

1 A bill to be entitled
2 An act relating to corporations; amending s. 607.1109,
3 F.S.; exempting a domestic corporation from the
4 requirement to file articles of merger under certain
5 circumstances; amending s. 607.1113, F.S.; exempting a
6 domestic corporation from the requirement to file a
7 certificate of conversion under certain circumstances;
8 amending s. 607.1115, F.S.; requiring that each converting
9 entity file a certificate of conversion with the
10 Department of State; amending s. 608.4382, F.S.; exempting
11 a domestic limited liability company from the requirement
12 to file a certificate of merger under certain
13 circumstances; amending s. 608.439, F.S.; including a
14 corporation within the definition of "other business
15 entity" or "another business entity"; requiring that each
16 converting entity file a certificate of conversion with
17 the department; amending s. 608.4403, F.S.; exempting a
18 limited liability company from the requirement to file a
19 certificate of conversion under certain circumstances;
20 amending s. 617.1108, F.S.; exempting a domestic
21 corporation not for profit from the requirement to file
22 articles of merger under certain circumstances; providing
23 for a copy of articles of merger or the certificate of
24 merger to be filed in each county in which real property
25 of a party to the merger is situated; amending s.
26 620.1406, F.S.; revising the requirements for general
27 partners with respect to exercising certain management
28 rights; providing that the expulsion of a limited partner

29 requires the consent of all of the other limited partners;
30 amending s. 620.2104, F.S.; requiring that a certificate
31 of conversion be signed by each general partner and by the
32 converting organization; exempting a limited partnership
33 from the requirement to file a certificate of conversion
34 if the partnership complies with certain other laws;
35 amending s. 620.8918, F.S.; providing certain exceptions
36 to the requirement that each constituent partnership file
37 articles of merger or a certificate of merger with the
38 Department of State; amending s. 620.2204, F.S.; changing
39 the date of application of provisions authorizing a
40 limited partner to dissociate from a limited partnership;
41 amending s. 620.8101, F.S.; redefining the term
42 "statement" to exclude a statement of merger; amending s.
43 620.8105, F.S.; requiring that a registration statement be
44 filed with the department before filing a certificate of
45 conversion or a certificate of merger; amending s.
46 620.81055, F.S.; providing that a filing fee applies to a
47 certificate of merger; amending s. 620.8911, F.S.;
48 clarifying that the term "organization" includes a
49 converted or surviving organization under certain
50 circumstances; amending s. 620.8914, F.S.; revising
51 certain requirements for conversions; exempting a
52 partnership from filing a certificate of conversion under
53 certain circumstances; providing that the certificate of
54 conversion acts as a cancellation of the registration
55 statement for a converting partnership; amending s.
56 620.8918, F.S.; exempting a constituent partnership from

57 filing a certificate of merger under certain
 58 circumstances; requiring that such partnership file a
 59 registration statement with the department if one is not
 60 currently on file; providing an effective date.

61
 62 Be It Enacted by the Legislature of the State of Florida:

63
 64 Section 1. Subsection (3) is added to section 607.1109,
 65 Florida Statutes, to read:

66 607.1109 Articles of merger.--

67 (3) A domestic corporation is not required to file
 68 articles of merger pursuant to subsection (1) if the domestic
 69 corporation is named as a party or constituent organization in
 70 articles of merger or a certificate of merger filed for the same
 71 merger in accordance with s. 608.4382(1), s. 617.1108, s.
 72 620.2108(1) and (2), or s. 620.8918(1) and (2), and if the
 73 articles of merger or certificate of merger substantially
 74 complies with the requirements of this section. In such a case,
 75 the other articles of merger or certificate of merger may also
 76 be used for purposes of subsection (2).

77 Section 2. Subsection (3) is added to section 607.1113,
 78 Florida Statutes, to read:

79 607.1113 Certificate of conversion.--

80 (3) A converting domestic corporation is not required to
 81 file a certificate of conversion pursuant to subsection (1) if
 82 the converting domestic corporation files a certificate of
 83 conversion that substantially complies with the requirements of
 84 this section pursuant to s. 608.439, s. 620.2104(1)(b), or s.

85 620.8914(1)(b) and contains the signatures required by this
 86 chapter. In such a case, the other certificate of conversion may
 87 also be used for purposes of subsection (2).

88 Section 3. Paragraph (a) of subsection (2) of section
 89 607.1115, Florida Statutes, is amended to read:

90 607.1115 Conversion of another business entity to a
 91 domestic corporation.--

92 (2) Any other business entity may convert to a domestic
 93 corporation if the conversion is permitted by the laws of the
 94 jurisdiction that enacted the applicable laws governing the
 95 other business entity and the other business entity complies
 96 with such laws and the requirements of this section in effecting
 97 the conversion. The other business entity shall file with the
 98 Department of State in accordance with s. 607.0120:

99 (a) A certificate of conversion that has been executed in
 100 accordance with s. 607.0120 and by the other business entity as
 101 required by applicable law.

102 Section 4. Subsection (3) is added to section 608.4382,
 103 Florida Statutes, to read:

104 608.4382 Certificate of merger.--

105 (3) A domestic limited liability company is not required
 106 to file a certificate of merger pursuant to subsection (1) if
 107 the domestic limited liability company is named as a party or
 108 constituent organization in articles of merger or a certificate
 109 of merger filed for the same merger in accordance with s.
 110 607.1109(1), s. 617.1108, s. 620.2108(1) and (2), or s.
 111 620.8918(1) and (2), and if the articles of merger or
 112 certificate of merger substantially complies with the

113 requirements of this section. In such a case, the other articles
 114 of merger or certificate of merger may also be used for purposes
 115 of subsection (2).

116 Section 5. Subsection (1) and paragraph (a) of subsection
 117 (2) of section 608.439, Florida Statutes, are amended to read:

118 608.439 Conversion of certain entities to a limited
 119 liability company.--

120 (1) As used in this section, the term "other business
 121 entity" or "another business entity" means a corporation; a
 122 common law or business trust or association; a real estate
 123 investment trust; a general partnership, including a limited
 124 liability partnership; a limited partnership, including a
 125 limited liability limited partnership; or any other domestic or
 126 foreign entity that is organized under a governing law or other
 127 applicable law, provided such term shall not include a domestic
 128 limited liability company.

129 (2) Any other business entity may convert to a domestic
 130 limited liability company if the conversion is permitted by the
 131 laws of the jurisdiction that enacted the statute or other
 132 applicable law governing the other business entity and the other
 133 business entity complies with such laws and the requirements of
 134 this section in effecting the conversion. The other business
 135 entity shall file with the Department of State in accordance
 136 with s. 608.4081:

137 (a) A certificate of conversion that has been executed by
 138 one or more authorized persons in accordance with s. 608.408,
 139 and by the other business entity as required by applicable law.

140 Section 6. Subsection (3) is added to section 608.4403,

141 Florida Statutes, to read:

142 608.4403 Certificate of conversion.--

143 (3) A converting limited liability company is not required
 144 to file a certificate of conversion pursuant to subsection (1)
 145 if the converting limited liability company files a certificate
 146 of conversion that substantially complies with the requirements
 147 of this section pursuant to s. 607.1115, s. 620.2104(1)(b), or
 148 s. 620.8914(1)(b) and contains the signatures required by this
 149 chapter. In such a case, the other certificate of conversion may
 150 also be used for purposes of subsection (2).

151 Section 7. Section 617.1108, Florida Statutes, is amended
 152 to read:

153 617.1108 Merger of domestic corporation and other business
 154 entities.--

155 (1) Subject to s. 617.0302(16) and other applicable
 156 provisions of this chapter, ss. 607.1108, 607.1109, and
 157 607.11101 shall apply to a merger involving a corporation not
 158 for profit organized under this act and one or more other
 159 business entities identified in s. 607.1108(1).

160 (2) A domestic corporation not for profit organized under
 161 this chapter is not required to file articles of merger pursuant
 162 to this section if the corporation not for profit is named as a
 163 party or constituent organization in articles of merger or a
 164 certificate of merger filed for the same merger in accordance
 165 with s. 607.1109, s. 608.4382(1), s. 620.2108(1) and (2), or s.
 166 620.8918(1) and (2). In such a case, the other articles of
 167 merger or certificate of merger may also be used for purposes of
 168 subsection (3).

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169 (3) A copy of the articles of merger or certificate of
170 merger, certified by the Department of State, may be filed in
171 the office of the official who is the recording officer of each
172 county in this state in which real property of a party to the
173 merger, other than the surviving entity, is situated.

174 Section 8. Subsections (3), (4), and (5) of section
175 620.1406, Florida Statutes, are amended to read:

176 620.1406 Management rights of general partner; approval
177 rights of other partners.--

178 (3) In addition to the approval of the general partners
179 required by subsections (1) and (2), the approval of all limited
180 partners shall also be required in order to take any of the
181 actions under subsection (1) or subsection (2) with the
182 exception of a transaction described in paragraph (1)(e), a
183 transaction described in paragraph (1)(h), or a transaction
184 described in paragraph (1)(i).

185 (4) The approval of a plan of conversion under s. 620.2103
186 or a plan of merger under s. 620.2107 shall also require the
187 consent of the limited partners in the manner described therein.

188 (5) The expulsion of a limited partner described in
189 paragraph (1)(e) shall also require the consent of all of the
190 other limited partners. A transaction described in paragraph
191 (1)(i) shall also require approval of limited partners owning a
192 majority of the rights to receive distributions as limited
193 partners at the time the consent is to be effective.

194 Section 9. Subsection (1) of section 620.2104, Florida
195 Statutes, is amended to read:

196 620.2104 Filings required for conversion; effective

197 date.--

198 (1) After a plan of conversion is approved:

199 (a) A converting limited partnership shall deliver to the

200 Department of State for filing a certificate of conversion,

201 signed by each general partner listed in the certificate of

202 limited partnership, and must include:

203 1. A statement that the limited partnership has been

204 converted into another organization.

205 2. The name and form of the organization and the

206 jurisdiction of its governing law.

207 3. The date the conversion is effective under the

208 governing law of the converted organization.

209 4. A statement that the conversion was approved as

210 required by this act.

211 5. A statement that the conversion was approved as

212 required by the governing law of the converted organization.

213 6. If the converted organization is a foreign organization

214 not authorized to transact business in this state, the street

215 and mailing address of an office which the Department of State

216 may use for the purposes of s. 620.2105(3).

217 (b) If the converting organization is not a converting

218 limited partnership, the converting organization shall deliver

219 to the Department of State for filing:

220 1. A certificate of limited partnership containing the

221 information required by s. 620.1201, signed by each general

222 partner as required by s. 620.1204(1)(a).

223 2. A certificate of conversion, signed by each general

224 partner listed in the certificate of limited partnership

225 submitted in accordance with subparagraph 1. and by the
 226 converting organization as required by applicable law, which
 227 certificate of conversion must include:

228 a. A statement that the limited partnership was converted
 229 from another organization.

230 b. The name and form of the converting organization and
 231 the jurisdiction of its governing law.

232 c. A statement that the conversion was approved as
 233 required by this act.

234 d. A statement that the conversion was approved in a
 235 manner that complied with the converting organization's
 236 governing law.

237 (c) A converting limited partnership is not required to
 238 file a certificate of conversion pursuant to paragraph (a) if
 239 the converting limited partnership files a certificate of
 240 conversion that substantially complies with the requirements of
 241 this section pursuant to s. 607.1115, s. 608.439, or s.
 242 620.8914(1)(b) and contains the signatures required by this
 243 chapter. In such a case, the other certificate of conversion may
 244 also be used for purposes of s. 620.2105(4).

245 Section 10. Subsection (3) of section 620.8918, Florida
 246 Statutes, is amended to read:

247 620.8918 Filings required for merger; effective date.--

248 (3) Each constituent partnership shall deliver to the
 249 Department of State for filing a statement of registration in
 250 accordance with s. 620.8105, if such statement was not
 251 previously filed, and a certificate of merger in accordance with
 252 s. 620.8105, unless the constituent limited partnership is named

253 as a party or constituent organization in articles of merger or
 254 a certificate of merger filed for the same merger in accordance
 255 with s. 607.1109(1), s. 608.4382(1), s. 617.1108, or subsections
 256 (1) and (2), and such articles of merger or certificate of
 257 merger substantially complies with the requirements of this
 258 section. In such a case, the other articles of merger or
 259 certificate of merger may also be used for purposes of s.
 260 620.2109(3).

261 Section 11. Paragraph (c) of subsection (3) of section
 262 620.2204, Florida Statutes, is amended to read:

263 620.2204 Application to existing relationships.--

264 (3) With respect to a limited partnership formed before
 265 January 1, 2006, the following rules apply except as the
 266 partners otherwise elect in the manner provided in the
 267 partnership agreement or by law for amending the partnership
 268 agreement:

269 (c) The provisions of ss. 620.1601 and 620.1602 do not
 270 apply and a limited partner has the same right and power to
 271 dissociate from the limited partnership, with the same
 272 consequences, as existed immediately before January 1, 2006 ~~July~~
 273 ~~1, 2005~~.

274 Section 12. Subsection (15) of section 620.8101, Florida
 275 Statutes, is amended to read:

276 620.8101 Definitions.--As used in this act, the term:

277 (15) "Statement" means a statement of partnership
 278 authority under s. 620.8303, a statement of denial under s.
 279 620.8304, a statement of dissociation under s. 620.8704, a
 280 statement of dissolution under s. 620.8805, ~~a statement of~~

281 ~~merger under s. 620.8918,~~ a statement of qualification under s.
 282 620.9001, a statement of foreign qualification under s.
 283 620.9102, or an amendment or cancellation of any of the
 284 foregoing.

285 Section 13. Subsection (4) of section 620.8105, Florida
 286 Statutes, is amended to read:

287 620.8105 Execution, filing, and recording of partnership
 288 registration and other statements.--

289 (4) Except as provided in s. 620.8304 or s. 620.8704, a
 290 statement or a certificate of conversion or certificate of
 291 merger may be filed with the Department of State only if the
 292 partnership has filed a registration statement pursuant to
 293 subsection (1). If otherwise sufficient, a certified copy of a
 294 statement that is filed in a jurisdiction other than this state
 295 may be filed with the Department of State in lieu of an original
 296 statement. Any such filing has the effect provided in this act
 297 with respect to partnership property located in, or transactions
 298 that occur in, this state.

299 Section 14. Paragraph (i) of subsection (1) of section
 300 620.81055, Florida Statutes, is amended to read:

301 620.81055 Fees for filing documents and issuing
 302 certificates; powers of the Department of State.--

303 (1) The Department of State shall collect the following
 304 fees when documents authorized by this act are delivered to the
 305 Department of State for filing:

306 (i) Certificate Statement of merger for each party
 307 thereto: \$25.

308 Section 15. Subsection (7) of section 620.8911, Florida

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309 Statutes, is amended to read:

310 620.8911 Definitions.--As used in this section and ss.

311 620.8912-620.8923:

312 (7) "Organization" means a corporation; general
 313 partnership, including a limited liability partnership; limited
 314 partnership, including a limited liability limited partnership;
 315 limited liability company; common law or business trust or
 316 association; real estate investment trust; or any other person
 317 organized under a governing law or other applicable law,
 318 provided such term shall not include an organization that is not
 319 organized for profit, unless the not-for-profit organization is
 320 the converted organization in a conversion or the surviving
 321 organization in ~~a conversion or~~ a merger governed by this act.
 322 The term includes both domestic and foreign organizations.

323 Section 16. Section 620.8914, Florida Statutes, is amended
 324 to read:

325 620.8914 Filings required for conversion; effective
 326 date.--

327 (1) After a plan of conversion is approved:

328 (a) A converting partnership shall deliver to the
 329 Department of State for filing a ~~statement of~~ registration
 330 statement in accordance with s. 620.8105, if such statement was
 331 not previously filed, and a certificate of conversion, in
 332 accordance with s. 620.8105, which must include:

333 1. A statement that the partnership has been converted
 334 into another organization.

335 2. The name and form of the organization and the
 336 jurisdiction of its governing law.

337 3. The date the conversion is effective under the
338 governing law of the converted organization.

339 4. A statement that the conversion was approved as
340 required by this act.

341 5. A statement that the conversion was approved as
342 required by the governing law of the converted organization.

343 6. If the converted organization is a foreign organization
344 not authorized to transact business in this state, the street
345 and mailing address of an office which the Department of State
346 may use for the purposes of s. 620.8915(3).

347 (b) In the case of a converting organization converting
348 into a partnership to be governed by this act, the converting
349 organization shall deliver to the Department of State for
350 filing:

351 1. A ~~certificate of registration~~ statement in accordance
352 with s. 620.8105.

353 2. A certificate of conversion, in accordance with s.
354 620.8105, signed by a general partner of the partnership in
355 accordance with s. 620.8105(6) and by the converting
356 organization as required by applicable law, which certificate of
357 conversion must include:

358 a. A statement that the partnership was converted from
359 another organization.

360 b. The name and form of the converting organization and
361 the jurisdiction of its governing law.

362 c. A statement that the conversion was approved as
363 required by this act.

364 d. A statement that the conversion was approved in a

365 manner that complied with the converting organization's
 366 governing law.

367 e. The effective time of the conversion, if other than the
 368 time of the filing of the certificate ~~statement~~ of conversion.

369
 370 A converting partnership is not required to file a certificate
 371 of conversion pursuant to paragraph (a) if the converting
 372 partnership files a certificate of conversion that substantially
 373 complies with the requirements of this section pursuant to s.
 374 607.1115, s. 608.439, or s. 620.2104(1)(b) and contains the
 375 signatures required by this chapter. In such a case, the other
 376 certificate of conversion may also be used for purposes of s.
 377 620.8915(4).

378 (2) A conversion becomes effective:

379 (a) If the converted organization is a partnership, at the
 380 time specified in ~~the plan of conversion or~~ the certificate of
 381 conversion, which may be as of or after the time of the filing
 382 of the certificate of conversion, and, if the certificate of
 383 conversion does not contain such an effective time, the
 384 effective time shall be upon the filing of the certificate of
 385 conversion with the Department of State. However, provided, if
 386 the certificate has a delayed effective date, the certificate
 387 may not be effective any later than the 90th day after the date
 388 it was filed and ~~provided further,~~ the effective date may ~~shall~~
 389 not be any earlier than the effective date of the ~~statement of~~
 390 registration statement filed with the Department of State for
 391 the partnership in accordance with s. 620.8105.

392 (b) If the converted organization is not a partnership, as

393 provided by the governing law of the converted organization.

394
 395 A certificate of conversion acts as a cancellation of any
 396 registration statement for a converting partnership for purposes
 397 of s. 620.8105, and the cancellation shall be deemed filed upon
 398 the effective date of the conversion.

399 Section 17. Subsections (3), (4), and (5) of section
 400 620.8918, Florida Statutes, are amended to read:

401 620.8918 Filings required for merger; effective date.--

402 (3) Each constituent partnership shall deliver the
 403 certificate of merger for filing with ~~to~~ the Department of
 404 State, unless the constituent partnership is named as a party or
 405 constituent organization in articles of merger or a certificate
 406 of merger filed for the same merger in accordance with s.
 407 607.1109(1), s. 608.4382(1), s. 617.1108, or s. 620.2108(1) and
 408 (2). The articles of merger or certificate of merger must
 409 substantially comply with the requirements of this section. In
 410 such a case, the other articles of merger or certificate of
 411 merger may also be used for purposes of s. 620.8919(3). Each
 412 constituent partnership in the merger shall also file a
 413 registration statement in accordance with s. 620.8105(1) if it
 414 does not have a currently effective registration statement filed
 415 with the Department of State. ~~for filing a statement of~~
 416 ~~registration in accordance with s. 620.8105, if such statement~~
 417 ~~was not previously filed, and a certificate of merger in~~
 418 ~~accordance with s. 620.8105.~~

419 (4) A merger becomes effective under this act:

420 (a) If the surviving organization is a partnership, at the

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421 time specified in ~~the plan of merger or~~ the certificate of
422 merger, which may be as of or after the time of the filing of
423 the certificate of merger, and, if the certificate of merger
424 does not contain such an effective time, the effective time
425 shall be upon the filing of the certificate ~~statement~~ of merger
426 with the Department of State. However, ~~provided~~, if the
427 certificate has a delayed effective date, the certificate may
428 not be effective any later than the 90th day after the date it
429 was filed, and ~~provided further~~, the effective date may ~~shall~~
430 not be any earlier than the effective date of the ~~statement of~~
431 registration statement filed with the Department of State for
432 the partnership in accordance with s. 620.8105.

433 (b) If the surviving organization is not a partnership, as
434 provided by the governing law of the surviving organization.

435 (5) A certificate of merger acts ~~shall act~~ as a
436 cancellation of any ~~statement of~~ registration statement for
437 purposes of s. 620.8105 for a partnership that is a party to the
438 merger ~~that~~ is not the surviving organization, which
439 cancellation shall be deemed filed upon the effective date of
440 the merger.

441 Section 18. This act shall take effect July 1, 2008.