

[D.C. Code §§ 29-201.01 through 29-201.09.]

§§ 29-201.01 through 201.09: Entity Transactions Act of 2010 – General Provisions

§ 29-201.01. Short title.

This chapter may be cited as the “Entity Transactions Act of 2010”.

§ 29-201.02. Definitions.

For the purpose of this chapter, the term:

- (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) “Conversion” means a transaction authorized by subchapter IV of this chapter.
- (5) “Converted entity” means the converting entity as it continues in existence after a conversion.
- (6) “Converting entity” means the domestic entity that approves a plan of conversion pursuant to § 29-204.03 or the foreign entity that approves a conversion pursuant to the law of its jurisdiction of formation.
- (7) “Domestic entity” means an entity whose internal affairs are governed by the law of the District.
- (8) “Domesticated entity” means the domesticating entity as it continues in existence after a domestication.
- (9) “Domesticating entity” means the domestic entity that approves a plan of domestication pursuant to § 29-205.03 or the foreign entity that approves a domestication pursuant to the law of its jurisdiction of formation.
- (10) “Domestication” means a transaction authorized by subchapter V of this chapter.

- (11) “Interest exchange” means a transaction authorized by subchapter III of this chapter.
- (12) “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 pursuant to 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.
- (13) “Merger” means a transaction in which 2 or more merging entities are combined into a surviving entity pursuant to a filing with the Mayor.
- (14) “Merging entity” means an entity that is a party to a merger and exists immediately before the merger becomes effective.
- (15) “Plan” means a plan of merger, interest exchange, conversion, or domestication.
- (16) “Plan of conversion” means a plan under § 29-204.02.
- (17) “Plan of domestication” means a plan under § 29-205.02.
- (18) “Plan of interest exchange” means a plan under § 29-203.02.
- (19) “Plan of merger” means a plan under § 29-202.02.
- (20) “Protected agreement” means:
- (A) A record evidencing indebtedness and any related agreement in effect on the effective date of this chapter;
- (B) An agreement that is binding on an entity on the effective date of this chapter;
- (C) The organic rules of an entity in effect on the effective date of this chapter; or
- (D) An agreement that is binding on any of the governors or interest holders of an entity on the effective date of this chapter.
- (21) “Statement of conversion” means a statement under § 29-204.05.
- (22) “Statement of domestication” means a statement under § 29-205.05.
- (23) “Statement of interest exchange” means a statement under § 29-203.05.

(24) “Statement of merger” means a statement under § 29-202.05.

(25) “Surviving entity” means the entity that continues in existence after, or is created by, a merger under subchapter 2 of this chapter.

§ 29-201.03. Relationship of chapter to other laws.

(a) Unless displaced by particular provisions of this chapter, the principles of law and equity supplement this chapter.

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

(c) A transaction effected under this chapter shall not create or impair any right or obligation on the part of a person under a provision of the law of the District other than this chapter relating to a change in control, takeover, business combination, control-share acquisition, or similar transaction involving a domestic merging, acquired, converting, or domesticating corporation unless:

(1) If the corporation does not survive the transaction, the transaction satisfies any requirements of the provision; or

(2) If the corporation survives the transaction, the approval of the plan is by a vote of the shareholders or directors which would be sufficient to create or impair the right or obligation directly under the provision.

§ 29-201.04. Required notice or approval.

(a) A domestic or foreign entity that is required to give notice to, or obtain the approval of, a governmental agency or District Government Official to be a party to a merger shall give the notice, or obtain the approval, to be a party to an interest exchange, conversion, or domestication.

(b) Property held for a charitable purpose under the law of the District by a domestic or foreign entity immediately before a transaction under this chapter becomes effective shall not, as a result of the transaction, be diverted from the objects for which it was donated, granted, devised, or otherwise transferred, unless, to the extent required by or pursuant to the law of the District concerning cy pres or other law dealing with nondiversion of charitable assets, the entity obtains an appropriate order of the Superior Court specifying the disposition of the property.

(c) A bequest, devise, gift, grant, or promise contained in a will or other instrument of donation, subscription, or conveyance that is made to a merging entity that is not the surviving entity and that takes effect or remains payable after the merger inures to the surviving entity. A trust obligation that would govern property if transferred to the nonsurviving entity applies to property that is transferred to the surviving entity under this section.

§ 29-201.05. Status of filings.

A filing under this chapter signed by a domestic entity shall become part of the public organic record of the entity if the entity's organic law provides that similar filings under that law become part of the public organic record of the entity.

§ 29-201.06. Nonexclusivity.

The fact that a transaction under this chapter produces a certain result shall not preclude the same result from being accomplished in any other manner permitted by law other than this chapter.

§ 29-201.07. Reference to external facts.

A plan may refer to facts ascertainable outside of the plan if the manner in which the facts will operate upon the plan is specified in the plan. The facts may include the occurrence of an event or a determination or action by a person, whether or not the event, determination, or action is within the control of a party to the transaction.

§ 29-201.08. Alternative means of approval of transactions.

Except as otherwise provided in the organic law or organic rules of a domestic entity, approval of a transaction under this chapter by the unanimous vote or consent of its interest holders shall satisfy this chapter for approval of the transaction.

§ 29-201.09. Appraisal rights.

(a) An interest holder of a domestic merging, acquired, converting, or domesticating entity shall be entitled to appraisal rights in connection with the transaction if the interest holder would have been entitled to appraisal rights under the entity's organic law in connection with a merger in which the interest of the interest holder was changed, converted, or exchanged unless:

- (1) The organic law permits the organic rules to limit the availability of appraisal rights; and
- (2) The organic rules provide such limit.

(b) An interest holder of a domestic merging, acquired, converting, or domesticating entity shall be entitled to contractual appraisal rights in connection with a transaction under this chapter to the extent provided:

- (1) In the entity's organic rules;
- (2) In the plan; or
- (3) In the case of a business corporation, by action of its governors.

(c) If an interest holder is entitled to contractual appraisal rights under subsection (b) of this section and the entity's organic law does not provide procedures for the conduct of an appraisal rights proceeding, subchapter

XI of Chapter 3 of this title shall apply to the extent practicable or as otherwise provided in the entity's organic rules or the plan.