

[Alaska Stat. §§ 10.55.401 through 10.55.406, 10.55.901 through 10.55.902.]

§§ 10.55.401 through 10.55.406: Alaska Entity Transactions Act — Conversion

§ 10.55.401. Conversion authorized.

(a) Except as otherwise provided in this section, by complying with AS 10.55.401 — 10.55.406, a domestic entity may become

(1) a domestic entity of a different type; or

(2) a foreign entity of a different type, if the conversion is authorized by the law of the foreign jurisdiction.

(b) Except as otherwise provided in this section, by complying with the provisions of AS 10.55.401 — 10.55.406 applicable to foreign entities, a foreign entity may become a domestic entity of a different type if the conversion is authorized by the law of the foreign entity's jurisdiction of organization.

(c) Unless the provision is amended after July 1, 2014, 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.

§ 10.55.402. Plan of conversion.

(a) A domestic entity may convert to a different type of entity under AS 10.55.401 — 10.55.406 by approving a plan of conversion. The plan must be in a record and contain

(1) the name and type of the converting entity;

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

(3) the manner of converting the interests in the converting entity into interests, securities, obligations, rights to acquire interests or securities, cash, or other property, or any combination of interests, securities, obligations, rights to acquire interests or securities, cash, or other property;

(4) the proposed public organic document of the converted entity, if the converted entity 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) A plan of conversion may contain any other provision not prohibited by law.

§ 10.55.403. Approval of conversion.

(a) A plan of conversion is not effective unless it has been approved

(1) by a domestic converting entity

(A) in accordance with the requirements, if any, in the converted entity's organic rules for approval of a conversion;

(B) if the converted entity's organic rules do not provide for approval of a conversion, in accordance with the requirements, if any, in the converted entity's organic law and organic rules for approval of,

(i) in the case of an entity that is not a business corporation, a merger, as if the conversion 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 conversion were that type of merger; or

(C) if neither its organic law nor organic rules provide for approval of a conversion or a merger described in (B)(ii) of this paragraph, by all of the interest holders of the entity entitled to vote on or consent to any matter; and

(2) in a record, by each interest holder of a domestic converting entity that will have interest-holder liability for liabilities that arise after the conversion becomes effective, unless, in the case of an entity that is not a business or nonprofit corporation,

(A) the organic rules of the entity provide in a record for the approval of a conversion or a merger in which some or all of the entity's 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 voted for or consented in a record to that provision of the organic rules or became an interest holder after the adoption of that provision.

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

§ 10.55.404. Amendment or abandonment of plan of conversion.

(a) A plan of conversion of a domestic converting 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 the governors or interest holders of the entity in the manner provided in the plan; however, an interest holder that was entitled to vote on or consent to approval of the conversion 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, rights to acquire interests or securities, cash, or other property, or any combination of interests, securities, obligations, rights to acquire interests or securities, cash, or other property, to be received by any of the interest holders of the converting entity under the plan;

(B) the public organic document 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 by a domestic converting entity and before a statement of conversion becomes effective, the plan may be abandoned

(1) as provided in the plan; or

(2) unless prohibited by 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 filed with the department and before the filing becomes effective, a statement of abandonment, signed on behalf of the entity, must be filed with the department before the time 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; and

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

§ 10.55.405. Statement of conversion; effective date.

(a) A statement of conversion shall be signed on behalf of the converting entity and filed with the department.

(b) A statement of conversion must contain

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

- (2) the name, jurisdiction of organization, and type 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 90 days after the date of filing;
 - (4) if the converting entity is a
 - (A) domestic entity, a statement that the plan of conversion was approved in accordance with AS 10.55.401 — 10.55.406; or
 - (B) foreign entity, a statement that the conversion was approved by the foreign converting entity in accordance with the law of its jurisdiction of organization;
 - (5) if the converted entity is a domestic filing entity, the text of the converted entity's public organic document, as an attachment;
 - (6) if the converted entity is a domestic limited liability partnership, the text of the converted entity's statement of qualification, as an attachment; and
 - (7) if the converted entity is a foreign entity that is not a qualified foreign entity, a mailing address to which the department may send any process served on the commissioner under AS 10.55.406(e).
- (c) In addition to the requirements of (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, the converted entity's public organic document, if any, must satisfy the requirements of the law of this state, except that it 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 document.
- (e) A plan of conversion that is signed on behalf of a domestic converting entity and meets all of the requirements of (b) of this section may be filed with the department instead of a statement of conversion and, on filing, has the same effect as a statement of conversion. 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 becomes effective on the date and time of filing or the later date and time specified in the statement of conversion under (b)(3) of this section.

§ 10.55.406. 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 assignment, reversion, or impairment;

- (3) all liabilities of the converting entity continue as liabilities of the converted entity;
- (4) except as provided by law other than this chapter 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, the converted entity's public organic document is effective and is binding on its interest holders;
- (7) if the converted entity is a limited liability partnership, the converted entity's statement of qualification is effective simultaneously;
- (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 are binding on and enforceable by
- (A) the converted entity's interest holders; and
 - (B) in the case of a converted entity that is not a business corporation or nonprofit corporation, any other person that is a party to an agreement that is part of the entity's private organic rules; 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 dissenters' rights they have under AS 10.55.109 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 otherwise 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 that becomes subject to interest-holder liability with respect to a domestic entity as a result of a conversion has interest-holder liability only to the extent provided by the organic law of the entity and only for those liabilities that arise after the conversion becomes effective.
- (d) When a conversion becomes effective,
- (1) the conversion does not discharge any interest-holder liability under the organic law of a domestic converting entity to the extent the interest-holder liability arose before the conversion became effective;
 - (2) a person does not have interest-holder liability under the organic law of a domestic converting entity for any 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 (1) of this subsection as if the conversion had not occurred; and

(4) a person has whatever rights of contribution from any other person as are provided by the organic law or organic rules of the domestic converting entity with respect to any interest-holder liability preserved under (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

(1) may be served with process in this state for the collection and enforcement of any of the foreign entity's liabilities; and

(2) appoints the commissioner as the foreign entity's agent for service of process for collecting or enforcing those liabilities.

(f) If the converting entity is a qualified foreign entity, the certificate of authority or other foreign qualification of the converting entity is cancelled 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.

§ 10.55.901. Definitions.

In this chapter,

(1) "acquired entity" means the entity, all of one or more classes or series of interests in which are acquired in an interest exchange;

(2) "acquiring entity" means the entity that acquires all of one or more classes or series of interests of the acquired entity in an interest exchange;

(3) "approve" means, in the case of an entity, for its governors and interest holders to take whatever steps are necessary under its organic rules, organic law, and other law to

(A) propose a transaction subject to this chapter;

(B) adopt and approve the terms and conditions of the transaction; and

(C) conduct any required proceedings or otherwise obtain any required votes or consents of the governors or interest holders;

(4) "business corporation" means a corporation whose internal affairs are governed by AS 10.06;

(5) "commissioner" means the commissioner of commerce, community, and economic development;

(6) "conversion" means a transaction authorized by AS 10.55.401 — 10.55.406;

(7) "converted entity" means the converting entity as it continues in existence after a conversion;

(8) "converting entity" means the domestic entity that approves a plan of conversion under AS 10.55.403 or the foreign entity that approves a conversion under the law of its jurisdiction of organization;

(9) "department" means the Department of Commerce, Community, and Economic Development;

(10) "domesticated entity" means the domesticating entity as it continues in existence after a domestication;

(11) "domesticating entity" means the domestic entity that approves a plan of domestication under AS 10.55.503 or the foreign entity that approves a domestication under the law of its jurisdiction of organization;

(12) "domestication" means a transaction authorized by AS 10.55.501 — 10.55.506;

(13) "domestic entity" means an entity whose internal affairs are governed by the law of this state;

(14) "entity" means

(A) a business corporation;

(B) a nonprofit corporation;

(C) a general partnership, including a limited liability partnership;

(D) a limited partnership, including a limited liability limited partnership;

(E) a limited liability company;

(F) a business trust or statutory trust entity;

(G) an unincorporated nonprofit association;

(H) a cooperative; or

(I) any other person that has a separate legal existence or has the power to acquire an interest in real property in its own name, other than

(i) an individual;

(ii) a testamentary, inter vivos, or charitable trust, with the exception of a trust that carries on a business;

(iii) an association or relationship that is not a partnership solely by reason of AS 32.06.202(c) (Uniform Partnership Act) or a similar provision of the law of any other jurisdiction;

(iv) a decedent's estate; or

(v) a government, a governmental subdivision, agency, or instrumentality, or a quasi-governmental instrumentality;

(15) "filing entity" means an entity that is created by the filing of a public organic document;

(16) "foreign entity" means an entity other than a domestic entity;

(17) "governance interest" means the right under the organic law or organic rules of an entity, other than as a governor, agent, assignee, or proxy, to

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

(B) vote for the election of the governors of the entity; or

(C) receive notice of or vote on any or all issues involving the internal affairs of the entity;

(18) "governor" means a person by or under whose authority the powers of an entity are exercised and under whose direction the business and affairs of the entity are managed under the organic law and organic rules of the entity;

(19) "interest" means

(A) a governance interest in an unincorporated entity;

(B) a transferable interest in an unincorporated entity; or

(C) a share or membership in a corporation;

(20) "interest exchange" means a transaction authorized by AS 10.55.301 — 10.55.306;

(21) "interest holder" means a direct holder of an interest;

(22) "interest-holder liability" means

(A) personal liability for a liability of an entity that is imposed on a person

(i) solely by reason of the status of the person as an interest holder; or

(ii) by the organic rules of the entity under a provision of the organic law authorizing the organic rules to make one or more specified interest holders or categories of interest holders liable in their capacity as interest holders for all or specified liabilities of the entity; or

(B) an obligation of an interest holder under the organic rules of an entity to contribute to the entity;

(23) "jurisdiction of organization" of an entity means the jurisdiction whose law includes the organic law of the entity;

(24) "liability" means a debt, obligation, or any other liability arising in any manner, regardless of whether it is secured or whether it is contingent;

(25) "merger" means a transaction in which two or more merging entities are combined into a surviving entity under a filing with the department;

(26) "merging entity" means an entity that is a party to a merger and exists immediately before the merger becomes effective;

(27) "nonprofit corporation" means a corporation whose internal affairs are governed by AS 10.20 (Alaska Nonprofit Corporation Act);

(28) "organic law" means the statutes, if any, other than this chapter, governing the internal affairs of an entity;

(29) "organic rules" means the public organic document and private organic rules of an entity;

(30) "person" means an individual, corporation, estate, trust, partnership, limited liability company, business or similar trust, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity;

(31) "plan" means a plan of merger, interest exchange, conversion, or domestication;

(32) "private organic rules" means the rules, whether or not in a record, that govern the internal affairs of an entity, are binding on all of its interest holders, and are not part of its public organic document, if any;

(33) "protected agreement" means

(A) a record evidencing indebtedness and any related agreement in effect on July 1, 2014;

(B) an agreement that is binding on an entity on July 1, 2014;

(C) the organic rules of an entity in effect on July 1, 2014; or

(D) an agreement that is binding on any of the governors or interest holders of an entity on July 1, 2014;

(34) "public organic document" means the public record, the filing of which creates an entity, and any amendment to or restatement of that record;

(35) "qualified foreign entity" means a foreign entity that is authorized to transact business in this state under a filing with the department;

(36) "record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;

(37) "sign" means, with present intent to authenticate or adopt a record,

(A) to execute or adopt a tangible symbol; or

(B) to attach to or logically associate with the record an electronic sound, symbol, or process;

(38) "surviving entity" means the entity that continues in existence after or is created by a merger;

(39) "transferable interest" means the right under an entity's organic law to receive distributions from the entity;

(40) "type," with regard to an entity, means a generic form of entity

(A) recognized at common law; or

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

[§ 10.55.902. Short title.](#)

This chapter may be cited as the Alaska Entity Transactions Act.