30-25-  
 49 705, or 30-25-706, Idaho Code.

1        30-25-406.    LIABILITY FOR IMPROPER DISTRIBUTIONS. (a) Except as other-  
 2    wise provided in subsection (b) of this section, if a member of a member-man-  
 3    aged limited liability company or manager of a manager-managed limited  
 4    liability company consents to a distribution made in violation of section  
 5    30-25-405, Idaho Code, and in consenting to the distribution fails to com-  
 6    ply with section 30-25-409, Idaho Code, the member or manager is personally  
 7    liable to the company for the amount of the distribution which exceeds the  
 8    amount that could have been distributed without the violation of section  
 9    30-25-405, Idaho Code.

10        (b) To the extent the operating agreement of a member-managed limited  
 11    liability company expressly relieves a member of the authority and responsi-  
 12    bility to consent to distributions and imposes that authority and responsi-  
 13    bility on one (1) or more other members, the liability stated in subsection  
 14    (a) of this section applies to the other members and not the member that the  
 15    operating agreement relieves of the authority and responsibility.

16        (c) A person that receives a distribution knowing that the distribution  
 17    violated section 30-25-405, Idaho Code, is personally liable to the limited  
 18    liability company but only to the extent that the distribution received by  
 19    the person exceeded the amount that could have been properly paid under sec-  
 20    tion 30-25-405, Idaho Code.

21        (d) A person against which an action is commenced because the person is  
 22    liable under subsection (a) of this section may:

23        (1) Implead any other person that is liable under subsection (a) of this  
 24    section and seek to enforce a right of contribution from the person; and

25        (2) Implead any person that received a distribution in violation of  
 26    subsection (c) of this section and seek to enforce a right of contribu-  
 27    tion from the person in the amount the person received in violation of  
 28    subsection (c) of this section.

29        (e) An action under this section is barred unless commenced not later  
 30    than two (2) years after the distribution.

31        30-25-407.    MANAGEMENT OF LIMITED LIABILITY COMPANY. (a) A limited li-  
 32    ability company is a member-managed limited liability company unless the op-  
 33    erating agreement:

34        (1) Expressly provides that:

35                (A) The company is or will be "manager-managed";

36                (B) The company is or will be "managed by managers"; or

37                (C) Management of the company is or will be "vested in managers";

38                or

39        (2) Includes words of similar import.

40        (b) In a member-managed limited liability company, as among the mem-  
 41    bers, the following rules apply:

42        (1) Except as expressly provided in this chapter, the management and  
 43    conduct of the company are vested in the members.

44        (2) Each member has equal rights in the management and conduct of the  
 45    company's activities and affairs.

46        (3) A difference arising among members as to a matter in the ordinary  
 47    course of the activities and affairs of the company may be decided by a  
 48    majority of the members.

49        (4) The affirmative vote or consent of all the members is required to:

- 1 (A) Undertake an act outside the ordinary course of the activities  
2 and affairs of the company; or  
3 (B) Amending the operating agreement.
- 4 (c) In a manager-managed limited liability company, as among the mem-  
5 bers and the managers, the following rules apply:  
6 (1) Except as expressly provided in this chapter, any matter relating  
7 to the activities and affairs of the company is decided exclusively by  
8 the manager, or, if there is more than one (1) manager, by a majority of  
9 the managers.  
10 (2) Each manager has equal rights in the management and conduct of the  
11 company's activities and affairs.  
12 (3) The affirmative vote or consent of all members is required to:  
13 (A) Undertake an act outside the ordinary course of the company's  
14 activities and affairs; or  
15 (B) Amend the operating agreement.  
16 (4) A manager may be chosen at any time by the consent of a majority of  
17 the members and remains a manager until a successor has been chosen, un-  
18 less the manager at an earlier time resigns, is removed, or dies, or, in  
19 the case of a manager that is not an individual, terminates. A manager  
20 may be removed at any time by the consent of a majority of the members  
21 without notice or cause.  
22 (5) A person need not be a member to be a manager, but the dissociation  
23 of a member that is also a manager removes the person as a manager. If a  
24 person that is both a manager and a member ceases to be a manager, that  
25 cessation does not by itself dissociate the person as a member.  
26 (6) A person's ceasing to be a manager does not discharge any debt,  
27 obligation, or other liability to the limited liability company or mem-  
28 bers which the person incurred while a manager.
- 29 (d) An action requiring the vote or consent of members under this ti-  
30 tle may be taken without a meeting, and a member may appoint a proxy or other  
31 agent to vote, consent, or otherwise act for the member by signing an ap-  
32 pointing record, personally or by the member's agent.
- 33 (e) The dissolution of a limited liability company does not affect the  
34 applicability of this section. However, a person that wrongfully causes  
35 dissolution of the company loses the right to participate in management as a  
36 member and a manager.
- 37 (f) A limited liability company shall reimburse a member for an advance  
38 to the company beyond the amount of capital the member agreed to contribute.
- 39 (g) A payment or advance made by a member which gives rise to an obli-  
40 gation of the limited liability company under subsection (f) of this section  
41 or section 30-25-408(a), Idaho Code, constitutes a loan to the company which  
42 accrues interest from the date of the payment or advance.
- 43 (h) A member is not entitled to remuneration for services performed for  
44 a member-managed limited liability company, except for reasonable compensa-  
45 tion for services rendered in winding up the activities of the company.

46 30-25-408. REIMBURSEMENT -- INDEMNIFICATION -- ADVANCEMENT AND IN-  
47 SURANCE. (a) A limited liability company shall reimburse a member of a  
48 member-managed company or the manager of a manager-managed company for any  
49 payment made by the member or manager in the course of the member's or man-

1 ager's activities on behalf of the company, if the member or manager complied  
 2 with sections 30-25-405, 30-25-407 and 30-25-409, Idaho Code, in making the  
 3 payment.

4 (b) A limited liability company shall indemnify and hold harmless a  
 5 person with respect to any claim or demand against the person and any debt,  
 6 obligation, or other liability incurred by the person by reason of the  
 7 person's former or present capacity as a member or manager, if the claim, de-  
 8 mand, debt, obligation, or other liability does not arise from the person's  
 9 breach of section 30-25-405, 30-25-407 or 30-25-409, Idaho Code.

10 (c) In the ordinary course of its activities and affairs, a limited li-  
 11 ability company may advance reasonable expenses, including attorney's fees  
 12 and costs, incurred by a person in connection with a claim or demand against  
 13 the person by reason of the person's former or present capacity as a member or  
 14 manager, if the person promises to repay the company if the person ultimately  
 15 is determined not to be entitled to be indemnified under subsection (b) of  
 16 this section.

17 (d) A limited liability company may purchase and maintain insurance on  
 18 behalf of a member or manager against liability asserted against or incurred  
 19 by the member or manager in that capacity or arising from that status even if,  
 20 under section 30-25-105(c) (7), Idaho Code, the operating agreement could  
 21 not eliminate or limit the person's liability to the company for the conduct  
 22 giving rise to the liability.

23 30-25-409. STANDARDS OF CONDUCT FOR MEMBERS AND MANAGERS. (a) A member  
 24 of a member-managed limited liability company owes to the company and, sub-  
 25 ject to section 30-25-801, Idaho Code, the other members the duties of loy-  
 26 alty and care stated in subsections (b) and (c) of this section.

27 (b) The fiduciary duty of loyalty of a member in a member-managed lim-  
 28 ited liability company includes the duties:

29 (1) To account to the company and to hold as trustee for it any property,  
 30 profit, or benefit derived by the member:

31 (A) In the conduct or winding up of the company's activities and  
 32 affairs;

33 (B) From a use by the member of the company's property; or

34 (C) From the appropriation of a company opportunity;

35 (2) To refrain from dealing with the company in the conduct or winding  
 36 up of the company's activities and affairs as or on behalf of a person  
 37 having an interest adverse to the company; and

38 (3) To refrain from competing with the company in the conduct of the  
 39 company's activities and affairs before the dissolution of the company.

40 (c) The duty of care of a member of a member-managed limited liability  
 41 company in the conduct or winding up of the company's activities and affairs  
 42 is to refrain from engaging in grossly negligent or reckless conduct, will-  
 43 ful or intentional misconduct, or knowing violation of law.

44 (d) A member shall discharge the duties and obligations under this  
 45 chapter or under the operating agreement and exercise any rights consis-  
 46 tently with the contractual obligation of good faith and fair dealing.

47 (e) A member does not violate a duty or obligation under this chapter or  
 48 under the operating agreement solely because the member's conduct furthers  
 49 the member's own interest.

1 (f) All the members of a member-managed limited liability company or  
 2 a manager-managed limited liability company may authorize or ratify, after  
 3 full disclosure of all material facts, a specific act or transaction that  
 4 otherwise would violate the duty of loyalty.

5 (g) It is a defense to a claim under subsection (b) (2) of this section  
 6 and any comparable claim in equity or at common law that the transaction was  
 7 fair to the limited liability company.

8 (h) If, as permitted by subsection (f) or (i) (6) of this section or the  
 9 operating agreement, a member enters into a transaction with the limited li-  
 10 ability company that otherwise would be prohibited by subsection (b) (2) of  
 11 this section, the member's rights and obligations arising from the transac-  
 12 tion are the same as those of a person that is not a member.

13 (i) In a manager-managed limited liability company, the following  
 14 rules apply:

15 (1) Subsections (a), (b), (c) and (g) of this section apply to the man-  
 16 ager or managers and not the members.

17 (2) The duty stated under subsection (b) (3) of this section continues  
 18 until winding up is completed.

19 (3) Subsection (d) of this section applies to managers and members.

20 (4) Subsection (e) of this section applies only to members.

21 (5) The power to ratify under subsection (f) of this section applies  
 22 only to the members.

23 (6) Subject to subsection (d) of this section, a member does not have  
 24 any duty to the company or to any other member solely by reason of being a  
 25 member.

26 30-25-410. RIGHTS TO INFORMATION OF MEMBER, MANAGER AND PERSON DIS-  
 27 SOCIATED AS MEMBER. (a) In a member-managed limited liability company, the  
 28 following rules apply:

29 (1) On reasonable notice, a member may inspect and copy during regular  
 30 business hours, at a reasonable location specified by the company, any  
 31 record maintained by the company regarding the company's activities,  
 32 affairs, financial condition, and other circumstances, to the extent  
 33 the information is material to the member's rights and duties under the  
 34 operating agreement or this title.

35 (2) The company shall furnish to each member:

36 (A) Without demand, any information concerning the company's ac-  
 37 tivities, affairs, financial condition, and other circumstances  
 38 which the company knows and is material to the proper exercise of  
 39 the member's rights and duties under the operating agreement or  
 40 this title, except to the extent the company can establish that it  
 41 reasonably believes the member already knows the information; and  
 42 (B) On demand, any other information concerning the company's ac-  
 43 tivities, affairs, financial condition, and other circumstances,  
 44 except to the extent the demand for the information demanded is un-  
 45 reasonable or otherwise improper under the circumstances.

46 (3) The duty to furnish information under paragraph (2) of this subsec-  
 47 tion also applies to each member to the extent the member knows any of  
 48 the information described in paragraph (2) of this subsection.

1 (b) In a manager-managed limited liability company, the following  
2 rules apply:

3 (1) The informational rights stated in subsection (a) of this section  
4 and the duty stated in subsection (a) (3) of this section apply to the  
5 managers and not the members.

6 (2) During regular business hours and at a reasonable location speci-  
7 fied by the company, a member may inspect and copy information regarding  
8 the activities, affairs, financial condition, and other circumstances  
9 of the company as is just and reasonable if:

10 (A) The member seeks the information for a purpose reasonably re-  
11 lated to the member's interest as a member;

12 (B) The member makes a demand in a record received by the company,  
13 describing with reasonable particularity the information sought  
14 and the purpose for seeking the information; and

15 (C) The information sought is directly connected to the member's  
16 purpose.

17 (3) Not later than ten (10) days after receiving a demand pursuant  
18 to paragraph (2) (B) of this subsection, the company shall inform in a  
19 record the member that made the demand of:

20 (A) What information the company will provide in response to the  
21 demand and when and where the company will provide the informa-  
22 tion; and

23 (B) The company's reasons for declining, if the company declines  
24 to provide any demanded information.

25 (4) Whenever this title or an operating agreement provides for a member  
26 to vote on or give or withhold consent to a matter, before the vote is  
27 cast or consent is given or withheld, the company shall, without demand,  
28 provide the member with all information that is known to the company and  
29 is material to the member's decision.

30 (c) Subject to subsection (i) of this section, on 10 days' demand made  
31 in a record received by a limited liability company, a person dissociated as  
32 a member may have access to the information to which the person was entitled  
33 while a member if:

34 (1) The information pertains to the period during which the person was a  
35 member;

36 (2) The person seeks the information in good faith; and

37 (3) The person satisfies the requirements imposed on a member by sub-  
38 section (b) (2) of this section.

39 (d) A limited liability company shall respond to a demand made pursuant  
40 to subsection (c) of this section in the manner provided in subsection (b) (3)  
41 of this section.

42 (e) A limited liability company may charge a person that makes a demand  
43 under this section the reasonable costs of copying, limited to the costs of  
44 labor and material.

45 (f) A member or person dissociated as a member may exercise rights under  
46 this section through an agent or, in the case of an individual under legal  
47 disability, a legal representative. Any restriction or condition imposed by  
48 the operating agreement or under subsection (i) of this section applies both  
49 to the agent or legal representative and to the member or person dissociated  
50 as a member.

1 (g) Subject to section 30-25-504, Idaho Code, the rights under this  
2 section do not extend to a person as transferee.

3 (h) In addition to any restriction or condition stated in its operat-  
4 ing agreement, a limited liability company, as a matter within the ordinary  
5 course of its activities and affairs, may impose reasonable restrictions  
6 and conditions on access to and use of information to be furnished under  
7 this section, including designating information confidential and imposing  
8 nondisclosure and safeguarding obligations on the recipient. In a dispute  
9 concerning the reasonableness of a restriction under this subsection, the  
10 company has the burden of proving reasonableness.

11 SECTION 47. That Chapter 25, Title 30, Idaho Code, be, and the same is  
12 hereby amended by the addition thereto of a NEW PART, to be known and desig-  
13 nated as Part 5, Chapter 25, Title 30, Idaho Code, and to read as follows:

#### 14 PART 5

#### 15 TRANSFERABLE INTERESTS AND RIGHTS OF TRANSFEREES AND CREDITORS

16 30-25-501. NATURE OF TRANSFERABLE INTEREST. A transferable interest  
17 is personal property.

18 30-25-502. TRANSFER OF TRANSFERABLE INTEREST. (a) Subject to section  
19 30-25-503(f), Idaho Code, a transfer, in whole or in part, of a transferable  
20 interest:

21 (1) Is permissible, except the transfer of a transferable interest in a  
22 professional entity is not permissible without compliance with section  
23 30-21-901(i), Idaho Code;

24 (2) Does not by itself cause a member's dissociation or a dissolution  
25 and winding up of the limited liability company's activities and af-  
26 fairs; and

27 (3) Subject to section 30-25-504, Idaho Code, does not entitle the  
28 transferee to:

29 (A) Participate in the management or conduct of the company's ac-  
30 tivities and affairs; or

31 (B) Except as otherwise provided in subsection (c) of this sec-  
32 tion, have access to records or other information concerning the  
33 company's activities and affairs.

34 (b) A transferee has the right to receive, in accordance with the trans-  
35 fer, distributions to which the transferor would otherwise be entitled.

36 (c) In a dissolution and winding up of a limited liability company, a  
37 transferee is entitled to an account of the company's transactions only from  
38 the date of dissolution.

39 (d) A transferable interest may be evidenced by a certificate of the  
40 interest issued by a limited liability company in a record, and, subject to  
41 this section, the interest represented by the certificate may be transferred  
42 by a transfer of the certificate.

43 (e) A limited liability company need not give effect to a transferee's  
44 rights under this section until the company knows or has notice of the trans-  
45 fer.



1 (f) A transfer of a transferable interest in violation of a restriction  
2 on transfer contained in the operating agreement is ineffective as to a per-  
3 son having knowledge or notice of the restriction at the time of transfer.

4 (g) Except as otherwise provided in section 30-25-602(5)(B), Idaho  
5 Code, if a member transfers a transferable interest, the transferor retains  
6 the rights of a member other than the transferable interest transferred and  
7 retains all the duties and obligations of a member.

8 (h) If a member transfers a transferable interest to a person that be-  
9 comes a member with respect to the transferred interest, the transferee is  
10 liable for the member's obligations under sections 30-25-403 and 30-25-406,  
11 Idaho Code, known to the transferee when the transferee becomes a member.

12 30-25-503. CHARGING ORDER. (a) On application by a judgment creditor  
13 of a member or transferee, a court may enter a charging order against the  
14 transferable interest of the judgment debtor for the unsatisfied amount of  
15 the judgment. Except as otherwise provided in subsection (f) of this sec-  
16 tion, a charging order constitutes a lien on a judgment debtor's transfer-  
17 able interest and requires the limited liability company to pay over to the  
18 person to which the charging order was issued any distribution that other-  
19 wise would be paid to the judgment debtor.

20 (b) To the extent necessary to effectuate the collection of distribu-  
21 tions pursuant to a charging order in effect under subsection (a) of this  
22 section, the court may:

23 (1) Appoint a receiver of the distributions subject to the charging or-  
24 der, with the power to make all inquiries the judgment debtor might have  
25 made; and

26 (2) Make all other orders necessary to give effect to the charging or-  
27 der.

28 (c) Upon a showing that distributions under a charging order will not  
29 pay the judgment debt within a reasonable time, the court may foreclose the  
30 lien and order the sale of the transferable interest. Except as otherwise  
31 provided in subsection (f) of this section, the purchaser at the foreclosure  
32 sale obtains only the transferable interest, does not thereby become a mem-  
33 ber, and is subject to section 30-25-502, Idaho Code.

34 (d) At any time before foreclosure under subsection (c) of this sec-  
35 tion, the member or transferee whose transferable interest is subject to  
36 a charging order under subsection (a) of this section may extinguish the  
37 charging order by satisfying the judgment and filing a certified copy of the  
38 satisfaction with the court that issued the charging order.

39 (e) At any time before foreclosure under subsection (c) of this sec-  
40 tion, a limited liability company or one (1) or more members whose transfer-  
41 able interests are not subject to the charging order may pay to the judgment  
42 creditor the full amount due under the judgment and thereby succeed to the  
43 rights of the judgment creditor, including the charging order.

44 (f) If a court orders foreclosure of a charging order lien against the  
45 sole member of a limited liability company:

46 (1) The court shall confirm the sale;

47 (2) The purchaser at the sale obtains the member's entire interest, not  
48 only the member's transferable interest;

49 (3) The purchaser thereby becomes a member; and

(4) The person whose interest was subject to the foreclosed charging order is dissociated as a member.

(g) This chapter does not deprive any member or transferee of the benefit of any exemption laws applicable to the transferable interest of the member or transferee.

(h) This section provides the exclusive remedy by which a person seeking in the capacity of judgment creditor to enforce a judgment against a member or transferee may, satisfy the judgment from the judgment debtor's transferable interest.

30-25-504. POWER OF LEGAL REPRESENTATIVE OF DECEASED MEMBER. If a member dies, the deceased member's legal representative may exercise:

(1) The rights of a transferee provided in section 30-25-502(c), Idaho Code; and

(2) For the purposes of settling the estate, the rights the deceased member had under section 30-25-410, Idaho Code.

SECTION 48. That Chapter 25, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW PART, to be known and designated as Part 6, Chapter 25, Title 30, Idaho Code, and to read as follows:

#### PART 6 DISSOCIATION

30-25-601. POWER TO DISSOCIATE AS MEMBER -- WRONGFUL DISSOCIATION. (a) A person has the power to dissociate as a member at any time, rightfully or wrongfully, by withdrawing as a member by express will under section 30-25-602(1), Idaho Code.

(b) A person's dissociation as a member is wrongful only if the dissociation:

(1) Is in breach of an express provision of the operating agreement; or

(2) Occurs before the completion of the winding up of the limited liability company and:

(A) The person withdraws as a member by express will;

(B) The person is expelled as a member by judicial order under section 30-25-602(6), Idaho Code;

(C) The person is dissociated under section 30-25-602(8), Idaho Code; or

(D) In the case of a person that is not a trust other than a business trust, an estate, or an individual, the person is expelled or otherwise dissociated as a member because it willfully dissolved or terminated.

(c) A person that wrongfully dissociates as a member is liable to the limited liability company and, subject to section 30-25-801, Idaho Code, to the other members for damages caused by the dissociation. The liability is in addition to any debt, obligation, or other liability of the member to the company or the other members.

30-25-602. EVENTS CAUSING DISSOCIATION. A person is dissociated as a member when:

- 1 (1) The limited liability company knows or has notice of the person's  
2 express will to withdraw as a member, but, if the person has specified a with-  
3 drawal date later than the date the company had known or had notice, on that  
4 later date;
- 5 (2) An event stated in the operating agreement as causing the person's  
6 dissociation occurs;
- 7 (3) The person's entire interest is transferred in a foreclosure sale  
8 under section 30-25-503(f), Idaho Code;
- 9 (4) The person is expelled as a member pursuant to the operating agree-  
10 ment;
- 11 (5) The person is expelled as a member by the affirmative vote or con-  
12 sent of all the other members if:
  - 13 (A) It is unlawful to carry on the limited liability company's activi-  
14 ties and affairs with the person as a member;
  - 15 (B) There has been a transfer of all the person's transferable interest  
16 in the company, other than:
    - 17 (i) A transfer for security purposes; or
    - 18 (ii) A charging order in effect under section 30-25-503, Idaho  
19 Code, which has not been foreclosed;
  - 20 (C) The person is an entity and:
    - 21 (i) The company notifies the person that it will be expelled as a  
22 member because the person has filed a statement of dissolution or  
23 the equivalent, the person has been administratively dissolved,  
24 the person's charter or the equivalent has been revoked, or the  
25 person's right to conduct business has been suspended by the per-  
26 son's jurisdiction of formation; and
    - 27 (ii) Not later than ninety (90) days after the notification, the  
28 statement of dissolution or the equivalent has not been withdrawn,  
29 rescinded, or revoked, the person has not been reinstated, or the  
30 person's charter or the equivalent or right to conduct business  
31 has not been reinstated; or
  - 32 (D) The person is an unincorporated entity that has been dissolved and  
33 whose activities and affairs are being wound up;
- 34 (6) On application by the limited liability company or a member in a di-  
35 rect action under section 30-25-801, Idaho Code, the person is expelled as a  
36 member by judicial order because the person:
  - 37 (A) Has engaged or is engaging in wrongful conduct that has affected  
38 adversely and materially, or will affect adversely and materially, the  
39 company's activities and affairs;
  - 40 (B) Has committed willfully or persistently, or is committing will-  
41 fully or persistently, a material breach of the operating agreement or a  
42 duty or obligation under section 30-25-409, Idaho Code; or
  - 43 (C) Has engaged or is engaging in conduct relating to the company's ac-  
44 tivities and affairs which makes it not reasonably practicable to carry  
45 on the activities and affairs with the person as a member;
  - 46 (7) In the case of an individual:
    - 47 (A) The individual dies; or
    - 48 (B) In a member-managed limited liability company:
      - 49 (i) A guardian or general conservator for the individual is ap-  
50 pointed; or

1           (ii) A court orders that the individual has otherwise become inca-  
 2           pable of performing the individual's duties as a member under this  
 3           chapter or the operating agreement;  
 4       (8) In a member-managed limited liability company, the person:  
 5       (A) Becomes a debtor in bankruptcy;  
 6       (B) Executes an assignment for the benefit of creditors; or  
 7       (C) Seeks, consents to, or acquiesces in the appointment of a trustee,  
 8       receiver, or liquidator of the person or of all or substantially all the  
 9       person's property;  
 10      (9) In the case of a person that is a testamentary or inter vivos trust  
 11      or is acting as a member by virtue of being a trustee of such a trust, the  
 12      trust's entire transferable interest in the limited liability company is  
 13      distributed;  
 14      (10) In the case of a person that is an estate or is acting as a member by  
 15      virtue of being a personal representative of an estate, the estate's entire  
 16      transferable interest in the limited liability company is distributed;  
 17      (11) In the case of a person that is not an individual, the existence of  
 18      the person terminates;  
 19      (12) The limited liability company participates in a merger under chap-  
 20      ter 22, title 30, Idaho Code, and:  
 21      (A) The company is not the surviving entity; or  
 22      (B) Otherwise as a result of the merger, the person ceases to be a mem-  
 23      ber;  
 24      (13) The limited liability company participates in an interest exchange  
 25      under chapter 22, title 30, Idaho Code, and, as a result of the interest ex-  
 26      change, the person ceases to be a member;  
 27      (14) The limited liability company participates in a conversion under  
 28      chapter 22, title 30, Idaho Code;  
 29      (15) The limited liability company participates in a domestication un-  
 30      der chapter 22, title 30, Idaho Code, and, as a result of the domestication,  
 31      the person ceases to be a member;  
 32      (16) The limited liability company dissolves and completes winding up;  
 33      or  
 34      (17) In the case of a professional entity, restrictions or limitations  
 35      are placed upon a member's ability to continue to render professional ser-  
 36      vices.

37       30-25-603.   EFFECT OF DISSOCIATION. (a) If a person is dissociated as a  
 38      member:

- 39      (1) The person's right to participate as a member in the management and
- 40      conduct of the limited liability company's activities and affairs ter-
- 41      minates;
- 42      (2) The person's duties and obligations under section 30-25-409, Idaho
- 43      Code, as a member end with regard to matters arising and events occur-
- 44      ring after the person's dissociation; and
- 45      (3) Subject to section 30-25-504, Idaho Code, and chapter 22, title 30,
- 46      Idaho Code, any transferable interest owned by the person in the per-
- 47      son's capacity as a member immediately before dissociation is owned by
- 48      the person solely as a transferee.

(b) A person's dissociation as a member does not of itself discharge the person from any debt, obligation, or other liability to the limited liability company or the other members which the person incurred while a member.

SECTION 49. That Chapter 25, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW PART, to be known and designated as Part 7, Chapter 25, Title 30, Idaho Code, and to read as follows:

#### PART 7

#### DISSOLUTION AND WINDING UP

30-25-701. EVENTS CAUSING DISSOLUTION. (a) A limited liability company is dissolved, and its activities and affairs must be wound up, upon the occurrence of any of the following:

(1) An event or circumstance that the operating agreement states causes dissolution;

(2) The affirmative vote or consent of all the members;

(3) The passage of ninety (90) consecutive days during which the company has no members unless before the end of the period:

(A) Consent to admit at least one (1) specified person as a member is given by transferees owning the rights to receive a majority of distributions as transferees at the time the consent is to be effective; and

(B) At least one (1) person becomes a member in accordance with the consent;

(4) On application by a member, the entry by the district court of an order dissolving the company on the grounds that:

(A) The conduct of all or substantially all the company's activities and affairs is unlawful; or

(B) It is not reasonably practicable to carry on the company's activities and affairs in conformity with the certificate of organization and the operating agreement;

(i) Have acted, are acting, or will act in a manner that is illegal or fraudulent; or

(ii) Have acted or are acting in a manner that is oppressive and was, is, or will be directly harmful to the applicant; or

(C) The managers or those members in control of the company:

(i) Have acted, are acting, or will act in a manner that is illegal or fraudulent; or

(ii) Have acted or are acting in a manner that is oppressive and was, is, or will be directly harmful to the applicant; or

(5) The signing and filing of a statement of administrative dissolution by the secretary of state under section 30-25-708, Idaho Code.

(b) In a proceeding brought under subsection (a) (4) (B), of this section, the court may order a remedy other than dissolution.

30-25-702. WINDING UP. (a) A dissolved limited liability company shall wind up its activities and affairs and, except as otherwise provided in section 30-25-703, Idaho Code, the company continues after dissolution only for the purpose of winding up.

1 (b) In winding up its activities and affairs, a limited liability com-  
2 pany:

3 (1) Shall discharge the company's debts, obligations, and other lia-  
4 bilities, settle and close the company's activities and affairs, and  
5 marshal and distribute the assets of the company; and

6 (2) May:

7 (A) Deliver to the secretary of state for filing a statement of  
8 dissolution stating the name of the company and that the company is  
9 dissolved;

10 (B) Preserve the company activities, affairs, and property as a  
11 going concern for a reasonable time;

12 (C) Prosecute and defend actions and proceedings, whether civil,  
13 criminal, or administrative;

14 (D) Transfer the company's property;

15 (E) Settle disputes by mediation or arbitration;

16 (F) Deliver to the secretary of state for filing a statement of  
17 termination stating the name of the company and that the company is  
18 terminated; and

19 (G) Perform other acts necessary or appropriate to the winding up.

20 (c) If a dissolved limited liability company has no members, the legal  
21 representative of the last person to have been a member may wind up the ac-  
22 tivities and affairs of the company. If the person does so, the person has  
23 the powers of a sole manager under section 30-25-407(c), Idaho Code, and is  
24 deemed to be a manager for the purposes of section 30-25-304(a), Idaho Code.

25 (d) If the legal representative under subsection (c) of this section  
26 declines or fails to wind up the limited liability company's activities and  
27 affairs, a person may be appointed to do so by the consent of transferees own-  
28 ing a majority of the rights to receive distributions as transferees at the  
29 time the consent is to be effective. A person appointed under this subsec-  
30 tion:

31 (1) Has the powers of a sole manager under section 30-25-407(c), Idaho  
32 Code, and is deemed to be a manager for the purposes of section 30-25-  
33 304(a), Idaho Code; and

34 (2) Shall deliver promptly to the secretary of state for filing an  
35 amendment to the company's certificate of organization stating:

36 (A) That the company has no members;

37 (B) The name and street and mailing addresses of the person; and

38 (C) That the person has been appointed pursuant to this subsection  
39 to wind up the company.

40 (e) The district court may order judicial supervision of the winding  
41 up of a dissolved limited liability company, including the appointment of a  
42 person to wind up the company's activities and affairs:

43 (1) On the application of a member, if the applicant establishes good  
44 cause;

45 (2) On the application of a transferee, if:

46 (A) The company does not have any members;

47 (B) The legal representative of the last person to have been a mem-  
48 ber declines or fails to wind up the company's activities; and

1 (C) Within a reasonable time following the dissolution a person  
 2 has not been appointed pursuant to subsection (c) of this section;  
 3 or  
 4 (3) In connection with a proceeding under section 30-25-701(a), Idaho  
 5 Code.

6 30-25-703. RESCINDING DISSOLUTION. (a) A limited liability company  
 7 may rescind its dissolution, unless a statement of termination applicable to  
 8 the company is effective, the district court has entered an order under sec-  
 9 tion 30-25-701(a) (4), Idaho Code, dissolving the company, or the secretary  
 10 of state has dissolved the company under section 30-25-708, Idaho Code.

11 (b) Rescinding dissolution under this section requires:

12 (1) The affirmative vote or consent of each member;

13 (2) If a statement of dissolution applicable to the limited liability  
 14 company has been filed by the secretary of state but has not become ef-  
 15 fective, the delivery to the secretary of state for filing of a state-  
 16 ment of withdrawal under section 30-21-208, Idaho Code, applicable to  
 17 the statement of dissolution; and

18 (3) If a statement of dissolution applicable to the limited liability  
 19 company is effective, the delivery to the secretary of state for fil-  
 20 ing of a statement of rescission stating the name of the company and that  
 21 dissolution has been rescinded under this section.

22 (c) If a limited liability company rescinds its dissolution:

23 (1) The company resumes carrying on its activities and affairs as if  
 24 dissolution had never occurred;

25 (2) Subject to paragraph (3) of this subsection, any liability incurred  
 26 by the company after the dissolution and before the rescission is effec-  
 27 tive is determined as if dissolution had never occurred; and

28 (3) The rights of a third party arising out of conduct in reliance on the  
 29 dissolution before the third party knew or had notice of the rescission  
 30 may not be adversely affected.

31 30-25-704. KNOWN CLAIMS AGAINST DISSOLVED LIMITED LIABILITY COM-  
 32 PANY. (a) Except as otherwise provided in subsection (d) of this section, a  
 33 dissolved limited liability company may give notice of a known claim under  
 34 subsection (b) of this section, which has the effect provided in subsection  
 35 (c) of this section.

36 (b) A dissolved limited liability company may in a record notify its  
 37 known claimants of the dissolution. The notice must:

38 (1) Specify the information required to be included in a claim;

39 (2) State that a claim must be in writing and provide a mailing address  
 40 to which the claim is to be sent;

41 (3) State the deadline for receipt of a claim, which may not be less than  
 42 one hundred twenty (120) days after the date the notice is received by  
 43 the claimant; and

44 (4) State that the claim will be barred if not received by the deadline.

45 (c) A claim against a dissolved limited liability company is barred if  
 46 the requirements of subsection (b) of this section are met and:

47 (1) The claim is not received by the specified deadline; or

48 (2) If the claim is timely received but rejected by the company:

(A) The company causes the claimant to receive a notice in a record stating that the claim is rejected and will be barred unless the claimant commences an action against the company to enforce the claim not later than ninety (90) days after the claimant receives the notice; and

(B) The claimant does not commence the required action not later than ninety (90) days after the claimant receives the notice.

(d) This section does not apply to a claim based on an event occurring after the date of dissolution or a liability that on that date is contingent.

30-25-705. OTHER CLAIMS AGAINST DISSOLVED LIMITED LIABILITY COMPANY. (a) A dissolved limited liability company may publish notice of its dissolution and request persons having claims against the company to present them in accordance with the notice.

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

(1) Be published at least once in a newspaper of general circulation in the county in this state in which the dissolved limited liability company's principal office is located or, if the principal office is not located in this state, in the county in which the office of the company's registered agent is or was last located;

(2) Describe the information required to be contained in a claim, state that the claim must be in writing, and provide a mailing address to which the claim is to be sent; and

(3) State that a claim against the company is barred unless an action to enforce the claim is commenced not later than three (3) years after publication of the notice.

(c) If a dissolved limited liability company publishes a notice in accordance with subsection (2) of this section, the claim of each of the following claimants is barred unless the claimant commences an action to enforce the claim against the company not later than three (3) years after the publication date of the notice:

(1) A claimant that did not receive notice in a record under section 30-25-704, Idaho Code;

(2) A claimant whose claim was timely sent to the company but not acted on; and

(3) A claimant whose claim is contingent at, or based on an event occurring after, the date of dissolution.

(d) A claim not barred under this section or section 30-25-704, Idaho Code, may be enforced:

(1) Against a dissolved limited liability company, to the extent of its undistributed assets; and

(2) Except as otherwise provided in section 30-27-706, Idaho Code, if assets of the company have been distributed after dissolution, against a member or transferee to the extent of that person's proportionate share of the claim or of the company's assets distributed to the member or transferee after dissolution, whichever is less, but a person's total liability for all claims under this paragraph may not exceed the total amount of assets distributed to the person after dissolution.



1        30-25-706. COURT PROCEEDINGS. (a) A dissolved limited liability com-  
2 pany that has published a notice under section 30-25-705, Idaho Code, may  
3 file an application with the district court in the county where the company's  
4 principal office is located or, if the principal office is not located in  
5 this state, where the office of its registered agent is or was last located,  
6 for a determination of the amount and form of security to be provided for pay-  
7 ment of claims that are reasonably expected to arise after the date of disso-  
8 lution based on facts known to the company and:

9        (1) At the time of application:

10            (A) Are contingent; or

11            (B) Have not been made known to the company; or

12        (2) Are based on an event occurring after the date of dissolution.

13        (b) Security is not required for any claim that is or is reasonably an-  
14 ticipated to be barred under section 30-25-705, Idaho Code.

15        (c) Not later than ten (10) days after the filing of an application un-  
16 der subsection (a) of this section, the dissolved limited liability company  
17 shall give notice of the proceeding to each claimant holding a contingent  
18 claim known to the company.

19        (d) In a proceeding under this section, the court may appoint a guardian  
20 ad litem to represent all claimants whose identities are unknown. The rea-  
21 sonable fees and expenses of the guardian, including all reasonable expert  
22 witness fees, must be paid by the dissolved limited liability company.

23        (e) A dissolved limited liability company that provides security in the  
24 amount and form ordered by the court under subsection (a) of this section  
25 satisfies the company's obligations with respect to claims that are contin-  
26 gent, have not been made known to the company, or are based on an event oc-  
27 ccurring after the date of dissolution, and such claims may not be enforced  
28 against a member or transferee on account of assets received in liquidation.

29        30-25-707. DISPOSITION OF ASSETS IN WINDING UP. (a) In winding up its  
30 activities and affairs, a limited liability company shall apply its assets  
31 to discharge its obligations to creditors, including members that are credi-  
32 tors.

33        (b) After a limited liability company complies with subsection (a) of  
34 this section, any surplus must be distributed in the following order, sub-  
35 ject to any charging order in effect under section 30-25-503, Idaho Code:

36            (1) To each person owning a transferable interest that reflects contri-  
37 butions made and not previously returned, an amount equal to the value  
38 of the unreturned contributions; and

39            (2) Among members and persons dissociated as members in proportion to  
40 their respective rights to share in distributions immediately before  
41 the dissolution of the company, except to the extent necessary to comply  
42 with any transfer effective under section 30-25-502, Idaho Code.

43        (c) If a limited liability company does not have sufficient surplus  
44 to comply with subsection (b) (1) of this section, any surplus must be dis-  
45 tributed among the owners of transferable interests in proportion to the  
46 value of the respective unreturned contributions.

47        (d) All distributions made under subsections (b) and (c) of this sec-  
48 tion must be paid in money.

30-25-708. SUBJECTS COVERED OUTSIDE CHAPTER. The following subjects are covered outside this chapter:

(1) Administrative dissolution - sections 30-21-601 and 30-21-602, Idaho Code.

(2) Reinstatement - section 30-21-603, Idaho Code.

(3) Judicial review of denial of reinstatement - section 30-21-604, Idaho Code.

SECTION 50. That Chapter 25, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW PART, to be known and designated as Part 8, Chapter 25, Title 30, Idaho Code, and to read as follows:

PART 8  
ACTIONS BY MEMBERS

30-25-801. DIRECT ACTION BY MEMBER. (a) Subject to subsection (b) of this section, a member may maintain a direct action against another member, a manager, or the limited liability company to enforce the member's rights and protect the member's interests, including rights and interests under the operating agreement or this title or arising independently of the membership relationship.

(2) A member maintaining a direct action under this section must plead and prove an actual or threatened injury that is not solely the result of an injury suffered or threatened to be suffered by the limited liability company.

30-25-802. DERIVATIVE ACTION. A member may maintain a derivative action to enforce a right of a limited liability company if:

(1) The member first makes a demand on the other members in a member-managed limited liability company, or the managers of a manager-managed limited liability company, requesting that they cause the company to bring an action to enforce the right, and the managers or other members do not bring the action within a reasonable time; or

(2) A demand under subsection (1) of this section would be futile.

30-25-803. PROPER PLAINTIFF. A derivative action to enforce a right of a limited liability company may be maintained only by a person that is a member at the time the action is commenced and:

(1) Was a member when the conduct giving rise to the action occurred; or

(2) Whose status as a member devolved on the person by operation of law or pursuant to the terms of the operating agreement from a person that was a member at the time of the conduct.

30-25-804. PLEADING. In a derivative action, the complaint must state with particularity:

(1) The date and content of plaintiff's demand and the response to the demand by the managers or other members; or

(2) Why demand should be excused as futile.

30-25-805. SPECIAL LITIGATION COMMITTEE. (a) If a limited liability company is named as or made a party in a derivative proceeding, the company

1 may appoint a special litigation committee to investigate the claims as-  
 2 serted in the proceeding and determine whether pursuing the action is in the  
 3 best interests of the company. If the company appoints a special litigation  
 4 committee, on motion by the committee made in the name of the company, except  
 5 for good cause shown, the court shall stay discovery for the time reasonably  
 6 necessary to permit the committee to make its investigation. This subsec-  
 7 tion does not prevent the court from:

- 8 (1) Enforcing a person's right to information under section 30-25-410,  
 9 Idaho Code; or
- 10 (2) Granting extraordinary relief in the form of a temporary restrain-  
 11 ing order or preliminary injunction.
- 12 (b) A special litigation committee must be composed of one (1) or more  
 13 disinterested and independent individuals, who may be members.
- 14 (c) A special litigation committee may be appointed:
- 15 (1) In a member-managed limited liability company:
- 16 (A) By the consent of a majority of the members not named as par-  
 17 ties in the proceeding; or
- 18 (B) If all members are named as parties in the proceeding, by a ma-  
 19 jority of the members named as defendants; or
- 20 (2) In a manager-managed limited liability company:
- 21 (A) By a majority of the managers not named as parties in the pro-  
 22 ceeding; or
- 23 (B) If all managers are named as parties in the proceeding, by a  
 24 majority of the managers named as defendants.
- 25 (d) After appropriate investigation, a special litigation committee  
 26 may determine that it is in the best interests of the limited liability com-  
 27 pany that the proceeding:
- 28 (1) Continue under the control of the plaintiff;
- 29 (2) Continue under the control of the committee;
- 30 (3) Be settled on terms approved by the committee; or
- 31 (4) Be dismissed.
- 32 (e) After making a determination under subsection (d) of this section,  
 33 a special litigation committee shall file with the court a statement of its  
 34 determination and its report supporting its determination and shall serve  
 35 each party with a copy of the determination and report. The court shall  
 36 determine whether the members of the committee were disinterested and inde-  
 37 pendent and whether the committee conducted its investigation and made its  
 38 recommendation in good faith, independently, and with reasonable care, with  
 39 the committee having the burden of proof. If the court finds that the members  
 40 of the committee were disinterested and independent and that the committee  
 41 acted in good faith, independently, and with reasonable care, the court  
 42 shall enforce the determination of the committee. Otherwise, the court  
 43 shall dissolve the stay of discovery entered under subsection (a) of this  
 44 section and allow the action to continue under the control of the plaintiff.

45 30-25-806. PROCEEDS AND EXPENSES. (a) Except as otherwise provided in  
 46 subsection (b) of this section:

- 47 (1) Any proceeds or other benefits of a derivative action, whether by  
 48 judgment, compromise, or settlement, belong to the limited liability  
 49 company and not to the plaintiff; and

(2) If the plaintiff receives any proceeds, the plaintiff shall remit them immediately to the company.

(b) If a derivative action is successful in whole or in part, the court may award the plaintiff reasonable expenses, including reasonable attorney's fees and costs, from the recovery of the limited liability company.

(c) A derivative action on behalf of a limited liability company may not be voluntarily dismissed or settled without the court's approval.

SECTION 51. That Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 26, Title 30, Idaho Code, and to read as follows:

CHAPTER 26  
[RESERVED]

SECTION 52. That Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 27, Title 30, Idaho Code, and to read as follows:

CHAPTER 27  
UNINCORPORATED NONPROFIT ASSOCIATIONS

SECTION 53. That Chapter 27, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW PART, to be known and designated as Part 1, Chapter 27, Title 30, Idaho Code, and to read as follows:

PART 1  
GENERAL PROVISIONS

30-27-101. SHORT TITLE. This chapter may be cited as the "Idaho Uniform Unincorporated Nonprofit Association Act."

30-27-102. DEFINITIONS. (a) In this chapter:

(1) "Established practices" means the practices used by an unincorporated nonprofit association without material change during the most recent five (5) years of its existence, or if it has existed for less than five (5) years, during its entire existence.

(2) "Governing principles" means the agreements, whether oral, in a record, or implied from its established practices, or in any combination thereof, which govern the purpose or operation of an unincorporated nonprofit association and the rights and obligations of its members and managers. The term includes any amendment or restatement of the agreements constituting the governing principles.

(3) "Manager" means a person that is responsible, alone or in concert with others, for the management of an unincorporated nonprofit association.

(4) "Member" means a person that, under the governing principles, may participate in the selection of persons authorized to manage the affairs of the unincorporated nonprofit association or in the development of the policies and activities of the association.

(5) "Unincorporated nonprofit association" means an unincorporated organization consisting of two (2) or more members joined under an agreement that is oral, in a record, or implied from conduct, for one or more common, nonprofit purposes. The term does not include:

(A) A trust;

(B) A marriage, domestic partnership, common-law domestic relationship, civil union, or other domestic living arrangement;

(C) An organization formed under any other statute that governs the organization and operation of unincorporated associations;

(D) A joint tenancy, tenancy in common, or tenancy by the entireties even if the co-owners share use of the property for a nonprofit purpose; or

(E) A relationship under an agreement in a record that expressly provides that the relationship between the parties does not create an unincorporated nonprofit association.

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

(1) "Person" - section 30-21-102(34), Idaho Code.

(2) "Property" - section 30-21-102(40), Idaho Code.

(3) "Record" - section 30-21-102(43), Idaho Code.

(4) "Sign" - section 30-21-102(46), Idaho Code.

(5) "State" - section 30-21-102(47), Idaho Code.

(6) "Transfer" - section 30-21-102(49), Idaho Code.

30-27-103. RELATION TO OTHER LAWS. (a) A statute governing a specific type of unincorporated nonprofit association prevails over an inconsistent provision in this chapter, to the extent of the inconsistency.

(b) This chapter supplements the law of this state that applies to nonprofit associations operating in this state. If a conflict exists, that law applies.

30-27-104. GOVERNING LAW. (a) Except as otherwise provided in subsection (b) of this section, the law of this state governs the operation in this state of an unincorporated nonprofit association formed or operating in this state.

(b) Unless the governing principles specify a different jurisdiction, the law of the jurisdiction in which an unincorporated nonprofit association has its main place of activities governs the internal affairs of the association.

30-27-105. ENTITY -- PERPETUAL EXISTENCE -- POWERS. (a) An unincorporated nonprofit association is an entity distinct from its members and managers.

(b) An unincorporated nonprofit association has perpetual duration unless the governing principles specify otherwise.

(c) An unincorporated nonprofit association has the same powers as an individual to do all things necessary or convenient to carry on its purposes.

(d) An unincorporated nonprofit association may engage in profit-making activities but profits from any activities must be used or set aside for the association's nonprofit purposes.

1        30-27-106. OWNERSHIP AND TRANSFER OF PROPERTY. (a) An unincorporated  
2 nonprofit association may acquire, hold, or transfer in its name an interest  
3 in property.

4        (b) An unincorporated nonprofit association may be a beneficiary of a  
5 trust or contract, a legatee, or a devisee.

6        30-27-107. STATEMENT OF AUTHORITY AS TO REAL PROPERTY. (a) In this  
7 section, "statement of authority" means a statement authorizing a person to  
8 transfer an interest in real property held in the name of an unincorporated  
9 nonprofit association.

10        (b) An interest in real property held in the name of an unincorporated  
11 nonprofit association may be transferred by a person authorized to do so in  
12 a statement of authority recorded by the association in the office in the  
13 county in which a transfer of the property would be recorded.

14        (c) A statement of authority must state:

15        (1) The name of the unincorporated nonprofit association;

16        (2) The address in this state, including the street address, if any, of  
17 the association or, if the association does not have an address in this  
18 state, its out-of-state address;

19        (3) That the association is an unincorporated nonprofit association;  
20 and

21        (4) The name, title, or position of a person authorized to transfer an  
22 interest in real property held in the name of the association.

23        (d) A statement of authority must be executed in the same manner as a  
24 deed by a person other than the person authorized in the statement to trans-  
25 fer the interest.

26        (e) A filing officer may collect a fee for recording a statement of au-  
27 thority in the amount authorized for recording a transfer of real property.

28        (f) A document amending, revoking, or canceling a statement of author-  
29 ity or stating that the statement is unauthorized or erroneous must meet the  
30 requirements for executing and recording an original statement.

31        (g) Unless canceled earlier, a recorded statement of authority and its  
32 most recent amendment expire five (5) years after the date of the most recent  
33 recording.

34        (h) If the record title to real property is in the name of an unincor-  
35 porated nonprofit association and the statement of authority is recorded  
36 in the office of the county in which a transfer of the property would be  
37 recorded, the authority of the person named under subsection (c) (4) of this  
38 section is conclusive in favor of a person that gives value without notice  
39 that the person lacks authority.

40        30-27-108. LIABILITY. (a) A debt, obligation, or other liability of  
41 an unincorporated nonprofit association is solely the debt, obligation, or  
42 other liability of the association. A member or manager is not personally  
43 liable, directly or indirectly, by way of contribution or otherwise for a  
44 debt, obligation, or other liability of the association solely by reason of  
45 being or acting as a member or manager. This subsection applies regardless  
46 of the dissolution of the association.

1 (b) A person's status as a member or manager does not prevent or re-  
2 strict law other than this chapter from imposing liability on the person or  
3 the association because of the person's conduct.

4 (c) The failure of an unincorporated nonprofit association to observe  
5 formalities relating to the exercise of its powers or management of its ac-  
6 tivities and affairs is not a ground for imposing liability on a member or  
7 manager of the association for a debt, obligation, or other liability of the  
8 association.

9 30-27-109. ASSERTION AND DEFENSE OF CLAIMS. (a) An unincorporated  
10 nonprofit association may sue or be sued in its own name.

11 (b) A member or manager may assert a claim the member or manager has  
12 against the unincorporated nonprofit association. An association may as-  
13 sert a claim it has against a member or manager.

14 30-27-110. EFFECT OF JUDGMENT OR ORDER. A judgment or order against an  
15 unincorporated nonprofit association is not by itself a judgment or order  
16 against a member or manager.

17 30-27-111. SERVICE OF PROCESS. In an action or proceeding against an  
18 unincorporated nonprofit association, process may be served on an agent au-  
19 thorized by appointment to receive service of process, on a manager of the  
20 association, or in any other manner authorized by the law of this state.

21 30-27-112. ACTION OR PROCEEDING NOT ABATED BY CHANGE. An action or  
22 proceeding against an unincorporated nonprofit association does not abate  
23 merely because of a change in its members or managers.

24 30-27-113. VENUE. Unless otherwise provided by law other than this  
25 chapter, venue of an action against an unincorporated nonprofit association  
26 brought in this state is determined under the statutes applicable to an ac-  
27 tion brought in this state against a corporation.

28 30-27-114. MEMBER NOT AGENT. A member is not an agent of the associa-  
29 tion solely by reason of being a member.

30 30-27-115. RESERVED.

31 30-27-116. RESERVED.

32 30-27-117. RESERVED.

33 30-27-118. RESERVED.

34 30-27-119. RESERVED.

35 30-27-120. RESERVED.

36 30-27-121. RESERVED.

37 30-27-122. RESERVED.

1           30-27-123.   RESERVED.

2           30-27-124.   RESERVED.

3           30-27-125.   DISTRIBUTIONS PROHIBITED -- COMPENSATION AND OTHER PER-  
4   MITTED PAYMENTS. (a) Except as otherwise provided in subsection (b) of this  
5   section, an unincorporated nonprofit association may not pay dividends or  
6   make distributions to a member or manager.

7           (b) An unincorporated nonprofit association may:

8           (1) Pay reasonable compensation or reimburse reasonable expenses to a  
9   member or manager for services rendered;

10          (2) Confer benefits on a member or manager in conformity with its non-  
11   profit purposes;

12          (3) Repurchase a membership and repay a capital contribution made by a  
13   member to the extent authorized by its governing principles; or

14          (4) Make distributions of property to members upon winding up and ter-  
15   mination to the extent permitted by section 30-27 128, Idaho Code.

16          30-27-126.   RESERVED.

17          30-27-127.   DISSOLUTION. An unincorporated nonprofit association may  
18   be dissolved as follows:

19          (1) If the governing principles provide a time or method for dissolu-  
20   tion, at that time or by that method;

21          (2) If the governing principles do not provide a time or method for dis-  
22   solution, upon approval by the members;

23          (3) If no member can be located and the association's operations have  
24   been discontinued for at least three (3) years, by the managers or, if  
25   the association has no current manager, by its last manager.

26          30-27-128.   WINDING UP AND TERMINATION. Winding up and termination of  
27   an unincorporated nonprofit association must proceed in accordance with the  
28   following rules:

29          (1) All known debts and liabilities must be paid or adequately provided  
30   for.

31          (2) Any property subject to a condition requiring return to the person  
32   designated by the donor must be transferred to that person.

33          (3) Any property subject to a trust must be distributed in accordance  
34   with the trust agreement.

35          (4) Any remaining property must be distributed as follows:

36               (A) As required by law other than this chapter that requires as-  
37               sets of an association to be distributed to another person with  
38               similar nonprofit purposes;

39               (B) In accordance with the association's governing principles or  
40               in the absence of applicable governing principles, to the members  
41               of the association per capita or as the members direct; or

42               (C) If neither paragraph (A) nor (B) of this subsection applies,  
43               as provided in chapter 5, title 14, Idaho Code.



1       30-27-129. APPOINTMENT OF REGISTERED AGENT. (a) An unincorporated  
2 nonprofit association may deliver to the secretary of state for filing a  
3 statement appointing an agent authorized to receive service of process.

4       (b) A statement appointing a registered agent must state:

5       (1) The name of the unincorporated nonprofit association; and

6       (2) The name and street and mailing addresses in this state of the reg-  
7 istered agent.

8       (c) A statement appointing a registered agent must be signed by a per-  
9 son authorized to manage the affairs of the unincorporated nonprofit associ-  
10 ation. The signing of the statement is an affirmation of fact that the person  
11 is authorized to manage the affairs of the unincorporated nonprofit associa-  
12 tion and that the agent has consented to serve.

13       (d) An amendment to or cancellation of a statement appointing a regis-  
14 tered agent must meet the requirements for signing an original statement. An  
15 agent may resign by delivering a resignation to the office of the secretary  
16 of state for filing and giving notice to the unincorporated nonprofit asso-  
17 ciation at the address most recently supplied to the agent by the associa-  
18 tion.

19       (e) The secretary of state may collect a fee for filing a statement ap-  
20 pointing a registered agent, an amendment, a cancellation, or a resignation  
21 in the amount charged for filing similar documents.

22       (f) A statement appointing a registered agent takes effect on filing by  
23 the secretary of state and is effective for five (5) years after the date of  
24 filing unless canceled or terminated earlier.

25       (g) A statement appointing a registered agent may not be rejected for  
26 filing because the name of the unincorporated nonprofit association signing  
27 the statement is not distinguishable on the records of the secretary of state  
28 from the name of another entity appearing in those records. The filing of  
29 such a statement does not make the name of the unincorporated nonprofit asso-  
30 ciation signing the statement unavailable for use by another entity.

31       (h) The only duty of a registered agent under this chapter is to forward  
32 to the unincorporated nonprofit association at the address most recently  
33 supplied to the agent by the association any process, notice, or demand per-  
34 taining to the association which is served or received by the agent.

35       30-27-130. TRANSITION CONCERNING REAL AND PERSONAL PROPERTY. (a) If,  
36 before the effective date of this chapter, an interest in property was by  
37 terms of a transfer purportedly transferred to an unincorporated nonprofit  
38 association, but under the law of this state the interest did not vest in the  
39 association or in one (1) or more persons on behalf of the association un-  
40 der subsection (b) of this section, on the effective date of this chapter the  
41 interest vests in the association, unless the parties to the transfer have  
42 treated the transfer as ineffective.

43       (b) If, before the effective date of this chapter, an interest in prop-  
44 erty was by terms of a transfer purportedly transferred to an unincorporated  
45 nonprofit association, but the interest was vested in one (1) or more persons  
46 to hold the interest for members of the association, on or after the effec-  
47 tive date of this chapter the persons, or their successors in interest, may  
48 transfer the interest to the association in its name, or the association may  
49 require that the interest be transferred to it in its name.

1       SECTION 54. That Title 30, Idaho Code, be, and the same is hereby  
2 amended by the addition thereto of a NEW CHAPTER, to be known and designated  
3 as Chapter 28, Title 30, Idaho Code, and to read as follows:

4                           CHAPTER 28  
5                           [RESERVED]

6       SECTION 55. That Title 30, Idaho Code, be, and the same is hereby  
7 amended by the addition thereto of a NEW CHAPTER, to be known and designated  
8 as Chapter 29, Title 30, Idaho Code, and to read as follows:

9                           CHAPTER 29  
10                          GENERAL BUSINESS CORPORATIONS

11       SECTION 56. That Chapter 29, Title 30, Idaho Code, be, and the same is  
12 hereby amended by the addition thereto of a NEW PART, to be known and design-  
13 nated as Part 1, Chapter 29, Title 30, Idaho Code, and to read as follows:

14                           PART 1  
15                          GENERAL PROVISIONS

16       30-29-101.   SHORT TITLE. This chapter shall be known and may be cited as  
17 the "Idaho Business Corporation Act."

18       30-29-102.   RESERVED.

19       30-29-103.   RESERVED.

20       30-29-104.   RESERVED.

21       30-29-105.   RESERVED.

22       30-29-106.   RESERVED.

23       30-29-107.   RESERVED.

24       30-29-108.   RESERVED.

25       30-29-109.   RESERVED.

26       30-29-110.   RESERVED.

27       30-29-111.   RESERVED.

28       30-29-112.   RESERVED.

29       30-29-113.   RESERVED.

30       30-29-114.   RESERVED.

31       30-29-115.   RESERVED.

1 30-29-116. RESERVED.

2 30-29-117. RESERVED.

3 30-29-118. RESERVED.

4 30-29-119. RESERVED.

5 30-29-120. REQUIREMENTS FOR DOCUMENTS -- EXTRINSIC FACTS. (1) Except  
6 as otherwise permitted by subsection (3) of this section, a record delivered  
7 to the secretary of state for filing pursuant to this chapter must be signed  
8 as follows:

9 (a) By the chairman of the board of directors of a domestic or foreign  
10 corporation, by its president, or by another of its officers;

11 (b) If directors have not been selected or the corporation has not been  
12 formed, by an incorporator; or

13 (c) If the corporation is in the hands of a receiver, trustee or other  
14 court-appointed fiduciary, by that fiduciary.

15 (2) Whenever a provision of this chapter permits any of the terms of a  
16 plan or a filed document to be dependent upon facts objectively ascertain-  
17 able outside the plan or filed document, the following provisions apply:

18 (a) The manner in which the facts will operate upon the terms of the plan  
19 or filed document shall be set forth in the plan or filed document.

20 (b) The facts may include, but are not limited to:

21 (i) Any of the following that are available in a nationally rec-  
22 ognized news or information medium either in print or electroni-  
23 cally: statistical or market indices, market prices of any se-  
24 curity or group of securities, interest rates, currency exchange  
25 rates, or similar economic or financial data;

26 (ii) A determination or action by any person or body, including  
27 the corporation or any other party to a plan or filed document; or

28 (iii) The terms of, or actions taken under, an agreement or docu-  
29 ment to which the corporation is a party, or any other agreement or  
30 document.

31 (c) As used in this subsection:

32 (i) "Filed document" means a document filed with the secretary  
33 of state under any provision of this chapter except section 30-21-  
34 213, Idaho Code, or part 5, chapter 21, title 30, Idaho Code; and

35 (ii) "Plan" means a plan of domestication, merger or share ex-  
36 change.

37 (d) The following provisions of a plan or filed document may not be made  
38 dependent upon facts outside the plan or filed document:

39 (i) The name and address of any person required in a filed docu-  
40 ment;

41 (ii) The registered office of any entity required in a filed docu-  
42 ment;

43 (iii) The registered agent of any entity required in a filed docu-  
44 ment;

45 (iv) The number of authorized shares and designation of each class  
46 or series of shares;

(v) The effective date of a filed document;

(vi) Any required statement in a filed document of the date on which the underlying transaction was approved or the manner in which that approval was given.

(e) If a provision of a filed document is made dependent upon a fact ascertainable outside of the filed document, and that fact is not ascertainable by reference to a source described in subsection (2) (b) (i) of this section or a document that is a matter of public record, or the affected shareholders have not received notice of the fact from the corporation, then the corporation shall file with the secretary of state articles of amendment setting forth the fact promptly after the time when the fact referred to is first ascertainable or thereafter changes. Articles of amendment under this subsection are deemed to be authorized by the authorization of the original filed document or plan to which they relate and may be filed by the corporation without further action by the board of directors or the shareholders.

(3) The annual report delivered to the secretary of state for filing under section 30-21-213, Idaho Code, shall be executed by one (1) of the persons identified in subsection (1) of this section or by another person who is authorized by the board of directors to execute the report.

30-29-121. RESERVED.

30-29-122. RESERVED.

30-29-123. RESERVED.

30-29-124. RESERVED.

30-29-125. RESERVED.

30-29-126. RESERVED.

30-29-127. RESERVED.

30-29-128. RESERVED.

30-29-129. RESERVED.

30-29-130. RESERVED.

30-29-131. RESERVED.

30-29-132. RESERVED.

30-29-133. RESERVED.

30-29-134. RESERVED.

30-29-135. RESERVED.

1       30-29-136.   RESERVED.

2       30-29-137.   RESERVED.

3       30-29-138.   RESERVED.

4       30-29-139.   RESERVED.

5       30-29-140.   CHAPTER DEFINITIONS. In this chapter:

6       (1) "Articles of incorporation" means the original articles of incor-  
7       poration, all amendments thereof, and any other documents permitted or re-  
8       quired to be filed by a domestic business corporation with the secretary of  
9       state under any provision of this chapter. If an amendment of the articles  
10      or any document filed under this chapter restates the articles in their en-  
11      tirety, thenceforth the "articles" shall not include any prior documents.

12      (2) "Authorized shares" means the shares of all classes a domestic or  
13      foreign corporation is authorized to issue.

14      (3) "Conspicuous" means so written that a reasonable person against  
15      whom the writing is to operate should have noticed it. For example, printing  
16      in italics or boldface or contrasting color, or typing in capitals or under-  
17      lined, is conspicuous.

18      (4) "Corporation," "domestic corporation" or "domestic business cor-  
19      poration" means a corporation for profit that is not a foreign corporation,  
20      incorporated under or subject to the provisions of this chapter.

21      (5) "Distribution" means a direct or indirect transfer of money or  
22      other property, except its own shares, or incurrence of indebtedness by a  
23      corporation to or for the benefit of its shareholders in respect of any of its  
24      shares. A distribution may be in the form of a declaration or payment of a  
25      dividend; a purchase, redemption, or other acquisition of shares; a distri-  
26      bution of indebtedness; or otherwise.

27      (6) "Domestic unincorporated entity" means an unincorporated entity  
28      whose internal affairs are governed by the laws of this state.

29      (7) "Electronic transmission" or "electronically transmitted" means  
30      any process of communication not directly involving the physical transfer  
31      of paper that is suitable for the retention, retrieval and reproduction in  
32      written form of information by the recipient.

33      (8) "Eligible entity" means a domestic or foreign unincorporated en-  
34      tity or a domestic or foreign nonprofit corporation.

35      (9) "Eligible interests" means interests or memberships.

36      (10) "Employee" includes an officer but not a director. A director may  
37      accept duties that make him also an employee.

38      (11) The phrase "facts objectively ascertainable outside the plan or  
39      filed document" is as set forth in section 30-29-120(2), Idaho Code.

40      (12) "Foreign corporation" means a corporation incorporated under a  
41      law other than the law of this state which would be a business corporation if  
42      incorporated under the laws of this state.

43      (13) "Foreign nonprofit corporation" means a corporation incorporated  
44      under a law other than the law of this state, which would be a nonprofit cor-  
45      poration if incorporated under the laws of this state.

1       (14) "Foreign unincorporated entity" means an unincorporated entity  
2 whose internal affairs are governed by an organic law of a jurisdiction other  
3 than this state.

4       (15) "Governmental subdivision" includes authority, county, district  
5 and municipality.

6       (16) "Membership" means the right of a member in a domestic or foreign  
7 nonprofit corporation.

8       (17) "Notice" is defined in section 30-29-141, Idaho Code.

9       (18) "Organic document" means a public organic document or a private or-  
10 ganic document.

11       (19) "Owner liability" means personal liability for a debt, obligation  
12 or liability of a domestic or foreign business or nonprofit corporation or  
13 unincorporated entity that is imposed on a person:

14       (a) Solely by reason of the person's status as a shareholder, member or  
15 interest holder; or

16       (b) By the articles of incorporation, bylaws or an organic document un-  
17 der a provision of the organic law of an entity authorizing the articles  
18 of incorporation, bylaws or an organic document to make one (1) or more  
19 specified shareholders, members or interest holders liable in their ca-  
20 pacity as shareholders, members or interest holders for all or speci-  
21 fied debts, obligations or liabilities of the entity.

22       (20) "Record date" means the date established under part 6 or 7 of this  
23 chapter, on which a corporation determines the identity of its shareholders  
24 and their shareholdings for purposes of this chapter. The determinations  
25 shall be made as of the close of business on the record date unless another  
26 time for doing so is specified when the record date is fixed.

27       (21) "Secretary" means the corporate officer to whom the board of direc-  
28 tors has delegated responsibility under section 30-29-840(3), Idaho Code,  
29 for custody of the minutes of the meetings of the board of directors and of  
30 the shareholders and for authenticating records of the corporation.

31       (22) "Shareholder" means the person in whose name shares are registered  
32 in the records of a corporation or the beneficial owner of shares to the ex-  
33 tent of the rights granted by a nominee certificate on file with a corpora-  
34 tion.

35       (23) "Shares" means the units into which the proprietary interests in a  
36 corporation are divided.

37       (24) "Subscriber" means a person who subscribes for shares in a corpora-  
38 tion, whether before or after incorporation.

39       (25) "Treasury shares" means shares of a corporation which have been is-  
40 sued, have been subsequently acquired by and belong to the corporation, and  
41 have not, either by reason of the acquisition or thereafter, been canceled  
42 or restored to the status of authorized but unissued shares. Treasury shares  
43 shall be deemed to be "issued" shares, but not "outstanding" shares.

44       (26) "Unincorporated entity" means an organization or artificial legal  
45 person that either has a separate legal existence or has the power to acquire  
46 an estate in real property in its own name and that is not any of the fol-  
47 lowing: a domestic or foreign business or nonprofit corporation, an estate,  
48 a trust, a state, the United States, or a foreign government. The term in-  
49 cludes, without limitation, a general partnership, limited liability com-

pany, limited partnership, business trust, joint stock association and incorporated nonprofit association.

(27) "United States" includes district, authority, bureau, commission, department and any other agency of the United States.

(28) "Voting group" means all shares of one (1) or more classes or series that under the articles of incorporation or this chapter are entitled to vote and be counted together collectively on a matter at a meeting of shareholders. All shares entitled by the articles of incorporation or this chapter to vote generally on the matter are for that purpose a single voting group.

(29) "Voting power" means the current power to vote in the election of directors.

30-29-141. NOTICE. (1) Notice under this chapter must be in writing unless oral notice is reasonable under the circumstances. Notice by electronic transmission is written notice.

(2) Notice may be communicated in person; by mail or other method of delivery; or by telephone, voice mail or other electronic means. If these forms of personal notice are impracticable, notice may be communicated by a newspaper of general circulation in the area where published, or by radio, television, or other form of public broadcast communication.

(3) Written notice by a domestic or foreign corporation to its shareholder, if in a comprehensible form, is effective:

(a) Upon deposit in the United States mail, if mailed postpaid and correctly addressed to the shareholder's address shown in the corporation's current record of shareholders; or

(b) When electronically transmitted to the shareholder in a manner authorized by the shareholders.

(4) Written notice to a domestic or foreign corporation, authorized to transact business in this state, may be addressed to its registered agent or to the corporation or its secretary at its correspondence address shown in its most recent annual report or, in the case of a foreign corporation that has not yet delivered an annual report, in its application for a certificate of authority.

(5) Except as provided in subsection (3) of this section, written notice, if in a comprehensible form, is effective at the earliest of the following:

(a) When received;

(b) Five (5) days after its deposit in the United States mail, if mailed postpaid and correctly addressed;

(c) On the date shown on the return receipt, if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee.

(6) Oral notice is effective when communicated if communicated in a comprehensible manner.

(7) If this chapter prescribes notice requirements for particular circumstances, those requirements govern. If articles of incorporation or bylaws prescribe notice requirements, not inconsistent with this section or other provisions of this chapter, those requirements govern.

SECTION 57. That Chapter 29, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW PART, to be known and designated as Part 2, Chapter 29, Title 30, Idaho Code, and to read as follows:

PART 2  
INCORPORATION

30-29-201. INCORPORATORS. One (1) or more persons may act as the incorporator or incorporators of a corporation by delivering articles of incorporation to the secretary of state for filing.

30-29-202. ARTICLES OF INCORPORATION. (1) The articles of incorporation must set forth:

- (a) A corporate name for the corporation that satisfies the requirements of sections 30-21-301 and 30-21-302(a), Idaho Code;
- (b) The number of shares the corporation is authorized to issue;
- (c) The information required by section 30-21-404(a), Idaho Code; and
- (d) The name and address of each incorporator.

(2) The articles of incorporation may set forth:

- (a) The names and addresses of the individuals who are to serve as the initial directors;

(b) Provisions not inconsistent with law regarding:

- (i) The purpose or purposes for which the corporation is organized,
- (ii) Managing the business and regulating the affairs of the corporation,
- (iii) Defining, limiting and regulating the powers of the corporation, its board of directors, and shareholders,
- (iv) A par value for authorized shares or classes of shares,
- (v) The imposition of personal liability on shareholders for the debts of the corporation to a specified extent and upon specified conditions;

(c) Any provision that under this chapter is required or permitted to be set forth in the bylaws;

(d) A provision eliminating or limiting the liability of a director to the corporation or its shareholders for money damages for any action taken, or any failure to take any action, as a director, except liability for:

- (i) The amount of a financial benefit received by a director to which he is not entitled,
- (ii) An intentional infliction of harm on the corporation or the shareholders,
- (iii) A violation of section 30-29-833, Idaho Code, or
- (iv) An intentional violation of criminal law; and

(e) A provision permitting or making obligatory indemnification of a director for liability, as defined in section 30-29-850(5), Idaho Code, to any person for any action taken, or any failure to take any action, as a director, except liability for:

- (i) Receipt of a financial benefit to which he is not entitled,
- (ii) An intentional infliction of harm on the corporation or its shareholders,



1 (iii) A violation of section 30-29-833, Idaho Code, or

2 (iv) An intentional violation of criminal law.

3 (3) The articles of incorporation need not set forth any of the corpo-  
4 rate powers enumerated in this chapter.

5 (4) Provisions of the articles of incorporation may be made dependent  
6 upon facts objectively ascertainable outside the articles of incorporation  
7 in accordance with section 30-29-120(2), Idaho Code.

8 30-29-203. INCORPORATION. (1) Unless a delayed effective date is  
9 specified, the corporate existence begins when the articles of incorpora-  
10 tion are filed.

11 (2) The secretary of state's filing of the articles of incorporation is  
12 prima facie proof that the incorporators satisfied all conditions precedent  
13 to incorporation except in a proceeding by the state to cancel or revoke the  
14 incorporation or involuntarily dissolve the corporation.

15 30-29-204. LIABILITY FOR PREINCORPORATION TRANSACTIONS. All persons  
16 purporting to act as or on behalf of a corporation, when there was no incorpo-  
17 ration under this chapter, are jointly and severally liable for all liabili-  
18 ties created while so acting.

19 30-29-205. ORGANIZATION OF CORPORATION. (1) After incorporation:

20 (a) If initial directors are named in the articles of incorporation,  
21 the initial directors shall hold an organizational meeting, at the call  
22 of a majority of the directors, to complete the organization of the cor-  
23 poration by appointing officers, adopting bylaws, and carrying on any  
24 other business brought before the meeting, shall hold an organizational  
25 meeting at the call of a majority of the incorporators:

26 (i) To elect directors and complete the organization of the cor-  
27 poration; or

28 (ii) To elect a board of directors who shall complete the organi-  
29 zation of the corporation.

30 (2) Action required or permitted by this chapter to be taken by incor-  
31 porators at an organizational meeting may be taken without a meeting if the  
32 action taken is evidenced by one (1) or more written consents describing the  
33 action taken and signed by each incorporator.

34 (3) An organizational meeting may be held in or out of this state.

35 30-29-206. BYLAWS. (1) The incorporators or board of directors of a  
36 corporation shall adopt initial bylaws for the corporation.

37 (2) The bylaws of a corporation may contain any provision for managing  
38 the business and regulating the affairs of the corporation that is not incon-  
39 sistent with law or the articles of incorporation.

40 30-29-207. EMERGENCY BYLAWS. (1) Unless the articles of incorporation  
41 provide otherwise, the board of directors of a corporation may adopt bylaws  
42 to be effective only in an emergency defined in subsection (4) of this sec-  
43 tion. The emergency bylaws, which are subject to amendment or repeal by the  
44 shareholders, may make all provisions necessary for managing the corpora-  
45 tion during the emergency, including:

1 (a) Procedures for calling a meeting of the board of directors;

2 (b) Quorum requirements for the meeting; and

3 (c) Designation of additional or substitute directors.

4 (2) All provisions of the regular bylaws consistent with the emergency  
5 bylaws remain effective during the emergency. The emergency bylaws are not  
6 effective after the emergency ends.

7 (3) Corporate action taken in good faith in accordance with the emer-  
8 gency bylaws:

9 (a) Binds the corporation; and

10 (b) May not be used to impose liability on a corporate director, offi-  
11 cer, employee or agent.

12 (4) An emergency exists for purposes of this section if a quorum of the  
13 corporation's directors cannot readily be assembled because of some cata-  
14 strophic event.

15 SECTION 58. That Chapter 29, Title 30, Idaho Code, be, and the same is  
16 hereby amended by the addition thereto of a NEW PART, to be known and desig-  
17 nated as Part 3, Chapter 29, Title 30, Idaho Code, and to read as follows:

#### 18 PART 3

#### 19 PURPOSES AND POWERS

20 30-29-301. PURPOSES. (1) Every corporation incorporated under this  
21 chapter has the purpose of engaging in any lawful business unless a more lim-  
22 ited purpose is set forth in the articles of incorporation.

23 (2) A corporation engaging in a business that is subject to regulation  
24 under another statute of this state may incorporate under this chapter only  
25 if permitted by, and subject to all limitations of, the other statute.

26 30-29-302. GENERAL POWERS. Unless its articles of incorporation pro-  
27 vide otherwise, every corporation has perpetual duration and succession in  
28 its corporate name and has the same powers as an individual to do all things  
29 necessary or convenient to carry out its business and affairs, including  
30 without limitation power:

31 (1) To sue and be sued, complain and defend in its corporate name;

32 (2) To have a corporate seal, which may be altered at will, and to use  
33 it, or a facsimile of it, by impressing or affixing it or in any other manner  
34 reproducing it;

35 (3) To make and amend bylaws, not inconsistent with its articles of in-  
36 corporation or with the laws of this state, for managing the business and  
37 regulating the affairs of the corporation;

38 (4) To purchase, receive, lease, or otherwise acquire, and own, hold,  
39 improve, use, and otherwise deal with real or personal property, or any legal  
40 or equitable interest in property wherever located;

41 (5) To sell, convey, mortgage, pledge, lease, exchange, and otherwise  
42 dispose of all or any part of its property;

43 (6) To purchase, receive, subscribe for, or otherwise acquire; own,  
44 hold, vote, use, sell, mortgage, lend, pledge, or otherwise dispose of; and  
45 deal in and with shares or other interests in, or obligations of, any other  
46 entity;

1 (7) To make contracts and guarantees, incur liabilities, borrow money,  
 2 issue its notes, bonds, and other obligations, which may be convertible into  
 3 or include the option to purchase other securities of the corporation, and  
 4 secure any of its obligations by mortgage or pledge of any of its property,  
 5 franchises or income;

6 (8) To lend money, invest and reinvest its funds, and receive and hold  
 7 real and personal property as security for repayment;

8 (9) To be a promoter, partner, member, associate or manager of any part-  
 9 nership, joint venture, trust or other entity;

10 (10) To conduct its business, locate offices, and exercise the powers  
 11 granted by this chapter within or without this state;

12 (11) To elect directors and appoint officers, employees, and agents of  
 13 the corporation, define their duties, fix their compensation, and lend them  
 14 money and credit;

15 (12) To pay pensions and establish pension plans, pension trusts,  
 16 profit sharing plans, share bonus plans, share option plans, and benefit or  
 17 incentive plans for any or all of its current or former directors, officers,  
 18 employees and agents;

19 (13) To make donations for the public welfare or for charitable, scien-  
 20 tific, or educational purposes;

21 (14) To transact any lawful business that will aid governmental policy;

22 (15) To make payments or donations, or do any other act, not inconsis-  
 23 tent with law, that furthers the business and affairs of the corporation.

24 30-29-303. EMERGENCY POWERS. (1) In anticipation of or during an emer-  
 25 gency defined in subsection (4) of this section, the board of directors of a  
 26 corporation may:

27 (a) Modify lines of succession to accommodate the incapacity of any di-  
 28 rector, officer, employee or agent; and

29 (b) Relocate the principal office, designate alternative principal of-  
 30 fices or regional offices, or authorize the officers to do so.

31 (2) During an emergency defined in subsection (4) of this section, un-  
 32 less emergency bylaws provide otherwise:

33 (a) Notice of a meeting of the board of directors need be given only to  
 34 those directors whom it is practicable to reach and may be given in any  
 35 practicable manner, including by publication and radio; and

36 (b) One (1) or more officers of the corporation present at a meeting of  
 37 the board of directors may be deemed to be directors for the meeting, in  
 38 order of rank and within the same rank in order of seniority, as neces-  
 39 sary to achieve a quorum.

40 (3) Corporate action taken in good faith during an emergency under this  
 41 section to further the ordinary business affairs of the corporation:

42 (a) Binds the corporation; and

43 (b) May not be used to impose liability on a corporate director, offi-  
 44 cer, employee or agent.

45 (4) An emergency exists for purposes of this section if a quorum of the  
 46 corporation's directors cannot readily be assembled because of some cata-  
 47 strophic event.



1 (2) The articles of incorporation must authorize:

2 (a) One (1) or more classes or series of shares that together have un-  
3 limited voting rights; and

4 (b) One (1) or more classes or series of shares, which may be the same  
5 class or classes as those with voting rights, that together are entitled  
6 to receive the net assets of the corporation upon dissolution.

7 (3) The articles of incorporation may authorize one (1) or more classes  
8 or series of shares that:

9 (a) Have special, conditional or limited voting rights, or no right to  
10 vote, except to the extent otherwise provided by this chapter;

11 (b) Are redeemable or convertible as specified in the articles of in-  
12 corporation:

13 (i) At the option of the corporation, the shareholder, or another  
14 person or upon the occurrence of a specified event;

15 (ii) For cash, indebtedness, securities or other property; and

16 (iii) At prices and in amounts specified, or determined in accor-  
17 dance with a formula;

18 (c) Entitle the holders to distributions calculated in any manner, in-  
19 cluding dividends that may be cumulative, noncumulative or partially  
20 cumulative; or

21 (d) Have preference over any other class or series of shares with re-  
22 spect to distributions, including distributions upon the dissolution  
23 of the corporation.

24 (4) Terms of shares may be made dependent upon facts objectively ascer-  
25 tainable outside the articles of incorporation in accordance with section  
26 30-29-120(2), Idaho Code.

27 (5) Any of the terms of shares may vary among holders of the same class  
28 or series so long as such variations are expressly set forth in the articles  
29 of incorporation.

30 (6) The description of the preferences, rights and limitations of  
31 classes or series of shares in subsection (3) of this section is not exhaus-  
32 tive.

33 30-29-602. TERMS OF CLASS OR SERIES DETERMINED BY BOARD OF DIREC-  
34 TORS. (1) If the articles of incorporation so provide, the board of directors  
35 is authorized, without shareholder approval, to:

36 (a) Classify any unissued shares into one (1) or more classes or into  
37 one (1) or more series within a class;

38 (b) Reclassify any unissued shares of any class into one (1) or more  
39 classes or into one (1) or more series within one (1) or more classes; or

40 (c) Reclassify any unissued shares of any series of any class into one  
41 (1) or more classes or into one (1) or more series within a class.

42 (2) If the board of directors acts pursuant to subsection (1) of this  
43 section, it must determine the terms, including the preferences, rights and  
44 limitations, to the same extent permitted under section 30-29-601, Idaho  
45 Code, of:

46 (a) Any class of shares before the issuance of any shares of that class;  
47 or

48 (b) Any series within a class before the issuance of any shares of that  
49 series.

(3) Before issuing any shares of a class or series created under this section, the corporation must deliver to the secretary of state for filing articles of amendment setting forth the terms determined under subsection (1) of this section.

30-29-603. ISSUED AND OUTSTANDING SHARES. (1) A corporation may issue the number of shares of each class or series authorized by the articles of incorporation. Shares that are issued are outstanding shares until they are reacquired, redeemed, converted or canceled.

(2) The reacquisition, redemption or conversion of outstanding shares is subject to the limitations of subsection (3) of this section and to section 30-29-640, Idaho Code.

(3) At all times that shares of the corporation are outstanding, one (1) or more shares that together have unlimited voting rights and one (1) or more shares that together are entitled to receive the net assets of the corporation upon dissolution must be outstanding.

30-29-604. FRACTIONAL SHARES. (1) A corporation may:

(a) Issue fractions of a share or pay in money the value of fractions of a share;

(b) Arrange for disposition of fractional shares by the shareholders;

(c) Issue scrip in registered or bearer form entitling the holder to receive a full share upon surrendering enough scrip to equal a full share.

(2) Each certificate representing scrip must be conspicuously labeled "scrip" and must contain the information required by section 30-29-625(2), Idaho Code.

(3) The holder of a fractional share is entitled to exercise the rights of a shareholder, including the right to vote, to receive dividends, and to participate in the assets of the corporation upon liquidation. The holder of scrip is not entitled to any of these rights unless the scrip provides for them.

(4) The board of directors may authorize the issuance of scrip subject to any condition considered desirable, including:

(a) That the scrip will become void if not exchanged for full shares before a specified date; and

(b) That the shares for which the scrip is exchangeable may be sold and the proceeds paid to the scripholders.

30-29-605. RESERVED.

30-29-606. RESERVED.

30-29-607. RESERVED.

30-29-608. RESERVED.

30-29-609. RESERVED.

30-29-610. RESERVED.

30-29-611. RESERVED.

1           30-29-612.   RESERVED.

2           30-29-613.   RESERVED.

3           30-29-614.   RESERVED.

4           30-29-615.   RESERVED.

5           30-29-616.   RESERVED.

6           30-29-617.   RESERVED.

7           30-29-618.   RESERVED.

8           30-29-619.   RESERVED.

9           30-29-620.   SUBSCRIPTION FOR SHARES BEFORE INCORPORATION. (1) A sub-  
10   scription for shares entered into before incorporation must be in writing  
11   and is irrevocable for six (6) months unless the subscription agreement pro-  
12   vides a longer or shorter period or all the subscribers agree to revocation.

13           (2) The board of directors may determine the payment terms of subscrip-  
14   tions for shares that were entered into before incorporation, unless the  
15   subscription agreement specifies them. A call for payment by the board of  
16   directors must be uniform so far as practicable as to all shares of the same  
17   class or series, unless the subscription agreement specifies otherwise.

18           (3) Shares issued pursuant to subscriptions entered into before incor-  
19   poration are fully paid and nonassessable when the corporation receives the  
20   consideration specified in the subscription agreement, provided that such  
21   consideration meets the requirements of section 30-29-621(2), Idaho Code.

22           (4) If a subscriber defaults in payment of money or property under a  
23   subscription agreement entered into before incorporation, the corporation  
24   may collect the amount owed as any other debt. Alternatively, unless the  
25   subscription agreement provides otherwise, the corporation may rescind the  
26   agreement and may sell the shares if the debt remains unpaid for more than  
27   twenty (20) days after the corporation sends written demand for payment to  
28   the subscriber.

29           (5) A subscription agreement entered into after incorporation is a con-  
30   tract between the subscriber and the corporation subject to section 30-29-  
31   621, Idaho Code.

32           (6) A subscription for stock of a corporation, whether made before or  
33   after the formation of a corporation, shall not be enforceable against the  
34   subscriber or the corporation, unless in writing and signed by the party to  
35   be bound.

36           30-29-621.   ISSUANCE OF SHARES. (1) The powers granted in this section  
37   to the board of directors may be reserved to the shareholders by the articles  
38   of incorporation.

39           (2) The board of directors may authorize shares to be issued for consid-  
40   eration consisting of any tangible or intangible property, including cash,  
41   promissory notes, services performed, or other securities of the corpora-  
42   tion.

1 (3) Before the corporation issues shares, the board of directors must  
 2 determine that the consideration received or to be received for shares to  
 3 be issued is adequate. That determination by the board of directors is con-  
 4 clusive insofar as the adequacy of consideration for the issuance of shares  
 5 relates to whether the shares are validly issued, fully paid and nonassess-  
 6 able.

7 (4) When the corporation receives the consideration for which the board  
 8 of directors authorized the issuance of shares, the shares issued therefor  
 9 are fully paid and nonassessable.

10 (5) The corporation may place in escrow shares issued for a promissory  
 11 note, or make other arrangements to restrict the transfer of the shares, and  
 12 may credit distributions in respect of the shares against their purchase  
 13 price, until the note is paid. If the note is not paid, the shares escrowed or  
 14 restricted and the distributions credited may be canceled in whole or part.

15 (6) (a) An issuance of shares or other securities convertible into  
 16 or rights exercisable for shares, in a transaction or a series of in-  
 17 tegrated transactions, requires approval of the shareholders, at a  
 18 meeting at which a quorum consisting of at least a majority of the votes  
 19 entitled to be cast on the matter exists, if:

20 (i) The shares, other securities, or rights are issued for con-  
 21 sideration other than cash or cash equivalents; and

22 (ii) The voting power of shares that are issued and issuable as  
 23 a result of the transaction or series of integrated transactions  
 24 will comprise more than twenty percent (20%) of the voting power  
 25 of the shares of the corporation that were outstanding immediately  
 26 before the transaction.

27 (b) In this subsection:

28 (i) For purposes of determining the voting power of shares issued  
 29 and issuable as a result of a transaction or series of integrated  
 30 transactions, the voting power of shares shall be the greater of:

31 (A) The voting power of the shares to be issued; or

32 (B) The voting power of the shares that would be outstanding  
 33 after giving effect to the conversion of convertible shares  
 34 and other securities and the exercise of rights to be issued.

35 (ii) A series of transactions is integrated if consummation of one  
 36 (1) transaction is made contingent on consummation of one (1) or  
 37 more of the other transactions.

38 30-29-622. LIABILITY OF SHAREHOLDERS. (1) A purchaser from a corpora-  
 39 tion of its own shares is not liable to the corporation or its creditors with  
 40 respect to the shares except to pay the consideration for which the shares  
 41 were authorized to be issued as provided in section 30-29-621, Idaho Code,  
 42 or specified in the subscription agreement as provided in section 30-29-620,  
 43 Idaho Code.

44 (2) Unless otherwise provided in the articles of incorporation, a  
 45 shareholder of a corporation is not personally liable for the acts or debts  
 46 of the corporation except that he may become personally liable by reason of  
 47 his own acts or conduct.



1        30-29-623. SHARE DIVIDENDS. (1) Unless the articles of incorporation  
2 provide otherwise, shares may be issued pro rata and without consideration  
3 to the corporation's shareholders or to the shareholders of one (1) or more  
4 classes or series. An issuance of shares under this subsection is a share  
5 dividend.

6        (2) Shares of one (1) class or series may not be issued as a share divi-  
7 dend in respect of shares of another class or series unless:

8        (a) The articles of incorporation so authorize;

9        (b) A majority of the votes entitled to be cast by the class or series to  
10 be issued approve the issue; or

11        (c) There are not outstanding shares of the class or series to be is-  
12 sued.

13        (3) If the board of directors does not fix the record date for determin-  
14 ing shareholders entitled to a share dividend, it is the date the board of di-  
15 rectors authorizes the share dividend.

16        30-29-624. SHARE OPTIONS. (1) A corporation may issue rights, options  
17 or warrants for the purchase of shares or other securities of the corpora-  
18 tion. The board of directors shall determine:

19        (a) The terms upon which the rights, options or warrants are issued; and

20        (b) The terms, including the consideration for which the shares or  
21 other securities are to be issued. The authorization by the board of  
22 directors for the corporation to issue such rights, options or warrants  
23 constitutes authorization of the issuance of the shares or other secu-  
24 rities for which the rights, options or warrants are exercisable.

25        (2) The terms and conditions of such rights, options or warrants, in-  
26 cluding those outstanding on the effective date of this act, may include,  
27 without limitation, restrictions or conditions that:

28        (a) Preclude or limit the exercise, transfer or receipt of such rights,  
29 options or warrants by any person or persons owning or offering to ac-  
30 quire a specified number or percentage of the outstanding shares or  
31 other securities of the corporation or by any transferee or transferees  
32 of any such person or persons; or

33        (b) Invalidate or void such rights, options or warrants held by any such  
34 person or persons or any such transferee or transferees.

35        30-29-625. FORM AND CONTENT OF CERTIFICATES. (1) Shares may but need  
36 not be represented by certificates. Unless this chapter or another statute  
37 expressly provides otherwise, the rights and obligations of shareholders  
38 are identical whether or not their shares are represented by certificates.

39        (2) At a minimum each share certificate must state on its face:

40        (a) The name of the issuing corporation and that it is organized under  
41 the law of this state;

42        (b) The name of the person to whom issued; and

43        (c) The number and class of shares and the designation of the series, if  
44 any, the certificate represents.

45        (3) If the issuing corporation is authorized to issue different classes  
46 of shares or different series within a class, the designations, relative  
47 rights, preferences and limitations applicable to each class and the varia-  
48 tions in rights, preferences and limitations determined for each series, and

1 the authority of the board of directors to determine variations for future  
 2 series, must be summarized on the front or back of each certificate. Alter-  
 3 natively, each certificate may state conspicuously on its front or back that  
 4 the corporation will furnish the shareholder this information on request in  
 5 writing and without charge.

6 (4) Each share certificate:

7 (a) Must be signed, either manually or in facsimile, by two (2) officers  
 8 designated in the bylaws or by the board of directors; and

9 (b) May bear the corporate seal or its facsimile.

10 (5) If the person who signed, either manually or in facsimile, a share  
 11 certificate no longer holds office when the certificate is issued, the cer-  
 12 tificate is nevertheless valid.

13 30-29-626. SHARES WITHOUT CERTIFICATES. (1) Unless the articles of  
 14 incorporation or bylaws provide otherwise, the board of directors of a cor-  
 15 poration may authorize the issue of some or all of the shares of any or all of  
 16 its classes or series without certificates. The authorization does not af-  
 17 fect shares already represented by certificates until they are surrendered  
 18 to the corporation.

19 (2) Within a reasonable time after the issue or transfer of shares  
 20 without certificates, the corporation shall send the shareholder a writ-  
 21 ten statement of the information required on certificates by section  
 22 30-29-625(2) and (3), Idaho Code, and, if applicable, section 30-29-627,  
 23 Idaho Code.

24 30-29-627. RESTRICTION ON TRANSFER OF SHARES AND OTHER SECURI-  
 25 TIES. (1) The articles of incorporation, bylaws, an agreement among share-  
 26 holders, or an agreement between shareholders and the corporation may impose  
 27 restrictions on the transfer or registration of transfer of shares of the  
 28 corporation. A restriction does not affect shares issued before the re-  
 29 striction was adopted unless the holders of the shares are parties to the  
 30 restriction agreement or voted in favor of the restriction.

31 (2) A restriction on the transfer or registration of transfer of shares  
 32 is valid and enforceable against the holder or a transferee of the holder if  
 33 the restriction is authorized by this section and its existence is noted con-  
 34 spicuously on the front or back of the certificate or is contained in the in-  
 35 formation statement required by section 30-29-626(2), Idaho Code. Unless so  
 36 noted, a restriction is not enforceable against a person without knowledge  
 37 of the restriction.

38 (3) A restriction on the transfer or registration of transfer of shares  
 39 is authorized:

40 (a) To maintain the corporation's status when it is dependent on the  
 41 number or identity of its shareholders;

42 (b) To preserve exemptions under federal or state securities law;

43 (c) For any other reasonable purpose.

44 (4) A restriction on the transfer or registration of transfer of shares  
 45 may:

46 (a) Obligate the shareholder first to offer the corporation or other  
 47 persons, separately, consecutively, or simultaneously, an opportunity  
 48 to acquire the restricted shares;

1 (b) Obligate the corporation or other persons, separately, consec-  
2 tively, or simultaneously, to acquire the restricted shares;

3 (c) Require the corporation, the holders of any class of its shares, or  
4 another person to approve the transfer of the restricted shares, if the  
5 requirement is not manifestly unreasonable;

6 (d) Prohibit the transfer of the restricted shares to designated per-  
7 sons or classes of persons, if the prohibition is not manifestly unrea-  
8 sonable.

9 (5) For purposes of this section, "shares" includes a security convert-  
10 ible into or carrying a right to subscribe for or acquire shares.

11 30-29-628. EXPENSE OF ISSUE. A corporation may pay the expenses of  
12 selling or underwriting its shares, and of organizing or reorganizing the  
13 corporation, from the consideration received for shares.

14 30-29-629. RESERVED.

15 30-29-630. SHAREHOLDERS' PREEMPTIVE RIGHTS. (1) The shareholders of  
16 a corporation do not have a preemptive right to acquire the corporation's  
17 unissued shares except to the extent the articles of incorporation so pro-  
18 vide.

19 (2) A statement included in the articles of incorporation that "the  
20 corporation elects to have preemptive rights," or words of similar import,  
21 means that the following principles apply except to the extent the articles  
22 of incorporation expressly provide otherwise:

23 (a) The shareholders of the corporation have a preemptive right,  
24 granted on uniform terms and conditions prescribed by the board of di-  
25 rectors to provide a fair and reasonable opportunity to exercise the  
26 right, to acquire proportional amounts of the corporation's unissued  
27 shares upon the decision of the board of directors to issue them.

28 (b) A shareholder may waive his preemptive right. A waiver evidenced by  
29 a writing is irrevocable even though it is not supported by considera-  
30 tion.

31 (c) There is no preemptive right with respect to:

32 (i) Shares issued as compensation to directors, officers, agents  
33 or employees of the corporation, its subsidiaries or affiliates;

34 (ii) Shares issued to satisfy conversion rights or option rights  
35 created to provide compensation to directors, officers, agents or  
36 employees of the corporation, its subsidiaries or affiliates;

37 (iii) Shares authorized in articles of incorporation that are is-  
38 sued within six (6) months from the effective date of incorpora-  
39 tion;

40 (iv) Shares sold otherwise than for money.

41 (d) Holders of shares of any class without general voting rights but  
42 with preferential rights to distributions or assets have no preemptive  
43 rights with respect to shares of any class.

44 (e) Holders of shares of any class with general voting rights but with-  
45 out preferential rights to distributions or assets have no preemptive  
46 rights with respect to shares of any class with preferential rights to  
47 distributions or assets unless the shares with preferential rights are

1 convertible into or carry a right to subscribe for or acquire shares  
2 without preferential rights.

3 (f) Shares subject to preemptive rights that are not acquired by share-  
4 holders may be issued to any person for a period of one (1) year after  
5 being offered to shareholders at a consideration set by the board of di-  
6 rectors that is not lower than the consideration set for the exercise  
7 of preemptive rights. An offer at a lower consideration or after the  
8 expiration of one (1) year is subject to the shareholders' preemptive  
9 rights.

10 (3) For purposes of this section, "shares" includes a security convert-  
11 ible into or carrying a right to subscribe for or acquire shares.

12 30-29-631. CORPORATION'S ACQUISITION OF ITS OWN SHARES. (1) A corpo-  
13 ration may acquire its own shares. Unless a resolution of the board of di-  
14 rectors or the corporation's articles of incorporation provide otherwise,  
15 shares so acquired constitute authorized but unissued shares.

16 (2) If the articles of incorporation prohibit the reissue of acquired  
17 shares, the number of authorized shares is reduced by the number of shares  
18 acquired, effective upon amendment of the articles of incorporation pur-  
19 suant to section 30-29-1005(6), Idaho Code.

20 (3) A corporation has authority to use, hold, acquire, cancel and dis-  
21 pose of treasury shares.

22 (4) Unless the board of directors adopts an amendment to the corpora-  
23 tion's articles of incorporation to reduce the number of authorized shares,  
24 treasury shares of the corporation that are canceled shall be treated as au-  
25 thorized but unissued shares.

26 30-29-632. RESERVED.

27 30-29-633. RESERVED.

28 30-29-634. RESERVED.

29 30-29-635. RESERVED.

30 30-29-636. RESERVED.

31 30-29-637. RESERVED.

32 30-29-638. RESERVED.

33 30-29-639. RESERVED.

34 30-29-640. DISTRIBUTIONS TO SHAREHOLDERS. (1) A board of directors  
35 may authorize and the corporation may make distributions to its shareholders  
36 subject to restriction by the articles of incorporation and the limitation  
37 in subsection (3) of this section.

38 (2) If the board of directors does not fix the record date for deter-  
39 mining shareholders entitled to a distribution, other than one involving a  
40 purchase, redemption or other acquisition of the corporation's shares, it is  
41 the date the board of directors authorizes the distribution.

1 (3) No distribution may be made if, after giving it effect:

2 (a) The corporation would not be able to pay its debts as they become due  
3 in the usual course of business; or

4 (b) The corporation's total assets would be less than the sum of its to-  
5 tal liabilities plus, unless the articles of incorporation permit oth-  
6 erwise, the amount that would be needed, if the corporation were to be  
7 dissolved at the time of the distribution, to satisfy the preferential  
8 rights upon dissolution of shareholders whose preferential rights are  
9 superior to those receiving the distribution.

10 (4) The board of directors may base a determination that a distribution  
11 is not prohibited under subsection (3) of this section either on financial  
12 statements prepared on the basis of accounting practices and principles that  
13 are reasonable in the circumstances or on a fair valuation or other method  
14 that is reasonable in the circumstances.

15 (5) Except as provided in subsection (7) of this section, the effect of  
16 a distribution under subsection (3) of this section is measured:

17 (a) In the case of distribution by purchase, redemption or other acqui-  
18 sition of the corporation's shares, as of the earlier of:

19 (i) The date money or other property is transferred or debt in-  
20 curred by the corporation, or

21 (ii) The date the shareholder ceases to be a shareholder with re-  
22 spect to the acquired shares;

23 (b) In the case of any other distribution of indebtedness, as of the  
24 date the indebtedness is distributed; and

25 (c) In all other cases, as of:

26 (i) The date the distribution is authorized if the payment occurs  
27 within one hundred twenty (120) days after the date of authoriza-  
28 tion, or

29 (ii) The date the payment is made if it occurs more than one hun-  
30 dred twenty (120) days after the date of authorization.

31 (6) A corporation's indebtedness to a shareholder incurred by reason  
32 of a distribution made in accordance with this section is at parity with the  
33 corporation's indebtedness to its general, unsecured creditors except to  
34 the extent subordinated by agreement.

35 (7) Indebtedness of a corporation, including indebtedness issued as a  
36 distribution, is not considered a liability for purposes of determinations  
37 under subsection (3) of this section if its terms provide that payment of  
38 principal and interest are made only if and to the extent that payment of a  
39 distribution to shareholders could then be made under this section. If the  
40 indebtedness is issued as a distribution, each payment of principal or in-  
41 terest is treated as a distribution, the effect of which is measured on the  
42 date the payment is actually made.

43 SECTION 62. That Chapter 29, Title 30, Idaho Code, be, and the same is  
44 hereby amended by the addition thereto of a NEW PART, to be known and desig-  
45 nated as Part 7, Chapter 29, Title 30, Idaho Code, and to read as follows:

46 PART 7  
47 SHAREHOLDERS

1       30-29-701. ANNUAL MEETING. (1) A corporation shall hold a meeting of  
2 shareholders annually at a time stated in or fixed in accordance with the by-  
3 laws.

4       (2) Annual shareholders' meetings may be held in or out of this state at  
5 the place stated in or fixed in accordance with the bylaws. If no place is  
6 stated in or fixed in accordance with the bylaws, annual meetings shall be  
7 held at the corporation's principal office.

8       (3) The failure to hold an annual meeting at the time stated in or fixed  
9 in accordance with a corporation's bylaws does not affect the validity of any  
10 corporate action.

11       30-29-702. SPECIAL MEETING. (1) A corporation shall hold a special  
12 meeting of shareholders:

13       (a) On call of its board of directors or the person or persons autho-  
14 rized to do so by the articles of incorporation or bylaws; or

15       (b) If the holders of at least twenty percent (20%) of all the votes  
16 entitled to be cast on any issue proposed to be considered at the pro-  
17 posed special meeting sign, date and deliver to the corporation one (1)  
18 or more written demands for the meeting describing the purpose or pur-  
19 poses for which it is to be held, provided that the articles of incorpo-  
20 ration may fix a lower percentage or a higher percentage not exceeding  
21 thirty-three and one-third percent (33 1/3%) of all the votes entitled  
22 to be cast on any issue proposed to be considered. Unless otherwise pro-  
23 vided in the articles of incorporation, a written demand for a special  
24 meeting may be revoked by a writing to that effect received by the corpo-  
25 ration prior to the receipt by the corporation of demands sufficient in  
26 number to require the holding of a special meeting.

27       (2) If not otherwise fixed under section 30-29-703 or 30-29-707, Idaho  
28 Code, the record date for determining shareholders entitled to demand a spe-  
29 cial meeting is the date the first shareholder signs the demand.

30       (3) Special shareholders' meetings may be held in or out of this state  
31 at the place stated in or fixed in accordance with the bylaws. If no place is  
32 stated or fixed in accordance with the bylaws, special meetings shall be held  
33 at the corporation's principal office.

34       (4) Only business within the purpose or purposes described in the meet-  
35 ing notice required by section 30-29-705(3), Idaho Code, may be conducted at  
36 a special shareholders' meeting.

37       30-29-703. COURT-ORDERED MEETING. (1) The Idaho district court of the  
38 county where a corporation's principal office is located, or, if none in this  
39 state, Ada county, may summarily order a meeting to be held:

40       (a) On application of any shareholder of the corporation entitled  
41 to participate in an annual meeting if an annual meeting was not held  
42 within fifteen (15) months after its last annual meeting; or

43       (b) On application of a shareholder who signed a demand for a special  
44 meeting valid under section 30-29-702, Idaho Code, if:

45           (i) Notice of the special meeting was not given within thirty (30)  
46 days after the date the demand was delivered to the corporation's  
47 secretary, or

1 (ii) The special meeting was not held in accordance with the no-  
2 tice.

3 (2) The court may fix the time and place of the meeting, determine the  
4 shares entitled to participate in the meeting, specify a record date for  
5 determining shareholders entitled to notice of and to vote at the meeting,  
6 prescribe the form and content of the meeting notice, fix the quorum required  
7 for specific matters to be considered at the meeting, or direct that the  
8 votes represented at the meeting constitute a quorum for action on those mat-  
9 ters, and enter other orders necessary to accomplish the purpose or purposes  
10 of the meeting.

11 30-29-704. ACTION WITHOUT MEETING. (1) Action required or permitted  
12 by this chapter to be taken at a shareholders' meeting may be taken without  
13 a meeting if the action is taken by all the shareholders entitled to vote on  
14 the action. The action must be evidenced by one (1) or more written consents  
15 bearing the date of signature and describing the action taken, signed by all  
16 the shareholders entitled to vote on the action, and delivered to the corpo-  
17 ration for inclusion in the minutes or filing with the corporate records.

18 (2) If not otherwise fixed under section 30-29-703 or 30-29-707, Idaho  
19 Code, the record date for determining shareholders entitled to take action  
20 without a meeting is the date the first shareholder signs the consent under  
21 subsection (1) of this section. No written consent shall be effective to  
22 take the corporate action referred to therein unless, within sixty (60) days  
23 of the earliest date appearing on a consent delivered to the corporation in  
24 the manner required by this section, written consents signed by all share-  
25 holders entitled to vote on the action are received by the corporation. A  
26 written consent may be revoked by a writing to that effect received by the  
27 corporation prior to the receipt by the corporation of unrevoked written  
28 consents sufficient in number to take corporate action.

29 (3) A consent signed under this section has the effect of a meeting vote  
30 and may be described as such in any document.

31 (4) If this chapter requires that notice of proposed action be given to  
32 nonvoting shareholders and the action is to be taken by unanimous consent of  
33 the voting shareholders, the corporation must give its nonvoting sharehold-  
34 ers written notice of the proposed action at least ten (10) days before the  
35 action is taken. The notice must contain or be accompanied by the same ma-  
36 terial that, under this chapter, would have been required to be sent to non-  
37 voting shareholders in a notice of meeting at which the proposed action would  
38 have been submitted to the shareholders for action.

39 30-29-705. NOTICE OF MEETING. (1) A corporation shall notify share-  
40 holders of the date, time and place of each annual and special shareholders'  
41 meeting no fewer than ten (10) nor more than sixty (60) days before the meet-  
42 ing date. Unless this chapter or the articles of incorporation require oth-  
43 erwise, the corporation is required to give notice only to shareholders en-  
44 titled to vote at the meeting.

45 (2) Unless this chapter or the articles of incorporation require other-  
46 wise, notice of an annual meeting need not include a description of the pur-  
47 pose or purposes for which the meeting is called.

1 (3) Notice of a special meeting must include a description of the pur-  
2 pose or purposes for which the meeting is called.

3 (4) If not otherwise fixed under section 30-29-703 or 30-29-707, Idaho  
4 Code, the record date for determining shareholders entitled to notice of and  
5 to vote at an annual or special shareholders' meeting is the day before the  
6 first notice is delivered to shareholders.

7 (5) Unless the bylaws require otherwise, if an annual or special share-  
8 holders' meeting is adjourned to a different date, time, or place, notice  
9 need not be given of the new date, time, or place if the new date, time, or  
10 place is announced at the meeting before adjournment. If a new record date  
11 for the adjourned meeting is or must be fixed under section 30-29-707, Idaho  
12 Code, however, notice of the adjourned meeting must be given under this sec-  
13 tion to persons who are shareholders as of the new record date.

14 30-29-706. WAIVER OF NOTICE. (1) A shareholder may waive any notice  
15 required by this chapter, the articles of incorporation, or bylaws before  
16 or after the date and time stated in the notice. The waiver must be in writ-  
17 ing, be signed by the shareholder entitled to the notice, and be delivered  
18 to the corporation for inclusion in the minutes or filing with the corporate  
19 records.

20 (2) A shareholder's attendance at a meeting:

21 (a) Waives objection to lack of notice or defective notice of the meet-  
22 ing, unless the shareholder at the beginning of the meeting objects to  
23 holding the meeting or transacting business at the meeting;

24 (b) Waives objection to consideration of a particular matter at the  
25 meeting that is not within the purpose or purposes described in the  
26 meeting notice, unless the shareholder objects to considering the mat-  
27 ter when it is presented.

28 30-29-707. RECORD DATE. (1) The bylaws may fix or provide the manner of  
29 fixing the record date for one (1) or more voting groups in order to determine  
30 the shareholders entitled to notice of a shareholders' meeting, to demand a  
31 special meeting, to vote, or to take any other action. If the bylaws do not  
32 fix or provide for fixing a record date, the board of directors of the corpo-  
33 ration may fix a future date as the record date.

34 (2) A record date fixed under this section may not be more than seventy  
35 (70) days before the meeting or action requiring a determination of share-  
36 holders.

37 (3) A determination of shareholders entitled to notice of or to vote at  
38 a shareholders' meeting is effective for any adjournment of the meeting un-  
39 less the board of directors fixes a new record date, which it must do if the  
40 meeting is adjourned to a date more than one hundred twenty (120) days after  
41 the date fixed for the original meeting.

42 (4) If a court orders a meeting adjourned to a date more than one hun-  
43 dred twenty (120) days after the date fixed for the original meeting, it may  
44 provide that the original record date continues in effect or it may fix a new  
45 record date.



1        30-29-708. CONDUCT OF THE MEETING. (1) At each meeting of sharehold-  
2        ers, a chair shall preside. The chair shall be appointed as provided in the  
3        bylaws or, in the absence of such provision, by the board.

4        (2) The chair, unless the bylaws provide otherwise, shall determine the  
5        order of business and shall establish rules for the conduct of the meeting.

6        (3) The rules adopted for, and the conduct of, the meeting shall be fair  
7        to shareholders.

8        (4) The chair of the meeting shall announce at the meeting when the  
9        polls close for each matter voted upon. If no announcement is made, the polls  
10       shall be deemed to have closed upon the final adjournment of the meeting.  
11       After the polls close, no ballots, proxies or votes nor any revocations or  
12       changes thereto may be accepted.

13       30-29-709. RESERVED.

14       30-29-710. RESERVED.

15       30-29-711. RESERVED.

16       30-29-712. RESERVED.

17       30-29-713. RESERVED.

18       30-29-714. RESERVED.

19       30-29-715. RESERVED.

20       30-29-716. RESERVED.

21       30-29-717. RESERVED.

22       30-29-718. RESERVED.

23       30-29-719. RESERVED.

24       30-29-720. SHAREHOLDERS' LIST FOR MEETING. (1) After fixing a record  
25       date for a meeting, a corporation shall prepare an alphabetical list of the  
26       names of all its shareholders who are entitled to notice of a shareholders'  
27       meeting. The list must be arranged by voting group, and within each vot-  
28       ing group by class or series of shares, and show the address of and number of  
29       shares held by each shareholder.

30       (2) The shareholders' list must be available for inspection by any  
31       shareholder, at least ten (10) days before the meeting for which the list was  
32       prepared and continuing through the meeting, at the corporation's princi-  
33       pal office or at a place identified in the meeting notice in the city where  
34       the meeting will be held. A shareholder, his agent or attorney is entitled  
35       on written demand to inspect and, subject to the requirements of section  
36       30-29-1602(3), Idaho Code, to copy the list, during regular business hours  
37       and at his expense, during the period it is available for inspection.

1 (3) The corporation shall make the shareholders' list available at the  
2 meeting, and any shareholder, his agent, or attorney is entitled to inspect  
3 the list at any time during the meeting or any adjournment.

4 (4) If the corporation refuses to allow a shareholder, his agent or at-  
5 torney to inspect the shareholders' list before or at the meeting, or copy  
6 the list as permitted by subsection (2) of this section, the Idaho district  
7 court of the county where a corporation's principal office is located, or, if  
8 none in this state, Ada county, on application of the shareholder, may sum-  
9 marily order the inspection or copying at the corporation's expense and may  
10 postpone the meeting for which the list was prepared until the inspection or  
11 copying is complete.

12 (5) Refusal or failure to prepare or make available the shareholders'  
13 list does not affect the validity of action taken at the meeting.

14 30-29-721. VOTING ENTITLEMENT OF SHARES. (1) Except as provided in  
15 subsections (2) and (4) of this section or unless the articles of incorpo-  
16 ration provide otherwise, each outstanding share, regardless of class, is  
17 entitled to one (1) vote on each matter voted on at a shareholders' meeting.  
18 Only shares are entitled to vote.

19 (2) A corporation is not entitled to vote treasury shares. Absent spe-  
20 cial circumstances, the shares of a corporation are not entitled to vote if  
21 they are owned, directly or indirectly, by a second corporation, domestic or  
22 foreign, and the first corporation owns, directly or indirectly, a majority  
23 of the shares entitled to vote for directors of the second corporation.

24 (3) Subsection (2) of this section does not limit the power of a corpo-  
25 ration to vote any shares, including its own shares, held by it in a fiduciary  
26 capacity.

27 (4) Redeemable shares are not entitled to vote after notice of redemp-  
28 tion is mailed to the holders and a sum sufficient to redeem the shares has  
29 been deposited with a bank, trust company, or other financial institution  
30 under an irrevocable obligation to pay the holders the redemption price on  
31 surrender of the shares.

32 30-29-722. PROXIES. (1) A shareholder may vote his shares in person or  
33 by proxy.

34 (2) A shareholder or his agent or attorney-in-fact may appoint a proxy  
35 to vote or otherwise act for the shareholder by signing an appointment form,  
36 or by an electronic transmission. An electronic transmission must contain  
37 or be accompanied by information from which one can reasonably verify that  
38 the shareholder, the shareholder's agent, or the shareholder's attorney-in-  
39 fact authorized the transmission.

40 (3) An appointment of a proxy is effective when a signed appointment  
41 form or an electronic transmission of the appointment is received by the in-  
42 spector of election or the officer or agent of the corporation authorized  
43 to tabulate votes. An appointment is valid for eleven (11) months unless a  
44 longer period is expressly provided in the appointment form.

45 (4) An appointment of a proxy is revocable unless the appointment form  
46 or electronic transmission states that it is irrevocable and the appointment  
47 is coupled with an interest. Appointments coupled with an interest include  
48 the appointment of:

- 1 (a) A pledgee;
- 2 (b) A person who purchased or agreed to purchase the shares;
- 3 (c) A creditor of the corporation who extended it credit under terms re-
- 4 quiring the appointment;
- 5 (d) An employee of the corporation whose employment contract requires
- 6 the appointment; or
- 7 (e) A party to a voting agreement created under section 30-29-731,
- 8 Idaho Code.

9 (5) The death or incapacity of the shareholder appointing a proxy does  
 10 not affect the right of the corporation to accept the proxy's authority un-  
 11 less notice of the death or incapacity is received by the inspector of elec-  
 12 tion or the officer or agent of the corporation authorized to tabulate votes  
 13 before the proxy exercises his authority under the appointment.

14 (6) An appointment made irrevocable under subsection (4) of this sec-  
 15 tion is revoked when the interest with which it is coupled is extinguished.

16 (7) A transferee for value of shares subject to an irrevocable appoint-  
 17 ment may revoke the appointment if he did not know of its existence when he  
 18 acquired the shares and the existence of the irrevocable appointment was not  
 19 noted conspicuously on the certificate representing the shares or on the in-  
 20 formation statement for shares without certificates.

21 (8) Subject to section 30-29-724, Idaho Code, and to any express limi-  
 22 tation on the proxy's authority stated in the appointment form or electronic  
 23 transmission, a corporation is entitled to accept the proxy's vote or other  
 24 action as that of the shareholder making the appointment.

25 30-29-723. SHARES HELD BY NOMINEES. (1) A corporation may establish a  
 26 procedure by which the beneficial owner of shares that are registered in the  
 27 name of a nominee is recognized by the corporation as the shareholder. The  
 28 extent of this recognition may be determined in the procedure.

29 (2) The procedure may set forth:

- 30 (a) The types of nominees to which it applies;
- 31 (b) The rights or privileges that the corporation recognizes in a bene-
- 32 ficial owner;
- 33 (c) The manner in which the procedure is selected by the nominee;
- 34 (d) The information that must be provided when the procedure is se-
- 35 lected;
- 36 (e) The period for which selection of the procedure is effective; and
- 37 (f) Other aspects of the rights and duties created.

38 30-29-724. CORPORATION'S ACCEPTANCE OF VOTES. (1) If the name signed  
 39 on a vote, consent, waiver or proxy appointment corresponds to the name of a  
 40 shareholder, the corporation if acting in good faith is entitled to accept  
 41 the vote, consent, waiver or proxy appointment and give it effect as the act  
 42 of the shareholder.

43 (2) If the name signed on a vote, consent, waiver or proxy appointment  
 44 does not correspond to the name of its shareholder, the corporation if acting  
 45 in good faith is nevertheless entitled to accept the vote, consent, waiver or  
 46 proxy appointment and give it effect as the act of the shareholder if:

- 47 (a) The shareholder is an entity and the name signed purports to be that
- 48 of an officer or agent of the entity;

1 (b) The name signed purports to be that of an administrator, executor,  
2 guardian or conservator representing the shareholder and, if the corpo-  
3 ration requests, evidence of fiduciary status acceptable to the corpo-  
4 ration has been presented with respect to the vote, consent, waiver or  
5 proxy appointment;

6 (c) The name signed purports to be that of a receiver or trustee in bank-  
7 ruptcy of the shareholder and, if the corporation requests, evidence of  
8 this status acceptable to the corporation has been presented with re-  
9 spect to the vote, consent, waiver or proxy appointment;

10 (d) The name signed purports to be that of a pledgee, beneficial  
11 owner, or attorney-in-fact of the shareholder and, if the corporation  
12 requests, evidence acceptable to the corporation of the signatory's  
13 authority to sign for the shareholder has been presented with respect to  
14 the vote, consent, waiver or proxy appointment;

15 (e) Two (2) or more persons are the shareholder as cotenants or fiducia-  
16 ries and the name signed purports to be the name or at least one (1) of  
17 the co-owners and the person signing appears to be acting on behalf of  
18 all the co-owners.

19 (3) The corporation is entitled to reject a vote, consent, waiver or  
20 proxy appointment if the inspector of election or the officer or agent of the  
21 corporation authorized to tabulate votes, acting in good faith, has reason-  
22 able basis for doubt about the validity of the signature on it or about the  
23 signatory's authority to sign for the shareholder.

24 (4) The corporation and its officer or agent who accepts or rejects a  
25 vote, consent, waiver or proxy appointment in good faith and in accordance  
26 with the standards of this section or section 30-29-722(2), Idaho Code, are  
27 not liable in damages to the shareholder for the consequences of the accep-  
28 tance or rejection.

29 (5) Corporate action based on the acceptance or rejection of a vote,  
30 consent, waiver or proxy appointment under this section or section 30-29-  
31 722(2), Idaho Code, is valid unless a court of competent jurisdiction deter-  
32 mines otherwise.

33 30-29-725. QUORUM AND VOTING REQUIREMENTS FOR VOTING GROUPS. (1)  
34 Shares entitled to vote as a separate voting group may take action on a matter  
35 at a meeting only if a quorum of those shares exists with respect to that  
36 matter. Unless the articles of incorporation or this chapter provide other-  
37 wise, a majority of the votes entitled to be cast on the matter by the voting  
38 group constitutes a quorum of that voting group for action on that matter.

39 (2) Once a share is represented for any purpose at a meeting, it is  
40 deemed present for quorum purposes for the remainder of the meeting and for  
41 any adjournment of that meeting unless a new record date is or must be set for  
42 that adjourned meeting.

43 (3) If a quorum exists, action on a matter, other than the election of  
44 directors, by a voting group is approved if the votes cast within the voting  
45 group favoring the action exceed the votes cast opposing the action, unless  
46 the articles of incorporation or this chapter requires a greater number of  
47 affirmative votes.

48 (4) An amendment of articles of incorporation adding, changing or  
49 deleting a quorum or voting requirement for a voting group greater than

1 specified in subsection (1) or (3) of this section is governed by section  
2 30-29-727, Idaho Code.

3 (5) The election of directors is governed by section 30-29-728, Idaho  
4 Code.

5 30-29-726. ACTION BY SINGLE AND MULTIPLE VOTING GROUPS. (1) If the ar-  
6 ticles of incorporation or this chapter provide for voting by a single voting  
7 group on a matter, action on that matter is taken when voted upon by that vot-  
8 ing group as provided in section 30-29-725, Idaho Code.

9 (2) If the articles of incorporation or this chapter provide for vot-  
10 ing by two (2) or more voting groups on a matter, action on that matter is  
11 taken only when voted upon by each of those voting groups counted separately  
12 as provided in section 30-29-725, Idaho Code. Action may be taken by one  
13 (1) voting group on a matter even though no action is taken by another voting  
14 group entitled to vote on the matter.

15 30-29-727. GREATER QUORUM OR VOTING REQUIREMENTS. (1) The articles  
16 of incorporation may provide for a greater quorum or voting requirement for  
17 shareholders, or voting groups of shareholders, than is provided for by this  
18 chapter.

19 (2) An amendment to the articles of incorporation that adds, changes or  
20 deletes a greater quorum or voting requirement must meet the same quorum re-  
21 quirement and be adopted by the same vote and voting groups required to take  
22 action under the quorum and voting requirements then in effect or proposed to  
23 be adopted, whichever is greater.

24 30-29-728. VOTING FOR DIRECTORS -- CUMULATIVE VOTING. (1) Unless oth-  
25 erwise provided in the articles of incorporation, directors are elected by a  
26 plurality of the votes cast by the shares entitled to vote in the election at  
27 a meeting at which a quorum is present.

28 (2) Shareholders do not have a right to cumulate their votes for direc-  
29 tors unless the articles of incorporation so provide.

30 (3) A statement included in the articles of incorporation that "[all][a  
31 designated voting group of shareholders] are entitled to cumulate their  
32 votes for directors," or words of similar import, means that the sharehold-  
33 ers designated are entitled to multiply the number of votes they are entitled  
34 to cast by the number of directors for whom they are entitled to vote and cast  
35 the product for a single candidate or distribute the product among two (2) or  
36 more candidates.

37 30-29-729. INSPECTORS OF ELECTION. (1) A corporation having any  
38 shares listed on a national securities exchange or regularly traded in a  
39 market maintained by one (1) or more members of a national or affiliated se-  
40 curities association shall, and any other corporation may, appoint one (1)  
41 or more inspectors to act at a meeting of shareholders and make a written re-  
42 port of the inspectors' determinations. Each inspector shall take and sign  
43 an oath faithfully to execute the duties of inspector with strict impartial-  
44 ity and according to the best of the inspector's ability.

45 (2) The inspectors shall:

- 1 (a) Ascertain the number of shares outstanding and the voting power of
- 2 each;
- 3 (b) Determine the shares represented at a meeting;
- 4 (c) Determine the validity of proxies and ballots;
- 5 (d) Count all votes; and
- 6 (e) Determine the result.
- 7 (3) An inspector may be an officer or employee of the corporation.

8 30-29-730. VOTING TRUSTS. (1) One (1) or more shareholders may create  
9 a voting trust, conferring on a trustee the right to vote or otherwise act for  
10 them, by signing an agreement setting out the provisions of the trust, which  
11 may include anything consistent with its purpose, and transferring their  
12 shares to the trustee. When a voting trust agreement is signed, the trustee  
13 shall prepare a list of the names and addresses of all owners of beneficial  
14 interests in the trust, together with the number and class of shares each  
15 transferred to the trust, and deliver copies of the list and agreement to the  
16 corporation's principal office.

17 (2) A voting trust becomes effective on the date the first shares sub-  
18 ject to the trust are registered in the trustee's name. A voting trust is  
19 valid for not more than ten (10) years after its effective date unless ex-  
20 tended under subsection (3) of this section.

21 (3) All or some of the parties to a voting trust may extend it for addi-  
22 tional terms of not more than ten (10) years each by signing written consent  
23 to the extension. An extension is valid for ten (10) years from the date the  
24 first shareholder signs the extension agreement. The voting trustee must  
25 deliver copies of the extension agreement and list of beneficial owners to  
26 the corporation's principal office. An extension agreement binds only those  
27 parties signing it.

28 30-29-731. VOTING AGREEMENTS. (1) Two (2) or more shareholders may  
29 provide for the manner in which they will vote their shares by signing an  
30 agreement for that purpose. A voting agreement created under this section is  
31 not subject to the provisions of section 30-29-730, Idaho Code.

32 (2) A voting agreement created under this section is specifically en-  
33 forceable.

34 30-29-732. SHAREHOLDER AGREEMENTS. (1) An agreement among the share-  
35 holders of a corporation that complies with this section is effective among  
36 the shareholders and the corporation even though it is inconsistent with one  
37 (1) or more other provisions of this chapter in that it:

- 38 (a) Eliminates the board of directors or restricts the discretion or
- 39 powers of the board of directors;
- 40 (b) Governs the authorization or making of distributions whether or not
- 41 in proportion to ownership of shares, subject to limitations in section
- 42 30-29-640, Idaho Code;
- 43 (c) Establishes who shall be directors or officers of the corporation,
- 44 or their terms of office or manner of selection or removal;
- 45 (d) Governs, in general or in regard to specific matters, the exercise
- 46 or division of voting power by or between the shareholders and directors

1 or by or among any of them, including use of weighted voting rights or  
2 director proxies;

3 (e) Establishes the terms and conditions of any agreement for the  
4 transfer or use of property or the provision of services between the  
5 corporation and any shareholder, director, officer or employee of the  
6 corporation or among any of them;

7 (f) Transfers to one (1) or more shareholders or other persons all or  
8 part of the authority to exercise the corporate powers or to manage the  
9 business and affairs of the corporation, including the resolution of  
10 any issue about which there exists a deadlock among directors or share-  
11 holders;

12 (g) Requires dissolution of the corporation at the request of one (1) or  
13 more of the shareholders or upon the occurrence of a specified event or  
14 contingency; or

15 (h) Otherwise governs the exercise of the corporate powers or the  
16 management of the business and affairs of the corporation or the rela-  
17 tionship among the shareholders, the directors and the corporation, or  
18 among any of them, and is not contrary to public policy.

19 (2) An agreement authorized by this section shall be:

20 (a) Set forth:

21 (i) In the articles of incorporation or bylaws and approved by all  
22 persons who are shareholders at the time of the agreement, or

23 (ii) In a written agreement that is signed by all persons who are  
24 shareholders at the time of the agreement and is made known to the  
25 corporation;

26 (b) Subject to amendment only by all persons who are shareholders at the  
27 time of the amendment, unless the agreement provides otherwise; and

28 (c) Valid for ten (10) years, unless the agreement provides otherwise.

29 (3) The existence of an agreement authorized by this section shall be  
30 noted conspicuously on the front or back of each certificate for outstanding  
31 shares or on the information statement required by section 30-29-626(2),  
32 Idaho Code. If at the time of the agreement the corporation has shares  
33 outstanding represented by certificates, the corporation shall recall the  
34 outstanding certificates and issue substitute certificates that comply with  
35 this subsection. The failure to note the existence of the agreement on the  
36 certificate or information statement shall not affect the validity of the  
37 agreement or any action taken pursuant to it. Any purchaser of shares who, at  
38 the time of purchase, did not have knowledge of the existence of the agree-  
39 ment shall be entitled to rescission of the purchase.

40 A purchaser shall be deemed to have knowledge of the existence of the  
41 agreement if its existence is noted on the certificate or information state-  
42 ment for the shares in compliance with this subsection and, if the shares  
43 are not represented by a certificate, the information statement is delivered  
44 to the purchaser at or prior to the time of purchase of the shares. An ac-  
45 tion to enforce the right of rescission authorized by this subsection must be  
46 commenced within the earlier of ninety (90) days after discovery of the ex-  
47 istence of the agreement or two (2) years after the time of purchase of the  
48 shares.

49 (4) An agreement authorized by this section shall cease to be effective  
50 when shares of the corporation are listed on a national securities exchange

1 or regularly traded in a market maintained by one (1) or more members of a  
 2 national or affiliated securities association. If the agreement ceases to  
 3 be effective for any reason, the board of directors may, if the agreement is  
 4 contained or referred to in the corporation's articles of incorporation or  
 5 bylaws, adopt an amendment to the articles of incorporation or bylaws, with-  
 6 out shareholder action, to delete the agreement and any references to it.

7 (5) An agreement authorized by this section that limits the discretion  
 8 or powers of the board of directors shall relieve the directors of, and im-  
 9 pose upon the person or persons in whom such discretion or powers are vested,  
 10 liability for acts or omissions imposed by law on directors to the extent  
 11 that the discretion or powers of the directors are limited by the agreement.

12 (6) The existence or performance of an agreement authorized by this  
 13 section shall not be a ground for imposing personal liability on any share-  
 14 holder for the acts or debts of the corporation even if the agreement or its  
 15 performance treats the corporation as if it were a partnership or results  
 16 in failure to observe the corporate formalities otherwise applicable to the  
 17 matters governed by the agreement.

18 (7) Incorporators or subscribers for shares may act as shareholders  
 19 with respect to an agreement authorized by this section if no shares have  
 20 been issued when the agreement is made.

21 30-29-733. RESERVED.

22 30-29-734. RESERVED.

23 30-29-735. RESERVED.

24 30-29-736. RESERVED.

25 30-29-737. RESERVED.

26 30-29-738. RESERVED.

27 30-29-739. RESERVED.

28 30-29-740. DEFINITIONS. As used in sections 30-29-741 through 30-29-  
 29 747, Idaho Code, "derivative proceeding" means a civil suit in the right of a  
 30 domestic corporation or, to the extent provided in section 30-29-747, Idaho  
 31 Code, in the right of a foreign corporation.

32 30-29-741. STANDING. A shareholder may not commence or maintain a  
 33 derivative proceeding unless the shareholder:

34 (1) Was a shareholder of the corporation at the time of the act or omis-  
 35 sion complained of or became a shareholder through transfer by operation of  
 36 law from one (1) who was a shareholder at that time; and

37 (2) Fairly and adequately represents the interests of the corporation  
 38 in enforcing the right of the corporation.

39 30-29-742. DEMAND. No shareholder may commence a derivative proceed-  
 40 ing until:



1 (1) A written demand has been made upon the corporation to take suitable  
2 action; and

3 (2) Ninety (90) days have expired from the date the demand was made un-  
4 less the shareholder has earlier been notified that the demand has been re-  
5 jected by the corporation or unless irreparable injury to the corporation  
6 would result by waiting for the expiration of the ninety (90) day period.

7 30-29-743. STAY OF PROCEEDINGS. If the corporation commences an in-  
8 quiry into the allegations made in the demand or complaint, the court may  
9 stay any derivative proceeding for such period as the court deems appropri-  
10 ate.

11 30-29-744. DISMISSAL. (1) A derivative proceeding shall be dismissed  
12 by the court on motion by the corporation if one (1) of the groups specified  
13 in subsection (2) or (6) of this section has determined in good faith after  
14 conducting a reasonable inquiry upon which its conclusions are based that  
15 the maintenance of the derivative proceeding is not in the best interests of  
16 the corporation.

17 (2) Unless a panel is appointed pursuant to subsection (6) of this sec-  
18 tion, the determination in subsection (1) of this section shall be made by:

19 (a) A majority vote of independent directors present at a meeting of the  
20 board of directors if the independent directors constitute a quorum;

21 (b) A majority vote of a committee consisting of two (2) or more inde-  
22 pendent directors appointed by majority vote of independent directors  
23 present at a meeting of the board of directors, whether or not such inde-  
24 pendent directors constituted a quorum.

25 (3) None of the following shall by itself cause a director to be consid-  
26 ered not independent for purposes of this section:

27 (a) The nomination or election of the director by persons who are defen-  
28 dants in the derivative proceeding or against whom action is demanded;

29 (b) The naming of the director as a defendant in the derivative proceed-  
30 ing or as a person against whom action is demanded; or

31 (c) The approval by the director of the act being challenged in the  
32 derivative proceeding or demand if the act resulted in no personal bene-  
33 fit to the director.

34 (4) If a derivative proceeding is commenced after a determination has  
35 been made rejecting a demand by a shareholder, the complaint shall allege  
36 with particularity facts establishing either:

37 (a) That a majority of the board of directors did not consist of inde-  
38 pendent directors at the time the determination was made; or

39 (b) That the requirements of subsection (1) of this section have not  
40 been met.

41 (5) If a majority of the board of directors does not consist of indepen-  
42 dent directors at the time the determination is made, the corporation shall  
43 have the burden of proving that the requirements of subsection (1) of this  
44 section have been met. If a majority of the board of directors consists of  
45 independent directors at the time the determination is made, the plaintiff  
46 shall have the burden of proving that the requirements of subsection (1) of  
47 this section have not been met.

(6) The court may appoint a panel of one (1) or more independent persons upon motion by the corporation to make a determination whether the maintenance of the derivative proceeding is in the best interests of the corporation. In such case, the plaintiff shall have the burden of proving that the requirements of subsection (1) of this section have not been met.

30-29-745. DISCONTINUANCE OR SETTLEMENT. A derivative proceeding may not be discontinued or settled without the court's approval. If the court determines that a proposed discontinuance or settlement will substantially affect the interests of the corporation's shareholders or a class of shareholders, the court shall direct that notice be given to the shareholders affected.

30-29-746. PAYMENT OF EXPENSES. On termination of the derivative proceeding the court may:

(1) Order the corporation to pay the plaintiff's reasonable expenses, including counsel fees, incurred in the proceeding if it finds that the proceeding has resulted in a substantial benefit to the corporation;

(2) Order the plaintiff to pay any defendant's reasonable expenses, including counsel fees, incurred in defending the proceeding if it finds that the proceeding was commenced or maintained without reasonable cause or for an improper purpose; or

(3) Order a party to pay an opposing party's reasonable expenses, including counsel fees, incurred because of the filing of a pleading, motion or other paper, if it finds that the pleading, motion or other paper was not well grounded in fact, after reasonable inquiry, or warranted by existing law or a good faith argument for the extension, modification or reversal of existing law and was interposed for an improper purpose, such as to harass or cause unnecessary delay or needless increase in the cost of litigation.

30-29-747. APPLICABILITY TO FOREIGN CORPORATIONS. In any derivative proceeding in the right of a foreign corporation, the matters covered by sections 30-29-740 through 30-29-746, Idaho Code, shall be governed by the laws of the jurisdiction of incorporation of the foreign corporation except for sections 30-29-743, 30-29-745 and 30-29-746, Idaho Code.

SECTION 63. That Chapter 29, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW PART, to be known and designated as Part 8, Chapter 29, Title 30, Idaho Code, and to read as follows:

#### PART 8 DIRECTORS AND OFFICERS

30-29-801. REQUIREMENT FOR AND DUTIES OF BOARD OF DIRECTORS. (1) Except as provided in section 30-29-732, Idaho Code, each corporation must have a board of directors.

(2) All corporate powers shall be exercised by or under the authority of, and the business and affairs of the corporation managed by or under the direction of, its board of directors, subject to any limitation set forth in the articles of incorporation or in an agreement authorized under section 30-29-732, Idaho Code.

1        30-29-802. QUALIFICATIONS OF DIRECTORS. The articles of incorpora-  
2 tion or bylaws may prescribe qualifications for directors. A director need  
3 not be a resident of this state or a shareholder of the corporation unless the  
4 articles of incorporation or bylaws so prescribe.

5        30-29-803. NUMBER AND ELECTION OF DIRECTORS. (1) A board of directors  
6 must consist of one (1) or more individuals, with the number specified in or  
7 fixed in accordance with the articles of incorporation or bylaws.

8        (2) The number of directors may be increased or decreased from time to  
9 time by amendment to, or in the manner provided in, the articles of incorpo-  
10 ration or the bylaws.

11        (3) Directors are elected at the first annual shareholders' meeting  
12 and at each annual meeting thereafter unless their terms are staggered under  
13 section 30-29-806, Idaho Code.

14        30-29-804. ELECTION OF DIRECTORS BY CERTAIN CLASSES OF SHAREHOLD-  
15 ERS. If the articles of incorporation authorize dividing the shares into  
16 classes, the articles may also authorize the election of all or a specified  
17 number of directors by the holders of one (1) or more authorized classes of  
18 shares. A class, or classes, of shares entitled to elect one (1) or more di-  
19 rectors is a separate voting group for purposes of the election of directors.

20        30-29-805. TERMS OF DIRECTORS GENERALLY. (1) The terms of the initial  
21 directors of a corporation expire at the first shareholders' meeting at  
22 which directors are elected.

23        (2) The terms of all other directors expire at the next annual share-  
24 holders' meeting following their election unless their terms are staggered  
25 under section 30-29-806, Idaho Code.

26        (3) A decrease in the number of directors does not shorten an incumbent  
27 director's term.

28        (4) A director elected to fill a vacancy shall be elected for the unex-  
29 pired term of his predecessor in office.

30        (5) Despite the expiration of a director's term, he continues to serve  
31 until his successor is elected and qualifies or until there is a decrease in  
32 the number of directors.

33        30-29-806. STAGGERED TERMS FOR DIRECTORS. The articles of incorpora-  
34 tion may provide for staggering the terms of directors by dividing the total  
35 number of directors into two (2) or three (3) groups, with each group con-  
36 taining one-half (1/2) or one-third (1/3) of the total, as near as may be.  
37 In that event, the terms of directors in the first group expire at the first  
38 annual shareholders' meeting after their election, the terms of the second  
39 group expire at the second annual shareholders' meeting after their elec-  
40 tion, and the terms of the third group, if any, expire at the third annual  
41 shareholders' meeting after their election. At each annual shareholders'  
42 meeting held thereafter, directors shall be chosen for a term of two (2) or  
43 three (3) years, as the case may be, to succeed those whose terms expire.

1        30-29-807. RESIGNATION OF DIRECTORS. (1) A director may resign at any  
2 time by delivering written notice to the board of directors, its chairman, or  
3 the corporation.

4        (2) A resignation is effective when the notice is delivered unless the  
5 notice specifies a future effective date.

6        30-29-808. REMOVAL OF DIRECTORS BY SHAREHOLDERS. (1) The shareholders  
7 may remove one (1) or more directors with or without cause unless the arti-  
8 cles of incorporation provide that directors may be removed only for cause.

9        (2) If a director is elected by a voting group of shareholders, only the  
10 shareholders of that voting group may participate in the vote to remove him.

11        (3) If cumulative voting is authorized, a director may not be removed if  
12 the number of votes sufficient to elect him under cumulative voting is voted  
13 against his removal. If cumulative voting is not authorized, a director may  
14 be removed only if the number of votes cast to remove him exceeds the number  
15 of votes cast not to remove him.

16        (4) A director may be removed by the shareholders only at a meeting  
17 called for the purpose of removing him and the meeting notice must state that  
18 the purpose, or one (1) of the purposes, of the meeting is removal of the  
19 director.

20        30-29-809. REMOVAL OF DIRECTORS BY JUDICIAL PROCEEDING. (1) The Idaho  
21 district court of the county where a corporation's principal office is lo-  
22 cated, or, if none in this state, Ada county, may remove a director of the  
23 corporation from office in a proceeding commenced by or in the right of the  
24 corporation if the court finds that:

25        (a) The director engaged in fraudulent conduct with respect to the cor-  
26 poration or its shareholders, grossly abused the position of director,  
27 or intentionally inflicted harm on the corporation; and

28        (b) Considering the director's course of conduct and the inadequacy of  
29 other available remedies, removal would be in the best interest of the  
30 corporation.

31        (2) A shareholder proceeding on behalf of the corporation under subsec-  
32 tion (1) of this section shall comply with all the requirements of sections  
33 30-29-741 through 30-29-747, Idaho Code, except section 30-29-741(1), Idaho  
34 Code.

35        (3) The court, in addition to removing the director, may bar the direc-  
36 tor from reelection for a period prescribed by the court.

37        (4) Nothing in this section limits the equitable powers of the court to  
38 order other relief.

39        30-29-810. VACANCY ON BOARD. (1) Unless the articles of incorporation  
40 provide otherwise, if a vacancy occurs on a board of directors, including a  
41 vacancy resulting from an increase in the number of directors:

42        (a) The shareholders may fill the vacancy;

43        (b) The board of directors may fill the vacancy; or

44        (c) If the directors remaining in office constitute fewer than a quorum  
45 of the board, they may fill the vacancy by the affirmative vote of a ma-  
46 jority of all the directors remaining in office.

1       (2) If the vacant office was held by a director elected by a voting group  
2 of shareholders, only the holders of shares of that voting group are entitled  
3 to vote to fill the vacancy if it is filled by the shareholders.

4       (3) A vacancy that will occur at a specific later date, by reason of  
5 a resignation effective at a later date under section 30-29-807(2), Idaho  
6 Code, or otherwise, may be filled before the vacancy occurs but the new di-  
7 rector may not take office until the vacancy occurs.

8       30-29-811. COMPENSATION OF DIRECTORS. Unless the articles of incorpo-  
9 ration or bylaws provide otherwise, the board of directors may fix the com-  
10 pensation of directors.

11       30-29-812. RESERVED.

12       30-29-813. RESERVED.

13       30-29-814. RESERVED.

14       30-29-815. RESERVED.

15       30-29-816. RESERVED.

16       30-29-817. RESERVED.

17       30-29-818. RESERVED.

18       30-29-819. RESERVED.

19       30-29-820. MEETINGS. (1) The board of directors may hold regular or  
20 special meetings in or out of this state.

21       (2) Unless the articles of incorporation or bylaws provide otherwise,  
22 any or all directors may participate in a regular or special meeting by, or  
23 conduct the meeting through the use of, any means of communication by which  
24 all directors participating may simultaneously hear each other during the  
25 meeting. A director participating in a meeting by this means is deemed to be  
26 present in person at the meeting.

27       30-29-821. ACTION WITHOUT MEETING. (1) Except to the extent that the  
28 articles of incorporation or bylaws require that action by the board of di-  
29 rectors be taken at a meeting, action required or permitted by this act to be  
30 taken by the board of directors may be taken without a meeting if each direc-  
31 tor signs a consent describing the action to be taken and delivers it to the  
32 corporation.

33       (2) Action taken under this section is the act of the board of directors  
34 when one (1) or more consents signed by all the directors are delivered to  
35 the corporation. The consent may specify the time at which the action taken  
36 thereunder is to be effective. A director's consent may be withdrawn by a  
37 revocation signed by the director and delivered to the corporation prior to  
38 delivery to the corporation of unrevoked written consents signed by all the  
39 directors.

1           (3) A consent signed under this section has the effect of action taken  
2 at a meeting of the board of directors and may be described as such in any doc-  
3 ument.

4           30-29-822. NOTICE OF MEETING. (1) Unless the articles of incorpora-  
5 tion or bylaws provide otherwise, regular meetings of the board of directors  
6 may be held without notice of the date, time, place or purpose of the meeting.

7           (2) Unless the articles of incorporation or bylaws provide for a longer  
8 or shorter period, special meetings of the board of directors must be pre-  
9 ceded by at least two (2) days' notice of the date, time and place of the meet-  
10 ing. The notice need not describe the purpose of the special meeting unless  
11 required by the articles of incorporation or bylaws.

12           30-29-823. WAIVER OF NOTICE. (1) A director may waive any notice re-  
13 quired by this chapter, the articles of incorporation, or bylaws before or  
14 after the date and time stated in the notice. Except as provided by sub-  
15 section (2) of this section, the waiver must be filed in writing, signed by  
16 the director entitled to the notice, and filed with the minutes or corporate  
17 records.

18           (2) A director's attendance at or participation in a meeting waives any  
19 required notice to him of the meeting unless the director at the beginning  
20 of the meeting, or promptly upon his arrival, objects to holding the meeting  
21 or transacting business at the meeting and does not thereafter vote for or  
22 assent to action taken at the meeting.

23           30-29-824. QUORUM AND VOTING. (1) Unless the articles of incorpora-  
24 tion or bylaws require a greater number or unless otherwise specifically  
25 provided in this chapter, a quorum of a board of directors consists of:

26           (a) A majority of the fixed number of directors if the corporation has a  
27 fixed board size; or

28           (b) A majority of the number of directors prescribed, or if no number is  
29 prescribed the number in office immediately before the meeting begins,  
30 if the corporation has a variable-range size board.

31           (2) The articles of incorporation or bylaws may authorize a quorum of a  
32 board of directors to consist of no fewer than one-third (1/3) of the fixed or  
33 prescribed number of directors determined under subsection (1) of this sec-  
34 tion.

35           (3) If a quorum is present when a vote is taken, the affirmative vote of  
36 a majority of directors present is the act of the board of directors unless  
37 the articles of incorporation or bylaws require the vote of a greater number  
38 of directors.

39           (4) A director who is present at a meeting of the board of directors or a  
40 committee of the board of directors when corporate action is taken is deemed  
41 to have assented to the action taken unless:

42           (a) He objects at the beginning of the meeting, or promptly upon his ar-  
43 rival, to holding it or transacting business at the meeting;

44           (b) His dissent or abstention from the action taken is entered in the  
45 minutes of the meeting; or

46           (c) He delivers written notice of his dissent or abstention to the pre-  
47 siding officer of the meeting before its adjournment or to the corpora-

tion immediately after adjournment of the meeting. The right of dissent or abstention is not available to a director who votes in favor of the action taken.

30-29-825. COMMITTEES. (1) Unless this chapter, the articles of incorporation or the bylaws provide otherwise, a board of directors may create one (1) or more committees and appoint one (1) or more members of the board of directors to serve on any such committee.

(2) Unless this chapter otherwise provides, the creation of a committee and appointment of members to it must be approved by the greater of:

(a) A majority of all the directors in office when the action is taken; or

(b) The number of directors required by the articles of incorporation or bylaws to take action under section 30-29-824, Idaho Code.

(3) Sections 30-29-820 through 30-29-824, Idaho Code, apply both to committees of the board and to their members.

(4) To the extent specified by the board of directors or in the articles of incorporation or bylaws, each committee may exercise the powers of the board of directors under section 30-29-801, Idaho Code.

(5) A committee may not, however:

(a) Authorize or approve distributions, except according to a formula or method, or within limits, prescribed by the board of directors;

(b) Approve or propose to shareholders action that this chapter requires be approved by shareholders;

(c) Fill vacancies on the board of directors or, subject to subsection (7) of this section, on any of its committees; or

(d) Adopt, amend or repeal bylaws.

(6) The creation of, delegation of authority to, or action by a committee does not alone constitute compliance by a director with the standards of conduct described in section 30-29-830, Idaho Code.

(7) The board of directors may appoint one (1) or more directors as alternate members of any committee to replace any absent or disqualified member during the member's absence or disqualification. Unless the articles of incorporation or the bylaws or the resolution creating the committee provide otherwise, in the event of the absence or disqualification of a member of a committee, the member or members present at any meeting and not disqualified from voting, unanimously, may appoint another director to act in place of the absent or disqualified member.

30-29-826. RESERVED.

30-29-827. RESERVED.

30-29-828. RESERVED.

30-29-829. RESERVED.

30-29-830. STANDARDS FOR DIRECTORS. (1) Each member of the board of directors, when discharging the duties of a director, shall act:

(a) In good faith; and

1 (b) In a manner the director reasonably believes to be in the best in-  
2 terests of the corporation.

3 (2) The members of the board of directors or a committee of the board,  
4 when becoming informed in connection with their decision-making function or  
5 devoting attention to their oversight function, shall discharge their du-  
6 ties with the care that a person in a like position would reasonably believe  
7 appropriate under similar circumstances.

8 (3) In discharging board or committee duties a director, who does not  
9 have knowledge that makes reliance unwarranted, is entitled to rely on the  
10 performance by any of the persons specified in subsection (5)(a) or (c) of  
11 this section to whom the board may have delegated, formally or informally by  
12 course of conduct, the authority or duty to perform one (1) or more of the  
13 board's functions that are delegable under applicable law.

14 (4) In discharging board or committee duties a director, who does not  
15 have knowledge that makes reliance unwarranted, is entitled to rely on in-  
16 formation, opinions, reports or statements, including financial statements  
17 and other financial data prepared or presented by any of the persons speci-  
18 fied in subsection (5) of this section.

19 (5) A director is entitled to rely, in accordance with subsection (3) or  
20 (4) of this section, on:

21 (a) One (1) or more officers or employees of the corporation whom the  
22 director reasonably believes to be reliable and competent in the func-  
23 tions performed or the information, opinion, reports or statements pro-  
24 vided;

25 (b) Legal counsel, public accountants, or other persons retained by  
26 the corporation as to matters involving skills or expertise the direc-  
27 tor reasonably believes are matters:

28 (i) Within the particular person's professional or expert compe-  
29 tence; or

30 (ii) As to which the particular person merits confidence; or

31 (c) A committee of the board of directors of which the director is not a  
32 member if the director reasonably believes the committee merits confi-  
33 dence.

34 30-29-831. STANDARDS OF LIABILITY FOR DIRECTORS. (1) A director shall  
35 not be liable to the corporation or its shareholders for any decision to take  
36 or not to take action, or any failure to take any action, as a director, un-  
37 less the party asserting liability in a proceeding establishes that:

38 (a) Any provision in the articles of incorporation authorized by sec-  
39 tion 30-29-202(2)(d), Idaho Code, or the protection afforded by sec-  
40 tion 30-29-861, Idaho Code, for action taken in compliance with section  
41 30-29-862 or 30-29-863, Idaho Code, if interposed as a bar to the pro-  
42 ceeding by the director, does not preclude liability; and

43 (b) The challenged conduct consisted or was the result of:

44 (i) Action not in good faith; or

45 (ii) A decision:

46 (A) That the director did not reasonably believe to be in the  
47 best interests of the corporation; or



- 1 (B) As to which the director was not informed to an extent  
 2 the director reasonably believed appropriate in the circum-  
 3 stances; or  
 4 (iii) A lack of objectivity due to the director's familial, finan-  
 5 cial, or business relationship with, or a lack of independence due  
 6 to the director's domination or control by, another person having  
 7 a material interest in the challenged conduct:  
 8 (A) Which relationship or which domination or control could  
 9 reasonably be expected to have affected the director's judg-  
 10 ment respecting the challenged conduct in a manner adverse  
 11 to the corporation; and  
 12 (B) After a reasonable expectation to such effect has been  
 13 established, the director shall not have established that  
 14 the challenged conduct was reasonably believed by the direc-  
 15 tor to be in the best interests of the corporation; or  
 16 (iv) A sustained failure of the director to be informed about the  
 17 business and affairs of the corporation, or other material failure  
 18 of the director to discharge the oversight function; or  
 19 (v) Receipt of a financial benefit to which the director was  
 20 not entitled or any other breach of the director's duties to deal  
 21 fairly with the corporation and its shareholders that is action-  
 22 able under applicable law.
- 23 (2) The party seeking to hold the director liable:  
 24 (a) For money damages, shall also have the burden of establishing that:  
 25 (i) Harm to the corporation or its shareholders has been suf-  
 26 fered; and  
 27 (ii) The harm suffered was proximately caused by the director's  
 28 challenged conduct; or  
 29 (b) For other money payment under a legal remedy, such as compensation  
 30 for the unauthorized use of corporate assets, shall also have whatever  
 31 persuasion burden may be called for to establish that the payment sought  
 32 is appropriate in the circumstances; or  
 33 (c) For other money payment under an equitable remedy, such as profit  
 34 recovery by or disgorgement to the corporation, shall also have what-  
 35 ever persuasion burden may be called for to establish that the equitable  
 36 remedy sought is appropriate in the circumstances.
- 37 (3) Nothing contained in this section shall:  
 38 (a) In any instance where fairness is at issue, such as consideration  
 39 of the fairness of a transaction to the corporation under section 30-29-  
 40 861(2)(c), Idaho Code, alter the burden of proving the fact or lack of  
 41 fairness otherwise applicable;  
 42 (b) Alter the fact or lack of liability of a director under another sec-  
 43 tion of this chapter, such as the provisions governing the consequences  
 44 of an unlawful distribution under section 30-29-833, Idaho Code, or a  
 45 transactional interest under section 30-29-861, Idaho Code; or  
 46 (c) Affect any rights to which the corporation or a shareholder may be  
 47 entitled under another statute of this state or the United States.

1        30-29-833. DIRECTORS' LIABILITY FOR UNLAWFUL DISTRIBUTIONS. (1) A di-  
 2 rector who votes for or assents to a distribution in excess of what may be au-  
 3 thorized and made pursuant to section 30-29-640(1) or 30-29-1409(1), Idaho  
 4 Code, is personally liable to the corporation for the amount of the distribu-  
 5 tion that exceeds what could have been distributed without violating section  
 6 30-29-640(1) or 30-29-1409(1), Idaho Code, if the party asserting liability  
 7 establishes that when taking the action the director did not comply with sec-  
 8 tion 30-29-830, Idaho Code.

9        (2) A director held liable under subsection (1) of this section for an  
 10 unlawful distribution is entitled to:

11        (a) Contribution from every other director who could be held liable un-  
 12 der subsection (1) of this section for the unlawful distribution; and

13        (b) Recoupment from each shareholder of the pro rata portion of the  
 14 amount of the unlawful distribution the shareholder accepted know-  
 15 ing the distribution was made in violation of section 30-29-640(1) or  
 16 30-29-1409(1), Idaho Code.

17        (3) A proceeding to enforce:

18        (a) The liability of a director under subsection (1) of this section is  
 19 barred unless it is commenced within two (2) years after the date:

20            (i) On which the effect of the distribution was measured under  
 21 section 30-29-640(5) or (7), Idaho Code; or

22            (ii) As of which the violation of section 30-29-640(1), Idaho  
 23 Code, occurred as the consequence of disregard of a restriction in  
 24 the articles of incorporation; or

25            (iii) On which the distribution of assets to shareholders under  
 26 section 30-29-1409(1), Idaho Code, was made; or

27        (b) Contribution or recoupment under subsection (2) of this section is  
 28 barred unless it is commenced within one (1) year after the liability of  
 29 the claimant has been finally adjudicated under subsection (1) of this  
 30 section.

31        30-29-834. RESERVED.

32        30-29-835. RESERVED.

33        30-29-836. RESERVED.

34        30-29-837. RESERVED.

35        30-29-838. RESERVED.

36        30-29-839. RESERVED.

37        30-29-840. REQUIRED OFFICERS. (1) A corporation has the offices de-  
 38 scribed in its bylaws or designated by the board of directors in accordance  
 39 with the bylaws.

40        (2) The board of directors may elect individuals to fill one (1) or more  
 41 offices of the corporation. An officer may appoint one (1) or more officers  
 42 if authorized by the bylaws or the board of directors.

1       (3) The bylaws or the board of directors shall assign to one (1) of the  
 2 officers responsibility for preparing the minutes of the directors' and  
 3 shareholders' meetings and for maintaining and authenticating the records  
 4 of the corporation required to be kept under section 30-29-1601(1) and (2),  
 5 Idaho Code.

6       (4) The same individual may simultaneously hold more than one (1) of-  
 7 fice in a corporation.

8       30-29-841. DUTIES OF OFFICERS. Each officer has the authority and  
 9 shall perform the duties set forth in the bylaws or, to the extent consistent  
 10 with the bylaws, the duties prescribed by the board of directors or by di-  
 11 rection of an officer authorized by the board of directors to prescribe the  
 12 duties of other officers.

13       30-29-842. STANDARDS OF CONDUCT FOR OFFICERS. (1) An officer, when  
 14 performing in such capacity, shall act:

15       (a) In good faith;

16       (b) With the care that a person in a like position would reasonably ex-  
 17 ercise under similar circumstances; and

18       (c) In a manner the officer reasonably believes to be in the best inter-  
 19 ests of the corporation.

20       (2) In discharging those duties an officer, who does not have knowledge  
 21 that makes reliance unwarranted, is entitled to rely on:

22       (a) The performance of properly delegated responsibilities by one (1)  
 23 or more employees of the corporation whom the officer reasonably be-  
 24 lieves to be reliable and competent in performing the responsibilities  
 25 delegated; or

26       (b) Information, opinions, reports or statements, including financial  
 27 statements and other financial data, prepared or presented by one (1) or  
 28 more employees of the corporation whom the officer reasonably believes  
 29 to be competent in the matters presented or by legal counsel, public ac-  
 30 countants or other persons retained by the corporation as to matters in-  
 31 volving skill or expertise the officer reasonably believes are matters:

32       (i) Within the particular person's professional or expert compe-  
 33 tence; or

34       (ii) As to which the particular person merits confidence.

35       (3) An officer shall not be liable to the corporation or its sharehold-  
 36 ers for any decision to take or not to take action or any failure to take ac-  
 37 tion, as an officer, if the duties of the office are performed in compliance  
 38 with this section. Whether an officer who does not comply with this section  
 39 shall have liability will depend in such instance on applicable law, includ-  
 40 ing those principles of section 30-29-831, Idaho Code, that have relevance.

41       30-29-843. RESIGNATION AND REMOVAL OF OFFICERS. (1) An officer may re-  
 42 sign at any time by delivering notice to the corporation. A resignation is  
 43 effective when the notice is delivered unless the notice specifies a later  
 44 effective time. If a resignation is made effective at a later time and the  
 45 board or the appointing officer accepts the future effective time, the board  
 46 or the appointing officer may fill the pending vacancy before the effective

1 time if the board or the appointing officer provides that the successor does  
2 not take office until the effective time.

3 (2) An officer may be removed at any time with or without cause by:

4 (a) The board of directors;

5 (b) The officer who appointed such officer, unless the bylaws or the  
6 board of directors provide otherwise; or

7 (c) Any other officer if authorized by the bylaws or the board of direc-  
8 tors.

9 (3) In this section "appointing officer" means the officer, including  
10 any successor to that officer, who appointed the officer resigning or being  
11 removed.

12 30-29-844. CONTRACT RIGHTS OF OFFICERS. (1) The appointment of an of-  
13 ficer does not itself create contract rights.

14 (2) An officer's removal does not affect the officer's contract rights,  
15 if any, with the corporation. An officer's resignation does not affect the  
16 corporation's contract rights, if any, with the officer.

17 30-29-845. RESERVED.

18 30-29-846. RESERVED.

19 30-29-847. RESERVED.

20 30-29-848. RESERVED.

21 30-29-849. RESERVED.

22 30-29-850. DEFINITIONS. For purposes of this section and sections  
23 30-29-851 through 30-29-859, Idaho Code:

24 (1) "Corporation" includes any domestic or foreign predecessor entity  
25 of a corporation in a merger.

26 (2) "Director" or "officer" means an individual who is or was a director  
27 or officer, respectively, of a corporation or who, while a director or offi-  
28 cer of the corporation, is or was serving at the corporation's request as a  
29 director, officer, partner, trustee, employee or agent of another domestic  
30 or foreign corporation, partnership, joint venture, trust, employee benefit  
31 plan or other entity. A director or officer is considered to be serving an  
32 employee benefit plan at the corporation's request if his duties to the cor-  
33 poration also impose duties on, or otherwise involve services by, him to the  
34 plan or to participants in or beneficiaries of the plan. "Director" or "of-  
35 ficer" includes, unless the context requires otherwise, the estate or per-  
36 sonal representative of a director or officer.

37 (3) "Disinterested director" means a director who, at the time of a vote  
38 referred to in section 30-29-853(3), Idaho Code, or a vote or selection re-  
39ferred to in section 30-29-855(2) or (3), Idaho Code, is not:

40 (a) A party to the proceeding; or

41 (b) An individual having a familial, financial, professional or em-  
42 ployment relationship with the director whose indemnification or ad-  
43 vance for expenses is the subject of the decision being made, which re-

1 relationship would, in the circumstances, reasonably be expected to exert  
 2 an influence on the director's judgment when voting on the decision be-  
 3 ing made.

4 (4) "Expenses" includes counsel fees.

5 (5) "Liability" means the obligation to pay a judgment, settlement,  
 6 penalty, fine, including an excise tax assessed with respect to an employee  
 7 benefit plan, or reasonable expenses incurred with respect to a proceeding.

8 (6) "Official capacity" means:

9 (a) When used with respect to a director, the office of director in a  
 10 corporation; and

11 (b) When used with respect to an officer, as contemplated in section  
 12 30-29-856, Idaho Code, the office in a corporation held by the officer.  
 13 "Official capacity" does not include service for any other domestic or for-  
 14 eign corporation or any partnership, joint venture, trust, employee benefit  
 15 plan or other entity.

16 (7) "Party" means an individual who was, is or is threatened to be made,  
 17 a defendant or respondent in a proceeding.

18 (8) "Proceeding" means any threatened, pending or completed action,  
 19 suit or proceeding, whether civil, criminal, administrative, arbitratative or  
 20 investigative and whether formal or informal.

21 30-29-851. PERMISSIBLE INDEMNIFICATION. (1) Except as otherwise pro-  
 22 vided in this section, a corporation may indemnify an individual who is a  
 23 party to a proceeding because he is a director against liability incurred in  
 24 the proceeding if:

25 (a) (i) He conducted himself in good faith; and

26 (ii) He reasonably believed:

27 (A) In the case of conduct in his official capacity, that his  
 28 conduct was in the best interests of the corporation, and

29 (B) In all cases, that his conduct was at least not opposed  
 30 to the best interests of the corporation; and

31 (iii) In the case of any criminal proceeding, he had no reasonable  
 32 cause to believe his conduct was unlawful; or

33 (b) He engaged in conduct for which broader indemnification has been  
 34 made permissible or obligatory under a provision of the articles of in-  
 35 corporation, as authorized by section 30-29-202(2)(e), Idaho Code.

36 (2) A director's conduct with respect to an employee plan for a purpose  
 37 he reasonably believed to be in the best interests of the participants in,  
 38 and the beneficiaries of, the plan is conduct that satisfies the requirement  
 39 of subsection (1)(a)(ii)(B) of this section.

40 (3) The termination of a proceeding by judgment, order, settlement or  
 41 conviction, or upon a plea of nolo contendere or its equivalent, is not, of  
 42 itself, determinative that the director did not meet the relevant standard  
 43 of conduct described in this section.

44 (4) Unless ordered by a court under section 30-29-854(1)(c), Idaho  
 45 Code, a corporation may not indemnify a director:

46 (a) In connection with a proceeding by or in the right of the corpora-  
 47 tion, except for reasonable expenses incurred in connection with the  
 48 proceeding if it is determined that the director has met the relevant  
 49 standard of conduct under subsection (1) of this section; or

(b) In connection with any proceeding with respect to conduct for which he was adjudged liable on the basis that he received a financial benefit to which he was not entitled, whether or not involving action in his official capacity.

30-29-852. MANDATORY INDEMNIFICATION. A corporation shall indemnify a director who was wholly successful, on the merits or otherwise, in the defense of any proceeding to which he was a party because he was a director of the corporation against reasonable expenses incurred by him in connection with the proceeding.

30-29-853. ADVANCE FOR EXPENSES. (1) A corporation may, before final disposition of a proceeding, advance funds to pay for or reimburse the reasonable expenses incurred by a director who is a party to a proceeding because he is a director if he delivers to the corporation:

(a) A written affirmation of his good faith belief that he has met the relevant standard of conduct described in section 30-29-851, Idaho Code, or that the proceeding involves conduct for which liability has been eliminated under a provision of the articles of incorporation as authorized by section 30-29-202(2)(d), Idaho Code; and

(b) His written undertaking to repay any funds advanced if he is not entitled to mandatory indemnification under section 30-29-852, Idaho Code, and it is ultimately determined under section 30-29-854 or 30-29-855, Idaho Code, that he has not met the relevant standard of conduct described in section 30-29-851, Idaho Code.

(2) The undertaking required by subsection (1)(b) of this section must be an unlimited general obligation of the director but need not be secured and may be accepted without reference to the financial ability of the director to make repayment.

(3) Authorizations under this section shall be made:

(a) By the board of directors:

(i) If there are two (2) or more disinterested directors, by a majority vote of all the disinterested directors, a majority of whom shall for such purposes constitute a quorum, or by a majority of the members of a committee of two (2) or more disinterested directors appointed by such a vote; or

(ii) If there are fewer than two (2) disinterested directors, by the vote necessary for action by the board in accordance with section 30-29-824(3), Idaho Code, in which authorization directors who do not qualify as disinterested directors may participate; or

(b) By the shareholders, but shares owned by or voted under the control of a director who at the time does not qualify as a disinterested director may not be voted on the authorization.

30-29-854. COURT-ORDERED INDEMNIFICATION AND ADVANCE FOR EXPENSES. (1) A director who is a party to a proceeding because he is a director may apply for indemnification or an advance for expenses to the court conducting the proceeding or to another court of competent jurisdiction. After receipt of an application and after giving any notice it considers necessary, the court shall:

1 (a) Order indemnification if the court determines that the director is  
 2 entitled to mandatory indemnification under section 30-29-852, Idaho  
 3 Code;

4 (b) Order indemnification or advance for expenses if the court deter-  
 5 mines that the director is entitled to indemnification or advance for  
 6 expenses pursuant to a provision authorized by section 30-29-858(1),  
 7 Idaho Code; or

8 (c) Order indemnification or advance for expenses if the court deter-  
 9 mines, in view of all the relevant circumstances, that it is fair and  
 10 reasonable:

11 (i) To indemnify the director; or

12 (ii) To advance expenses to the director, even if he has  
 13 not met the relevant standard of conduct set forth in sec-  
 14 tion 30-29-851(1), Idaho Code, failed to comply with section  
 15 30-29-853, Idaho Code, or was adjudged liable in a proceeding re-  
 16 ferred to in section 30-29-851(4) (a) or (b), Idaho Code, but if  
 17 he was adjudged so liable his indemnification shall be limited to  
 18 reasonable expenses incurred in connection with the proceeding.

19 (2) If the court determines that the director is entitled to indemni-  
 20 fication under subsection (1) (a) of this section or to indemnification or  
 21 advance for expenses under subsection (1) (b) of this section, it shall also  
 22 order the corporation to pay the director's reasonable expenses incurred in  
 23 connection with obtaining court-ordered indemnification or advance for ex-  
 24 penses. If the court determines that the director is entitled to indemni-  
 25 fication or advance for expenses under subsection (1) (c) of this section, it  
 26 may also order the corporation to pay the director's reasonable expenses to  
 27 obtain court-ordered indemnification or advance for expenses.

28 30-29-855. DETERMINATION AND AUTHORIZATION OF INDEMNIFICATION. (1)  
 29 A corporation may not indemnify a director under section 30-29-851, Idaho  
 30 Code, unless authorized for a specific proceeding after a determination has  
 31 been made that indemnification of the director is permissible because he has  
 32 met the relevant standard of conduct set forth in section 30-29-851, Idaho  
 33 Code.

34 (2) The determination shall be made:

35 (a) If there are two (2) or more disinterested directors, by the board  
 36 of directors by a majority vote of all the disinterested directors, a  
 37 majority of whom shall for such purpose constitute a quorum, or by a ma-  
 38 jority of the members of a committee of two (2) or more disinterested di-  
 39 rectors appointed by such a vote;

40 (b) By special legal counsel:

41 (i) Selected in the manner prescribed in paragraph (a) of this  
 42 subsection; or

43 (ii) If there are fewer than two (2) disinterested directors, se-  
 44 lected by the board of directors, in which selection directors who  
 45 do not qualify as disinterested directors may participate; or

46 (c) By the shareholders, but shares owned by or voted under the control  
 47 of a director who at the time does not qualify as a disinterested direc-  
 48 tor may not be voted on the determination.

1       (3) Authorization of indemnification shall be made in the same man-  
 2 ner as the determination that indemnification is permissible, except that if  
 3 there are fewer than two (2) disinterested directors or if the determination  
 4 is made by special legal counsel, authorization of indemnification shall be  
 5 made by those entitled under subsection (2) (b) (ii) of this section to select  
 6 special legal counsel.

7       30-29-856. OFFICERS. (1) A corporation may indemnify and advance ex-  
 8 penses under this part to an officer of the corporation who is a party to a  
 9 proceeding because he is an officer of the corporation:

10       (a) To the same extent as a director; and

11       (b) If he is an officer but not a director, to such further extent as may  
 12 be provided by the articles of incorporation, the bylaws, a resolution  
 13 of the board of directors, or contract except for:

14       (i) Liability in connection with a proceeding by or in the right  
 15 of the corporation other than for reasonable expenses incurred in  
 16 connection with the proceeding; or

17       (ii) Liability arising out of conduct that constitutes:

18       (A) Receipt by him of a financial benefit to which he is not  
 19 entitled;

20       (B) An intentional infliction of harm on the corporation or  
 21 the shareholders; or

22       (C) An intentional violation of criminal law.

23       (2) The provisions of subsection (1) (b) of this section shall apply to  
 24 an officer who is also a director if the basis on which he is made a party to  
 25 the proceeding is an act or omission solely as an officer.

26       (3) An officer of a corporation who is not a director is entitled to  
 27 mandatory indemnification under section 30-29-852, Idaho Code, and may ap-  
 28 ply to a court under section 30-29-854, Idaho Code, for indemnification or  
 29 an advance for expenses, in each case to the same extent to which a director  
 30 may be entitled to indemnification or advance for expenses under those pro-  
 31 visions.

32       30-29-857. INSURANCE. A corporation may purchase and maintain insur-  
 33 ance on behalf of an individual who is a director or officer of the corpora-  
 34 tion, or who, while a director or officer of the corporation, serves at the  
 35 corporation's request as a director, officer, partner, trustee, employee or  
 36 agent of another domestic or foreign corporation, partnership, joint ven-  
 37 ture, trust, employee benefit plan, or other entity, against liability as-  
 38 serted against or incurred by him in that capacity or arising from his status  
 39 as a director or officer, whether or not the corporation would have power to  
 40 indemnify or advance expenses to him against the same liability under this  
 41 part; provided that banks, savings and loan associations and credit unions  
 42 chartered under the laws of the state of Idaho may provide indemnification  
 43 only by insurance.

44       30-29-858. VARIATION BY CORPORATE ACTION -- APPLICATION OF INDEMNIFI-  
 45 CATION PROVISIONS. (1) A corporation may, by a provision in its articles of  
 46 incorporation or bylaws or in a resolution approved by its board of directors  
 47 or shareholders, obligate itself in advance of the act or omission giving



1 rise to a proceeding to provide indemnification in accordance with section  
 2 30-29-851, Idaho Code, or advance funds to pay for or reimburse expenses in  
 3 accordance with section 30-29-853, Idaho Code. Any such obligatory provi-  
 4 sion shall be deemed to satisfy the requirements for authorization referred  
 5 to in section 30-29-853(3), Idaho Code, and in section 30-29-855(3), Idaho  
 6 Code. Any such provision that obligates the corporation to provide indemni-  
 7 fication to the fullest extent permitted by law shall be deemed to obligate  
 8 the corporation to advance funds to pay for or reimburse expenses in accor-  
 9 dance with section 30-29-853, Idaho Code, to the fullest extent permitted by  
 10 law, unless the provision specifically provides otherwise.

11 (2) Any provision pursuant to subsection (1) of this section shall not  
 12 obligate the corporation to indemnify or advance expenses to a director of  
 13 a predecessor of the corporation, pertaining to conduct with respect to the  
 14 predecessor, unless otherwise specifically provided. Any provision for in-  
 15 demnification or advance for expenses in the articles of incorporation, by-  
 16 laws, or a resolution of the board of directors or shareholders of a prede-  
 17 cessor of the corporation in a merger or in a contract to which the predeces-  
 18 sor is a party, existing at the time the merger takes effect, shall be gov-  
 19 erned by section 30-22-206, Idaho Code.

20 (3) A corporation may, by a provision in its articles of incorporation,  
 21 limit any of the rights to indemnification or advance for expenses created by  
 22 or pursuant to this part, other than the rights to mandatory indemnification  
 23 under section 30-29-852, Idaho Code, and to court-ordered indemnification  
 24 and advance for expenses under section 30-29-854, Idaho Code.

25 (4) Sections 30-29-850 through 30-29-859, Idaho Code, do not limit a  
 26 corporation's power to pay or reimburse expenses incurred by a director or an  
 27 officer in connection with his appearance as a witness in a proceeding at a  
 28 time when he is not a party.

29 (5) Sections 30-29-850 through 30-29-859, Idaho Code, do not limit a  
 30 corporation's power to indemnify, advance expenses to or provide or maintain  
 31 insurance on behalf of an employee or agent.

32 30-29-859. EXCLUSIVITY. A corporation may provide indemnification or  
 33 advance expenses to a director or an officer only as permitted by sections  
 34 30-29-850 through 30-29-859, Idaho Code.

35 30-29-860. DEFINITIONS. For purposes of this section and sections  
 36 30-29-861 through 30-29-863, Idaho Code:

37 (1) "Conflicting interest" with respect to a corporation means the in-  
 38 terest a director of the corporation has respecting a transaction effected  
 39 or proposed to be effected by the corporation, or by a subsidiary of the cor-  
 40 poration or any other entity in which the corporation has a controlling in-  
 41 terest, if:

42 (a) Whether or not the transaction is brought before the board of di-  
 43 rectors of the corporation for action, the director knows at the time  
 44 of commitment that he or a related person is a party to the transaction  
 45 or has a beneficial financial interest in or so closely linked to the  
 46 transaction and of such financial significance to the director or a re-  
 47 lated person that the interest would reasonably be expected to exert an

1 influence on the director's judgment if he were called upon to vote on  
2 the transaction; or

3 (b) The transaction is brought, or is of such character and signifi-  
4 cance to the corporation that it would in the normal course be brought,  
5 before the board of directors of the corporation for action, and the  
6 director knows at the time of commitment that any of the following per-  
7 sons is either a party to the transaction or has a beneficial financial  
8 interest in or so closely linked to the transaction and of such finan-  
9 cial significance to the person that the interest would reasonably be  
10 expected to exert an influence on the director's judgment if he were  
11 called upon to vote on the transaction:

12 (i) An entity, other than the corporation, of which the director  
13 is a director, general partner, agent or employee,

14 (ii) A person that controls one (1) or more of the entities spec-  
15 ified in subparagraph (i) of this paragraph or an entity that is  
16 controlled by, or is under common control with, one (1) or more of  
17 the entities specified in subparagraph (i) of this paragraph, or

18 (iii) An individual who is a general partner, principal or em-  
19 ployer of the director.

20 (2) "Director's conflicting interest transaction" with respect to a  
21 corporation means a transaction effected or proposed to be effected by the  
22 corporation, or by a subsidiary of the corporation or any other entity in  
23 which the corporation has a controlling interest, respecting that a director  
24 of the corporation has a conflicting interest.

25 (3) "Related person" of a director means:

26 (a) The spouse, or a parent or sibling thereof, of the director, or a  
27 child, grandchild, sibling, parent, or spouse of any thereof, of the di-  
28 rector, or an individual having the same home as the director, or a trust  
29 or estate of which an individual specified in this paragraph (a) is a  
30 substantial beneficiary; or

31 (b) A trust, estate, incompetent, conservatee or minor of which the di-  
32 rector is a fiduciary.

33 (4) "Required disclosure" means disclosure by the director who has a  
34 conflicting interest of:

35 (a) The existence and nature of his conflicting interest; and

36 (b) All facts known to him respecting the subject matter of the trans-  
37 action that an ordinarily prudent person would reasonably believe to be  
38 material to a judgment about whether or not to proceed with the transac-  
39 tion.

40 (5) "Time of commitment" respecting a transaction means the time when  
41 the transaction is consummated or, if made pursuant to contract, the time  
42 when the corporation, or its subsidiary or the entity in which it has a con-  
43 trolling interest, becomes contractually obligated so that its unilateral  
44 withdrawal from the transaction would entail significant loss, liability,  
45 or other damage.

46 30-29-861. JUDICIAL ACTION. (1) A transaction effected or proposed to  
47 be effected by a corporation or by a subsidiary of the corporation, or any  
48 other entity in which the corporation has a controlling interest, that is  
49 not a director's conflicting interest transaction may not be enjoined, set

1     aside, or give rise to an award of damages or other sanctions, in a proceeding  
 2     by a shareholder or by or in the right of the corporation, because a director  
 3     of the corporation, or any person with whom or which he has a personal, eco-  
 4     nomic, or other association, has an interest in the transaction.

5     (2) A director's conflicting interest transaction may not be enjoined,  
 6     set aside, or give rise to an award of damages or other sanctions, in a pro-  
 7     ceeding by a shareholder or by or in the right of the corporation, because the  
 8     director, or any person with whom or which he has a personal, economic, or  
 9     other association, has an interest in the transaction, if:

10     (a) Directors' action respecting the transaction was at any time taken  
 11     in compliance with section 30-29-862, Idaho Code;

12     (b) Shareholders' action respecting the transaction was at any time  
 13     taken in compliance with section 30-29-863, Idaho Code; or

14     (c) The transaction, judged according to the circumstances at the time  
 15     of commitment, is established to have been fair to the corporation.

16     30-29-862. DIRECTORS' ACTION. (1) Directors' action respecting a  
 17     transaction is effective for purposes of section 30-29-861(2)(a), Idaho  
 18     Code, if the transaction received the affirmative vote of a majority, but no  
 19     fewer than two (2), of those qualified directors on the board of directors or  
 20     on a duly empowered committee of the board who voted on the transaction after  
 21     either required disclosure to them, to the extent the information was not  
 22     known by them, or compliance with subsection (2) of this section; provided  
 23     that action by a committee is so effective only if:

24     (a) All its members are qualified directors; and

25     (b) Its members are either all the qualified directors on the board or  
 26     are appointed by the affirmative vote of a majority of the qualified di-  
 27     rectors on the board.

28     (2) If a director has a conflicting interest respecting a transaction,  
 29     but neither he nor a related person of the director specified in section  
 30     30-29-860(3)(a), Idaho Code, is a party to the transaction, and if the direc-  
 31     tor has a duty under law or professional canon, or a duty of confidentiality  
 32     to another person, respecting information relating to the transaction  
 33     such that the director may not make the disclosure described in section  
 34     30-29-860(4)(b), Idaho Code, then disclosure is sufficient for purposes of  
 35     subsection (1) of this section if the director:

36     (a) Discloses to the directors voting on the transaction the existence  
 37     and nature of his conflicting interest and informs them of the character  
 38     and limitations imposed by that duty before their vote on the transac-  
 39     tion; and

40     (b) Plays no part, directly or indirectly, in their deliberations or  
 41     vote.

42     (3) A majority, but no fewer than two (2), of all the qualified direc-  
 43     tors on the board of directors, or on the committee, constitutes a quorum for  
 44     purposes of action that complies with this section. Directors' action that  
 45     otherwise complies with this section is not affected by the presence or vote  
 46     of a director who is not a qualified director.

47     (4) For purposes of this section, "qualified director" means, with  
 48     respect to a director's conflicting interest transaction, any director who  
 49     does not have either:

- 1 (a) A conflicting interest respecting the transaction; or  
 2 (b) A familial, financial, professional or employment relationship  
 3 with a second director who does have a conflicting interest respect-  
 4 ing the transaction, which relationship would, in the circumstances,  
 5 reasonably be expected to exert an influence on the first director's  
 6 judgment when voting on the transaction.

7 30-29-863. SHAREHOLDERS' ACTION. (1) Shareholders' action respecting  
 8 a transaction is effective for purposes of section 30-29-861(2)(b), Idaho  
 9 Code, if a majority of the votes entitled to be cast by the holders of all  
 10 qualified shares were cast in favor of the transaction after:

- 11 (a) Notice to shareholders describing the director's conflicting in-  
 12 terest transaction;  
 13 (b) Provision of the information referred to in subsection (4) of this  
 14 section; and  
 15 (c) Required disclosure to the shareholders who voted on the transac-  
 16 tion, to the extent the information was not known by them.

17 (2) For purposes of this section, "qualified shares" means any shares  
 18 entitled to vote with respect to the director's conflicting interest trans-  
 19 action except shares that, to the knowledge, before the vote, of the sec-  
 20 retary, or other officer or agent of the corporation authorized to tabulate  
 21 votes, are beneficially owned, or the voting of which is controlled, by a di-  
 22 rector who has a conflicting interest respecting the transaction or by a re-  
 23 lated person of the director, or both.

24 (3) A majority of the votes entitled to be cast by the holders of all  
 25 qualified shares constitutes a quorum for purposes of action that complies  
 26 with this section. Subject to the provisions of subsections (4) and (5) of  
 27 this section, shareholders' action that otherwise complies with this sec-  
 28 tion is not affected by the presence of holders, or the voting, of shares that  
 29 are not qualified shares.

30 (4) For purposes of compliance with subsection (1) of this section, a  
 31 director who has a conflicting interest respecting the transaction shall,  
 32 before the shareholders' vote, inform the secretary, or other officer or  
 33 agent of the corporation authorized to tabulate votes, of the number, and the  
 34 identity of persons holding or controlling the vote, of all shares that the  
 35 director knows are beneficially owned, or the voting of which is controlled,  
 36 by the director or by a related person of the director, or both.

37 (5) If a shareholders' vote does not comply with subsection (1) of this  
 38 section solely because of a failure of a director to comply with subsection  
 39 (4) of this section, and if the director establishes that his failure did not  
 40 determine and was not intended by him to influence the outcome of the vote,  
 41 the court may, with or without further proceedings respecting section 30-29-  
 42 861(2)(c), Idaho Code, take such action respecting the transaction and the  
 43 director, and give such effect, if any, to the shareholders' vote, as it con-  
 44 siderers appropriate in the circumstances.

45 SECTION 64. That Chapter 29, Title 30, Idaho Code, be, and the same is  
 46 hereby amended by the addition thereto of a NEW PART, to be known and desig-  
 47 nated as Part 9, Chapter 29, Title 30, Idaho Code, and to read as follows:

[RESERVED]

SECTION 65. That Chapter 29, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW PART, to be known and designated as Part 10, Chapter 29, Title 30, Idaho Code, and to read as follows:

PART 10

AMENDMENT OF ARTICLES OF INCORPORATION AND BYLAWS

30-29-1001. AUTHORITY TO AMEND ARTICLES OF INCORPORATION. (1) A corporation may amend its articles of incorporation at any time to add or change a provision that is required or permitted in the articles of incorporation as of the effective date of the amendment or to delete a provision that is not required to be contained in the articles of incorporation.

(2) A shareholder of the corporation does not have a vested property right resulting from any provision in the articles of incorporation, including provisions relating to management, control, capital structure, dividend, entitlement, or purpose or duration of the corporation.

30-29-1002. AMENDMENT BEFORE ISSUANCE OF SHARES. If a corporation has not yet issued shares, its board of directors, or its incorporators if it has no board of directors, may adopt one (1) or more amendments to the corporation's articles of incorporation.

30-29-1003. AMENDMENT BY BOARD OF DIRECTORS AND SHAREHOLDERS. If a corporation has issued shares, an amendment to the articles of incorporation shall be adopted in the following manner:

(1) The proposed amendment must be adopted by the board of directors.

(2) Except as provided in sections 30-29-1005, 30-29-1007 and 30-29-1008, Idaho Code, after adopting the proposed amendment, the board of directors must submit the amendment to the shareholders for their approval. The board of directors must also transmit to the shareholders a recommendation that the shareholders approve the amendment, unless the board of directors makes a determination that because of conflicts of interest or other special circumstances it should not make such a recommendation, in which case the board of directors must transmit to the shareholders the basis for that determination.

(3) The board of directors may condition its submission of the amendment to the shareholders on any basis.

(4) If the amendment is required to be approved by the shareholders, and the approval is to be given at a meeting, the corporation must notify each shareholder, whether or not entitled to vote, of the meeting of shareholders at which the amendment is to be submitted for approval. The notice must state that the purpose, or one (1) of the purposes, of the meeting is to consider the amendment and must contain or be accompanied by a copy of the amendment.

(5) Unless the articles of incorporation, or the board of directors acting pursuant to subsection (3) of this section, requires a greater vote or a greater number of shares to be present, approval of the amendment requires the approval of the shareholders at a meeting at which a quorum consisting of at least a majority of the votes entitled to be cast on the amendment exists, and, if any class or series of shares is entitled to vote as a separate group

on the amendment, except as provided in section 30-29-1004(3), Idaho Code, the approval of each such separate voting group at a meeting at which a quorum of the voting group consisting of at least a majority of the votes entitled to be cast on the amendment by that voting group exists.

30-29-1004. VOTING ON AMENDMENTS BY VOTING GROUPS. Except as otherwise provided in the articles of incorporation:

(1) If a corporation has more than one (1) class of shares outstanding, the holders of the outstanding shares of a class, whether voting or nonvoting in whole or in part, are entitled to vote as a separate voting group, if shareholder voting is otherwise required by this chapter, on a proposed amendment to the articles of incorporation if the amendment would:

(a) Increase or decrease the aggregate number of authorized shares of the class;

(b) Effect an exchange or reclassification of all or part of the shares of the class into shares of another class;

(c) Effect an exchange or reclassification, or create the right of exchange, of all or part of the shares of another class into shares of the class;

(d) Change the rights, preferences or limitations of all or part of the shares of the class;

(e) Change the shares of all or part of the class into a different number of shares of the same class;

(f) Create a new class of shares having rights or preferences with respect to distributions or to dissolution that are prior, superior or substantially equal to the shares of the class;

(g) Increase the rights, preferences or number of authorized shares of any class that, after giving effect to the amendment, have rights or preferences with respect to distributions or to dissolution that are prior, superior or substantially equal to the shares of the class;

(h) Limit or deny an existing preemptive right of all or part of the shares of the class; or

(i) Cancel or otherwise affect rights to distributions that have accumulated but not yet been authorized on all or part of the shares of the class.

(2) If a proposed amendment would affect a series of a class of shares in one (1) or more of the ways described in subsection (1) of this section, the shares of that series are entitled to vote as a separate voting group on the proposed amendment.

(3) If a proposed amendment that entitles the holders of two (2) or more classes or series of shares to vote as separate voting groups under this section would affect those two (2) or more classes or series in the same or a substantially similar way, the holders of shares of all the classes or series so affected must vote together as a single voting group on the proposed amendment, unless otherwise provided in the articles of incorporation or required by the board of directors.

30-29-1005. AMENDMENT BY BOARD OF DIRECTORS. Unless the articles of incorporation provide otherwise, a corporation's board of directors may

1 adopt amendments to the corporation's articles of incorporation without  
2 shareholder approval:

3 (1) To extend the duration of the corporation if it was incorporated at  
4 a time when limited duration was required by law;

5 (2) To delete the names and addresses of the initial directors;

6 (3) To change the information required by section 30-405, Idaho Code,  
7 on its registered agent;

8 (4) If the corporation has only one (1) class of shares outstanding:

9 (a) To change each issued and unissued authorized share of the class  
10 into a greater number of whole shares of that class; or

11 (b) To increase the number of authorized shares of the class to the ex-  
12 tent necessary to permit the issuance of shares as a share dividend;

13 (5) To change the corporate name by substituting the word "corpora-  
14 tion," "incorporated," "company," "limited," or the abbreviation "corp.,"  
15 "inc.," "co.," or "ltd.," for a similar word or abbreviation in the name, or  
16 by adding, deleting or changing a geographical attribution for the name;

17 (6) To reflect a reduction in authorized shares, as a result of the op-  
18 eration of section 30-29-631(2), Idaho Code, when the corporation has ac-  
19 quired its own shares and the articles of incorporation prohibit the reissue  
20 of the acquired shares;

21 (7) To delete a class of shares from the articles of incorporation, as  
22 a result of the operation of section 30-29-631(2), Idaho Code, when there  
23 are no remaining shares of the class because the corporation has acquired all  
24 shares of the class and the articles of incorporation prohibit the reissue of  
25 the acquired shares; or

26 (8) To make any change expressly permitted by section 30-29-602(1) or  
27 (2), Idaho Code, to be made without shareholder approval.

28 30-29-1006. ARTICLES OF AMENDMENT. After an amendment to the articles  
29 of incorporation has been adopted and approved in the manner required by this  
30 chapter and by the articles of incorporation, the corporation shall deliver  
31 to the secretary of state for filing articles of amendment, which shall set  
32 forth:

33 (1) The name of the corporation;

34 (2) The text of each amendment adopted;

35 (3) If an amendment provides for an exchange, reclassification, or can-  
36 cellation of issued shares, provisions for implementing the amendment if not  
37 contained in the amendment itself;

38 (4) The date of each amendment's adoption; and

39 (5) If an amendment:

40 (a) Was adopted by the incorporators or board of directors without  
41 shareholder approval, a statement that the amendment was duly approved  
42 by the incorporators or by the board of directors, as the case may be,  
43 and that shareholder approval was not required;

44 (b) Required approval by the shareholders, a statement that the amend-  
45 ment was duly approved by the shareholders in the manner required by  
46 this chapter and by the articles of incorporation; or

47 (c) Is being filed pursuant to section 30-29-120(2)(e), Idaho Code, a  
48 statement to that effect.

1       30-29-1007.    RESTATED ARTICLES OF INCORPORATION. (1) A corporation's  
2 board of directors may restate its articles of incorporation at any time,  
3 with or without shareholder approval, to consolidate all amendments into a  
4 single document.

5       (2) If the restated articles include one (1) or more new amendments that  
6 require shareholder approval, the amendments must be adopted and approved as  
7 provided in section 30-29-1003, Idaho Code.

8       (3) A corporation that restates its articles of incorporation shall de-  
9 liver to the secretary of state for filing articles of restatement setting  
10 forth the name of the corporation and the text of the restated articles of  
11 incorporation together with a certificate that states the restated articles  
12 consolidate all amendments into a single document and, if a new amendment is  
13 included in the restated articles, which also includes the statements re-  
14 quired under section 30-29-1006, Idaho Code.

15       (4) Duly adopted restated articles of incorporation supersede the  
16 original articles of incorporation and all amendments thereto.

17       (5) The secretary of state may certify restated articles of incorpora-  
18 tion, as the articles of incorporation currently in effect, without includ-  
19 ing the certificate information required by subsection (3) of this section.

20       30-29-1008.    AMENDMENT PURSUANT TO REORGANIZATION. (1) A corpora-  
21 tion's articles of incorporation may be amended without action by the board  
22 of directors or shareholders to carry out a plan of reorganization ordered  
23 or decreed by a court of competent jurisdiction under the authority of a law  
24 of the United States.

25       (2) The individual or individuals designated by the court shall deliver  
26 to the secretary of state for filing articles of amendment setting forth:

27       (a) The name of the corporation;

28       (b) The text of each amendment approved by the court;

29       (c) The date of the court's order or decree approving the articles of  
30 amendment;

31       (d) The title of the reorganization proceeding in which the order or de-  
32 cree was entered; and

33       (e) A statement that the court had jurisdiction of the proceeding under  
34 federal statute.

35       (3) This section does not apply after entry of a final decree in the re-  
36 organization proceeding even though the court retains jurisdiction of the  
37 proceeding for limited purposes unrelated to consummation of the reorgani-  
38 zation plan.

39       30-29-1009.    EFFECT OF AMENDMENT. An amendment to the articles of in-  
40 corporation does not affect a cause of action existing against or in favor  
41 of the corporation, a proceeding to which the corporation is a party, or the  
42 existing rights of persons other than shareholders of the corporation. An  
43 amendment changing a corporation's name does not abate a proceeding brought  
44 by or against the corporation in its former name.

45       30-29-1010.    RESERVED.

46       30-29-1011.    RESERVED.



1 30-29-1012. RESERVED.

2 30-29-1013. RESERVED.

3 30-29-1014. RESERVED.

4 30-29-1015. RESERVED.

5 30-29-1016. RESERVED.

6 30-29-1017. RESERVED.

7 30-29-1018. RESERVED.

8 30-29-1019. RESERVED.

9 30-29-1020. AMENDMENT BY BOARD OF DIRECTORS OR SHAREHOLDERS. (1) A  
10 corporation's shareholders may amend or repeal the corporation's bylaws.

11 (2) A corporation's board of directors may amend or repeal the corpora-  
12 tion's bylaws unless:

13 (a) The articles of incorporation or section 30-29-1021, Idaho Code,  
14 reserve that power exclusively to the shareholders in whole or in part;  
15 or

16 (b) The shareholders in amending, repealing, or adopting a bylaw ex-  
17 pressly provide that the board of directors may not amend, repeal, or  
18 reinstate that bylaw.

19 30-29-1021. BYLAW INCREASING QUORUM OR VOTING REQUIREMENT FOR DIREC-  
20 TORS. (1) A bylaw that increases a quorum or voting requirement for the board  
21 of directors may be amended or repealed:

22 (a) If originally adopted by the shareholders, only by the shareholders  
23 unless the bylaws otherwise provide;

24 (b) If adopted by the board of directors, either by the shareholders or  
25 by the board of directors.

26 (2) A bylaw adopted or amended by the shareholders that increases a quo-  
27 rum or voting requirement for the board of directors may provide that it can  
28 be amended or repealed only by a specified vote of either the shareholders or  
29 the board of directors.

30 (3) Action by the board of directors under subsection (1) of this sec-  
31 tion to amend or repeal a bylaw that changes the quorum or voting require-  
32 ment for the board of directors must meet the same quorum requirement and be  
33 adopted by the same vote required to take action under the quorum and voting  
34 requirement then in effect or proposed to be adopted, whichever is greater.

35 SECTION 66. That Chapter 29, Title 30, Idaho Code, be, and the same is  
36 hereby amended by the addition thereto of a NEW PART, to be known and desig-  
37 nated as Part 11, Chapter 29, Title 30, Idaho Code, and to read as follows:

38 PART 11

39 MERGER AND SHARE EXCHANGE

1           30-29-1101.   RESERVED.

2           30-29-1102.   RESERVED.

3           30-29-1103.   RESERVED.

4           30-29-1104.   ACTION ON A PLAN OF MERGER OR SHARE EXCHANGE. In the case  
5 of a domestic corporation that is a party to a merger or share exchange:

6           (1) The plan of merger or share exchange must be adopted by the board of  
7 directors.

8           (2) Except as provided in subsection (7) of this section and in section  
9 30-29-1105, Idaho Code, after adopting the plan of merger or share exchange  
10 the board of directors must submit the plan to the shareholders for their  
11 approval. The board of directors must also transmit to the shareholders a  
12 recommendation that the shareholders approve the plan, unless the board of  
13 directors makes a determination that because of conflicts of interest or  
14 other special circumstances it should not make such a recommendation, in  
15 which case the board of directors must transmit to the shareholders the basis  
16 for that determination.

17           (3) The board of directors may condition its submission of the plan of  
18 merger or share exchange to the shareholders on any basis.

19           (4) If the plan of merger or share exchange is required to be approved by  
20 the shareholders, and if the approval is to be given at a meeting, the corpo-  
21 ration must notify each shareholder, whether or not entitled to vote, of the  
22 meeting of shareholders at which the plan is to be submitted for approval.  
23 The notice must state that the purpose, or one (1) of the purposes, of the  
24 meeting is to consider the plan and must contain or be accompanied by a copy  
25 or summary of the plan. If the corporation is to be merged into an existing  
26 corporation or eligible entity, the notice shall also include or be accompa-  
27 nied by a copy or summary of the articles of incorporation or organizational  
28 documents of that corporation or eligible entity. If the corporation is to  
29 be merged into a corporation or eligible entity that is to be created pur-  
30 suant to the merger, the notice shall include or be accompanied by a copy or a  
31 summary of the articles of incorporation or organizational documents of the  
32 new corporation or eligible entity.

33           (5) Unless the articles of incorporation, or the board of directors  
34 acting pursuant to subsection (3) of this section, requires a greater vote  
35 or a greater number of votes to be present, approval of the plan of merger or  
36 share exchange require the approval of the shareholders at a meeting at which  
37 a quorum consisting of at least a majority of the votes entitled to be cast  
38 on the plan exists, and, if any class or series of shares is entitled to vote  
39 as a separate group on the plan of merger or share exchange, the approval of  
40 each such separate voting group at a meeting at which a quorum of the voting  
41 group consisting of at least a majority of the votes entitled to be cast on  
42 the merger or share exchange by that voting group is present.

43           (6) Separate voting by voting groups is required:

44           (a) On a plan of merger, by each class or series of shares that:

45               (i) Are to be converted under the plan of merger into other se-  
46 curities, interests, obligations, rights to acquire shares, other

1 securities or interests, cash, other property, or any combination  
2 of the foregoing; or

3 (ii) Would be entitled to vote as a separate group on a provision  
4 in the plan that, if contained in a proposed amendment to articles  
5 of incorporation, would require action by separate voting groups  
6 under section 30-29-1004, Idaho Code;

7 (b) On a plan of share exchange by each class or series of shares in-  
8 cluded in the exchange, with each class or series constituting a sepa-  
9 rate voting group; and

10 (c) On a plan of merger or share exchange, if the voting group is enti-  
11 tled under the articles of incorporation to vote as a voting group to ap-  
12 prove a plan of merger or share exchange.

13 (7) Unless the articles of incorporation otherwise provide, approval  
14 by the corporation's shareholders of a plan of merger or share exchange is  
15 not required if:

16 (a) The corporation will survive the merger or is the acquiring corpo-  
17 ration in a share exchange;

18 (b) Except for amendments permitted by section 30-29-1005, Idaho Code,  
19 its articles of incorporation will not be changed;

20 (c) Each shareholder of the corporation whose shares were outstanding  
21 immediately before the effective date of the merger or share exchange  
22 will hold the same number of shares, with identical preferences, limi-  
23 tations, and relative rights, immediately after the effective date of  
24 change; and

25 (d) The issuance in the merger or share exchange of shares or other se-  
26 curities convertible into or rights exercisable for shares does not re-  
27 quire a vote under section 30-29-621(6), Idaho Code.

28 (8) If as a result of a merger or share exchange one (1) or more share-  
29 holders of a domestic corporation would become subject to owner liability  
30 for the debts, obligations or liabilities of any other person or entity, ap-  
31 proval of the plan of merger or share exchange shall require the execution,  
32 by each such shareholder, of a separate written consent to become subject to  
33 such owner liability.

34 30-29-1105. MERGER BETWEEN PARENT AND SUBSIDIARY OR BETWEEN SUB-  
35 SIDIARIES. (1) A domestic parent corporation that owns shares of a domestic  
36 or foreign corporation that carry at least ninety percent (90%) of the voting  
37 power of each class and series of the outstanding shares of the subsidiary  
38 that have voting power may merge the subsidiary into itself or into another  
39 such subsidiary, without the approval of the board of directors or share-  
40 holders of the subsidiary unless the articles of incorporation of any of the  
41 corporations otherwise provide, and unless, in the case of a foreign sub-  
42 subsidiary, approval by the subsidiary's board of directors or shareholders is  
43 required by the laws under which the subsidiary is organized.

44 (2) If under subsection (1) of this section approval of a merger by the  
45 subsidiary's shareholders is not required, the parent corporation shall,  
46 within ten (10) days after the effective date of the merger, notify each of  
47 the subsidiary's shareholders that the merger has become effective.

1       (3) Except as provided in subsections (1) and (2) of this section, a  
2 merger between a parent and a subsidiary shall be governed by the provisions  
3 of this part applicable to mergers generally.

4       SECTION 67. That Chapter 29, Title 30, Idaho Code, be, and the same is  
5 hereby amended by the addition thereto of a NEW PART, to be known and desig-  
6 nated as Part 12, Chapter 29, Title 30, Idaho Code, and to read as follows:

7                                   PART 12  
8                                   DISPOSITION OF ASSETS

9       30-29-1201. DISPOSITION OF ASSETS NOT REQUIRING SHAREHOLDER AP-  
10 PROVAL. No approval of the shareholders of a corporation is required, unless  
11 the articles of incorporation otherwise provide:

12       (1) To sell, lease, exchange, or otherwise dispose of any or all of the  
13 corporation's assets in the usual and regular course of business;

14       (2) To mortgage, pledge, dedicate to the repayment of indebtedness,  
15 whether with or without recourse, or otherwise encumber any or all of the  
16 corporation's assets, whether or not in the usual and regular course of busi-  
17 ness; or

18       (3) To transfer any or all of the corporation's assets to one (1) or more  
19 corporations or eligible entities all the shares or interests of which are  
20 owned by the corporation; or

21       (4) To distribute assets pro rata to the holders of one (1) or more  
22 classes or series of the corporation's shares.

23       30-29-1202. SHAREHOLDER APPROVAL OF CERTAIN DISPOSITIONS. (1) A sale,  
24 lease, exchange or other disposition of assets, other than a disposition de-  
25 scribed in section 30-29-1201, Idaho Code, requires approval of the corpora-  
26 tion's shareholders if the disposition would leave the corporation without a  
27 significant continuing business activity. If a corporation retains a busi-  
28 ness activity that represented at least twenty-five percent (25%) of total  
29 assets at the end of the most recently completed fiscal year, and twenty-five  
30 percent (25%) of either income from continuing operations before taxes or  
31 revenues from continuing operations for that fiscal year, in each case of the  
32 corporation and its subsidiaries on a consolidated basis, the corporation  
33 will conclusively be deemed to have retained a significant continuing busi-  
34 ness activity.

35       (2) A disposition that requires approval of the shareholders under sub-  
36 section (1) of this section shall be initiated by a resolution by the board  
37 of directors authorizing the disposition. After adoption of such a resolu-  
38 tion, the board of directors shall submit the proposed disposition to the  
39 shareholders for their approval. The board of directors shall also transmit  
40 to the shareholders a recommendation that the shareholders approve the pro-  
41 posed disposition, unless the board of directors makes a determination that  
42 because of conflicts of interest or other special circumstances it should  
43 not make such a recommendation, in which case the board of directors shall  
44 transmit to the shareholders the basis for that determination.

45       (3) The board of directors may condition its submission of a disposi-  
46 tion to the shareholders under subsection (1) of this section on any basis.

(4) If a disposition is required to be approved by the shareholders under subsection (1) of this section, and if the approval is to be given at a meeting, the corporation shall notify each shareholder, whether or not entitled to vote, of the meeting of shareholders at which the disposition is to be submitted for approval. The notice shall state that the purpose, or one (1) of the purposes, of the meeting is to consider the disposition and shall contain a description of the disposition, including the terms and conditions thereof and the consideration to be received by the corporation.

(5) Unless the articles of incorporation or the board of directors, acting pursuant to subsection (3) of this section, require a greater vote or a greater number of votes to be present, the approval of a disposition by the shareholders shall require the approval of the shareholders at a meeting at which a quorum consisting of at least a majority of the votes entitled to be cast on the disposition exists.

(6) After a disposition has been approved by the shareholders under subsection (2) of this section, and at any time before the disposition has been consummated, it may be abandoned by the corporation without action by the shareholders, subject to any contractual rights of other parties to the disposition.

(7) A disposition of assets in the course of dissolution under part 14 of this chapter is not governed by this section.

(8) The assets of a direct or indirect consolidated subsidiary shall be deemed the assets of the parent corporation for the purposes of this section.

SECTION 68. That Chapter 29, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW PART, to be known and designated as Part 13, Chapter 29, Title 30, Idaho Code, and to read as follows:

#### PART 13 APPRAISAL RIGHTS

30-29-1301. DEFINITIONS. In this part:

(1) "Affiliate" means a person that directly or indirectly through one (1) or more intermediaries controls, is controlled by, or is under common control with another person or is a senior executive thereof. For purposes of section 30-29-1302(2)(d), Idaho Code, a person is deemed to be an affiliate of its senior executives.

(2) "Beneficial shareholder" means a person who is the beneficial owner of shares held in a voting trust or by a nominee on the beneficial owner's behalf.

(3) "Corporation" means the issuer of the shares held by a shareholder demanding appraisal and, for matters covered in sections 30-29-1322 through 30-29-1331, Idaho Code, includes the surviving entity in a merger.

(4) "Fair value" means the value of the corporation's shares determined:

(a) Immediately before the effectuation of the corporate action to which the shareholder objects;

(b) Using customary and current valuation concepts and techniques generally employed for similar businesses in the context of the transaction requiring appraisal; and

(c) Without discounting for lack of marketability or minority status except, if appropriate, for amendments to the articles pursuant to section 30-29-1302(1)(e), Idaho Code.

(5) "Interest" means interest from the effective date of the corporate action until the date of payment, at the rate of interest on judgments in this state on the effective date of the corporate action.

(6) "Preferred shares" means a class or series of shares whose holders have preference over any other class or series with respect to distributions.

(7) "Record shareholder" means the person in whose name shares are registered in the records of the corporation or the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file with the corporation.

(8) "Senior executive" means the chief executive officer, chief operating officer, chief financial officer, and anyone in charge of a principal business unit or function.

(9) "Shareholder" means both a record shareholder and a beneficial shareholder.

30-29-1302. RIGHT TO APPRAISAL. (1) A shareholder is entitled to appraisal rights, and to obtain payment of the fair value of that shareholder's shares, in the event of, any of the following corporate actions:

(a) Consummation of a merger to which the corporation is a party:

(i) If shareholder approval is required for the merger by section 30-29-1104, Idaho Code, and the shareholder is entitled to vote on the merger, except that appraisal rights shall not be available to any shareholder of the corporation with respect to shares of any class or series that remain outstanding after consummation of the merger; or

(ii) If the corporation is a subsidiary and the merger is governed by section 30-29-1105, Idaho Code;

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

(c) Consummation of a disposition of assets pursuant to section 30-29-1202, Idaho Code, if the shareholder is entitled to vote on the disposition;

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

(e) Any other amendment to the articles of incorporation, merger, share exchange or disposition of assets to the extent provided by the articles of incorporation, bylaws or a resolution of the board of directors.

(2) Notwithstanding subsection (1) of this section, the availability of appraisal rights under subsections (1)(a), (b), (c) and (d) of this section shall be limited in accordance with the following provisions:

1 (a) Appraisal rights shall not be available for the holders of shares of  
2 any class or series of shares that are:

3 (i) Listed on the New York stock exchange or the American stock  
4 exchange or designated as a national market system security on an  
5 interdealer quotation system by the national association of secu-  
6 rities dealers, inc.; or

7 (ii) Not so listed or designated, but have at least two thousand  
8 (2,000) shareholders and the outstanding shares of such class  
9 or series have a market value of at least twenty million dollars  
10 (\$20,000,000), exclusive of the value of such shares held by its  
11 subsidiaries, senior executives, directors and beneficial share-  
12 holders owning more than ten percent (10%) of such shares.

13 (b) The applicability of subsection (2) (a) of this section shall be de-  
14 termined as of:

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

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

20 (c) Subsection (2) (a) of this section shall not be applicable and ap-  
21 praisal rights shall be available pursuant to subsection (1) of this  
22 section for the holders of any class or series of shares who are required  
23 by the terms of the corporate action requiring appraisal rights to ac-  
24 cept for such shares anything other than cash or shares of any class or  
25 any series of shares of any corporation, or any other proprietary in-  
26 terest of any other entity, that satisfies the standards set forth in  
27 subsection (2) (a) of this section at the time the corporate action be-  
28 comes effective.

29 (d) Subsection (2) (a) of this section shall not be applicable and ap-  
30 praisal rights shall be available pursuant to subsection (1) of this  
31 section for the holders of any class or series of shares where:

32 (i) Any of the shares or assets of the corporation are being ac-  
33 quired or converted, whether by merger, share exchange or other-  
34 wise, pursuant to the corporate action by a person, or by an affil-  
35 iate of a person, who:

36 (A) Is, or at any time in the one (1) year period immediately  
37 preceding approval by the board of directors of the corpo-  
38 rate action requiring appraisal rights was, the beneficial  
39 owner of twenty percent (20%) or more of the voting power of  
40 the corporation, excluding any shares acquired pursuant to  
41 an offer for all shares having voting power if such offer was  
42 made within one (1) year prior to the corporate action re-  
43 quiring appraisal rights for consideration of the same kind  
44 and of a value equal to or less than that paid in connection  
45 with the corporate action; or

46 (B) Directly or indirectly has, or at any time in the one (1)  
47 year period immediately preceding approval by the board of  
48 directors of the corporation of the corporate action requir-  
49 ing appraisal rights had, the power, contractually or oth-  
50 erwise, to cause the appointment or election of twenty-five

1           percent (25%) or more of the directors to the board of direc-  
2           tors of the corporation; or

3           (ii) Any of the shares or assets of the corporation are being ac-  
4           quired or converted, whether by merger, share exchange or other-  
5           wise, pursuant to such corporate action by a person, or by an af-  
6           filiate of a person, who is, or at any time in the one (1) year pe-  
7           riod immediately preceding approval by the board of directors of  
8           the corporate action requiring appraisal rights was, a senior ex-  
9           ecutive or director of the corporation or a senior executive of any  
10          affiliate thereof, and that senior executive or director will re-  
11          ceive, as a result of the corporate action, a financial benefit not  
12          generally available to other shareholders as such, other than:

13           (A) Employment, consulting, retirement or similar benefits  
14           established separately and not as part of or in contempla-  
15           tion of the corporate action; or

16           (B) Employment, consulting, retirement or similar benefits  
17           established in contemplation of, or as part of, the corpo-  
18           rate action that are not more favorable than those existing  
19           before the corporate action or, if more favorable, that have  
20           been approved on behalf of the corporation in the same manner  
21           as is provided in section 30-29-862, Idaho Code; or

22           (C) In the case of a director of the corporation who will,  
23           in the corporate action, become a director of the acquiring  
24           entity in the corporate action or one (1) of its affiliates,  
25           rights and benefits as a director that are provided on the  
26           same basis as those afforded by the acquiring entity gener-  
27           ally to other directors of such entity or such affiliate.

28           (e) For the purposes of subsection (2) (d) of this section only, the  
29           term "beneficial owner" means any person who, directly or indirectly,  
30           through any contract, arrangement, or understanding, other than a revo-  
31           cable proxy, has or shares the power to vote, or to direct the voting of,  
32           shares, provided that a member of a national securities exchange shall  
33           not be deemed to be a beneficial owner of securities held directly or  
34           indirectly by it on behalf of another person solely because such member  
35           is the record holder of such securities if the member is precluded by  
36           the rules of such exchange from voting without instruction on contested  
37           matters or matters that may affect substantially the rights or privi-  
38           leges of the holders of the securities to be voted. When two (2) or more  
39           persons agree to act together for the purpose of voting their shares of  
40           the corporation, each member of the group formed thereby shall be deemed  
41           to have acquired beneficial ownership, as of the date of such agreement,  
42           of all voting shares of the corporation beneficially owned by any member  
43           of the group.

44           (3) Notwithstanding any other provision of this section, the articles  
45           of incorporation as originally filed or any amendment thereto may limit or  
46           eliminate appraisal rights for any class or series of preferred shares, but  
47           any such limitation or elimination contained in an amendment to the arti-  
48           cles of incorporation that limits or eliminates appraisal rights for any of  
49           such shares that are outstanding immediately prior to the effective date of  
50           such amendment or that the corporation is or may be required to issue or sell



1 thereafter pursuant to any conversion, exchange or other right existing im-  
 2 mediately before the effective date of such amendment shall not apply to any  
 3 corporate action that becomes effective within one (1) year of that date if  
 4 such action would otherwise afford appraisal rights.

5 (4) A shareholder entitled to appraisal rights under this part may not  
 6 challenge a completed corporate action for which appraisal rights are avail-  
 7 able unless such corporate action:

8 (a) Was not effectuated in accordance with the applicable provisions of  
 9 part 10, 11 or 12 of this chapter or the corporation's articles of incor-  
 10 poration, bylaws or board of directors' resolution authorizing the cor-  
 11 porate action; or

12 (b) Was procured as a result of fraud or material misrepresentation.

13 30-29-1303. ASSERTION OF RIGHTS BY NOMINEES AND BENEFICIAL OWN-  
 14 ERS. (1) A record shareholder may assert appraisal rights as to fewer than  
 15 all the shares registered in the record shareholder's name but owned by a  
 16 beneficial shareholder only if the record shareholder objects with respect  
 17 to all shares of the class or series owned by the beneficial shareholder and  
 18 notifies the corporation in writing of the name and address of each benefi-  
 19 cial shareholder on whose behalf appraisal rights are being asserted. The  
 20 rights of a record shareholder who asserts appraisal rights for only part of  
 21 the shares held of record in the record shareholder's name under this subsec-  
 22 tion shall be determined as if the shares as to which the record shareholder  
 23 objects and the record shareholder's other shares were registered in the  
 24 names of different record shareholders.

25 (2) A beneficial shareholder may assert appraisal rights as to shares  
 26 held on behalf of the shareholder only if such shareholder:

27 (a) Submits to the corporation the record shareholder's written con-  
 28 sent to the assertion of such rights no later than the date referred to  
 29 in section 30-29-1322(2)(b)(ii), Idaho Code; and

30 (b) Does so with respect to all shares of the class or series that are  
 31 beneficially owned by the beneficial shareholder.

32 30-29-1304. RESERVED.

33 30-29-1305. RESERVED.

34 30-29-1306. RESERVED.

35 30-29-1307. RESERVED.

36 30-29-1308. RESERVED.

37 30-29-1309. RESERVED.

38 30-29-1310. RESERVED.

39 30-29-1311. RESERVED.

40 30-29-1312. RESERVED.

1           30-29-1313.   RESERVED.

2           30-29-1314.   RESERVED.

3           30-29-1315.   RESERVED.

4           30-29-1316.   RESERVED.

5           30-29-1317.   RESERVED.

6           30-29-1318.   RESERVED.

7           30-29-1319.   RESERVED.

8           30-29-1320.   NOTICE OF APPRAISAL RIGHTS. (1) If proposed corporate ac-  
9   tion described in section 30-29-1302(1), Idaho Code, is to be submitted to a  
10   vote at a shareholders' meeting, the meeting notice must state that the cor-  
11   poration has concluded that shareholders are, are not or may be entitled to  
12   assert appraisal rights under this part. If the corporation concludes that  
13   appraisal rights are or may be available, a copy of this part must accompany  
14   the meeting notice sent to those record shareholders entitled to exercise  
15   appraisal rights.

16           (2) In a merger pursuant to section 30-29-1105, Idaho Code, the parent  
17   corporation must notify in writing all record shareholders of the subsidiary  
18   who are entitled to assert appraisal rights that the corporate action became  
19   effective. Such notice must be sent within ten (10) days after the corpo-  
20   rate action became effective and include the materials described in section  
21   30-29-1322, Idaho Code.

22           30-29-1321.   NOTICE OF INTENT TO DEMAND PAYMENT. (1) If proposed cor-  
23   porate action requiring appraisal rights under section 30-29-1302, Idaho  
24   Code, is submitted to a vote at a shareholders' meeting, a shareholder who  
25   wishes to assert appraisal rights with respect to any class or series of  
26   shares:

27           (a) Must deliver to the corporation before the vote is taken written no-  
28   tice of the shareholder's intent to demand payment if the proposed ac-  
29   tion is effectuated; and

30           (b) Must not vote, or cause or permit to be voted, any shares of such  
31   class or series in favor of the proposed action.

32           (2) A shareholder who does not satisfy the requirements of subsection  
33   (1) of this section is not entitled to payment under this part.

34           30-29-1322.   APPRAISAL NOTICE AND FORM. (1) If proposed corporate ac-  
35   tion requiring appraisal rights under section 30-29-1302, Idaho Code, be-  
36   comes effective, the corporation must deliver a written appraisal notice and  
37   form required by subsection (2) (a) of this section to all shareholders who  
38   satisfied the requirements of section 30-29-1321, Idaho Code. In the case  
39   of a merger under section 30-29-1105, Idaho Code, the parent must deliver a  
40   written appraisal notice and form to all record shareholders who may be enti-  
41   tled to assert appraisal rights.

1       (2) The appraisal notice must be sent no earlier than the date the cor-  
 2       porate action became effective and no later than ten (10) days after such  
 3       date and must:

4       (a) Supply a form that specifies the date of the first announcement to  
 5       shareholders of the principal terms of the proposed corporate action  
 6       and requires the shareholder asserting appraisal rights to certify:

7           (i) Whether or not beneficial ownership of those shares for which  
 8           appraisal rights are asserted was acquired before that date; and

9           (ii) That the shareholder did not vote for the transaction;

10      (b) State:

11          (i) Where the form must be sent and where certificates for cer-  
 12          tificated shares must be deposited and the date by which those cer-  
 13          tificates must be deposited, which date may not be earlier than the  
 14          date for receiving the required form under subsection (2) (b) (ii)  
 15          of this section;

16          (ii) A date by which the corporation must receive the form, which  
 17          date may not be fewer than forty (40) nor more than sixty (60) days  
 18          after the date the appraisal notice and form in subsection (1) of  
 19          this section are sent, and state that the shareholder shall have  
 20          waived the right to demand appraisal with respect to the shares  
 21          unless the form is received by the corporation by such specified  
 22          date;

23          (iii) The corporation's estimate of the fair value of the shares;

24          (iv) That, if requested in writing, the corporation will provide,  
 25          to the shareholders so requesting, within ten (10) days after the  
 26          date specified in subsection (2) (b) (ii) of this section the number  
 27          of shareholders who return the forms by the specified date and the  
 28          total number of shares owned by them; and

29          (v) The date by which the notice to withdraw under section  
 30          30-29-1323, Idaho Code, must be received, which date must be  
 31          within twenty (20) days after the date specified in subsection  
 32          (2) (b) (ii) of this section; and

33      (c) Be accompanied by a copy of this part.

34      30-29-1323. PERFECTION OF RIGHTS -- RIGHT TO WITHDRAW. (1) A share-  
 35      holder who receives notice pursuant to section 30-29-1322, Idaho Code, and  
 36      who wishes to exercise appraisal rights must certify on the form sent by the  
 37      corporation whether the beneficial owner of such shares acquired benefi-  
 38      cial ownership of the shares before the date required to be set forth in the  
 39      notice pursuant to section 30-29-1322(2) (a), Idaho Code. If a shareholder  
 40      fails to make this certification, the corporation may elect to treat the  
 41      shareholder's shares as after-acquired shares under section 30-29-1325,  
 42      Idaho Code. In addition, a shareholder who wishes to exercise appraisal  
 43      rights must execute and return the form and, in the case of certificated  
 44      shares, deposit the shareholder's certificates in accordance with the terms  
 45      of the notice by the date referred to in the notice pursuant to section  
 46      30-29-1322(2) (b) (ii), Idaho Code. Once a shareholder deposits that share-  
 47      holder's certificates or, in the case of uncertificated shares, returns the  
 48      executed forms, that shareholder loses all rights as a shareholder, unless  
 49      the shareholder withdraws pursuant to subsection (2) of this section.

1 (2) A shareholder who has complied with subsection (1) of this section  
 2 may nevertheless decline to exercise appraisal rights and withdraw from the  
 3 appraisal process by so notifying the corporation in writing by the date  
 4 set forth in the appraisal notice pursuant to section 30-29-1322(2) (b) (v),  
 5 Idaho Code. A shareholder who fails to so withdraw from the appraisal  
 6 process may not thereafter withdraw without the corporation's written con-  
 7 sent.

8 (3) A shareholder who does not execute and return the form and, in the  
 9 case of certificated shares, deposit that shareholder's share certificates  
 10 where required, each by the date set forth in the notice described in section  
 11 30-29-1322(2), Idaho Code, shall not be entitled to payment under this part.

12 30-29-1324. PAYMENT. (1) Except as provided in section 30-29-1325,  
 13 Idaho Code, within thirty (30) days after the form required by section  
 14 30-29-1322(2) (b) (ii), Idaho Code, is due, the corporation shall pay in cash  
 15 to those shareholders who complied with section 30-29-1323(1), Idaho Code,  
 16 the amount the corporation estimates to be the fair value of their shares,  
 17 plus interest.

18 (2) The payment to each shareholder pursuant to subsection (1) of this  
 19 section must be accompanied by:

20 (a) Financial statements of the corporation that issued the shares  
 21 to be appraised, consisting of a balance sheet as of the end of a fis-  
 22 cal year ending not more than sixteen (16) months before the date of  
 23 payment, an income statement for that year, a statement of changes in  
 24 shareholders' equity for that year, and the latest available interim  
 25 financial statements, if any;

26 (b) A statement of the corporation's estimate of the fair value of the  
 27 shares, which estimate must equal or exceed the corporation's estimate  
 28 given pursuant to section 30-29-1322(2) (b) (iii), Idaho Code; and

29 (c) A statement that shareholders described in subsection (1) of this  
 30 section have the right to demand further payment under section 30-29-  
 31 1326, Idaho Code, and that if any shareholder does not do so within the  
 32 time period specified therein, such shareholder shall be deemed to have  
 33 accepted such payment in full satisfaction of the corporation's obliga-  
 34 tions under this part.

35 30-29-1325. AFTER ACQUIRED SHARES. (1) A corporation may elect to  
 36 withhold payment required by section 30-29-1324, Idaho Code, from any  
 37 shareholder who did not certify that beneficial ownership of all of the  
 38 shareholder's shares for which appraisal rights are asserted was acquired  
 39 before the date set forth in the appraisal notice sent pursuant to section  
 40 30-29-1322(2) (a), Idaho Code.

41 (2) If the corporation elected to withhold payment under subsection (1)  
 42 of this section, it must, within thirty (30) days after the form required by  
 43 section 30-29-1322(2) (b) (ii), Idaho Code, is due, notify all shareholders  
 44 who are described in subsection (1) of this section:

45 (a) Of the information required by section 30-29-1324(2) (a), Idaho  
 46 Code;

47 (b) Of the corporation's estimate of fair value pursuant to section  
 48 30-29-1324(2) (b), Idaho Code;

1 (c) That they may accept the corporation's estimate of fair value, plus  
2 interest, in full satisfaction of their demands or demand appraisal un-  
3 der section 30-29-1326, Idaho Code;

4 (d) That those shareholders who wish to accept such offer must so notify  
5 the corporation of their acceptance of the corporation's offer within  
6 thirty (30) days after receiving the offer; and

7 (e) That those shareholders who do not satisfy the requirements for de-  
8 manding appraisal under section 30-29-1326, Idaho Code, shall be deemed  
9 to have accepted the corporation's offer.

10 (3) Within ten (10) days after receiving the shareholder's acceptance  
11 pursuant to subsection (2) of this section, the corporation must pay in cash  
12 the amount it offered under subsection (2) (b) of this section to each share-  
13 holder who agreed to accept the corporation's offer in full satisfaction of  
14 the shareholder's demand.

15 (4) Within forty (40) days after sending the notice described in sub-  
16 section (2) of this section, the corporation must pay in cash the amount it  
17 offered to pay under subsection (2) (b) of this section to each shareholder  
18 described in subsection (2) (e) of this section.

19 30-29-1326. PROCEDURE IF SHAREHOLDER DISSATISFIED WITH PAYMENT OR OF-  
20 FER. (1) A shareholder paid pursuant to section 30-29-1324, Idaho Code, who  
21 is dissatisfied with the amount of the payment must notify the corporation  
22 in writing of that shareholder's estimate of the fair value of the shares and  
23 demand payment of that estimate plus interest, less any payment under sec-  
24 tion 30-29-1324, Idaho Code. A shareholder offered payment under section  
25 30-29-1325, Idaho Code, who is dissatisfied with that offer must reject the  
26 offer and demand payment of the shareholder's stated estimate of the fair  
27 value of the shares plus interest.

28 (2) A shareholder who fails to notify the corporation in writing of that  
29 shareholder's demand to be paid the shareholder's stated estimate of the  
30 fair value plus interest under subsection (1) of this section within thirty  
31 (30) days after receiving the corporation's payment or offer of payment un-  
32 der section 30-29-1324 or 30-29-1325, Idaho Code, respectively, waives the  
33 right to demand payment under this section and shall be entitled only to the  
34 payment made or offered pursuant to those respective sections.

35 30-29-1327. RESERVED.

36 30-29-1328. RESERVED.

37 30-29-1329. RESERVED.

38 30-29-1330. COURT ACTION. (1) If a shareholder makes demand for pay-  
39 ment under section 30-29-1326, Idaho Code, which remains unsettled, the cor-  
40 poration shall commence a proceeding within sixty (60) days after receiving  
41 the payment demand and petition the court to determine the fair value of the  
42 shares and accrued interest. If the corporation does not commence the pro-  
43 ceeding within the sixty (60) day period, it shall pay in cash to each share-  
44 holder the amount demanded pursuant to section 30-29-1326, Idaho Code, plus  
45 interest.

1       (2) The corporation shall commence the proceeding in the appropriate  
 2 court of the county where the corporation's principal office is located, or,  
 3 if none in this state, Ada county. If the corporation is a foreign corpora-  
 4 tion, it shall commence the proceeding in the county in this state where the  
 5 principal office of the domestic corporation merged with the foreign corpo-  
 6 ration was located or, if the domestic corporation did not have its principal  
 7 office in this state at the time of the transaction, in Ada county.

8       (3) The corporation shall make all shareholders, whether or not resi-  
 9 dents of this state, whose demands remain unsettled parties to the proceed-  
 10 ing, as in an action against their shares, and all parties must be served with  
 11 a copy of the petition. Nonresidents may be served by registered or certi-  
 12 fied mail or by publication as provided by law.

13       (4) The jurisdiction of the court in which the proceeding is commenced  
 14 under subsection (2) of this section is plenary and exclusive. The court may  
 15 appoint one (1) or more persons as appraisers to receive evidence and recom-  
 16 mend a decision on the question of fair value. The appraisers shall have the  
 17 powers described in the order appointing them or in any amendment to it. The  
 18 shareholders demanding appraisal rights are entitled to the same discovery  
 19 rights as parties in other civil proceedings. There shall be no right to a  
 20 jury trial.

21       (5) Each shareholder made a party to the proceeding is entitled to judg-  
 22 ment:

23       (a) For the amount, if any, by which the court finds the fair value of  
 24 the shareholder's shares, plus interest, exceeds the amount paid by the  
 25 corporation to the shareholder for such shares; or

26       (b) For the fair value, plus interest, of the shareholder's shares for  
 27 which the corporation elected to withhold payment under section 30-29-  
 28 1325, Idaho Code.

29       30-29-1331. COURT COSTS AND COUNSEL FEES. (1) The court in an ap-  
 30 praisal proceeding commenced under section 30-29-1330, Idaho Code, shall  
 31 determine all costs of the proceeding, including the reasonable compensa-  
 32 tion and expenses of appraisers appointed by the court. The court shall  
 33 assess the costs against the corporation, except that the court may as-  
 34 sess costs against all or some of the shareholders demanding appraisal, in  
 35 amounts the court finds equitable, to the extent the court finds such share-  
 36 holders acted arbitrarily, vexatiously, or not in good faith with respect to  
 37 the rights provided by this part.

38       (2) The court in an appraisal proceeding may also assess the fees and  
 39 expenses of counsel and experts for the respective parties, in amounts the  
 40 court finds equitable:

41       (a) Against the corporation and in favor of any or all shareholders de-  
 42 manding appraisal if the court finds the corporation did not substan-  
 43 tially comply with the requirements of section 30-29-1320, 30-29-1322,  
 44 30-29-1324 or 30-29-1325, Idaho Code; or

45       (b) Against either the corporation or a shareholder demanding ap-  
 46 praisal, in favor of any other party, if the court finds that the party  
 47 against whom the fees and expenses are assessed acted arbitrarily, vex-  
 48 atiously, or not in good faith with respect to the rights provided by  
 49 this part.

(3) If the court in an appraisal proceeding finds that the services of counsel for any shareholder were of substantial benefit to other shareholders similarly situated, and that the fees for those services should not be assessed against the corporation, the court may award to such counsel reasonable fees to be paid out of the amounts awarded to shareholders who were benefited.

(4) To the extent the corporation fails to make a required payment pursuant to section 30-29-1324, 30-29-1325 or 30-29-1326, Idaho Code, the shareholder may sue directly for the amount owed and, to the extent successful, shall be entitled to recover from the corporation all costs and expenses of the suit, including counsel fees.

SECTION 69. That Chapter 29, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW PART, to be known and designated as Part 14, Chapter 29, Title 30, Idaho Code, and to read as follows:

PART 14  
DISSOLUTION

30-29-1401. DISSOLUTION BY INCORPORATORS OR INITIAL DIRECTORS. A majority of the incorporators or initial directors of a corporation that has not issued shares or has not commenced business may dissolve the corporation by delivering to the secretary of state for filing articles of dissolution that set forth:

- (1) The name of the corporation;
- (2) The date of its incorporation;
- (3) Either:
  - (a) That none of the corporation's shares has been issued, or
  - (b) That the corporation has not commenced business;
- (4) That no debt of the corporation remains unpaid;
- (5) That the net assets of the corporation remaining after winding up have been distributed to the shareholders, if shares were issued; and
- (6) That a majority of the incorporators or initial directors authorized the dissolution.

30-29-1402. DISSOLUTION BY BOARD OF DIRECTORS AND SHAREHOLDERS. (1) A corporation's board of directors may propose dissolution for submission to the shareholders.

- (2) For a proposal to dissolve to be adopted:
  - (a) The board of directors must recommend dissolution to the shareholders unless the board of directors determines that because of conflicts of interest or other special circumstances it should make no recommendation and communicates the basis for its determination to the shareholders; and
  - (b) The shareholders entitled to vote must approve the proposal to dissolve as provided in subsection (5) of this section.
- (3) The board of directors may condition its submission of the proposal for dissolution on any basis.
- (4) The corporation shall notify each shareholder, whether or not entitled to vote, of the proposed shareholders' meeting. The notice must also

1 state that the purpose, or one (1) of the purposes, of the meeting is to con-  
2 sider dissolving the corporation.

3 (5) Unless the articles of incorporation or the board of directors,  
4 acting pursuant to subsection (3) of this section, require a greater vote, a  
5 greater number of shares to be present, or a vote by voting groups, adoption  
6 of the proposal to dissolve shall require the approval of the shareholders  
7 at a meeting at which a quorum consisting of at least a majority of the votes  
8 entitled to be cast exists.

9 30-29-1403. ARTICLES OF DISSOLUTION. (1) At any time after dissolu-  
10 tion is authorized, the corporation may dissolve by delivering to the secre-  
11 tary of state for filing articles of dissolution setting forth:

12 (a) The name of the corporation;

13 (b) The date dissolution was authorized; and

14 (c) If dissolution was approved by the shareholders, a statement that  
15 the proposal to dissolve was duly approved by the shareholders in the  
16 manner required by this chapter and by the articles of incorporation.

17 (2) A corporation is dissolved upon the effective date of its articles  
18 of dissolution.

19 (3) For purposes of this part, "dissolved corporation" means a corpo-  
20 ration whose articles of dissolution have become effective and includes a  
21 successor entity to which the remaining assets of the corporation are trans-  
22 ferred subject to its liabilities for purposes of liquidation.

23 30-29-1404. REVOCATION OF DISSOLUTION. (1) A corporation may revoke  
24 its dissolution within one hundred twenty (120) days of its effective date.

25 (2) Revocation of dissolution must be authorized in the same manner as  
26 the dissolution was authorized unless that authorization permitted revoca-  
27 tion by action of the board of directors alone, in which event the board of  
28 directors may revoke the dissolution without shareholder action.

29 (3) After the revocation of dissolution is authorized, the corporation  
30 may revoke the dissolution by delivering to the secretary of state for filing  
31 articles of revocation of dissolution, together with a copy of its articles  
32 of dissolution, that set forth:

33 (a) The name of the corporation;

34 (b) The effective date of the dissolution that was revoked;

35 (c) The date that the revocation of dissolution was authorized;

36 (d) If the corporation's board of directors or incorporators revoked  
37 the dissolution, a statement to that effect;

38 (e) If the corporation's board of directors revoked a dissolution au-  
39 thorized by the shareholders, a statement that revocation was permitted  
40 by action by the board of directors alone pursuant to that authoriza-  
41 tion; and

42 (f) If shareholder action was required to revoke the dissolution, the  
43 information required by section 30-29-1403(1) (c), Idaho Code.

44 (4) Revocation of dissolution is effective upon the effective date of  
45 the articles of revocation of dissolution.

46 (5) When the revocation of dissolution is effective, it relates back to  
47 and takes effect as of the effective date of the dissolution and the corpora-  
48 tion resumes carrying on its business as if dissolution had never occurred.



1        30-29-1405. EFFECT OF DISSOLUTION. (1) A dissolved corporation con-  
2 tinues its corporate existence but may not carry on any business except that  
3 appropriate to wind up and liquidate its business and affairs, including:

- 4        (a) Collecting its assets;  
5        (b) Disposing of its properties that will not be distributed in kind to  
6 its shareholders;  
7        (c) Discharging or making provision for discharging its liabilities;  
8        (d) Distributing its remaining property among its shareholders accord-  
9 ing to their interests; and  
10        (e) Doing every other act necessary to wind up and liquidate its busi-  
11 ness and affairs.  
12        (2) Dissolution of a corporation does not:  
13        (a) Transfer title to the corporation's property;  
14        (b) Prevent transfer of its shares or securities, although the autho-  
15 rization to dissolve may provide for closing the corporation's share  
16 transfer records;  
17        (c) Subject its directors or officers to standards of conduct different  
18 from those prescribed in part 8 of this chapter;  
19        (d) Change quorum or voting requirements for its board of directors or  
20 shareholders; change provisions for selection, resignation, or removal  
21 of its directors or officers or both; or change provisions for amending  
22 its bylaws;  
23        (e) Prevent commencement of a proceeding by or against the corporation  
24 in its corporate name;  
25        (f) Abate or suspend a proceeding pending by or against the corporation  
26 on the effective date of dissolution; or  
27        (g) Terminate the authority of the registered agent of the corporation.

28        30-29-1406. KNOWN CLAIMS AGAINST DISSOLVED CORPORATION. (1) A dis-  
29 solved corporation may dispose of the known claims against it by notifying  
30 its known claimants in writing of the dissolution at any time after its ef-  
31 fective date.

- 32        (2) The written notice must:  
33        (a) Describe information that must be included in a claim;  
34        (b) Provide a mailing address where a claim may be sent;  
35        (c) State the deadline, which may not be fewer than one hundred twenty  
36 (120) days from the effective date of the written notice, by which the  
37 dissolved corporation must receive the claim; and  
38        (d) State that the claim will be barred if not received by the deadline.  
39        (3) A claim against the dissolved corporation is barred:  
40        (a) If a claimant who was given written notice under subsection (2) of  
41 this section does not deliver the claim to the dissolved corporation by  
42 the deadline; or  
43        (b) If a claimant whose claim was rejected by the dissolved corporation  
44 does not commence a proceeding to enforce the claim within ninety (90)  
45 days from the effective date of the rejection notice.  
46        (4) For purposes of this section, "claim" does not include a contingent  
47 liability or a claim based on an event occurring after the effective date of  
48 dissolution.

1       30-29-1407. OTHER CLAIMS AGAINST DISSOLVED CORPORATION. (1) A dis-  
2       solved corporation may also publish notice of its dissolution and request  
3       that persons with claims against the dissolved corporation present them in  
4       accordance with the notice.

5       (2) The notice must:

6       (a) Be published one (1) time in a newspaper of general circulation in  
7       the county where the dissolved corporation's principal office is or was  
8       located or, if none in this state, in Ada county;

9       (b) Describe the information that must be included in a claim and pro-  
10      vide a mailing address where the claim may be sent; and

11      (c) State that a claim against the dissolved corporation will be barred  
12      unless a proceeding to enforce the claim is commenced within two (2)  
13      years after the publication of the notice.

14      (3) If the dissolved corporation publishes a newspaper notice in accor-  
15      dance with subsection (2) of this section, the claim of each of the following  
16      claimants is barred unless the claimant commences a proceeding to enforce  
17      the claim against the dissolved corporation within two (2) years after the  
18      publication date of the newspaper notice:

19      (a) A claimant who was not given written notice under section 30-29-  
20      1406, Idaho Code;

21      (b) A claimant whose claim was timely sent to the dissolved corporation  
22      but not acted on;

23      (c) A claimant whose claim is contingent or based on an event occurring  
24      after the effective date of dissolution.

25      (4) A claim that is not barred by section 30-29-1406(3), Idaho Code, or  
26      subsection (3) of this section, may be enforced:

27      (a) Against the dissolved corporation, to the extent of its undis-  
28      tributed assets; or

29      (b) Except as provided in section 30-29-1408(4), Idaho Code, if the as-  
30      sets have been distributed in liquidation, against a shareholder of the  
31      dissolved corporation to the extent of the shareholder's pro rata share  
32      of the claim or the corporate assets distributed to the shareholder in  
33      liquidation, whichever is less, but a shareholder's total liability for  
34      all claims under this section may not exceed the total amount of assets  
35      distributed to the shareholder.

36      30-29-1408. COURT PROCEEDING. (1) A dissolved corporation that has  
37      published a notice under section 30-29-1407, Idaho Code, may file an appli-  
38      cation with the district court of the county where the dissolved corpora-  
39      tion's principal office is located, or, if none in this state, Ada county,  
40      for a determination of the amount and form of security to be provided for  
41      payment of claims that are contingent or have not been made known to the dis-  
42      solved corporation or that are based on an event occurring after the effec-  
43      tive date of dissolution but that, based on the facts known to the dissolved  
44      corporation, are reasonably estimated to arise after the effective date of  
45      dissolution. Provision need not be made for any claim that is or is reason-  
46      ably anticipated to be barred under section 30-29-1407(3), Idaho Code.

47      (2) Within ten (10) days after the filing of the application, notice of  
48      the proceeding shall be given by the dissolved corporation to each claimant

1 holding a contingent claim whose contingent claim is shown on the records of  
2 the dissolved corporation.

3 (3) The court may appoint a guardian ad litem to represent all claimants  
4 whose identities are unknown in any proceeding brought under this section.  
5 The reasonable fees and expenses of such guardian, including all reasonable  
6 expert witness fees, shall be paid by the dissolved corporation.

7 (4) Provision by the dissolved corporation for security in the amount  
8 and the form ordered by the court under subsection (1) of this section, shall  
9 satisfy the dissolved corporation's obligations with respect to claims that  
10 are contingent, have not been made known to the dissolved corporation or are  
11 based on an event occurring after the effective date of dissolution, and such  
12 claims may not be enforced against a shareholder who received assets in liq-  
13 uidation.

14 30-29-1409. DIRECTOR DUTIES. (1) Directors shall cause the dissolved  
15 corporation to discharge or make reasonable provision for the payment of  
16 claims and make distributions of assets to shareholders after payment or  
17 provision for claims.

18 (2) Directors of a dissolved corporation which has been disposed of  
19 claims under section 30-29-1406, 30-29-1407 or 30-29-1408, Idaho Code,  
20 shall not be liable for breach of subsection (1) of this section, with  
21 respect to claims against the dissolved corporation that are barred or sat-  
22 isfied under section 30-29-1406, 30-29-1407 or 30-29-1408, Idaho Code.

23 30-29-1410. RESERVED.

24 30-29-1411. RESERVED.

25 30-29-1412. RESERVED.

26 30-29-1413. RESERVED.

27 30-29-1414. RESERVED.

28 30-29-1415. RESERVED.

29 30-29-1416. RESERVED.

30 30-29-1417. RESERVED.

31 30-29-1418. RESERVED.

32 30-29-1419. RESERVED.

33 30-29-1420. RESERVED.

34 30-29-1421. RESERVED.

35 30-29-1422. RESERVED.

36 30-29-1423. RESERVED.

1           30-29-1424.   RESERVED.

2           30-29-1425.   RESERVED.

3           30-29-1426.   RESERVED.

4           30-29-1427.   RESERVED.

5           30-29-1428.   RESERVED.

6           30-29-1429.   RESERVED.

7           30-29-1430.   GROUNDS FOR JUDICIAL DISSOLUTION. The Idaho district  
8 court designated in section 30-29-1431(1), Idaho Code, may dissolve a cor-  
9 poration:

10          (1) In a proceeding by the attorney general if it is established that:

11          (a) The corporation obtained its articles of incorporation through  
12 fraud; or

13          (b) The corporation has continued to exceed or abuse the authority con-  
14 ferred upon it by law;

15          (2) In a proceeding by a shareholder if it is established that:

16          (a) The directors are deadlocked in the management of the corporate af-  
17 fairs, the shareholders are unable to break the deadlock, and irrepara-  
18 ble injury to the corporation is threatened or being suffered because of  
19 the deadlock;

20          (b) The directors or those in control of the corporation have acted or  
21 are acting in a manner that is illegal, oppressive or fraudulent, and  
22 irreparable injury to the corporation is threatened or being suffered  
23 by reason thereof; or

24          (c) The shareholders are deadlocked in voting power and have failed,  
25 for a period that includes at least two (2) consecutive annual meeting  
26 dates to elect successors to directors whose terms have expired;

27          (3) In a proceeding by a creditor if it is established that:

28          (a) The creditor's claim has been reduced to judgment, the execution on  
29 the judgment returned unsatisfied, and the corporation is insolvent; or

30          (b) The corporation has admitted in writing that the creditor's claim  
31 is due and owing and the corporation is insolvent; or

32          (4) In a proceeding by the corporation to have its voluntary dissolu-  
33 tion continued under court supervision.

34           30-29-1431.   PROCEDURE FOR JUDICIAL DISSOLUTION. (1) Venue for a pro-  
35 ceeding by the attorney general to dissolve a corporation lies in Ada county.  
36 Venue for a proceeding brought by any other party named in section 30-29-  
37 1430, Idaho Code, lies in the county where a corporation's principal office  
38 is or was located or, if none in this state, in Ada county.

39           (2) It is not necessary to make shareholders parties to the proceeding  
40 to dissolve a corporation unless relief is sought against them individually.

41           (3) A court in a proceeding brought to dissolve a corporation may issue  
42 injunctions, appoint a receiver or custodian pendente lite with all powers  
43 and duties the court directs, take other action required to preserve the cor-

1 porate assets wherever located, and carry on the business of the corporation  
2 until a full hearing can be held.

3 (4) Within ten (10) days of the commencement of a proceeding under sec-  
4 tion 30-29-1430(2), Idaho Code, to dissolve a corporation that has no shares  
5 listed on a national securities exchange or regularly traded in a market  
6 maintained by one (1) or more members of a national or affiliated securities  
7 association, the corporation must send to all shareholders, other than the  
8 petitioner, a notice stating that the shareholders may be entitled to avoid  
9 the dissolution of the corporation by electing to purchase the petitioner's  
10 shares under section 30-29-1434, Idaho Code, and accompanied by a copy of  
11 section 30-29-1434, Idaho Code.

12 30-29-1432. RECEIVERSHIP OR CUSTODIANSHIP. (1) A court in a judicial  
13 proceeding brought to dissolve a corporation may appoint one (1) or more re-  
14 ceivers to wind up and liquidate, or one (1) or more custodians to manage, the  
15 business and affairs of the corporation. The court shall hold a hearing, af-  
16 ter notifying all parties to the proceeding and any interested persons des-  
17 ignated by the court, before appointing a receiver or custodian. The court  
18 appointing a receiver or custodian has exclusive jurisdiction over the cor-  
19 poration and all of its property wherever located.

20 (2) The court may appoint an individual or a domestic or foreign corpo-  
21 ration, authorized to transact business in this state, as a receiver or cus-  
22 todian. The court may require the receiver or custodian to post bond, with or  
23 without sureties, in an amount the court directs.

24 (3) The court shall describe the powers and duties of the receiver or  
25 custodian in its appointing order, which may be amended from time to time.  
26 Among other powers:

27 (a) The receiver:

28 (i) May dispose of all or any part of the assets of the corporation  
29 wherever located, at a public or private sale, if authorized by the  
30 court; and

31 (ii) May sue and defend in his own name as receiver of the corpora-  
32 tion in all courts of this state;

33 (b) The custodian may exercise all of the powers of the corporation,  
34 through or in place of its board of directors, to the extent necessary  
35 to manage the affairs of the corporation in the best interests of its  
36 shareholders and creditors.

37 (4) The court during a receivership, may redesignate the receiver  
38 a custodian, and during a custodianship may redesignate the custodian a  
39 receiver, if doing so is in the best interests of the corporation, its share-  
40 holders, and creditors.

41 (5) The court from time to time during the receivership or custodian-  
42 ship may order compensation paid and expense disbursements or reimburse-  
43 ments made to the receiver or custodian and his counsel from the assets of the  
44 corporation or proceeds from the sale of the assets.

45 30-29-1433. DECREE OF DISSOLUTION. (1) If after a hearing the court  
46 determines that one (1) or more grounds for judicial dissolution described  
47 in section 30-29-1430, Idaho Code, exist, it may enter a decree dissolving  
48 the corporation and specifying the effective date of the dissolution, and

1 the clerk of the court shall deliver a certified copy of the decree to the  
2 secretary of state, who shall file it.

3 (2) After entering the decree of dissolution, the court shall direct  
4 the winding up and liquidation of the corporation's business and affairs  
5 in accordance with section 30-29-1405, Idaho Code, and the notification  
6 of claimants in accordance with sections 30-29-1406 and 30-29-1407, Idaho  
7 Code.

8 30-29-1434. ELECTION TO PURCHASE IN LIEU OF DISSOLUTION. (1) In a pro-  
9 ceeding under section 30-29-1430(2), Idaho Code, to dissolve a corporation  
10 that has no shares listed on a national securities exchange or regularly  
11 traded in a market maintained by one (1) or more members of a national or  
12 affiliated securities association, the corporation may elect or, if it fails  
13 to elect, one (1) or more shareholders may elect to purchase all shares owned  
14 by the petitioning shareholder at the fair value of the shares. In a proceed-  
15 ing under section 30-29-1430(2), Idaho Code, to dissolve a corporation that  
16 has shares listed on a national securities exchange or regularly traded in a  
17 market maintained by one (1) or more members of a national or affiliated se-  
18 curities association, the corporation may elect to purchase all shares owned  
19 by the petitioning shareholder at the fair value of the shares. An election  
20 pursuant to this section shall be irrevocable unless the court determines  
21 that it is equitable to set aside or modify the election.

22 (2) An election to purchase pursuant to this section may be filed with  
23 the court at any time within ninety (90) days after the filing of the peti-  
24 tion under section 30-29-1430(2), Idaho Code, or at such later time as the  
25 court in its discretion may allow. If the election to purchase is filed by  
26 one (1) or more shareholders, the corporation shall, within ten (10) days  
27 thereafter, give written notice to all shareholders, other than the peti-  
28 tioner. The notice must state the name and number of shares owned by the pe-  
29 tioner and the name and number of shares owned by each electing shareholder  
30 and must advise the recipients of their right to join in the election to pur-  
31 chase shares in accordance with this section. Shareholders who wish to par-  
32 ticipate must file notice of their intention to join in the purchase no later  
33 than thirty (30) days after the effective date of the notice to them. All  
34 shareholders who have filed an election or notice of their intention to par-  
35 ticipate in the election to purchase thereby become parties to the proceed-  
36 ing and shall participate in the purchase in proportion to their ownership  
37 of shares as of the date the first election was filed, unless they otherwise  
38 agree or the court otherwise directs. After an election has been filed by the  
39 corporation or one (1) or more shareholders, the proceeding under section  
40 30-29-1430(2), Idaho Code, may not be discontinued or settled, nor may the  
41 petitioning shareholder sell or otherwise dispose of his shares, unless the  
42 court determines that it would be equitable to the corporation and the share-  
43 holders, other than the petitioner, to permit such discontinuance, settle-  
44 ment, sale, or other disposition.

45 (3) If, within sixty (60) days of the filing of the first election, the  
46 parties reach agreement as to the fair value and terms of purchase of the pe-  
47 titioner's shares, the court shall enter an order directing the purchase of  
48 petitioner's shares upon the terms and conditions agreed to by the parties.

1           (4) If the parties are unable to reach an agreement as provided for in  
2 subsection (3) of this section, the court, upon application of any party,  
3 shall stay the section 30-29-1430(2), Idaho Code, proceedings and determine  
4 the fair value of the petitioner's shares as of the day before the date on  
5 which the petition under section 30-29-1430(2), Idaho Code, was filed or as  
6 of such other date as the court deems appropriate under the circumstances.

7           (5) Upon determining the fair value of the shares, the court shall en-  
8 ter an order directing the purchase upon such terms and conditions as the  
9 court deems appropriate, which may include payment of the purchase price  
10 in installments, where necessary in the interests of equity, provision for  
11 security to assure payment of the purchase price and any additional costs,  
12 fees, and expenses as may have been awarded, and, if the shares are to be pur-  
13 chased by shareholders, the allocation of shares among them. In allocating  
14 petitioner's shares among holders of different classes of shares, the court  
15 should attempt to preserve the existing distribution of voting rights among  
16 holders of different classes insofar as practicable and may direct that  
17 holders of a specific class or classes shall not participate in the purchase.  
18 Interest may be allowed at the rate and from the date determined by the court  
19 to be equitable, but if the court finds that the refusal of the petition-  
20 ing shareholder to accept an offer of payment was arbitrary or otherwise  
21 not in good faith, no interest shall be allowed. If the court finds that  
22 the petitioning shareholder had probable grounds for relief under section  
23 30-29-1430(2) (b), Idaho Code, it may award to the petitioning shareholder  
24 reasonable fees and expenses of counsel and of any experts employed by him.

25           (6) Upon entry of an order under subsection (3) or (5) of this section,  
26 the court shall dismiss the petition to dissolve the corporation under sec-  
27 tion 30-29-1430, Idaho Code, and the petitioning shareholder shall no longer  
28 have any rights or status as a shareholder of the corporation, except the  
29 right to receive the amounts awarded to him by the order of the court that  
30 shall be enforceable in the same manner as any other judgment.

31           (7) The purchase ordered pursuant to subsection (5) of this section  
32 shall be made within ten (10) days after the date the order becomes final  
33 unless before that time the corporation files with the court a notice of its  
34 intention to adopt articles of dissolution pursuant to sections 30-29-1402  
35 and 30-29-1403, Idaho Code, which articles must then be adopted and filed  
36 within fifty (50) days thereafter. Upon filing of such articles of dissolu-  
37 tion, the corporation shall be dissolved in accordance with the provisions  
38 of sections 30-29-1405 through 30-29-1407, Idaho Code, and the order entered  
39 pursuant to subsection (5) of this section shall no longer be of any force or  
40 effect, except that the court may award the petitioning shareholder reason-  
41 able fees and expenses in accordance with the provisions of the last sentence  
42 of subsection (5) of this section and the petitioner may continue to pursue  
43 any claims previously asserted on behalf of the corporation.

44           (8) Any payment by the corporation pursuant to an order under subsec-  
45 tion (3) or (5) of this section, other than an award of fees and expenses pur-  
46 suant to subsection (5) of this section, is subject to the provisions of sec-  
47 tion 30-29-640, Idaho Code.

48           30-29-1435.   RESERVED.

1       30-29-1436.   RESERVED.

2       30-29-1437.   RESERVED.

3       30-29-1438.   RESERVED.

4       30-29-1439.   RESERVED.

5       30-29-1440.   DEPOSIT WITH STATE TREASURER. Assets of a dissolved cor-  
6 poration that should be transferred to a creditor, claimant or shareholder  
7 of the corporation who cannot be found or who is not competent to receive them  
8 shall be reduced to cash and deposited with the state.

9       SECTION 70. That Chapter 29, Title 30, Idaho Code, be, and the same is  
10 hereby amended by the addition thereto of a NEW PART, to be known and desig-  
11 nated as Part 15, Chapter 29, Title 30, Idaho Code, and to read as follows:

12                               PART 15  
13                               [RESERVED]

14       SECTION 71. That Chapter 29, Title 30, Idaho Code, be, and the same is  
15 hereby amended by the addition thereto of a NEW PART, to be known and desig-  
16 nated as Part 16, Chapter 29, Title 30, Idaho Code, and to read as follows:

17                               PART 16  
18                               RECORDS AND REPORTS

19       30-29-1601.   CORPORATE RECORDS. (1) A corporation shall keep as perma-  
20 nent records minutes of all meetings of its shareholders and board of direc-  
21 tors, a record of all actions taken by the shareholders or board of directors  
22 without a meeting, and a record of all actions taken by a committee of the  
23 board of directors in place of the board of directors on behalf of the corpo-  
24 ration.

25       (2) A corporation shall maintain appropriate accounting records.

26       (3) A corporation or its agent shall maintain a record of its sharehold-  
27 ers, in a form that permits preparation of a list of the names and addresses  
28 of all shareholders, in alphabetical order by class of shares showing the  
29 number and class of shares held by each.

30       (4) A corporation shall maintain its records in written form or in an-  
31 other form capable of conversion into written form within a reasonable time.

32       (5) A corporation shall keep a copy of the following records at its  
33 principal office:

34       (a) Its articles or restated articles of incorporation, all amendments  
35 to them currently in effect, and any notices to shareholders referred  
36 to in section 30-29-120(2) (e), Idaho Code, regarding facts on which a  
37 filed document is dependent;

38       (b) Its bylaws or restated bylaws and all amendments to them currently  
39 in effect;

40       (c) Resolutions adopted by its board of directors creating one (1) or  
41 more classes or series of shares, and fixing their relative rights,



1 preferences, and limitations, if shares issued pursuant to those reso-  
2 lutions are outstanding;

3 (d) The minutes of all shareholders' meetings, and records of all ac-  
4 tion taken by shareholders without a meeting, for the past three (3)  
5 years;

6 (e) All written communications to shareholders generally within the  
7 past three (3) years, including the financial statements furnished for  
8 the past three (3) years under section 30-29-1620, Idaho Code;

9 (f) A list of the names and business addresses of its current directors  
10 and officers; and

11 (g) Its most recent annual report delivered to the secretary of state  
12 under section 30-29-1622, Idaho Code.

13 30-29-1602. INSPECTION OF RECORDS BY SHAREHOLDERS. (1) A shareholder  
14 of a corporation is entitled to inspect and copy, during regular business  
15 hours at the corporation's principal office, any of the records of the corpo-  
16 ration described in section 30-29-1601(5), Idaho Code, if he gives the cor-  
17 poration written notice of his demand at least five (5) business days before  
18 the date on which he wishes to inspect and copy.

19 (2) A shareholder of a corporation is entitled to inspect and copy, dur-  
20 ing regular business hours at a reasonable location specified by the corpo-  
21 ration, any of the following records of the corporation if the shareholder  
22 meets the requirements of subsection (3) of this section and gives the corpo-  
23 ration written notice of his demand at least five (5) days before the date on  
24 which he wishes to inspect and copy:

25 (a) Excerpts from minutes of any meeting of the board of directors,  
26 records of any action of a committee of the board of directors while  
27 acting in place of the board of directors on behalf of the corporation,  
28 minutes of any meeting of the shareholders, and records of action taken  
29 by the shareholders or board of directors without a meeting, to the ex-  
30 tent not subject to inspection under section 30-29-1602(1), Idaho Code;

31 (b) Accounting records of the corporation; and

32 (c) The record of shareholders.

33 (3) A shareholder may inspect and copy the records described in subsec-  
34 tion (2) of this section only if:

35 (a) He has been a holder of record of shares or of voting trust cer-  
36 tificates for at least six (6) months immediately preceding his demand  
37 or shall be the holder of record of, or the holder of record of voting  
38 trust certificates for, at least five percent (5%) of all the outstand-  
39 ing shares of the corporation;

40 (b) His demand is made in good faith and for a proper purpose;

41 (c) He describes with reasonable particularity his purpose and the  
42 records he desires to inspect; and

43 (d) The records are directly connected with his purpose.

44 (4) The right of inspection granted by this section may not be abolished  
45 or limited by a corporation's articles of incorporation or bylaws.

46 (5) This section does not affect:

47 (a) The right of a shareholder to inspect records under section 30-29-  
48 720, Idaho Code, or, if the shareholder is in litigation with the corpo-  
49 ration, to the same extent as any other litigant;

1 (b) The power of a court, independently of this chapter, to compel the  
2 production of corporate records for examination.

3 (6) For purposes of this section, "shareholder" includes a beneficial  
4 owner whose shares are held in a voting trust or by a nominee on his behalf.

5 30-29-1603. SCOPE OF INSPECTION RIGHT. (1) A shareholder's agent or  
6 attorney has the same inspection and copying rights as the shareholder rep-  
7 resented.

8 (2) The right to copy records under section 30-29-1602, Idaho Code, in-  
9 cludes, if reasonable, the right to receive copies by xerographic or other  
10 means, including copies through an electronic transmission if available and  
11 so requested by the shareholder.

12 (3) The corporation may comply at its expense with a shareholder's de-  
13 mand to inspect the record of shareholders under section 30-29-1602(2)(c),  
14 Idaho Code, by providing the shareholder with a list of shareholders that was  
15 compiled no earlier than the date of the shareholder's demand.

16 (4) The corporation may impose a reasonable charge, covering the costs  
17 of labor and material, for copies of any documents provided to the share-  
18 holder. The charge may not exceed the estimated cost of production, repro-  
19 duction or transmission of the records.

20 30-29-1604. COURT-ORDERED INSPECTION. (1) If a corporation does not  
21 allow a shareholder who complies with section 30-29-1602(1), Idaho Code, to  
22 inspect and copy any records required by that subsection to be available for  
23 inspection, the Idaho district court of the county where the corporation's  
24 principal office is located or, if none in this state, Ada county, may sum-  
25 marily order inspection and copying of the records demanded at the corpora-  
26 tion's expense upon application of the shareholder.

27 (2) If a corporation does not within a reasonable time allow a share-  
28 holder to inspect and copy any other record, the shareholder who complies  
29 with section 30-29-1602(2) and (3), Idaho Code, may apply to the Idaho dis-  
30 trict court of the county where the corporation's principal office is lo-  
31 cated or, if none in this state, Ada county, for an order to permit inspection  
32 and copying of the records demanded. The court shall dispose of an applica-  
33 tion under this subsection on an expedited basis.

34 (3) If the court orders inspection and copying of the records demanded,  
35 it shall also order the corporation to pay the shareholder's costs, includ-  
36 ing reasonable counsel fees, incurred to obtain the order unless the corpo-  
37 ration proves that it refused inspection in good faith because it had a rea-  
38 sonable basis for doubt about the right of the shareholder to inspect the  
39 records demanded.

40 (4) If the court orders inspection and copying of the records demanded,  
41 it may impose reasonable restrictions on the use or distribution of the  
42 records by the demanding shareholder.

43 30-29-1605. INSPECTION OF RECORDS BY DIRECTORS. (1) A director of a  
44 corporation is entitled to inspect and copy the books, records and documents  
45 of the corporation at any reasonable time to the extent reasonably related to  
46 the performance of the director's duties as a director, including duties as

1 a member of a committee, but not for any other purpose or in any manner that  
2 would violate any duty to the corporation.

3 (2) The district court of the county where the corporation's principal  
4 office is located, or if none in this state, Ada county, may order inspec-  
5 tion and copying of the books, records and documents at the corporation's ex-  
6 pense, upon application of a director who has been refused such inspection  
7 rights, unless the corporation establishes that the director is not entitled  
8 to such inspection rights. The court shall dispose of an application under  
9 this subsection on an expedited basis.

10 (3) If an order is issued, the court may include provisions protecting  
11 the corporation from undue burden or expense, and prohibiting the director  
12 from using information obtained upon exercise of the inspection rights in a  
13 manner that would violate a duty to the corporation, and may also order the  
14 corporation to reimburse the director for the director's costs, including  
15 reasonable counsel fees, incurred in connection with the application.

16 30-29-1606. EXCEPTION TO NOTICE REQUIREMENT. (1) Whenever notice is  
17 required to be given under any provision of this chapter to any shareholder,  
18 such notice shall not be required to be given if:

19 (a) Notice of two (2) consecutive annual meetings, and all notices  
20 of meetings during the period between such two (2) consecutive annual  
21 meetings, have been sent to such shareholder at such shareholder's ad-  
22 dress as shown on the records of the corporation and have been returned  
23 undeliverable; or

24 (b) All, but not less than two (2), payments of dividends on securities  
25 during a twelve (12) month period, or two (2) consecutive payments of  
26 dividends on securities during a period of more than twelve (12) months,  
27 have been sent to such shareholder at such shareholder's address as  
28 shown on the records of the corporation and have been returned undeliv-  
29 erable.

30 (2) If any such shareholder shall deliver to the corporation a written  
31 notice setting forth such shareholder's then-current address, the require-  
32 ment that notice be given to such shareholder shall be reinstated.

33 30-29-1607. RESERVED.

34 30-29-1608. RESERVED.

35 30-29-1609. RESERVED.

36 30-29-1610. RESERVED.

37 30-29-1611. RESERVED.

38 30-29-1612. RESERVED.

39 30-29-1613. RESERVED.

40 30-29-1614. RESERVED.

41 30-29-1615. RESERVED.

16           (2) If any annual financial statements furnished pursuant to subsec-  
17       tion (1) of this section are reported upon by a public accountant, his re-  
18       port must accompany them. If not, the statements must be accompanied by a  
19       statement of the president or the person responsible for the corporation's  
20       accounting records:

30-29-1621. OTHER REPORTS TO SHAREHOLDERS. (1) If a corporation in-  
demnifies or advances expenses to a director under section 30-29-851, 30-29-  
852, 30-29-853 or 30-29-854, Idaho Code, in connection with a proceeding by  
or in the right of the corporation, the corporation shall report the indemni-  
fication or advance in writing to the shareholders with or before the notice  
of the next shareholders' meeting.

41 PART 17  
42 TRANSITION PROVISIONS

30-29-1703. SAVING PROVISIONS. (1) Except as provided in subsection  
(2) of this section, the repeal of a statute by this chapter does not affect:

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

(2) If a penalty or punishment imposed for violation of a statute repealed by this chapter is reduced by this chapter, the penalty or punishment if not already imposed shall be imposed in accordance with this chapter.

31 SECTION 73. That Title 30, Idaho Code, be, and the same is hereby  
32 amended by the addition thereto of a NEW CHAPTER, to be known and designated  
33 as Chapter 30, Title 30, Idaho Code, and to read as follows:

36 SECTION 74. That Chapter 30, Title 30, Idaho Code, be, and the same is  
37 hereby amended by the addition thereto of a NEW PART, to be known and desig-  
38 nated as Part 1, Chapter 30, Title 30, Idaho Code, and to read as follows:

41 30-30-101. SHORT TITLE. This act shall be known and may be cited as the  
42 "Idaho Nonprofit Corporation Act," and shall apply to any type of lawful non-

1 profit corporation formed under the provisions of this act or other laws of  
2 this state.

3 30-30-102. FILING REQUIREMENTS. (1) Except as otherwise permitted by  
4 subsection (2) of this section, a record delivered to the secretary of state  
5 for filing pursuant to this chapter must be signed as follows:

6 (a) By the presiding officer of its board of directors of a domestic or  
7 foreign nonprofit corporation, its president, or by another of its officers;

8 (b) If directors have not been selected or the corporation has not been  
9 formed, by an incorporator; or

10 (c) If the corporation is in the hands of a receiver, trustee or other  
11 court-appointed fiduciary, by that fiduciary.

12 (2) The annual report delivered to the secretary of state for filing un-  
13 der section 30-21-213, Idaho Code, shall be executed by one (1) of the per-  
14 sons identified in subsection (1) of this section or by another person who is  
15 authorized by the board of directors to execute the report.

16 30-30-103. DEFINITIONS. Unless the context otherwise requires in this  
17 chapter:

18 (1) "Approved by, or approval by, the members" means approved or rat-  
19 ified by the affirmative vote of a majority of the votes represented and  
20 voting at a duly held meeting at which a quorum is present, which affirmative  
21 votes also constitute a majority of the required quorum, or by a written  
22 ballot or written consent in conformity with this act or by the affirmative  
23 vote, written ballot or written consent of such greater proportion, includ-  
24 ing the votes of all the members of any class, unit or grouping as may be  
25 provided in the articles, bylaws or this act for any specified member action.

26 (2) "Articles of incorporation" or "articles" includes amended and re-  
27 stated articles of incorporation and articles of merger.

28 (3) "Board" or "board of directors" means the board of directors by  
29 whatever name it is designated, except that no person or group of persons are  
30 the board of directors merely because of powers delegated to that person or  
31 group pursuant to section 30-30-601, Idaho Code.

32 (4) "Bylaws" means the code or codes of rules, other than the articles,  
33 adopted pursuant to this act for the regulation or management of the affairs  
34 of the corporation irrespective of the name or names by which such rules are  
35 designated.

36 (5) "Class" refers to a group of memberships that have the same rights  
37 with respect to voting, dissolution, redemption and transfer. For the pur-  
38 pose of this section, rights shall be considered the same if they are deter-  
39 mined by a formula applied uniformly.

40 (6) "Cooperative corporation" or "cooperative" means any nonprofit  
41 corporation, operating on a cooperative basis, owned, operated, organized  
42 and maintained by its members, for the purpose of providing goods or services  
43 to its members.

44 (7) "Delegates" means those persons elected or appointed to vote in a  
45 representative assembly for the election of a director or directors or on  
46 other matters.

47 (8) "Directors" means individuals, designated in the articles or by-  
48 laws or elected by the incorporators, and their successors and individuals

1 elected or appointed by any other name or title to act as members of the  
2 board.

3 (9) "Distribution" means the payment of a dividend or any part of the  
4 income or profit of a corporation to its members, directors or officers.

5 (10) "Employee" does not include an officer or director who is not oth-  
6 erwise employed by the corporation.

7 (11) "Foreign nonprofit corporation" means a corporation organized un-  
8 der a law other than the laws of this state that would be a nonprofit corpora-  
9 tion if formed under the laws of this state.

10 (12) "Governmental subdivision" includes authority, county, district  
11 and municipality.

12 (13) "Member" shall also mean stockholder or shareholder wherever and  
13 whenever those terms are used in this act, and shall apply to all nonprofit  
14 corporations formed under this act or other laws of this state that have  
15 stockholders or shareholders and issue shares of stock instead of member-  
16 ships.

17 (14) "Membership" refers to the rights and obligations a member or mem-  
18 bers have pursuant to a corporation's articles, bylaws and this act.

19 (15) "Notice" is defined in section 30-30-104, Idaho Code.

20 (16) "Record date" means the date on which a corporation determines the  
21 identity of its members for the purposes of this act.

22 (17) "Secretary" means the corporate officer to whom the board of direc-  
23 tors has delegated responsibility under section 30-30-621(2), Idaho Code,  
24 for custody of the minutes of the director and member meetings and for au-  
25 thenticating the records of the corporation.

26 (18) "United States" includes district, authority, bureau, commission,  
27 department and any other agency of the United States.

28 (19) "Vote" includes authorization by written ballot, absentee ballot  
29 and written consent.

30 (20) "Voting power" means the total number of votes entitled to be cast  
31 for the election of directors at the time the determination of voting power  
32 is made, excluding a vote that is contingent upon the happening of a condi-  
33 tion or event that has not occurred at the time. Where a class is entitled to  
34 vote as a class for directors, the determination of voting power of the class  
35 shall be based on the percentage of the number of directors the class is enti-  
36 tled to elect out of the total number of authorized directors.

37 30-30-104. NOTICE. (1) Notice may be oral or written. Notice by elec-  
38 tronic transmission is written notice.

39 (2) Notice may be communicated: in person; by telephone or voice mail;  
40 by telegraph, teletype or other electronic means; or by mail or private car-  
41 rier; if these forms of personal notice are impracticable, notice may be com-  
42 municated by publication for ten (10) days pursuant to section 60-109, Idaho  
43 Code.

44 (3) Oral notice is effective when communicated, if communicated in a  
45 comprehensible manner.

46 (4) Written notice, if in a comprehensible form, is effective at the  
47 earliest of the following:

48 (a) When received;

(b) Five (5) days after its deposit in the United States mail, as evidenced by sworn affidavit or postmark, if mailed correctly addressed and with first class postage affixed;

(c) On the date shown on the return receipt, if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee;

(d) When electronically transmitted to a member in a manner authorized by the members.

(5) Written notice is correctly addressed to a member of a domestic or foreign nonprofit corporation if addressed to the member's address shown in the corporation's current list of members.

(6) A written notice or report delivered as part of a newsletter, magazine or other publication regularly sent to members shall constitute a written notice or report if addressed or delivered to the member's address shown in the corporation's current list of members, or in the case of members who are residents of the same household and who have the same address in the corporation's current list of members, if addressed or delivered to one of such members, at the address appearing on the current list of members.

(7) Written notice is correctly addressed to a domestic or foreign nonprofit corporation authorized to transact business in this state, other than in its capacity as a member, if addressed to its registered agent or to its secretary at its principal office shown in its most recent annual report or, in the case of a foreign nonprofit corporation that has not yet delivered an annual report, in its application for a certificate of authority.

(8) If section 30-30-505(2), Idaho Code, or any other provision of this act prescribes notice requirements for particular circumstances, those requirements govern. If articles or bylaws prescribe notice requirements, not inconsistent with this section or other provisions of this act, those requirements govern.

30-30-105. PRIVATE FOUNDATION. Except where otherwise determined by a court of competent jurisdiction, a corporation that is a private foundation as defined in section 509(a) of the Internal Revenue Code of 1986:

(1) Shall distribute such amounts for each taxable year at such time and in such manner as not to subject the corporation to tax under section 4942 of the code.

(2) Shall not engage in any act of self-dealing as defined in section 4941(d) of the code.

(3) Shall not retain any excess business holdings as defined in section 4943(c) of the code.

(4) Shall not make any taxable expenditures as defined in section 4944 of the code.

(5) Shall not make any taxable expenditures as defined in section 4945(d) of the code.

(6) Shall be authorized to terminate its status as a private foundation in a manner described in section 507(b) (1) of the code.

All references in this section to sections of the code shall be to such sections of the Internal Revenue Code of 1986, as amended from time to time, or to corresponding provisions of subsequent internal revenue laws of the United States.



1        30-30-106. JUDICIAL RELIEF. (1) If for any reason it is impractical  
2 or impossible for any corporation to call or conduct a meeting of its mem-  
3 bers, delegates or directors, or otherwise obtain their consent, in the man-  
4 ner prescribed by its articles, bylaws or this act, then upon petition of a  
5 director, officer, delegate, or member, the district court may order that  
6 such a meeting be called or that a written ballot or other form of obtaining  
7 the vote of members, delegates or directors be authorized, in such a manner  
8 as the court finds fair and equitable under the circumstances.

9        (2) The court shall, in an order issued pursuant to this section, pro-  
10 vide for a method of notice reasonably designed to give actual notice to all  
11 persons who would be entitled to notice of a meeting held pursuant to the ar-  
12 ticles, bylaws and this act, whether or not the method results in actual no-  
13 tice to all such persons or conforms to the notice requirements that would  
14 otherwise apply. In a proceeding under this section the court may determine  
15 who the members or directors are.

16        (3) The order issued pursuant to this section may dispense with any  
17 requirements relating to the holding of or voting at meetings or obtaining  
18 votes, including any requirement as to quorums or as to the number or per-  
19 centage of votes needed for approval, that would otherwise be imposed by the  
20 articles, bylaws or this act.

21        (4) Whenever practical, any order issued pursuant to this section shall  
22 limit the subject matter of meetings or other forms of consent authorized  
23 to items, including amendments to the articles or bylaws, the resolution of  
24 which will or may enable the corporation to continue managing its affairs  
25 without further resort to this section; provided however, that an order un-  
26 der this section may also authorize the obtaining of whatever votes and ap-  
27 provals are necessary for the dissolution, merger or sale of assets.

28        (5) Any meeting or other method of obtaining the vote of members, dele-  
29 gates or directors conducted pursuant to an order issued under this section,  
30 and that complies with all the provisions of such order, is for all purposes  
31 a valid meeting or vote, as the case may be, and shall have the same force and  
32 effect as if it complied with every requirement imposed by the articles, by-  
33 laws and this act.

34        (6) Any member of a cooperative association that provides electric ser-  
35 vice may apply to the district court of the county where the member's service  
36 entrance is located for a determination that the cooperative association's  
37 charges for electric service to that member are fair, just and reasonable and  
38 are not discriminatory or preferential. In the event that the court deter-  
39 mines that the rate is not fair, just and reasonable or is discriminatory or  
40 preferential, the court shall remand the matter to the cooperative associa-  
41 tion to alter or amend the rate in conformance with the standards set forth  
42 herein.

43        30-30-107. RELIGIOUS CORPORATIONS -- CONSTITUTIONAL PROTECTIONS. If  
44 religious doctrine governing the affairs of a religious corporation is in-  
45 consistent with the provisions of this act on the same subject, the reli-  
46 gious doctrine shall control to the extent required by the constitution of  
47 the United States or the constitution of this state or both.

1       SECTION 75. That Chapter 30, Title 30, Idaho Code, be, and the same is  
2 hereby amended by the addition thereto of a NEW PART, to be known and desig-  
3 nated as Part 2, Chapter 30, Title 30, Idaho Code, and to read as follows:

4                               PART 2  
5                               INCORPORATION

6       30-30-201. INCORPORATORS. One (1) or more persons may act as the in-  
7 corporator or incorporators of a corporation by delivering articles of in-  
8 corporation to the secretary of state for filing.

9       30-30-202. ARTICLES OF INCORPORATION. (1) The articles of incorpora-  
10 tion must set forth:

11       (a) A corporate name for the corporation that satisfies the require-  
12 ments of sections 30-21-301 and 30-21-302(a), Idaho Code;

13       (b) The purpose or purposes for which the corporation is organized,  
14 which may be, either alone or in combination with other purposes, the  
15 transaction of any lawful activity;

16       (c) The names and addresses of the individuals who are to serve as the  
17 initial directors;

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

19       (e) The name and address of each incorporator;

20       (f) Whether or not the corporation will have members; and

21       (g) Provisions not inconsistent with law regarding the distribution of  
22 assets on dissolution.

23       (2) The articles of incorporation may set forth:

24       (a) Provisions not inconsistent with law regarding:

25               (i) Managing and regulating the affairs of the corporation;

26               (ii) Defining, limiting and regulating the powers of the corpora-  
27 tion, its board of directors, and members or any class of members;  
28 and

29               (iii) The characteristics, qualifications, rights, limitations  
30 and obligations attaching to each or any class of members.

31       (b) Any provision that under this act is required or permitted to be set  
32 forth in the bylaws.

33       (3) Each incorporator named in the articles must sign the articles.

34       (4) The articles of incorporation need not set forth any of the corpora-  
35 tion powers enumerated in this act.

36       (5) The articles of incorporation may authorize assessments to be  
37 levied upon all members or classes of membership alike, or upon the outstand-  
38 ing shares of stock of the corporation that issues shares of stock instead  
39 of memberships pursuant to its articles of incorporation, or in different  
40 amounts or proportions or upon a different basis upon different members or  
41 classes of membership, and may exempt some members or classes of membership  
42 from assessments. The articles of incorporation may fix the amount and  
43 method of collection of assessments, or may authorize the board of directors  
44 to fix the amount thereof, from time to time, and may make them payable at  
45 such times or intervals, and upon such notice and by such methods as the di-  
46 rectors may prescribe. Assessments may be made enforceable by civil action  
47 or by the forfeiture of membership, or both, or by the sale of shares of the  
48 capital stock of a stockholder in a corporation that issues shares of stock

1 instead of memberships, when authorized by the articles of incorporation  
 2 of said corporation, upon notice given in writing twenty (20) days before  
 3 commencement of such action or such forfeiture. If the articles of incorpo-  
 4 ration so provide, assessments may be secured by a lien upon real property to  
 5 which membership rights are appurtenant, if appropriate, or upon the shares  
 6 of stock of a stockholder or shareholder corporation, when authorized by its  
 7 articles of incorporation.

8 30-30-203. INCORPORATION. (1) Unless a delayed effective date is  
 9 specified, the corporate existence begins when the articles of incorpora-  
 10 tion are filed.

11 (2) The secretary of state's filing of the articles of incorporation is  
 12 conclusive proof that the incorporators satisfied all conditions precedent  
 13 to incorporation except in a proceeding by the state to cancel or revoke the  
 14 incorporation or involuntarily dissolve the corporation.

15 30-30-204. LIABILITY. All persons purporting to act as or on behalf  
 16 of a corporation, knowing there was no incorporation under this act, are  
 17 jointly and severally liable for all liabilities created while so acting.

18 30-30-205. ORGANIZATION OF CORPORATION. (1) After incorporation:  
 19 (a) If initial directors are named in the articles of incorporation,  
 20 the initial directors shall hold an organizational meeting, at the call  
 21 of a majority of the directors, to complete the organization of the cor-  
 22 poration by appointing officers, adopting bylaws and carrying on any  
 23 other business brought before the meeting;  
 24 (b) If initial directors are not named in the articles, the incorpora-  
 25 tor or incorporators shall hold an organizational meeting at the call of  
 26 a majority of the incorporators:  
 27 (i) To elect directors and complete the organization of the in-  
 28 corporation; or  
 29 (ii) To elect a board of directors who shall complete the organi-  
 30 zation of the corporation.  
 31 (2) Action required or permitted by this act to be taken by incorpora-  
 32 tors at an organizational meeting may be taken without a meeting if the ac-  
 33 tion taken is evidenced by one (1) or more written consents describing the  
 34 action taken and signed by each incorporator.  
 35 (3) An organizational meeting may be held in or out of this state in ac-  
 36 cordance with section 30-30-613, Idaho Code.

37 30-30-206. BYLAWS. (1) The board of directors or members of a corpora-  
 38 tion shall adopt the initial bylaws for the corporation.

39 (2) The bylaws may contain any provision for regulating and managing  
 40 the affairs of the corporation that is not inconsistent with law or the arti-  
 41 cles of incorporation.

42 (3) The patrons of a cooperative corporation, by dealing with the cor-  
 43 poration, acknowledge that the terms and provisions of the articles of in-  
 44 corporation and bylaws, as well as policies, rules and regulations, shall  
 45 constitute and be a contract between the corporation and each patron, and  
 46 both the corporation and the patrons are bound by such contract, as fully as

1     though each patron had individually signed a separate instrument containing  
2     such terms and provisions.

3             30-30-207.   EMERGENCY BYLAWS AND POWERS. (1) Unless the articles pro-  
4     vide otherwise, the directors of a corporation may adopt, amend or repeal by-  
5     laws to be effective only in an emergency defined in subsection (4) of this  
6     section. The emergency bylaws, which are subject to amendment or repeal by  
7     the members, may provide special procedures necessary for managing the cor-  
8     poration during the emergency, including:

9             (a) How to call a meeting of the board;

10            (b) Quorum requirements for the meeting; and

11            (c) Designation of additional or substitute directors.

12            (2) All provisions of the regular bylaws consistent with the emergency  
13     bylaws remain effective during the emergency. The emergency bylaws are not  
14     effective after the emergency ends.

15            (3) Corporate action taken in good faith in accordance with the emer-  
16     gency bylaws:

17            (a) Binds the corporation; and

18            (b) May not be used to impose liability on a corporate director, offi-  
19     cer, employee, or agent.

20            (4) An emergency exists for purposes of this section if a quorum of the  
21     corporation's directors cannot readily be assembled because of some cata-  
22     strophic event.

23             SECTION 76. That Chapter 30, Title 30, Idaho Code, be, and the same is  
24     hereby amended by the addition thereto of a NEW PART, to be known and desig-  
25     nated as Part 3, Chapter 30, Title 30, Idaho Code, and to read as follows:

26                             PART 3

27                             PURPOSES AND POWERS

28             30-30-301.   PURPOSES. (1) One (1) or more persons may act as the incor-  
29     porator or incorporators of a corporation by delivering articles of incorpo-  
30     ration to the secretary of state for filing.

31            (2) A corporation engaging in an activity that is subject to regula-  
32     tion under another statute of this state may incorporate under this act only  
33     if incorporation under this act is not prohibited by the other statute. The  
34     corporation shall be subject to all limitations of the other statute.

35             30-30-302.   GENERAL POWERS. Unless its articles of incorporation pro-  
36     vide otherwise, every corporation has perpetual duration and succession in  
37     its corporate name and has the same powers as an individual to do all things  
38     necessary or convenient to carry out its affairs including, without limita-  
39     tion, power:

40            (1) To sue and be sued, complain and defend in its corporate name;

41            (2) To have a corporate seal, which may be altered at will, and to use  
42     it, or a facsimile of it, by impressing or affixing or in any other manner  
43     reproducing it;

44            (3) To make and amend bylaws not inconsistent with its articles of in-  
45     corporation or with the laws of this state, for regulating and managing the  
46     affairs of the corporation;

1 (4) To purchase, receive, lease or otherwise acquire and to own, hold,  
 2 improve, use and otherwise deal with real property, including water and  
 3 water rights, and personal property, or any legal or equitable interest in  
 4 property, wherever located;

5 (5) To sell, convey, mortgage, pledge, lease, exchange and otherwise  
 6 dispose of all or any part of its property;

7 (6) To purchase, receive, subscribe for or otherwise acquire, own,  
 8 hold, vote, use, sell, mortgage, lend, pledge, or otherwise dispose of, and  
 9 deal in and with, shares or other interests in or obligations of any entity;

10 (7) To make contracts and guaranties, incur liabilities, borrow money,  
 11 issue notes, bonds and other obligations, and secure any of its obligations  
 12 by mortgage or pledge of any of its property, franchises, or income;

13 (8) To lend money, invest and reinvest its funds, and receive and hold  
 14 real and personal property as security for repayment, except as limited by  
 15 section 30-30-620, Idaho Code;

16 (9) To be a promoter, partner, member, associate or manager of any part-  
 17 nership, joint venture, trust or other entity;

18 (10) To conduct its activities, locate offices and exercise the powers  
 19 granted by this act within or without this state;

20 (11) To elect or appoint directors, officers, employees and agents of  
 21 the corporation, define their duties and fix their compensation;

22 (12) To pay pensions and establish pension plans, pension trusts and  
 23 other benefit and incentive plans for any or all of its current or former  
 24 directors, officers, employees and agents;

25 (13) To make donations not inconsistent with law for the public welfare  
 26 or for charitable, religious, scientific or educational purposes and for  
 27 other purposes that further the corporate interest;

28 (14) To impose dues, assessments, admission and transfer fees upon its  
 29 members, and to levy assessments upon the outstanding shares of stock, of a  
 30 corporation with capital stock, if authorized by the articles of incorpora-  
 31 tion of that corporation;

32 (15) To establish conditions for admission of members, admit members  
 33 and issue memberships;

34 (16) To carry on a business;

35 (17) To do all things necessary or convenient, not inconsistent with  
 36 law, to further the activities and affairs of the corporation.

37 30-30-303. EMERGENCY POWERS. (1) In anticipation of or during an emer-  
 38 gency defined in subsection (4) of this section, the board of directors of a  
 39 corporation may:

40 (a) Modify lines of succession to accommodate the incapacity of any di-  
 41 rector, officer, employee or agent; and

42 (b) Relocate the principal office, designate alternative principal of-  
 43 fices or regional offices, or authorize the officer to do so.

44 (2) During an emergency defined in subsection (4) of this section, un-  
 45 less emergency bylaws provide otherwise:

46 (a) Notice of a meeting of the board of directors need be given only to  
 47 those directors it is practicable to reach and may be given in any prac-  
 48 ticable manner, including by publication and radio; and

(b) One (1) or more officers of the corporation present at a meeting of the board of directors may be deemed to be directors for the meeting, in order of rank and within the same rank in order of seniority, as necessary to achieve a quorum.

(3) Corporate action taken in good faith during an emergency under this section to further the ordinary affairs of the corporation:

(a) Binds the corporation; and

(b) May not be used to impose liability on a corporate director, officer, employee or agent.

(4) An emergency exists for purposes of this section if a quorum of the corporation's directors cannot readily be assembled because of some catastrophic event.

30-30-304. ULTRA VIRES. (1) Except as provided in subsection (2) of this section, the validity of corporate action may not be challenged on the ground that the corporation lacks or lacked power to act.

(2) A corporation's power to act may be challenged in a proceeding against the corporation to enjoin an act where a third party has not acquired rights. The proceeding may be brought by a director, or by a member or members in a derivative proceeding.

(3) A corporation's power to act may be challenged in a proceeding against an incumbent or former director, officer, employee or agent of the corporation. The proceeding may be brought by a director, the corporation, directly, derivatively, or through a receiver, a trustee or other legal representative.

SECTION 77. That Chapter 30, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW PART, to be known and designated as Part 4, Chapter 30, Title 30, Idaho Code, and to read as follows:

#### PART 4 MEMBERSHIP

30-30-401. ADMISSION OF MEMBERS. (1) The articles or bylaws may establish criteria or procedures for admission of members.

(2) No person shall be admitted as a member without his or her consent.

(3) No person who is not an incorporator shall become a member of a cooperative corporation unless such person shall agree to use services furnished by the corporation when such service shall be available through its facilities.

30-30-402. CONSIDERATION. Except as provided in its articles or bylaws, a corporation may admit members for no consideration or for such consideration as is determined by the board, or by the articles of incorporation.

30-30-403. NO REQUIREMENT OF MEMBERS. A corporation, except a cooperative corporation, is not required to have members.

30-30-404. DIFFERENCES IN RIGHTS AND OBLIGATIONS OF MEMBERS. All members shall have the same rights and obligations with respect to voting, dis-

1 solution, redemption and transfer, unless the articles or bylaws establish  
 2 classes of membership with different rights or obligations or divide voting  
 3 rights by voting districts. All members shall have the same rights and obli-  
 4 gations with respect to any other matters, except as set forth in or autho-  
 5 rized by the articles or bylaws.

6 30-30-405. TRANSFERS. Where transfer rights have been provided, no  
 7 restriction on them shall be binding with respect to a member holding a mem-  
 8 bership issued prior to the adoption of the restriction unless the restric-  
 9 tion is approved by the members and the affected member.

10 30-30-406. MEMBER'S LIABILITY TO THIRD PARTIES. A member of a corpora-  
 11 tion is not, as such, personally liable for the acts, debts, liabilities or  
 12 obligations of the corporation.

13 30-30-407. MEMBER'S LIABILITY FOR DUES, ASSESSMENTS AND FEES. A mem-  
 14 ber may become liable to the corporation for dues, assessments or fees.

15 30-30-408. RESIGNATION. (1) A member may resign at any time. A person  
 16 ceases to be a stockholder only when that person's shares of stock have all  
 17 been disposed of.

18 (2) The resignation of a member, or the disposal of all stock of a stock-  
 19 holder, does not relieve the member from any obligations the member may have  
 20 to the corporation as a result of obligations incurred or commitments made  
 21 prior to resignation.

22 (3) The provisions of title 42, Idaho Code, shall also apply to all res-  
 23 ignations pursuant to this section if a company or corporation is regulated  
 24 or governed pursuant to that title.

25 30-30-409. TERMINATION, EXPULSION AND SUSPENSION. (1) No member, ex-  
 26 cept a member of a religious corporation, may be expelled or suspended, and  
 27 no membership or memberships in such corporations may be terminated or sus-  
 28 pended except pursuant to a procedure that is fair and reasonable and is car-  
 29 ried out in good faith.

30 (2) A procedure is fair and reasonable when either:

31 (a) The articles or bylaws set forth a procedure that provides:

32 (i) Not less than fifteen (15) days' prior written notice of the  
 33 expulsion, suspension or termination and the reasons therefor;  
 34 and

35 (ii) An opportunity for the member to be heard, orally or in writ-  
 36 ing, not less than five (5) days before the effective date of the  
 37 expulsion, suspension or termination by a person or persons autho-  
 38 rized to decide that the proposed expulsion, termination or sus-  
 39 pension not take place; or

40 (b) It is fair and reasonable taking into consideration all of the rele-  
 41 vant facts and circumstances.

42 (3) Any written notice given by mail must be given by first class or cer-  
 43 tified mail sent to the last address of the member shown on the corporation's  
 44 records.

1 (4) Any proceeding challenging an expulsion, suspension or termina-  
 2 tion, including a proceeding in which defective notice is alleged, must be  
 3 commenced within one (1) year after the effective date of the expulsion,  
 4 suspension or termination.

5 (5) A member who has been expelled or suspended may be liable to the cor-  
 6 poration for dues, assessments or fees as a result of obligations incurred or  
 7 commitments made prior to expulsion or suspension.

8 30-30-410. PURCHASE OF MEMBERSHIPS. A corporation may purchase the  
 9 membership of a member who resigns or whose membership is terminated for the  
 10 amount and pursuant to the conditions set forth in or authorized by its arti-  
 11 cles or bylaws. No payment shall be made in violation of section 30-30-904,  
 12 Idaho Code.

13 30-30-411. DERIVATIVE SUITS. (1) A proceeding may be brought in the  
 14 right of a domestic or foreign nonprofit corporation to procure a judgment in  
 15 its favor by:

16 (a) Any member or members having five percent (5%) or more of the voting  
 17 power or by fifty (50) members, whichever is less; or

18 (b) Any director.

19 (2) In any such proceeding, each complainant shall be a member or direc-  
 20 tor at the time of bringing the proceeding.

21 (3) A complaint in a proceeding brought in the right of a corporation  
 22 must be verified and alleged with particularity the demand made, if any, to  
 23 obtain action by the directors and either why the complainants could not ob-  
 24 tain the action or why they did not make the demand. If a demand for action  
 25 was made and the corporation's investigation of the demand is in progress  
 26 when the proceeding is filed, the court may stay the suit until the investi-  
 27 gation is completed.

28 (4) On termination of the proceeding the court may require the com-  
 29 plainants to pay any defendant's reasonable expenses, including attorney's  
 30 fees, incurred in defending the suit if it finds that the proceeding was  
 31 commenced frivolously or in bad faith.

32 (5) If the proceeding on behalf of the corporation results in the cor-  
 33 poration taking some action requested by the complainants or otherwise was  
 34 successful, in whole or in part, or if anything was received by the com-  
 35 plainants as the result of a judgment, compromise or settlement of an action  
 36 or claim, the court may award the complainants reasonable expenses, includ-  
 37 ing attorney's fees.

38 30-30-412. DELEGATES. (1) A corporation may provide in its articles or  
 39 bylaws for delegates having some or all of the authority of members.

40 (2) The articles or bylaws may set forth provisions relating to:

41 (a) The characteristics, qualifications, rights, limitations and  
 42 obligations of delegates including their selection and removal;

43 (b) Calling, noticing, holding and conducting meetings of delegates;  
 44 and

45 (c) Carrying on corporate activities during and between meetings of  
 46 delegates.



1       SECTION 78. That Chapter 30, Title 30, Idaho Code, be, and the same is  
2 hereby amended by the addition thereto of a NEW PART, to be known and desig-  
3 nated as Part 5, Chapter 30, Title 30, Idaho Code, and to read as follows:

4                               PART 5  
5                               MEMBER MEETINGS

6       30-30-501. ANNUAL AND REGULAR MEETINGS. (1) A corporation with mem-  
7 bers shall hold a membership meeting annually at a time stated in or fixed in  
8 accordance with the bylaws.

9       (2) A corporation with members may hold regular membership meetings at  
10 the times stated in or fixed in accordance with the bylaws.

11       (3) Annual and regular membership meetings may be held in or out of this  
12 state at the place stated in or fixed in accordance with the bylaws. If no  
13 place is stated in or fixed in accordance with the bylaws, annual and regular  
14 meetings shall be held at the corporation's principal office.

15       (4) At the annual meeting:

16       (a) The president and chief financial officer shall report on the ac-  
17 tivities and financial condition of the corporation; and

18       (b) The members shall consider and act upon such other matters as may  
19 be raised consistent with the notice requirements of section 30-30-505,  
20 Idaho Code.

21       (5) At regular meetings the members shall consider and act upon such  
22 matters as may be raised consistent with the notice requirements of section  
23 30-30-505, Idaho Code.

24       (6) The failure to hold an annual or regular meeting at a time stated in  
25 or fixed in accordance with a corporation's bylaws does not affect the valid-  
26 ity of any corporate action.

27       30-30-502. SPECIAL MEETING. (1) A corporation with members shall hold  
28 a special meeting of members:

29       (a) On call of its board or the person or persons authorized to do so by  
30 the articles or bylaws; or

31       (b) Except as provided in the articles or bylaws of a religious corpora-  
32 tion if the holders of at least ten percent (10%) of the voting power of  
33 any corporation sign, date and deliver to any corporate officer one (1)  
34 or more written demands for the meeting describing the purpose or pur-  
35 poses for which it is to be held.

36       (2) The close of business on the 30th day before delivery of the demand  
37 or demands for a special meeting to any corporate officer is the record date  
38 for the purpose of determining whether the ten percent (10%) requirement of  
39 subsection (1) of this section has been met.

40       (3) If a notice for a special meeting demanded under subsection (1) (b)  
41 of this section is not given pursuant to section 30-30-505, Idaho Code,  
42 within thirty (30) days after the date the written demand or demands are de-  
43 livered to a corporate officer, regardless of the requirements of subsection  
44 (4) of this section, a person signing the demand or demands may set the time  
45 and place of the meeting and give notice pursuant to section 30-30-505, Idaho  
46 Code.

47       (4) Special meetings of members may be held in or out of this state at  
48 the place stated in or fixed in accordance with the bylaws. If no place is

1 stated or fixed in accordance with the bylaws, special meetings shall be held  
2 at the corporation's principal office.

3 (5) Only those matters that are within the purpose or purposes de-  
4 scribed in the meeting notice required in section 30-30-505, Idaho Code, may  
5 be conducted at a special meeting of members.

6 30-30-503. COURT-ORDERED MEETINGS. (1) The district court of the  
7 county where a corporation's principal office is located or, if none in this  
8 state, Ada county, may summarily order a meeting to be held:

9 (a) On application of any member or other person entitled to partici-  
10 pate in an annual or regular meeting, if an annual meeting was not held  
11 within the earlier of six (6) months after the end of the corporation's  
12 fiscal year or fifteen (15) months after its last annual meeting; or

13 (b) On application of any member or other person entitled to partici-  
14 pate in a regular meeting, if a regular meeting is not held within forty  
15 (40) days after the date it was required to be held; or

16 (c) On application of a member who signed a demand for a special meeting  
17 valid under section 30-30-502, Idaho Code, a person or persons entitled  
18 to call a special meeting, if:

19 (i) Notice of the special meeting was not given within thirty (30)  
20 days after the date the demand was delivered to a corporate offi-  
21 cer; or

22 (ii) The special meeting was not held in accordance with the no-  
23 tice.

24 (2) The court may fix the time and place of the meeting, specify a record  
25 date for determining members entitled to notice of and to vote at the meet-  
26 ing, prescribe the form and content of the meeting notice, fix the quorum re-  
27 quired for specific matters to be considered at the meeting, or direct that  
28 the votes represented at the meeting constitute a quorum for action on those  
29 matters, and enter other orders necessary to accomplish the purpose or pur-  
30 poses of the meeting.

31 (3) If the court orders a meeting, it may also order the corporation to  
32 pay the member's costs, including reasonable attorney's fees, incurred to  
33 obtain the order.

34 30-30-504. ACTION BY WRITTEN CONSENT. (1) Unless limited or prohib-  
35 ited by the articles or bylaws, action required or permitted by this act to  
36 be approved by the members may be approved without a meeting of members if the  
37 action is approved by members holding at least eighty percent (80%) of the  
38 voting power. The action must be evidenced by one (1) or more written con-  
39 sents describing the action taken, signed by those members representing at  
40 least eighty percent (80%) of the voting power, and delivered to the corpora-  
41 tion for inclusion in the minutes or filing with the corporate records.

42 (2) If not otherwise determined under section 30-30-503 or 30-30-507,  
43 Idaho Code, the record date for determining members entitled to take action  
44 without a meeting is the date the first member signs the consent under sub-  
45 section (1) of this section.

46 (3) A consent signed under this section has the effect of a meeting  
47 vote and may be described as such in any document filed with the secretary of  
48 state.

1 (4) Written notice of member approval pursuant to this section shall be  
 2 given to all members who have not signed the written consent. If written no-  
 3 tice is required, member approval pursuant to this section shall be effec-  
 4 tive ten (10) days after such written notice is given.

5 30-30-505. NOTICE OF MEETING. (1) A corporation shall give notice con-  
 6 sistent with its bylaws of meetings of members in a fair and reasonable man-  
 7 ner.

8 (2) Any notice that conforms to the requirements of subsection (3) of  
 9 this section is fair and reasonable, but other means of giving notice may  
 10 also be fair and reasonable when all the circumstances are considered; pro-  
 11 vided however, that notice of matters referred to in subsection (3) (b) of  
 12 this section must be given as provided in subsection (3) of this section.

13 (3) Notice is fair and reasonable if:

14 (a) The corporation notifies its members of the place, date, and time  
 15 of each annual, regular and special meeting of members no fewer than ten  
 16 (10) days, or if notice is mailed by other than first class or registered  
 17 mail, thirty (30) days, nor more than sixty (60) days before the meeting  
 18 date;

19 (b) Notice of an annual or regular meeting includes a description of any  
 20 matters or matters that must be approved by the members under section  
 21 30-22-203, 30-22-303, 30-22-403, 30-22-503, 30-30-619, 30-30-626,  
 22 30-30-703, 30-30-709, 30-30-903 or 30-30-1003, Idaho Code; and

23 (c) Notice of a special meeting includes a description of the matter or  
 24 matters for which the meeting is called.

25 (4) Unless the bylaws require otherwise, if an annual, regular or spe-  
 26 cial meeting of members is adjourned to a different date, time or place, no-  
 27 tice need not be given of the new date, time or place, if the new date, time  
 28 or place is announced at the meeting before adjournment. If a new record date  
 29 for the adjourned meeting is or must be fixed under section 30-30-507, Idaho  
 30 Code, however, notice of the adjourned meeting must be given under this sec-  
 31 tion to the members of record as of the new record date.

32 (5) When giving notice of an annual, regular or special meeting of mem-  
 33 bers, a corporation shall give notice of a matter a member intends to raise at  
 34 the meeting if:

35 (a) Requested in writing to do so by a person entitled to call a special  
 36 meeting; and

37 (b) The request is received by the secretary or president of the corpo-  
 38 ration at least ten (10) days before the corporation gives notice of the  
 39 meeting.

40 30-30-506. WAIVER OF NOTICE. (1) A member may waive any notice re-  
 41 quired in this act, the articles or bylaws before or after the date and time  
 42 stated in the notice. The waiver must be in writing, be signed by the member  
 43 entitled to the notice, and be delivered to the corporation for inclusion in  
 44 the minutes or filing with the corporate records.

45 (2) A member's attendance at a meeting:

46 (a) Waives objection to lack of notice or defective notice of the meet-  
 47 ing, unless the member at the beginning of the meeting objects to hold-  
 48 ing the meeting or transacting business at the meeting; or

(b) Waives objection to consideration of a particular matter at the meeting that is not within the purpose or purposes described in the meeting notice, unless the member objects to considering the matter when it is presented.

30-30-507. RECORD DATE -- DETERMINING MEMBERS ENTITLED TO NOTICE AND VOTE. (1) The bylaws of a corporation may fix or provide the manner of fixing a date as the record date for determining the members entitled to notice of a members' meeting. If the bylaws do not fix or provide for fixing such a record date, the board may fix a future date as such a record date. If no such record date is fixed, members at the close of business on the business day preceding the day on which notice is given, or if notice is waived, at the close of business on the business day preceding the day on which the meeting is held, are entitled to notice of the meeting.

(2) The bylaws of a corporation may fix or provide the manner of fixing a date as the record date for determining the members entitled to vote at a members' meeting. If the bylaws do not fix or provide for fixing such a record date, the board may fix a future date as such a record date. If no such record date is fixed, members on the date of the meeting who are otherwise eligible to vote are entitled to vote at the meeting.

(3) The bylaws may fix or provide the manner for determining a date as the record date for the purpose of determining the members entitled to exercise any rights in respect of any other lawful action. If the bylaws do not fix or provide for fixing such a record date, the board may fix in advance such a record date. If no such record date is fixed, members at the close of business on the day on which the board adopts the resolution relating thereto, or the sixtieth day prior to the date of such other action, whichever is later, are entitled to exercise such rights.

(4) A record date fixed under this section may not be more than seventy (70) days before the meeting or action requiring a determination of members occurs.

(5) A determination of members entitled to notice of or to vote at a membership meeting is effective for any adjournment of the meeting unless the board fixes a new date for determining the right to notice or the right to vote, which it must do if the meeting is adjourned to a date more than seventy (70) days after the record date for determining members entitled to notice of the original meeting.

(6) If a court orders a meeting adjourned to a date more than one hundred twenty (120) days after the date fixed for the original meeting, it may provide that the original record date for notice or voting continues in effect or it may fix a new record date for notice or voting.

30-30-508. ACTION BY MAILED WRITTEN BALLOT OR ABSENTEE BALLOT. (1) Unless prohibited or limited by the articles or bylaws, any action that may be taken at any annual, regular or special meeting of members may be taken without a meeting if the corporation delivers a written ballot to every member entitled to vote on the matter. The articles or bylaws may provide that the members may vote by mail or by absentee ballot on any corporate action that may be taken at any annual, regular or special meeting of members.

(2) A written ballot for action taken without a meeting shall:

- 1 (a) Set forth each proposed action; and
- 2 (b) Provide an opportunity to vote for or against each proposed action.
- 3 (3) Approval by written ballot alone pursuant to this section when a
- 4 meeting is not held shall be valid only when the number of votes cast by bal-
- 5 lot equals or exceeds the quorum required to be present at a meeting autho-
- 6 rizing the action, and the number of approvals equals or exceeds the number
- 7 of votes that would be required to approve the matter at a meeting at which
- 8 the total number of votes cast was the same as the number of votes cast by bal-
- 9 lot.
- 10 (4) All solicitations for votes by written ballot shall:
- 11 (a) Indicate the number of responses needed to meet the quorum require-
- 12 ments;
- 13 (b) State the percentage of approvals necessary to approve each matter
- 14 other than election of directors; and
- 15 (c) Specify the time by which a ballot must be received by the corpora-
- 16 tion in order to be counted.
- 17 (5) Except as otherwise provided in the articles or bylaws, a written
- 18 ballot may not be revoked.

19 30-30-509. MEMBERS' LIST FOR MEETING. (1) After fixing a record date  
 20 for a notice of a meeting, a corporation shall prepare an alphabetical list  
 21 of the names of all its members who are entitled to notice of the meeting. The  
 22 list must show the address and number of votes each member is entitled to vote  
 23 at the meeting. The corporation shall prepare on a current basis through the  
 24 time of the membership meeting a list of members, if any, who are entitled  
 25 to vote at the meeting, but not entitled to notice of the meeting. This list  
 26 shall be prepared on the same basis and be part of the list of members.

27 (2) The list of members must be available for inspection by any mem-  
 28 ber for the purpose of communication with other members concerning the meet-  
 29 ing, beginning two (2) business days after notice is given of the meeting for  
 30 which the list was prepared and continuing through the meeting, at the cor-  
 31 poration's principal office or at a reasonable place identified in the meet-  
 32 ing notice in the city where the meeting will be held. A member or a mem-  
 33 ber's agent or attorney is entitled on written demand to inspect and, subject  
 34 to the limitations of sections 30-30-1102(3) and 30-30-1104, Idaho Code, to  
 35 copy the list, at a reasonable time and at the member's expense, during the  
 36 period it is available for inspection.

37 (3) The corporation shall make the list of members available at the  
 38 meeting, and any member or a member's agent or attorney is entitled to in-  
 39 spect the list at any time during the meeting or any adjournment.

40 (4) If the corporation refuses to allow a member or a member's agent or  
 41 attorney to inspect the list of members before or at the meeting or copy the  
 42 list as permitted by subsection (2) of this section, the district court of  
 43 the county where a corporation's principal office is located, or if none in  
 44 this state, Ada county, on application of the member, may summarily order  
 45 the inspection or copying at the corporation's expense and may postpone the  
 46 meeting for which the list was prepared until the inspection or copying is  
 47 complete and may order the corporation to pay the member's costs, including  
 48 reasonable attorney's fees, incurred to obtain the order.

1 (5) Unless a written demand to inspect and copy a membership list has  
2 been made under subsection (2) of this section, prior to the membership meet-  
3 ing and a corporation improperly refuses to comply with the demand, refusal  
4 or failure to comply with this section does not affect the validity of action  
5 taken at the meeting.

6 (6) The articles or bylaws of a religious corporation may limit or abol-  
7 ish the rights of a member under this section to inspect and copy any corpo-  
8 rate record.

9 30-30-510. VOTING ENTITLEMENT GENERALLY. (1) Unless the articles or  
10 bylaws provide otherwise, each member is entitled to one (1) vote on each  
11 matter voted on by the members, or by one (1) vote for each share of stock in a  
12 corporation that issues shares of stock instead of memberships, when autho-  
13 rized by the articles of incorporation of said corporation.

14 (2) Unless the articles or bylaws provide otherwise, if a membership  
15 stands of record in the names of two (2) or more persons, their acts with re-  
16 spect to voting shall have the following effect:

17 (a) If only one (1) votes, such act binds all; and

18 (b) If more than one (1) votes, the vote shall be divided on a pro rata  
19 basis.

20 30-30-511. QUORUM REQUIREMENTS. (1) Unless this act, the articles or  
21 bylaws provide for a higher or lower quorum, ten percent (10%) of the votes  
22 entitled to be cast on a matter must be represented in person, by proxy, by  
23 mailed written ballot or by absentee ballot at a meeting of members to con-  
24 stitute a quorum on that matter.

25 (2) A bylaw amendment to decrease the quorum for any member action may  
26 be approved by the members or, unless prohibited by the bylaws, by the board.

27 (3) A bylaw amendment to increase the quorum required for any member ac-  
28 tion must be approved by the members.

29 (4) Unless one-third (1/3) or more of the voting power is present in  
30 person, by proxy, by mailed written ballot or by absentee ballot, the only  
31 matters that may be voted upon at an annual or regular meeting of members are  
32 those matters that are described in the meeting notice.

33 30-30-512. VOTING REQUIREMENTS. (1) Unless this act, the articles or  
34 the bylaws require a greater vote or voting by class, if a quorum is present,  
35 the affirmative vote of the votes represented and voting, which affirmative  
36 votes also constitute a majority of the required quorum, is the act of the  
37 members.

38 (2) A bylaw amendment to increase or decrease the vote required for any  
39 member action must be approved by the members.

40 30-30-513. PROXIES. (1) Unless the articles or bylaws prohibit or  
41 limit proxy voting, a member may appoint a proxy to vote or otherwise act for  
42 the member by signing an appointment form either personally or by an attor-  
43 ney-in-fact.

44 (2) An appointment of a proxy is effective when received by the secre-  
45 tary or other officer or agent authorized to tabulate votes. An appointment  
46 is valid for eleven (11) months unless a different period is expressly pro-

1 vided in the appointment form; provided however, that no proxy shall be valid  
2 for more than three (3) years from its date of execution.

3 (3) An appointment of a proxy is revocable by the member.

4 (4) The death or incapacity of the member appointing a proxy does not  
5 affect the right of the corporation to accept the proxy's authority unless  
6 notice of the death or incapacity is received by the secretary or other offi-  
7 cer or agent authorized to tabulate votes before the proxy exercises author-  
8 ity under the appointment.

9 (5) Appointment of a proxy is revoked by the person appointing the  
10 proxy:

11 (a) Attending any meeting and voting in person; or

12 (b) Signing and delivering to the secretary or other officer or agent  
13 authorized to tabulate proxy votes either a written statement that the  
14 appointment of the proxy is revoked or a subsequent appointment form.

15 (6) Subject to section 30-30-516, Idaho Code, and any express limita-  
16 tion on the proxy's authority appearing on the face of the appointment form,  
17 a corporation is entitled to accept the proxy's vote or other action as that  
18 of the member making the appointment.

19 (7) The articles or bylaws of a corporation may prescribe reasonable  
20 conditions under which proxy voting may be exercised.

21 30-30-514. CUMULATIVE VOTING FOR DIRECTORS. (1) If the articles or by-  
22 laws specifically provide for cumulative voting by members, members may so  
23 vote, by multiplying the number of votes the members are entitled to cast by  
24 the number of directors for whom they are entitled to vote, and cast the prod-  
25 uct for a single candidate or distribute the product among two (2) or more  
26 candidates.

27 (2) Cumulative voting is not authorized at a particular meeting unless:

28 (a) The meeting notice or statement accompanying the notice states that  
29 cumulative voting will take place; or

30 (b) A member gives notice during the meeting and before the vote is  
31 taken of the member's intent to cumulate votes, and if one (1) member  
32 gives this notice all other members participating in the election are  
33 entitled to cumulate their votes without giving further notice.

34 (3) A director elected by cumulative voting may be removed by the mem-  
35 bers without cause if the requirements of section 30-30-608, Idaho Code, are  
36 met unless the votes cast against removal, or not consenting in writing to  
37 such removal, would be sufficient to elect such director if voted cumula-  
38 tively at an election at which the same total number of votes were cast, or,  
39 if such action is taken by written ballot, all memberships entitled to vote  
40 were voted, and the entire number of directors authorized at the time of the  
41 director's most recent election were then being elected.

42 (4) Members may not cumulatively vote if the directors and members are  
43 identical.

44 30-30-515. OTHER METHODS OF ELECTING DIRECTORS. A corporation may  
45 provide in its articles or bylaws for election of directors by members or  
46 delegates:

47 (1) On the basis of chapter or other organizational unit;

1       (2) By region or other geographic unit, including voting district and,  
2 in respect to each such voting district, the articles or bylaws shall de-  
3 scribe the boundaries thereof and designate the number of directors that  
4 shall be elected by the members residing therein;

5       (3) By preferential voting; or

6       (4) By any other reasonable method.

7       30-30-516. CORPORATION'S ACCEPTANCE OF VOTES. (1) If the name signed  
8 on a vote, consent, waiver or proxy appointment corresponds to the name of a  
9 member, the corporation, if acting in good faith, is entitled to accept the  
10 vote, consent, waiver or proxy appointment and give it effect as the act of  
11 the member.

12       (2) If the name signed on a vote, consent, waiver or proxy appointment  
13 does not correspond to the record name of a member, the corporation, if  
14 acting in good faith, is nevertheless entitled to accept the vote, consent,  
15 waiver or proxy appointment and give it effect as the act of the member if:

16       (a) The member is an entity and the name signed purports to be that of an  
17 officer or agent of the entity.

18       (b) The name signed purports to be that of an attorney-in-fact of the  
19 member and if the corporation requests, evidence acceptable to the cor-  
20 poration of the signatory's authority to sign for the member has been  
21 presented with respect to the vote, consent, waiver or proxy appoint-  
22 ment;

23       (c) Two (2) or more persons hold the membership as cotenants or fiducia-  
24 ries and the name signed purports to be the name of at least one (1) of  
25 the coholders and the person signing appears to be acting on behalf of  
26 all the coholders; and

27       (d) If:

28           (i) The name signed purports to be that of an administrator, ex-  
29 ecutor, guardian or conservator representing the member and, if  
30 the corporation requests, evidence of fiduciary status acceptable  
31 to the corporation has been presented with respect to the vote,  
32 consent, waiver or proxy appointment;

33           (ii) The name signed purports to be that of a receiver or trustee  
34 in bankruptcy of the member, and, if the corporation requests, ev-  
35 idence of this status acceptable to the corporation has been pre-  
36 sented with respect to the vote, consent, waiver or proxy appoint-  
37 ment.

38       (3) The corporation is entitled to reject a vote, consent, waiver or  
39 proxy appointment if the secretary or other officer or agent authorized to  
40 tabulate votes, acting in good faith, has reasonable basis for doubt about  
41 the validity of the signature on it or about the signatory's authority to  
42 sign for the member.

43       (4) The corporation and its officer or agent who accepts or rejects a  
44 vote, consent, waiver or proxy appointment in good faith and in accordance  
45 with the standards of this section are not liable in damages to the member for  
46 the consequences of the acceptance or rejection.

47       (5) Corporate action based on the acceptance or rejection of a vote,  
48 consent, waiver or proxy appointment under this section is valid unless a  
49 court of competent jurisdiction determines otherwise.



(6) Contested elections shall be referred to the board of directors, which shall, after reviewing all ballots, proxies, reports of election inspectors or judges, and any other relevant documents or materials, certify the results of the election. In the case of a tie vote between candidates, the tie shall be determined by a toss of a coin. If allowed by the bylaws of the corporation, the board of directors shall have the power to call a new election if, after reviewing all relevant documents and information, the board of directors is unable to certify the results of the election.

30-30-517. VOTING AGREEMENTS. (1) If the articles or bylaws specifically allow for voting agreements, two (2) or more members may provide for the manner in which they will vote by signing an agreement for that purpose. Such agreements may be valid for a period of up to ten (10) years.

(2) A voting agreement created under this section is specifically enforceable.

SECTION 79. That Chapter 30, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW PART, to be known and designated as Part 6, Chapter 30, Title 30, Idaho Code, and to read as follows:

#### PART 6

#### DIRECTORS AND OFFICERS

30-30-601. REQUIREMENT FOR AND DUTIES OF BOARD. (1) Each corporation must have a board of directors.

(2) Except as provided in this act or subsection (3) of this section, all corporate powers shall be exercised by or under the authority of, and the affairs of the corporation managed under the direction of, its board.

(3) The articles may authorize a person or persons to exercise some or all of the powers that would otherwise be exercised by a board. To the extent so authorized, any such person or persons shall have the duties and responsibilities of the directors, and the directors shall be relieved to that extent from such duties and responsibilities.

30-30-602. QUALIFICATIONS OF DIRECTORS. All directors must be individuals. If the corporation is a cooperative, all directors must be members of the corporation, provided, that unless otherwise provided in the bylaws, a person who has the right to vote on behalf of an entity that is a member of the corporation may serve as a director. The articles or bylaws may prescribe other qualifications for directors.

30-30-603. NUMBER OF DIRECTORS. (1) The board of directors must consist of three (3) or more individuals, with the number specified in or fixed in accordance with the articles or bylaws. Notwithstanding the foregoing, the board of directors of a religious corporation must consist of at least one (1) individual, with the number specified in or fixed in accordance with the articles or bylaws.

(2) The number of directors may be increased or decreased within the limitations contained in subsection (1) of this section from time to time by amendment to or in the manner prescribed in the articles or bylaws.

1        30-30-604. ELECTION, DESIGNATION AND APPOINTMENT OF DIRECTORS. (1) If  
2 the corporation has members, all the directors, except the initial direc-  
3 tors, shall be elected at the first annual meeting of members, and at each  
4 annual meeting thereafter, unless the articles or bylaws provide some other  
5 time or method of election, or provide that some of the directors are ap-  
6 pointed by some other person or designated.

7        (2) If the corporation does not have members, all the directors, except  
8 the initial directors, shall be elected, appointed or designated as provided  
9 in the articles or bylaws. If no method of designation or appointment is set  
10 forth in the articles or bylaws, the directors, other than the initial direc-  
11 tors, shall be elected by the board.

12        30-30-605. TERMS OF DIRECTORS GENERALLY. (1) The articles or bylaws  
13 must specify the terms of directors. Except for designated or appointed di-  
14 rectors, the terms of directors may not exceed five (5) years. In the absence  
15 of any term specified in the articles or bylaws, the term of each director  
16 shall be one (1) year. Directors may be elected for successive terms.

17        (2) A decrease in the number of directors or term of office does not  
18 shorten an incumbent director's term.

19        (3) Except as provided in the articles or bylaws:

20        (a) The term of a director filling a vacancy in the office of a director  
21 elected by members expires at the next election of directors by members;  
22 and

23        (b) The term of a director filling any other vacancy expires at the end  
24 of the unexpired term that such director is filling.

25        (4) Despite the expiration of a director's term, the director continues  
26 to serve until the director's successor is elected, designated or appointed,  
27 and qualifies, or until there is a decrease in the number of directors.

28        30-30-606. STAGGERED TERMS FOR DIRECTORS. The articles or bylaws may  
29 provide for staggering the terms of directors by dividing the total number of  
30 directors into groups. The terms of office of the several groups need not be  
31 uniform.

32        30-30-607. RESIGNATION OF DIRECTORS. (1) A director may resign at any  
33 time by delivering written notice to the board of directors, its presiding  
34 officer or to the president or secretary.

35        (2) A resignation is effective when the notice is effective unless the  
36 notice specifies a future effective date. If a resignation is made effective  
37 at a future date, the board may fill the pending vacancy before the effective  
38 date if the board provides that the successor does not take office until the  
39 effective date.

40        30-30-608. REMOVAL OF DIRECTORS ELECTED BY MEMBERS OR DIRECTORS. (1)  
41 The members may remove one (1) or more directors elected by them without  
42 cause.

43        (2) If a director is elected by a class, chapter or other organizational  
44 unit or by region or other geographic grouping, the director may be removed  
45 only by the members of that class, chapter, unit or grouping.

1 (3) Except as provided in subsection (9) of this section, a director may  
 2 be removed under subsection (1) or (2) of this section only if the number of  
 3 votes cast to remove the director would be sufficient to elect the director  
 4 at a meeting to elect directors.

5 (4) If cumulative voting is authorized, a director may not be removed if  
 6 the number of votes sufficient to elect the director under cumulative voting  
 7 is voted against the director's removal, or if the director was elected by a  
 8 class, chapter, unit or grouping of members, a director may not be removed if  
 9 the number of votes sufficient to elect the director by that class, chapter,  
 10 unit or grouping is voted against the director's removal.

11 (5) A director elected by members may be removed by the members only at  
 12 a meeting called for the purpose of removing the director and the meeting no-  
 13 tice must state that the purpose, or one (1) of the purposes, of the meeting  
 14 is removal of the director.

15 (6) In computing whether a director is protected from removal under  
 16 subsections (2) through (4) of this section, it should be assumed that the  
 17 votes against removal are cast in an election for the number of directors of  
 18 the class to which the director to be removed belonged on the date of that  
 19 director's election.

20 (7) An entire board of directors may be removed under subsections (1)  
 21 through (5) of this section.

22 (8) A director elected by the board may be removed without cause by the  
 23 vote of two-thirds (2/3) of the directors then in office or such greater num-  
 24 ber as is set forth in the articles or bylaws; provided however, that a di-  
 25 rector elected by the board to fill the vacancy of a director elected by the  
 26 members may be removed without cause by the members, but not the board.

27 (9) If, at the beginning of a director's term on the board, the articles  
 28 or bylaws provide that the director may be removed for missing a specified  
 29 number of board meetings, the board may remove the director for failing to  
 30 attend the specified number of meetings. The director may be removed only if  
 31 a majority of the directors then in office vote for the removal.

32 (10) The articles or bylaws of a religious corporation may:

33 (a) Limit the application of this section; and

34 (b) Set forth the vote and procedures by which the board or any person  
 35 may remove with or without cause a director elected by the members or the  
 36 board.

37 30-30-609. REMOVAL OF DESIGNATED OR APPOINTED DIRECTORS. (1) A des-  
 38 ignated director may be removed by an amendment to the articles or bylaws  
 39 deleting or changing the designation.

40 (2) Appointed directors:

41 (a) Except as otherwise provided in the articles or bylaws, an ap-  
 42 pointed director may be removed without cause by the person appointing  
 43 the director;

44 (b) The person removing the director shall do so by giving written no-  
 45 tice of the removal to the director and either the presiding officer of  
 46 the board or the corporation's president or secretary; and

47 (c) A removal is effective when the notice is effective unless the no-  
 48 tice specifies a future effective date.

1        30-30-610. VACANCY ON BOARD. (1) Unless the articles or bylaws provide  
2 otherwise, and except as provided in subsections (2) and (3) of this section,  
3 if a vacancy occurs on a board of directors, including a vacancy resulting  
4 from an increase in the number of directors:

5        (a) The members, if any, may fill the vacancy. If the vacant office  
6 was held by a director elected by a class, chapter or other organiza-  
7 tional unit or by region or other geographic grouping, only members of  
8 the class, chapter, unit or grouping are entitled to vote to fill the va-  
9 cancy if it is filled by the members;

10        (b) The board of directors may fill the vacancy; or

11        (c) If the directors remaining in office constitute fewer than a quorum  
12 of the board, they may fill the vacancy by the affirmative vote of a ma-  
13 jority of all the directors remaining in office.

14        (2) Unless the articles or bylaws provide otherwise, if a vacant office  
15 was held by an appointed director, only the person who appointed the director  
16 may fill the vacancy.

17        (3) If a vacant office was held by a designated director, the vacancy  
18 shall be filled as provided in the articles or bylaws. In the absence of an  
19 applicable article or bylaw provision, the vacancy may not be filled by the  
20 board.

21        (4) A vacancy that will occur at a specific later date, by reason of  
22 a resignation effective at a later date under section 30-30-607(2), Idaho  
23 Code, or otherwise, may be filled before the vacancy occurs but the new di-  
24 rector may not take office until the vacancy occurs.

25        30-30-611. COMPENSATION OF DIRECTORS. Unless the articles or bylaws  
26 provide otherwise, a board of directors may fix the compensation, fees, in-  
27 surance or benefits, if any, of directors.

28        30-30-612. REGULAR AND SPECIAL MEETINGS. (1) If the time and place of  
29 a directors' meeting is fixed by the bylaws or the board, the meeting is a  
30 regular meeting. All other meetings are special meetings.

31        (2) A board of directors may hold regular or special meetings in or out  
32 of this state.

33        (3) Unless the articles or bylaws provide otherwise, a board may per-  
34 mit any or all directors to participate in a regular or special meeting by, or  
35 conduct the meeting through the use of, any means of communication by which  
36 all directors participating may simultaneously hear each other during the  
37 meeting. A director participating in a meeting by this means is deemed to be  
38 present in person at the meeting.

39        30-30-613. ACTION WITHOUT MEETING. (1) Unless the articles or bylaws  
40 provide otherwise, action required or permitted by this act to be taken at a  
41 board of directors' meeting may be taken without a meeting if the action is  
42 taken by all members of the board. The action must be evidenced by one (1) or  
43 more written consents describing the action taken, signed by each director,  
44 and included in the minutes filed with the corporate records reflecting the  
45 action taken.

46        (2) Action taken under this section is effective when the last director  
47 signs the consent, unless the consent specifies a different effective date.

1       (3) A consent signed under this section has the effect of a meeting vote  
2 and may be described as such in any document.

3       30-30-614. CALL AND NOTICE OF MEETINGS. (1) Unless the articles, by-  
4 laws or subsection (3) of this section provide otherwise, regular meetings  
5 of the board may be held without notice.

6       (2) Unless the articles, bylaws or subsection (3) of this section pro-  
7 vide otherwise, special meetings of the board must be preceded by at least  
8 two (2) days' notice to each director of the date, time, and place, but not  
9 the purpose, of the meeting.

10       (3) In corporations without members any board action to remove a direc-  
11 tor or to approve a matter that would require approval by the members if the  
12 corporation had members, shall not be valid unless each director is given at  
13 least seven (7) days' written notice that the matter will be voted upon at a  
14 directors' meeting or unless notice is waived pursuant to section 30-30-615,  
15 Idaho Code.

16       (4) Unless the articles or bylaws provide otherwise, the presiding of-  
17 ficer of the board, the president or twenty percent (20%) of the directors  
18 then in office may call and give notice of a meeting of the board.

19       30-30-615. WAIVER OF NOTICE. (1) A director may, at any time before,  
20 during or after the meeting, waive any notice required by this act, the ar-  
21 ticles or bylaws. Except as provided in subsection (2) of this section, the  
22 waiver must be in writing, signed by the director entitled to the notice, and  
23 filed with the minutes or the corporate records.

24       (2) A director's attendance at or participation in a meeting waives any  
25 required notice of the meeting unless the director upon arriving at the meet-  
26 ing or prior to the vote on a matter not noticed in conformity with this act,  
27 the articles or bylaws objects to lack of notice and does not thereafter vote  
28 for or assent to the objected to action.

29       30-30-616. QUORUM AND VOTING. (1) Except as otherwise provided in this  
30 act, the articles or bylaws, a quorum of a board of directors consists of  
31 a majority of the directors in office immediately before a meeting begins.  
32 In no event may the articles or bylaws authorize a quorum of fewer than the  
33 greater of one-third (1/3) of the number of directors in office or two (2) di-  
34 rectors.

35       (2) If a quorum is present when a vote is taken, the affirmative vote of  
36 a majority of directors present is the act of the board unless this act, the  
37 articles or bylaws require the vote of a greater number of directors.

38       30-30-617. COMMITTEES OF THE BOARD. (1) Unless prohibited or limited  
39 by the articles or bylaws, a board of directors may create one (1) or more  
40 committees of the board and appoint members of the board to serve on them.  
41 Each committee shall have two (2) or more directors, who serve at the plea-  
42 sure of the board.

43       (2) The creation of a committee and appointment of members to it must be  
44 approved by the greater of:

45       (a) A majority of all the directors in office when the action is taken;  
46       or

1 (b) The number of directors required by the articles or bylaws to take  
2 action under section 30-30-616, Idaho Code.

3 (3) Sections 30-30-612 through 30-30-616, Idaho Code, which govern  
4 meetings, action without meetings, notice and waiver of notice, and quorum  
5 and voting requirements of the board, apply to committees of the board and  
6 their members as well.

7 (4) To the extent specified by the board of directors or in the articles  
8 or bylaws, each committee of the board may exercise the board's authority un-  
9 der section 30-30-601, Idaho Code.

10 (5) A committee of the board may not, however:

11 (a) Authorize distributions;

12 (b) Approve or recommend to members dissolution, merger, or the sale,  
13 pledge or transfer of all or substantially all of the corporation's as-  
14 sets;

15 (c) Elect, appoint or remove directors or fill vacancies on the board or  
16 on any of its committees; or

17 (d) Adopt, amend or repeal the articles or bylaws.

18 (6) The creation of, delegation of authority to, or action by a commit-  
19 tee does not alone constitute compliance by a director with the standards of  
20 conduct described in section 30-30-618, Idaho Code.

21 30-30-618. GENERAL STANDARDS FOR DIRECTORS. (1) A director shall dis-  
22 charge his duties as a director, including his duties as a member of a commit-  
23 tee:

24 (a) In good faith;

25 (b) With the care an ordinarily prudent person in a like position would  
26 exercise under similar circumstances; and

27 (c) In a manner the director reasonably believes to be in the best in-  
28 terests of the corporation.

29 (2) In discharging his duties, a director is entitled to rely on infor-  
30 mation, opinions, reports or statements, including financial statements and  
31 other financial data, if prepared or presented by:

32 (a) One (1) or more officers or employees of the corporation whom the  
33 director reasonably believes to be reliable and competent in the mat-  
34 ters presented;

35 (b) Legal counsel, public accountants or other persons as to matters  
36 the director reasonably believes are within the person's professional  
37 or expert competence;

38 (c) A committee of the board of which the director is not a member, as  
39 to matters within its jurisdiction, if the director reasonably believes  
40 the committee merits confidence; or

41 (d) In the case of religious corporations, religious authorities and  
42 ministers, priests, rabbis or other persons whose position or duties in  
43 the religious organization the director believes justify reliance and  
44 confidence and whom the director believes to be reliable and competent  
45 in the matters presented.

46 (3) A director is not acting in good faith if the director has knowledge  
47 concerning the matter in question that makes reliance otherwise permitted by  
48 subsection (2) of this section unwarranted.

1 (4) A director is not liable to the corporation, any member, or any  
 2 other person for any action taken or not taken as a director, if the director  
 3 acted in compliance with this section.

4 (5) A director shall not be deemed to be a trustee with respect to the  
 5 corporation or with respect to any property held or administered by the cor-  
 6 poration, including without limit, property that may be subject to restric-  
 7 tions imposed by the donor or transferor of such property.

8 30-30-619. DIRECTOR -- CONFLICT OF INTEREST. (1) A conflict of inter-  
 9 est transaction is a transaction with the corporation in which a director of  
 10 the corporation has a direct or indirect interest. A conflict of interest  
 11 transaction is not voidable or the basis for imposing liability on the direc-  
 12 tor if the transaction was fair at the time it was entered into or is approved  
 13 as provided in subsection (2) of this section.

14 (2) A transaction in which a director of a corporation has a conflict of  
 15 interest may be approved if:

16 (a) The material facts of the transaction and the director's interest  
 17 were disclosed or known to the board of directors or a committee of the  
 18 board and the board or committee of the board authorized, approved or  
 19 ratified the transaction; or

20 (b) The material facts of the transaction and the director's interest  
 21 were disclosed or known to the members and they authorized, approved or  
 22 ratified the transaction.

23 (3) For purposes of this section, a director of the corporation has an  
 24 indirect interest in a transaction if:

25 (a) Another entity in which the director has a material interest or in  
 26 which the director is a general partner is a party to the transaction; or

27 (b) Another entity of which the director is a director, officer or  
 28 trustee is a party to the transaction.

29 (4) For purposes of subsection (2) of this section, a conflict of in-  
 30 terest transaction is authorized, approved or ratified, if it receives the  
 31 affirmative vote of a majority of the directors on the board or on the commit-  
 32 tee, who have no direct or indirect interest in the transaction. If a major-  
 33 ity of the directors on the board who have no direct or indirect interest in  
 34 the transaction vote to authorize, approve or ratify the transaction, a quo-  
 35 rum is present for the purpose of taking action under this section. The pres-  
 36 ence of, or a vote cast by, a director with a direct or indirect interest in  
 37 the transaction does not affect the validity of any action taken under sub-  
 38 section (2) (a) of this section if the transaction is otherwise approved as  
 39 provided in subsection (2) of this section.

40 (5) For purposes of subsection (2) (b) of this section, a conflict of in-  
 41 terest transaction is authorized, approved or ratified by the members if it  
 42 receives a majority of the votes entitled to be counted under this subsec-  
 43 tion. Votes cast by or voted under the control of a director who has a di-  
 44 rect or indirect interest in the transaction, and votes cast by or voted un-  
 45 der the control of an entity described in subsection (3) (a) of this section,  
 46 may not be counted in a vote of members to determine whether to authorize, ap-  
 47 prove or ratify a conflict of interest transaction under subsection (2) (b)  
 48 of this section. The vote of these members, however, is counted in determin-  
 49 ing whether the transaction is approved under other sections of this act. A

majority of the voting power, whether or not present, that are entitled to be counted in a vote on the transaction under this subsection constitutes a quorum for the purpose of taking action under this section.

(6) The articles, bylaws or a resolution of the board may impose additional requirements on conflict of interest transactions.

30-30-620. LOANS TO OR GUARANTEES FOR DIRECTORS AND OFFICERS. (1) Except with regard to loan or guarantee programs available to all members, a corporation may not lend money to or guarantee the obligation of a director or officer of the corporation, provided that a cooperative corporation may lend money to or guarantee the obligation of a director or officer with regard to loan or guarantee programs available to all members.

(2) The fact that a loan or guarantee is made in violation of this section does not affect the borrower's liability on the loan.

30-30-621. REQUIRED OFFICERS. (1) Unless otherwise provided in the articles or bylaws, a corporation shall have a president, a secretary, a treasurer and such other officers as are appointed by the board. Except in the case of religious corporations, any two (2) or more offices may be held by the same person, except the offices of president and secretary. A religious corporation is not required to have officers.

(2) The bylaws or the board shall delegate to one (1) of the officers responsibility for preparing minutes of the directors' and members' meetings and for authenticating records of the corporation.

(3) The same individual may simultaneously hold more than one (1) office in a corporation.

30-30-622. DUTIES AND AUTHORITY OF OFFICERS. Each officer has the authority and shall perform the duties set forth in the bylaws or, to the extent consistent with the bylaws, the duties and authority prescribed in a resolution of the board or by direction of an officer authorized by the board to prescribe the duties and authority of other officers.

30-30-623. STANDARDS OF CONDUCT FOR OFFICERS. (1) An officer with discretionary authority shall discharge his duties under that authority:

(a) In good faith;

(b) With the care an ordinarily prudent person in a like position would exercise under similar circumstances; and

(c) In a manner the officer reasonably believes to be in the best interests of the corporation and its members, if any.

(2) In discharging his duties an officer is entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, if prepared or presented by:

(a) One (1) or more officers or employees of the corporation who the officer reasonably believes to be reliable and competent in the matters presented;

(b) Legal counsel, public accountants or other persons as to matters the officer reasonably believes are within the person's professional or expert competence; or



(c) In the case of religious corporations, religious authorities and ministers, priests, rabbis or other persons whose position or duties in the religious organization the officer believes justify reliance and confidence and who the officer believes to be reliable and competent in the matters presented.

(3) An officer is not acting in good faith if the officer has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (2) of this section unwarranted.

(4) An officer is not liable to the corporation, any member, or other person for any action taken or not taken as an officer, if the officer acted in compliance with this section.

30-30-624. RESIGNATION AND REMOVAL OF OFFICERS. (1) An officer may resign at any time by delivering notice to the corporation. A resignation is effective when the notice is effective unless the notice specifies a future effective date. If a resignation is made effective at a future date and the corporation accepts the future effective date, its board of directors may fill the pending vacancy before the effective date if the board provides that the successor does not take office until the effective date.

(2) A board may remove any officer at any time with or without cause.

30-30-625. OFFICERS' AUTHORITY TO EXECUTE DOCUMENTS. Any contract or other instrument in writing executed or entered into between a corporation and any other person is not invalidated as to the corporation by any lack of authority of the signing officers in the absence of actual knowledge on the part of the other person that the signing officers had no authority to execute the contract or other instrument if it is signed by any two (2) officers in category 1 below or by one (1) officer in category 1 below and one (1) officer in category 2 below.

Category 1 -- The presiding officer of the board and the president.

Category 2 -- A vice president, the secretary, treasurer  
and executive director.

30-30-626. INDEMNIFICATION OF OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS. (1) A corporation shall have power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, other than an action by or in the right of the corporation, by reason of the fact that he is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses, including attorney's fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the corporation and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction,

1 or upon a plea of nolo contendere or its equivalent, shall not, of itself,  
2 create a presumption that the person did not act in good faith and in a manner  
3 which he reasonably believed to be in or not opposed to the best interests of  
4 the corporation and, with respect to any criminal action or proceeding, had  
5 reasonable cause to believe that his conduct was unlawful.

6 (2) A corporation shall have power to indemnify any person who was or  
7 is a party or is threatened to be made a party to any threatened, pending or  
8 completed action or suit by or in the right of the corporation to procure a  
9 judgment in its favor by reason of the fact that he is or was a director, offi-  
10 cer, employee or agent of the corporation, or is or was serving at the request  
11 of the corporation as a director, officer, employee or agent of another cor-  
12 poration, partnership, joint venture, trust or other enterprise against ex-  
13 penses, including attorney's fees, actually and reasonably incurred by him  
14 in connection with the defense or settlement of such action or suit if he  
15 acted in good faith and in a manner he reasonably believed to be in or not op-  
16 posed to the best interests of the corporation and except that no indemnifi-  
17 cation shall be made in respect of any claim, issue or matter as to which such  
18 person shall have been adjudged to be liable for negligence or misconduct in  
19 the performance of his duty to the corporation unless and only to the extent  
20 that the court in that such action or suit was brought shall determine upon  
21 application that, despite the adjudication of liability but in view of all  
22 circumstances of the case, such person is fairly and reasonably entitled to  
23 indemnity for such expenses that such court shall deem proper.

24 (3) To the extent that a director, officer, employee or agent of a cor-  
25 poration has been successful on the merits or otherwise in defense of any ac-  
26 tion, suit or proceeding referred to in subsection (1) or (2) of this sec-  
27 tion, or in defense of any claim, issue or matter therein, he shall be indem-  
28 nified against expenses, including attorney's fees, actually and reasonably  
29 incurred by him in connection herewith.

30 (4) Any determination under subsections (1) or (2) of this section, un-  
31 less ordered by a court, shall be made by the corporation only as authorized  
32 in the specific case upon a determination that indemnification of the direc-  
33 tor, officer, employee or agent is proper in the circumstances because he has  
34 met the applicable standard of conduct set forth in subsection (1) or (2) of  
35 this section. Such determination shall be made:

36 (a) By the board of directors by a majority vote of a quorum consisting  
37 of directors who were not parties to such action, suit or proceeding; or

38 (b) If such quorum is not obtainable, or, even if obtainable a quorum of  
39 disinterested directors so directs, by independent legal counsel in a  
40 written opinion; or

41 (c) By the members.

42 (5) Expenses, including attorney's fees, incurred in defending a civil  
43 or criminal action, suit or proceeding may be paid by the corporation in ad-  
44 vance of the final disposition of such action, suit or proceeding upon re-  
45 ceipt of an undertaking by or on behalf of the director, officer, employee or  
46 agent to repay such amount if it shall ultimately be determined that he is not  
47 entitled to be indemnified by the corporation as authorized in this section.

48 (6) The indemnification and advancement of expenses provided by, or  
49 granted pursuant to the other subsections of this section shall not be deemed  
50 exclusive of any other rights to which those seeking indemnification or

1 advancement of expenses may be entitled under any bylaw, agreement, vote of  
 2 shareholders or disinterested directors or otherwise, both as to action in  
 3 his official capacity and as to action in another capacity while holding such  
 4 office.

5 (7) A corporation shall have power to purchase and maintain insurance  
 6 on behalf of any person who is or was a director, officer, employee or agent  
 7 of the corporation, or is or was serving at the request of the corporation as  
 8 a director, officer, employee or agent of another corporation, partnership,  
 9 joint venture, trust or other enterprise against any liability asserted  
 10 against him and incurred by him in any such capacity or arising out of his  
 11 status as such, whether or not the corporation would have the power to in-  
 12 demnify him against such liability under the provisions of this section;  
 13 provided that credit unions chartered under the laws of the state of Idaho  
 14 may provide indemnification only by insurance.

15 (8) For the purposes of this section, the term "corporation" includes,  
 16 in addition to the resulting corporation, all constituent corporations and  
 17 their predecessors absorbed in a consolidation or merger, which, if separate  
 18 existence had continued, would have had power and authority to indemnify its  
 19 directors, officers, employees or agents.

20 (9) The indemnification and advancement of expenses provided by, or  
 21 granted pursuant to, this section shall, unless otherwise provided when au-  
 22 thorized or ratified, continue as to a person who has ceased to be a director,  
 23 officer, employee or agent and shall inure to the benefit of the heirs, and  
 24 personal representatives of such a person.

25 SECTION 80. That Chapter 30, Title 30, Idaho Code, be, and the same is  
 26 hereby amended by the addition thereto of a NEW PART, to be known and desig-  
 27 nated as Part 7, Chapter 30, Title 30, Idaho Code, and to read as follows:

#### 28 PART 7

#### 29 AMENDMENT OF ARTICLES OF INCORPORATION AND BYLAWS

30 30-30-701. AUTHORITY TO AMEND ARTICLES. A corporation may amend its  
 31 articles of incorporation at any time to add or change a provision that is re-  
 32 quired or permitted in the articles or to delete a provision not required in  
 33 the articles. Whether a provision is required or permitted in the articles  
 34 is determined as of the effective date of the amendment.

35 30-30-702. AMENDMENT OF ARTICLES BY DIRECTORS. (1) Unless the arti-  
 36 cles provide otherwise, a corporation's board of directors may adopt one (1)  
 37 or more amendments to the corporation's articles without member approval:

38 (a) To extend the duration of the corporation if it was incorporated at  
 39 a time when limited duration was required by law;

40 (b) To delete the names and addresses of the initial directors;

41 (c) To change the information required by section 30-21-404(a)(1),  
 42 Idaho Code;

43 (d) To change the corporate name by substituting the word "corpo-  
 44 ration," "incorporated," "company," "limited," or the abbreviation  
 45 "corp.," "inc.," "co.," or "ltd.," for a similar word or abbreviation in  
 46 the name, or by adding, deleting or changing a geographical attribution  
 47 to the name; or

1 (e) To make any other change expressly permitted by this act to be made  
2 by director action.

3 (2) If a corporation has no members, its incorporators, until direc-  
4 tors have been chosen, and thereafter its board of directors, may adopt one  
5 (1) or more amendments to the corporation's articles subject to any approval  
6 required pursuant to section 30-30-801, Idaho Code. The corporation shall  
7 provide notice of any meeting at which an amendment is to be voted upon. The  
8 notice shall be in accordance with section 30-30-614(3), Idaho Code. The  
9 notice must also state that the purpose, or one (1) of the purposes, of the  
10 meeting is to consider a proposed amendment to the articles and contain or be  
11 accompanied by a copy or summary of the amendment or state the general nature  
12 of the amendment. The amendment must be approved by a majority of the direc-  
13 tors in office at the time the amendment is adopted.

14 30-30-703. AMENDMENT OF ARTICLES BY DIRECTORS AND MEMBERS. (1) Unless  
15 this act, the articles, bylaws, the members, acting pursuant to subsection  
16 (2) of this section, or the board of directors, acting pursuant to subsection  
17 (3) of this section, require a greater vote or voting by class, an amendment  
18 to a corporation's articles to be adopted must be approved:

19 (a) By the board, if the amendment does not relate to the number of di-  
20 rectors, the composition of the board, the term of office of directors,  
21 or the method or way in which directors are elected or selected;

22 (b) Except as provided in section 30-30-702(1), Idaho Code, by the mem-  
23 bers by two-thirds (2/3) of the votes cast or a majority of the voting  
24 power, whichever is less; and

25 (c) In writing by any person or persons whose approval is required by a  
26 provision of the articles authorized in this section.

27 (2) The members may condition the amendment's adoption on receipt of a  
28 higher percentage of affirmative votes or on any other basis.

29 (3) If the board initiates an amendment to the articles or board ap-  
30 proval is required in subsection (1) of this section to adopt an amendment to  
31 the articles, the board may condition the amendment's adoption on receipt of  
32 a higher percentage of affirmative votes or any other basis.

33 (4) If the board or the members seek to have the amendment approved by  
34 the members at a membership meeting, the corporation shall give notice to  
35 its members of the proposed membership meeting in writing in accordance with  
36 section 30-30-505, Idaho Code. The notice must state that the purpose, or  
37 one (1) of the purposes, of the meeting is to consider the proposed amendment  
38 and contain or be accompanied by a copy or summary of the amendment.

39 (5) If the board or the members seek to have the amendment approved by  
40 the members by written consent or written ballot or absentee ballot, the ma-  
41 terial soliciting the approval shall contain or be accompanied by a copy or  
42 summary of the amendment.

43 30-30-704. CLASS VOTING BY MEMBERS ON AMENDMENTS TO ARTICLES. (1) The  
44 members of a class in a corporation are entitled to vote as a class on a pro-  
45 posed amendment to the articles if the amendment would:

46 (a) Affect the rights, privileges, preferences, restrictions or condi-  
47 tions of that class as to voting, dissolution, redemption or transfer of

1 memberships in a manner different than such amendment would affect an-  
2 other class;

3 (b) Change the rights, privileges, preferences, restrictions or con-  
4 ditions of that class as to voting, dissolution, redemption or transfer  
5 by changing the rights, privileges, preferences, restrictions or con-  
6 ditions of another class;

7 (c) Increase or decrease the number of memberships authorized for that  
8 class;

9 (d) Increase the number of memberships authorized for another class;

10 (e) Effect an exchange, reclassification or termination of the member-  
11 ships of that class; or

12 (f) Authorize a new class of memberships.

13 (2) The members of a class of a religious corporation are entitled to  
14 vote as a class on a proposed amendment to the articles only if a class vote is  
15 provided for in the articles or bylaws.

16 (3) If a class is to be divided into two (2) or more classes as a result  
17 of an amendment to the articles of a corporation, the amendment must be ap-  
18 proved by the members of each class that would be created by the amendment.

19 (4) Except as provided in the articles or bylaws of a religious corpo-  
20 ration, if a class vote is required to approve an amendment to the articles  
21 of a corporation, the amendment must be approved by the members of the class  
22 by two-thirds (2/3) of the votes cast by the class or a majority of the voting  
23 power of the class, whichever is less.

24 (5) A class of members of a corporation, except a religious corpora-  
25 tion, is entitled to the voting rights granted in this section although  
26 the articles and bylaws provide that the class may not vote on the proposed  
27 amendment.

28 30-30-705. ARTICLES OF AMENDMENT. A corporation amending its articles  
29 shall deliver to the secretary of state articles of amendment setting forth:

30 (1) The name of the corporation;

31 (2) The text of each amendment adopted;

32 (3) The date of each amendment's adoption;

33 (4) If approval of members was not required, a statement to that effect  
34 and a statement that the amendment was approved by a sufficient vote of the  
35 board of directors or incorporators;

36 (5) If approval by members was required:

37 (a) The designation, number of memberships outstanding, number of  
38 votes entitled to be cast by each class entitled to vote separately on  
39 the amendment, and number of votes of each class indisputably voting on  
40 the amendment; and

41 (b) Either the total number of votes cast for and against the amendment  
42 by each class entitled to vote separately on the amendment or the to-  
43 tal number of undisputed votes cast for the amendment by each class and a  
44 statement that the number cast for the amendment by each class was suf-  
45 ficient for approval by that class.

46 (6) If approval of the amendment by some person or persons other than  
47 the members, the board or the incorporators is required pursuant to section  
48 30-30-801, Idaho Code, a statement that the approval was obtained.

1        30-30-706.    RESTATED ARTICLES OF INCORPORATION. (1) A corporation's  
2 board of directors may restate its articles of incorporation at any time with  
3 or without approval by members or any other person.

4        (2) The restatement may include one (1) or more amendments to the ar-  
5 ticles. If the restatement includes an amendment requiring approval by the  
6 members or any other person, it must be adopted as provided in section 30-30-  
7 703, Idaho Code.

8        (3) If the restatement includes an amendment requiring approval by  
9 members, the board must submit the restatement to the members for their ap-  
10 proval.

11       (4) If the board seeks to have the restatement approved by the members  
12 at a membership meeting, the corporation shall notify each of its members of  
13 the proposed membership meeting in writing in accordance with section 30-30-  
14 505, Idaho Code. The notice must also state that the purpose, or one (1) of  
15 the purposes, of the meeting is to consider the proposed restatement and con-  
16 tain or be accompanied by a copy or summary of the restatement that identi-  
17 fies any amendments or other change it would make in the articles.

18       (5) If the board seeks to have the restatement approved by the members  
19 by written ballot or written consent, the material soliciting the approval  
20 shall contain or be accompanied by a copy or summary of the restatement that  
21 identifies any amendments or other change it would make in the articles.

22       (6) A restatement requiring approval by the members must be approved  
23 by the same vote as an amendment to articles under section 30-30-703, Idaho  
24 Code.

25       (7) If the restatement includes an amendment requiring approval pur-  
26 suant to section 30-30-801, Idaho Code, the board must submit the restate-  
27 ment for such approval.

28       (8) A corporation restating its articles shall deliver to the secretary  
29 of state articles of restatement setting forth the name of the corporation  
30 and the text of the restated articles of incorporation together with a cer-  
31 tificate setting forth:

32       (a) Whether the restatement contains an amendment to the articles re-  
33 quiring approval by the members or any other person other than the board  
34 of directors and, if it does not, that the board of directors adopted the  
35 restatement; or

36       (b) If the restatement contains an amendment to the articles requiring  
37 approval by the members, the information required by section 30-30-705,  
38 Idaho Code; and

39       (c) If the restatement contains an amendment to the articles requir-  
40 ing approval by a person whose approval is required pursuant to section  
41 30-30-801, Idaho Code, a statement that such approval was obtained.

42       (9) Duly adopted restated articles of incorporation supersede the  
43 original articles of incorporation and all amendments to them.

44       (10) The secretary of state may certify restated articles of incorpora-  
45 tion, as the articles of incorporation currently in effect.

46       30-30-707.    EFFECT OF AMENDMENT AND RESTATEMENT OF ARTICLES. An amend-  
47 ment to articles of incorporation does not affect a cause of action existing  
48 against or in favor of the corporation, a proceeding to which the corporation  
49 is a party, any requirement or limitation imposed upon the corporation or any

1 property held by it by virtue of any trust upon which such property is held  
2 by the corporation or the existing rights of persons other than members of  
3 the corporation. An amendment changing a corporation's name does not abate a  
4 proceeding brought by or against the corporation in its former name.

5 30-30-708. AMENDMENT OF BYLAWS BY DIRECTORS. If a corporation has no  
6 members, its incorporators, until directors have been chosen, and there-  
7 after its board of directors, may adopt one (1) or more amendments to the  
8 corporation's bylaws subject to any approval required pursuant to section  
9 30-30-801, Idaho Code. The corporation shall provide notice of any meeting  
10 of directors at which an amendment is to be approved. The notice shall be  
11 in accordance with section 30-30-614(3), Idaho Code. The notice must also  
12 state that the purpose, or one (1) of the purposes, of the meeting is to con-  
13 sider a proposed amendment to the bylaws and contain or be accompanied by a  
14 copy or summary of the amendment or state the general nature of the amend-  
15 ment. The amendment must be approved by a majority of the directors in office  
16 at the time the amendment is adopted.

17 30-30-709. AMENDMENT OF BYLAWS BY DIRECTORS AND MEMBERS. (1) Unless  
18 the articles or bylaws provide otherwise, an amendment to a corporation's  
19 bylaws to be adopted must be approved:

20 (a) By a simple majority of the board;

21 (b) By the members by a simple majority of the votes cast or a majority  
22 of the voting power, whichever is less; and

23 (c) In writing by any person or persons whose approval is required by a  
24 provision of the articles authorized in section 30-30-801, Idaho Code.

25 (2) If the board initiates an amendment to the bylaws or board approval  
26 is required to adopt an amendment to the bylaws, the board may condition the  
27 amendment's adoption on receipt of a higher percentage of affirmative votes  
28 or on any other basis.

29 (3) If the board or the members seek to have the amendment approved by  
30 the members at a membership meeting, the corporation shall give notice to  
31 its members of the proposed membership meeting in writing in accordance with  
32 section 30-30-505, Idaho Code. The notice must also state that the purpose,  
33 or one (1) of the purposes, of the meeting is to consider the proposed amend-  
34 ment and contain or be accompanied by a copy or summary of the amendment.

35 (4) If the board or the members seek to have the amendment approved by  
36 the members by written consent or written ballot or absentee ballot, the ma-  
37 terial soliciting the approval shall contain or be accompanied by a copy or  
38 summary of the amendment.

39 30-30-710. CLASS VOTING BY MEMBERS ON AMENDMENTS TO BYLAWS. (1) If the  
40 members of a class in a corporation are entitled to vote as a class on amend-  
41 ments to the bylaws, they may vote as a class on a proposed amendment to the  
42 bylaws if the amendment would:

43 (a) Affect the rights, privileges, preferences, restrictions or condi-  
44 tions of that class as to voting, dissolution, redemption or transfer of  
45 memberships in a manner different than such amendment would affect an-  
46 other class;

(b) Change the rights, privileges, preferences, restrictions or conditions of that class as to voting, dissolution, redemption or transfer by changing the rights, privileges, preferences, restrictions or conditions of another class;

(c) Increase or decrease the number of memberships authorized for that class;

(d) Increase the number of memberships authorized for another class;

(e) Effect an exchange, reclassification or termination of all or part of the memberships of that class; or

(f) Authorize a new class of memberships.

(2) The members of a class of a religious corporation are entitled to vote as a class on a proposed amendment to the bylaws only if a class vote is provided for in the articles or bylaws.

(3) If a class is to be divided into two (2) or more classes as a result of an amendment to the bylaws, the amendment must be approved by the members of each class that would be created by the amendment; and

(4) If a class vote is required to approve an amendment to the bylaws, the amendment must be approved by the members of the class by two-thirds (2/3) of the votes cast by the class or a majority of the voting power of the class, whichever is less.

(5) A class of members is entitled to the voting rights granted by this section although the articles and bylaws provide that the class may not vote on the proposed amendment.

SECTION 81. That Chapter 30, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW PART, to be known and designated as Part 8, Chapter 30, Title 30, Idaho Code, and to read as follows:

#### PART 8

#### MERGER AND MEMBERSHIP EXCHANGES

30-30-801. APPROVAL BY THIRD PERSONS. The articles may require an amendment to the articles or bylaws to be approved in writing by a specified person or persons other than the board. Such an article provision may only be amended with the approval in writing of such person or persons.

30-30-802. APPROVAL OF PLAN OF MERGER. (1) One (1) or more nonprofit corporations may merge into a business or nonprofit corporation, if the plan of merger is approved as provided in section 30-30-803, Idaho Code.

(2) The plan of merger must set forth:

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

(b) The terms and conditions of the planned merger;

(c) The manner and basis, if any, of converting memberships of each merging corporation into memberships, obligations or securities of the surviving or any other corporation or into cash or other property in whole or part.

(3) The plan of merger may set forth:

(a) Any amendments to the articles of incorporation or bylaws of the surviving corporation to be effected by the planned merger; and

(b) Other provisions relating to the planned merger.



1        30-30-803. ACTION ON PLAN BY BOARD, MEMBERS AND THIRD PERSONS. (1) Un-  
2 less this act, the articles, bylaws or the board of directors or members,  
3 acting pursuant to subsection (3) of this section, require a greater vote or  
4 voting by class, a plan of merger to be adopted must be approved:

5        (a) By the board;

6        (b) By the members, if any, by two-thirds (2/3) of the votes cast or a  
7 majority of the voting power, whichever is less; and

8        (c) In writing by any person or persons whose approval is required by a  
9 provision of the articles authorized in section 30-30-801, Idaho Code,  
10 for an amendment to the articles or bylaws.

11        (2) If the corporation does not have members, the merger must be ap-  
12 proved by a majority of the directors in office at the time the merger is ap-  
13 proved. In addition, the corporation shall provide notice of any directors'  
14 meeting at which such approval is to be obtained in accordance with section  
15 30-30-614(3), Idaho Code. The notice must also state that the purpose, or  
16 one (1) of the purposes, of the meeting is to consider the proposed merger.

17        (3) The board may condition its submission of the proposed merger,  
18 and the members may condition their approval of the merger, on receipt of a  
19 higher percentage of affirmative votes or on any other basis.

20        (4) If the board seeks to have the plan approved by the members at a mem-  
21 bership meeting, the corporation shall give notice to its members of the pro-  
22 posed membership meeting in accordance with section 30-30-505, Idaho Code.  
23 The notice must also state that the purpose, or one (1) of the purposes, of  
24 the meeting is to consider the plan of merger and contain or be accompanied by  
25 a copy or summary of the plan. The copy or summary of the plan for members of  
26 the surviving corporation shall include any provision that, if contained in  
27 a proposed amendment to the articles of incorporation or bylaws, would enti-  
28 tle members to vote on the provision. The copy or summary of the plan for mem-  
29 bers of the disappearing corporation shall include a copy or summary of the  
30 articles and bylaws that will be in effect immediately after the merger takes  
31 effect.

32        (5) If the board seeks to have the plan approved by the members by writ-  
33 ten consent or written ballot or absentee ballot, the material soliciting  
34 the approval shall contain or be accompanied by a copy or summary of the plan.  
35 The copy or summary of the plan for members of the surviving corporation  
36 shall include any provision that, if contained in a proposed amendment to the  
37 articles of incorporation or bylaws, would entitle members to vote on the  
38 provision. The copy or summary of the plan for members of the disappearing  
39 corporation shall include a copy or summary of the articles and bylaws that  
40 will be in effect immediately after the merger takes effect.

41        (6) Voting by a class of members is required on a plan of merger if the  
42 plan contains a provision that, if contained in a proposed amendment to ar-  
43 ticles of incorporation or bylaws, would entitle the class of members to vote  
44 as a class on the proposed amendment under section 30-30-704 or 30-30-710,  
45 Idaho Code. The plan is approved by a class of members by two-thirds (2/3)  
46 of the votes cast by the class or a majority of the voting power of the class,  
47 whichever is less.

48        (7) After a merger is adopted, and at any time before articles of merger  
49 are filed, the planned merger may be abandoned, subject to any contractual  
50 rights, without further action by members or other persons who approved the

1 plan in accordance with the procedure set forth in the plan of merger or, if  
2 none is set forth, in the manner determined by the board of directors.

3 SECTION 82. That Chapter 30, Title 30, Idaho Code, be, and the same is  
4 hereby amended by the addition thereto of a NEW PART, to be known and desig-  
5 nated as Part 9, Chapter 30, Title 30, Idaho Code, and to read as follows:

6 PART 9  
7 DISPOSITION OF ASSETS

8 30-30-901. BEQUESTS, DEVISES AND GIFTS. Any bequest, devise, gift,  
9 grant or promise contained in a will or other instrument of donation, sub-  
10 scription, or conveyance, that is made to a constituent corporation and that  
11 takes effect or remains payable after the merger, inures to the surviving  
12 corporation unless the will or other instrument otherwise specifically pro-  
13 vides.

14 30-30-902. SALE OF ASSETS IN REGULAR COURSE OF ACTIVITIES AND MORTGAGE  
15 OF ASSETS. (1) A corporation may on the terms and conditions and for the con-  
16 sideration determined by the board of directors:

17 (a) Sell, lease, exchange or otherwise dispose of all, or substantially  
18 all, of its property in the usual and regular course of its activities;  
19 or

20 (b) Mortgage, pledge, dedicate to the repayment of indebtedness,  
21 whether with or without recourse, or otherwise encumber any or all of  
22 its property whether or not in the usual and regular course of its activ-  
23 ities.

24 (2) Unless the articles require it, approval of the members or any other  
25 person of a transaction described in subsection (1) of this section is not  
26 required.

27 30-30-903. SALE OF ASSETS OTHER THAN IN REGULAR COURSE OF ACTIVI-  
28 TIES. (1) A corporation may sell, lease, exchange, or otherwise dispose of  
29 all, or substantially all, of its property, with or without the goodwill,  
30 other than in the usual and regular course of its activities on the terms and  
31 conditions and for the consideration determined by the corporation's board  
32 if the proposed transaction is authorized in subsection (2) of this section.

33 (2) Unless this act, the articles, bylaws or the board of directors  
34 or members, acting pursuant to subsection (4) of this section, require a  
35 greater vote or voting by class, the proposed transaction to be authorized  
36 must be approved:

37 (a) By the board;

38 (b) By the members by a simple majority of the votes cast or a majority  
39 of the voting power, whichever is less; and

40 (c) In writing by any person or persons whose approval is required by a  
41 provision of the articles authorized in section 30-30-505, Idaho Code,  
42 for an amendment to the articles or bylaws.

43 (3) If the corporation does not have members the transaction must be  
44 approved by a vote of a majority of the directors in office at the time the  
45 transaction is approved. In addition, the corporation shall provide notice  
46 of any directors' meeting at which such approval is to be obtained in accor-

1 dance with section 30-30-614(3), Idaho Code. The notice must also state that  
 2 the purpose, or one (1) of the purposes, of the meeting is to consider the  
 3 sale, lease, exchange or other disposition of all, or substantially all, of  
 4 the property or assets of the corporation and contain or be accompanied by a  
 5 copy or summary of a description of the transaction.

6 (4) The board may condition its submission of the proposed transaction,  
 7 and the members may condition their approval of the transaction, on receipt  
 8 of a higher percentage of affirmative votes or on any other basis.

9 (5) If the corporation seeks to have the transaction approved by the  
 10 members at a membership meeting, the corporation shall give notice to its  
 11 members of the proposed membership meeting in accordance with section 30-30-  
 12 505, Idaho Code. The notice must also state that the purpose, or one (1) of  
 13 the purposes, of the meeting is to consider the sale, lease, exchange, or  
 14 other disposition of all, or substantially all, of the property or assets of  
 15 the corporation and contain or be accompanied by a copy or summary of a de-  
 16 scription of the transaction.

17 (6) If the board needs to have the transaction approved by the members  
 18 by written consent or written ballot or absentee ballot, the material solici-  
 19 ting the approval shall contain or be accompanied by a copy or summary of a  
 20 description of the transaction.

21 (7) After a sale, lease, exchange, or other disposition of property  
 22 is authorized, the transaction may be abandoned, subject to any contrac-  
 23 tual rights, without further action by the members or any other person who  
 24 approved the transaction in accordance with the procedure set forth in the  
 25 resolution proposing the transaction or, if none is set forth, in the manner  
 26 determined by the board of directors.

27 30-30-904. PROHIBITED DISTRIBUTIONS. Except as authorized in section  
 28 30-30-905, Idaho Code, a corporation shall not make any distributions.

29 30-30-905. AUTHORIZED DISTRIBUTIONS. (1) Corporations may make dis-  
 30 tributions upon dissolution in conformity with section 30-30-1005 or 30-30-  
 31 1006, Idaho Code.

32 (2) The operations of a corporation that is a cooperative corporation  
 33 shall be so conducted that all members will, through their membership, fur-  
 34 nish capital for the corporation as provided in the corporation's bylaws. No  
 35 interest or dividends shall be paid or payable by the corporation on any cap-  
 36 ital furnished by its members. The corporation is obligated to account on a  
 37 membership basis to all its members for all amounts received and receivable  
 38 from the furnishing of service and from other sources in excess of operating  
 39 costs and expenses properly chargeable against the furnishing of service.  
 40 The corporation is obligated to pay by credits to a capital account for each  
 41 member all such amounts in excess of operating costs and expenses. The books  
 42 and records of the corporation shall be set up and kept in such a manner that  
 43 at the end of each fiscal year the amount of capital, if any, so furnished by  
 44 each member is clearly reflected and credited in an appropriate record to the  
 45 capital account of each member. In the event of dissolution or liquidation  
 46 of the corporation, after all outstanding indebtedness of the corporation  
 47 shall have been paid, outstanding capital credits shall be retired without  
 48 priority on a pro rata basis before any payments are made on account of prop-

erty rights of members. If, at any time prior to dissolution or liquidation, the board shall determine that the financial condition of the corporation will not be impaired thereby, the capital credited to members' accounts may be retired in full or in part.

SECTION 83. That Chapter 30, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW PART, to be known and designated as Part 10, Chapter 30, Title 30, Idaho Code, and to read as follows:

PART 10  
DISSOLUTION

30-30-1001. DISSOLUTION BY INCORPORATORS OR DIRECTORS AND THIRD PERSONS. (1) A majority of the incorporators or directors of a corporation that has no members may, prior to the organization meeting of directors and subject to any approval required by the articles or bylaws, dissolve the corporation by delivering to the secretary of state articles of dissolution.

(2) The corporation shall give notice of any meeting at which dissolution will be approved. The notice shall be in accordance with section 30-30-614(3), Idaho Code. The notice must also state that the purpose, or one (1) of the purposes, of the meeting is to consider dissolution of the corporation.

(3) The incorporators or directors in approving dissolution shall adopt a plan of dissolution indicating to whom the assets owned or held by the corporation will be distributed after all creditors have been paid.

30-30-1002. DISSOLUTION BY DIRECTORS, MEMBERS AND THIRD PERSONS. (1) Unless this act, the articles, bylaws or the board of directors or members, acting pursuant to subsection (3) of this section, require a greater vote or voting by class, dissolution is authorized if it is approved:

(a) By the board;

(b) By the members, if any, by two-thirds (2/3) of the votes cast or a majority of the voting power, whichever is less; and

(c) In writing by any person or persons whose approval is required by a provision of the articles authorized in section 30-30-801, Idaho Code, for an amendment to the articles or bylaws.

(2) If the corporation does not have members, dissolution must be approved by a vote of a majority of the directors in office at the time the transaction is approved. In addition, the corporation shall provide notice of any directors' meeting at which such approval is to be obtained in accordance with section 30-30-614(3), Idaho Code. The notice must also state that the purpose, or one (1) of the purposes, of the meeting is to consider dissolution of the corporation and contain or be accompanied by a copy or summary of the plan of dissolution.

(3) The board may condition its submission of the proposed dissolution, and the members may condition their approval of the dissolution on receipt of a higher percentage of affirmative votes or on any other basis.

(4) If the board seeks to have dissolution approved by the members at a membership meeting, the corporation shall give notice to its members of the proposed membership meeting in accordance with section 30-30-505, Idaho Code. The notice must also state that the purpose, or one (1) of the pur-

poses, of the meeting is to consider dissolving the corporation and contain or be accompanied by a copy or summary of the plan of dissolution.

(5) If the board seeks to have dissolution approved by the members by written consent or written ballot, the material soliciting the approval shall contain or be accompanied by a copy or summary of the plan of dissolution.

(6) The plan of dissolution shall indicate to whom the assets owned or held by the corporation will be distributed after all creditors have been paid.

30-30-1003. ARTICLES OF DISSOLUTION. (1) At any time after dissolution is authorized, the corporation may dissolve by delivering to the secretary of state articles of dissolution setting forth:

(a) The name of the corporation;

(b) The date dissolution was authorized;

(c) A statement that dissolution was approved by a sufficient vote of the board;

(d) If approval of members was not required, a statement to that effect and a statement that dissolution was approved by a sufficient vote of the board of directors or incorporators;

(e) If approval by members was required:

(i) The designation, number of memberships outstanding, number of votes entitled to be cast by each class entitled to vote separately on dissolution, and number of votes of each class indisputably voting on dissolution; and

(ii) Either the total number of votes cast for and against dissolution by each class entitled to vote separately on dissolution or the total number of undisputed votes cast for dissolution by each class and a statement that the number cast for dissolution by each class was sufficient for approval by that class.

(f) If approval of dissolution by some person or persons other than the members, the board or the incorporators is required pursuant to section 30-30-1002(1)(c), Idaho Code, a statement that the approval was obtained; and

(2) A corporation is dissolved upon the effective date of its articles of dissolution.

30-30-1004. EFFECT OF DISSOLUTION. (1) A dissolved corporation continues its corporate existence but may not carry on any activities except those appropriate to wind up and liquidate its affairs, including:

(a) Preserving and protecting its assets and minimizing its liabilities;

(b) Discharging or making provision for discharging its liabilities and obligations;

(c) Disposing of its properties that will not be distributed in kind;

(d) Returning, transferring or conveying assets held by the corporation upon a condition requiring return, transfer or conveyance, which condition occurs by reason of the dissolution, in accordance with such condition;

(e) Transferring, subject to any contractual or legal requirements, its assets as provided in or authorized by its articles of incorporation or bylaws;

(f) If no provision has been made in its articles or bylaws for distribution of assets on dissolution, it may transfer, subject to any contractual or legal requirement, its assets:

(i) To one (1) or more persons described in section 501(c)(3) of the Internal Revenue Code; or

(ii) To its members or, if it has no members, to those persons whom the corporation holds itself out as benefiting or serving; and

(g) Doing every other act necessary to wind up and liquidate its assets and affairs.

(2) Dissolution of a corporation does not:

(a) Transfer title to the corporation's property;

(b) Subject its directors or officers to standards of conduct different from those prescribed in sections 30-30-618 and 30-30-623, Idaho Code;

(c) Change quorum or voting requirements for its board or members; change provisions for selection, resignation or removal of its directors or officers or both; or change provisions for amending its bylaws;

(d) Prevent commencement of a proceeding by or against the corporation in its corporate name;

(e) Abate or suspend a proceeding pending by or against the corporation on the effective date of dissolution; or

(f) Terminate the authority of the registered agent.

30-30-1005. KNOWN CLAIMS AGAINST DISSOLVED CORPORATION. (1) The directors of a dissolved corporation may dispose of the known claims against it by following the procedure described in this section.

(2) The directors of a dissolved corporation shall notify its known claimants in writing of the dissolution at any time after its effective date. The written notice must:

(a) Describe information that must be included in a claim;

(b) Provide a mailing address where a claim may be sent;

(c) State the deadline, which may not be fewer than one hundred twenty (120) days from the effective date of the written notice, by which the dissolved corporation must receive the claim; and

(d) State that the claim will be barred if not received by the deadline.

(3) A claim against the dissolved corporation is barred:

(a) If a claimant who was given written notice under subsection (2) of this section does not deliver the claim to the dissolved corporation by the deadline;

(b) If a claimant whose claim was rejected by the dissolved corporation does not commence a proceeding to enforce the claim within ninety (90) days from the effective date of the rejection notice.

(4) For purposes of this section "claim" does not include a contingent liability or a claim based on an event occurring after the effective date of dissolution.

30-30-1006. UNKNOWN CLAIMS AGAINST DISSOLVED CORPORATION. (1) The directors of a dissolved corporation may also publish notice of its dissolu-

tion and request that persons with claims against the corporation present them in accordance with the notice.

(2) The notice must:

(a) Be published one (1) time in a newspaper of general circulation in the county where the dissolved corporation's principal office is or was located, or, if none in this state, in Ada county;

(b) Describe the information that must be included in a claim and provide a mailing address where the claim may be sent; and

(c) State that a claim against the corporation will be barred unless a proceeding to enforce the claim is commenced within five (5) years after publication of the notice.

(3) If the directors of a dissolved corporation publish a newspaper notice in accordance with subsection (2) of this section, the claim of each of the following claimants is barred unless the claimant commences a proceeding to enforce the claim against the dissolved corporation within five (5) years after the publication date of the newspaper notice:

(a) A claimant who did not receive written notice under section 30-30-1005, Idaho Code;

(b) A claimant whose claim was timely sent to the dissolved corporation but not acted on; and

(c) A claimant whose claim is contingent or based on an event occurring after the effective date of dissolution.

(4) A claim may be enforced under this section:

(a) Against the dissolved corporation to the extent of its undistributed assets; or

(b) If the assets have been distributed in liquidation, against any person, other than a creditor of the corporation, to whom the corporation distributed its property to the extent of the distributee's pro rata share of the claim or the corporate assets distributed to such person in liquidation, whichever is less, but the distributee's total liability for all claims under this section may not exceed the total amount of assets distributed to the distributee.

SECTION 84. That Chapter 30, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW PART, to be known and designated as Part 11, Chapter 30, Title 30, Idaho Code, and to read as follows:

#### PART 11

#### RECORDS AND REPORTS

30-30-1101. CORPORATE RECORDS. (1) A corporation shall keep as permanent records minutes of all meetings of its members and board of directors, a record of all actions taken by the members or directors without a meeting, and a record of all actions taken by committees of the board of directors as authorized in section 30-30-617(4), Idaho Code.

(2) A corporation shall maintain appropriate accounting records.

(3) A corporation shall maintain a record of its members in a form that permits preparation of a list of the name and address of all members, in alphabetical order by class, showing the number of votes each member is entitled to cast.

1 (4) A corporation shall maintain its records in written form or in an-  
2 other form capable of conversion into written form within a reasonable time.

3 (5) A corporation shall keep a copy of the following records at its  
4 principal office:

5 (a) Its articles or restated articles of incorporation and all amend-  
6 ments to them currently in effect;

7 (b) Its bylaws or restated bylaws and all amendments to them currently  
8 in effect;

9 (c) Resolutions adopted by its board of directors relating to the char-  
10 aracteristics, qualifications, rights, limitations and obligations of  
11 members or any class or category of members;

12 (d) The minutes of all meetings of members and records of all actions  
13 approved by the members for the past three (3) years;

14 (e) All written communications to members generally within the past  
15 seven (7) years, including the financial statements furnished for the  
16 past seven (7) years under section 30-30-1105, Idaho Code;

17 (f) A list of the names and business or home addresses of its current  
18 directors and officers; and

19 (g) Its most recent annual report delivered to the secretary of state  
20 under section 30-21-213, Idaho Code.

21 30-30-1102. INSPECTION OF RECORDS BY MEMBERS. (1) Subject to subsec-  
22 tion (5) of this section and section 30-30-1103(3), Idaho Code, a member is  
23 entitled to inspect and copy, at a reasonable time and location specified by  
24 the corporation, any of the records of the corporation described in section  
25 30-30-1101(5), Idaho Code, if the member gives the corporation written no-  
26 tice or a written demand at least fifteen (15) business days before the date  
27 on which the member wishes to inspect and copy.

28 (2) Subject to paragraph (c) of this subsection, a member is entitled to  
29 inspect and copy, at a reasonable time and reasonable location specified by  
30 the corporation, any of the following records of the corporation if the mem-  
31 ber meets the requirements of subsection (3) of this section and gives the  
32 corporation written notice at least fifteen (15) business days before the  
33 date on which the member wishes to inspect and copy:

34 (a) Excerpts from any records required to be maintained under section  
35 30-30-1101(1), Idaho Code, to the extent not subject to inspection un-  
36 der section 30-30-1102(1), Idaho Code;

37 (b) Accounting records of the corporation, and

38 (c) Subject to section 30-30-1104, Idaho Code, the membership list.

39 (3) A member may inspect and copy the records identified in subsection  
40 (2) of this section only if:

41 (a) The member's demand is made in good faith and for a proper purpose  
42 reasonably related to the member's interest as a member of the corpora-  
43 tion;

44 (b) The member describes with reasonable particularity the purpose and  
45 the records the member desires to inspect;

46 (c) The records are directly connected with this purpose; and

47 (d) The board of directors shall determine whether a member's request  
48 is for a proper purpose.

49 (4) The provisions of this section do not affect:



1 (a) The right of a member to inspect records under section 30-30-509,  
2 Idaho Code, or, if the member is in litigation with the corporation, to  
3 the same extent as any other litigant; or

4 (b) The board of directors may restrict or deny inspection of person-  
5 nel and employment records, and confidential attorney-client communi-  
6 cations if it determines that such restriction or denial of access to  
7 said records or information is in the best interests of the corporation.

8 (5) The articles or bylaws of a religious corporation may limit or abol-  
9 ish the right of a member under this section to inspect and copy any corporate  
10 record.

11 30-30-1103. SCOPE OF INSPECTION RIGHTS. (1) A member's agent or attor-  
12 ney has the same inspection and copying rights as the member the agent or at-  
13 torney represents.

14 (2) The right to copy records under section 30-30-1102, Idaho Code, in-  
15 cludes, if reasonable, the right to receive copies made by photographic, xe-  
16 rographic, or other means.

17 (3) The corporation may impose a reasonable charge, covering the costs  
18 of labor and material, for copies of any documents provided to the member.  
19 The charge may not exceed the estimated cost of production or reproduction of  
20 the records.

21 (4) The corporation may comply with a member's demand to inspect the  
22 record of members under section 30-30-1102(2)(c), Idaho Code, by providing  
23 the member with a list of its members that was compiled no earlier than the  
24 date of the member's demand.

25 30-30-1104. LIMITATIONS ON USE OF MEMBERSHIP LIST. Without consent of  
26 the board, a membership list or any part thereof may not be obtained or used  
27 by any person for any purpose unrelated to a member's interest as a member.  
28 Without limiting the generality of the foregoing, without the consent of the  
29 board a membership list or any part thereof may not be:

30 (1) Used to solicit money or property unless such money or property will  
31 be used solely to solicit the votes of the members in an election to be held by  
32 the corporation;

33 (2) Used for any commercial purpose; or

34 (3) Sold to or purchased by any person.

35 30-30-1105. FINANCIAL STATEMENTS FOR MEMBERS. (1) Except as provided  
36 in the articles or bylaws of a religious corporation, a corporation upon  
37 written demand from a member shall furnish that member its latest annual  
38 financial statements, which may be consolidated or combined statements of  
39 the corporation and one (1) or more of its subsidiaries or affiliates, as  
40 appropriate, that include a balance sheet as of the end of the fiscal year and  
41 statement of operations for that year. If financial statements are prepared  
42 for the corporation on the basis of generally accepted accounting princi-  
43 ples, the annual financial statements must also be prepared on that basis.

44 (2) If annual financial statements are reported upon by a public ac-  
45 countant, the accountant's report must accompany them. If not, the state-  
46 ments must be accompanied by the statement of the president or the person re-  
47 sponsible for the corporation's financial accounting records:

(a) Stating the president's or other person's reasonable belief as to whether the statements were prepared on the basis of generally accepted accounting principles and, if not, describing the basis of preparation; and

(b) Describing any respects in which the statements were not prepared on a basis of accounting consistent with the statements prepared for the preceding year.

30-30-1106. REPORT OF INDEMNIFICATION TO MEMBERS. If a corporation indemnifies or advances expenses to a director under section 30-30-626, Idaho Code, in connection with a proceeding by or in the right of the corporation, the corporation shall report the indemnification or advance in writing to the members with or before the notice of the next meeting of members.

SECTION 85. That Chapter 30, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW PART, to be known and designated as Part 12, Chapter 30, Title 30, Idaho Code, and to read as follows:

#### PART 12 TRANSITION PROVISIONS

30-30-1201. APPLICATION TO EXISTING DOMESTIC NONPROFIT CORPORATIONS. This act applies to all domestic nonprofit corporations in existence on the effective date of this act that were incorporated under the laws of this state.

30-30-1202. APPLICATION TO QUALIFIED FOREIGN NONPROFIT CORPORATION. A foreign nonprofit corporation authorized to transact business in this state on the effective date of this act is subject to this act but is not required to obtain a new certificate of authority to transact business under this act.

30-30-1203. APPLICATION TO CANAL COMPANIES AND CAREY ACT COMPANIES. Should any provision of this chapter, as it pertains to canal companies or Carey act companies, conflict with the provisions of title 42, Idaho Code, the provisions of title 42, Idaho Code, shall prevail.

30-30-1204. SAVING PROVISIONS. (1) Except as provided in subsection (2) of this section, the repeal of a statute by this act does not affect:

(a) The operation of the statute or any action taken under it before its repeal;

(b) Any ratification, right, remedy, privilege, obligation or liability acquired, accrued or incurred under the statute before its repeal;

(c) Any violation of the statute or any penalty, forfeiture or punishment incurred because of the violation, before its repeal;

(d) Any proceeding, reorganization or dissolution commenced under the statute before its repeal, and the proceeding, reorganization, or dissolution may be completed in accordance with the statute as if it had not been repealed; or

1       (e) Any meeting of members or directors or action by written consent no-  
2       ticed or any action taken before its repeal as a result of a meeting of  
3       members or directors or action by written consent.

4       (2) If a penalty or punishment imposed for violation of a statute re-  
5       pealed by this act is reduced by this act, the penalty or punishment if not  
6       already imposed shall be imposed in accordance with this act.

7       (3) Except as specifically provided in this act, this act shall not af-  
8       fect the provisions of other statutes applicable to any form of nonprofit  
9       corporation.