Approved: 3/17/09
Date

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Lance Kinzer at 3:30 p.m. on March 3, 2009, in Room 143-N of the Capitol.

All members were present except:
Representative Annie Kuether- excused
Representative Joe Patton- excused
Representative Jeff King- excused
Representative Jason Watkins

Committee staff present:
Melissa Doeblin, Office of the Revisor of Statutes
Matt Sterling, Office of the Revisor of Statutes
Jill Wolters, Office of the Revisor of Statutes
Athena Andaya, Kansas Legislative Research Department
Jerry Donaldson, Kansas Legislative Research Department
Sue VonFeldt, Committee Assistant

Conferees appearing before the committee:
Representative Rardin
Whitney Damron, Kansas Bar Association
Mary Ralston, Chief, Driver Control Bureau, Division of Vehicles, Department of Revenue

Others attending:
See attached list.

The hearing on **HB 2266 - Service members; relating to civil relief, enacting the Kansas military service relief act** was opened.

Melissa Doeblin, Staff Revisor, presented the Committee with an overview of the bill.

Representative Rardin, appeared before the committee as a proponent. He stated this bill was designed to recognize the extraordinary contribution that members of the Kansas National Guard and Reservists make when called to duty. He explained many times they sustain major pay cuts for extended periods of time while on active duty status which can result in financial hardship. He asked that Section 12 on the last page be removed to allow this bill to only focus on members of the Kansas National Guard and Reservists. He also stated this bill was patterned after a State of Washington law. (Attachment 1)

Opponents: None

The hearing on **HB 2266** was closed.

The hearing on **SB 156 - Close corporations; increasing the limit on the number of stockholders in a close corporation** was opened.

Whitney Damron, on behalf of the Kansas Bar Association spoke as a proponent to the bill which increases the allowable number of members of a close corporation in K.S.A. 17-7207(b) from thirty to thirty-five. He further explained several years ago the Legislature adopted changes to the corporate code and this section was inadvertently overlooked during the drafting process. The change was made to K.S.A. 17-7202(a), but the change was not carried forward to 17-7207(b). This bill will cordinate the number of allowable members in a close corporation to other Kansas statutes and the U.S, Securities Act of 1933. (Attachment 2

Opponents: None

The hearing on **SB 156** was closed.

The hearing on **SB 158 - Allowing offenders in violation of a traffic citation to be issued a restricted driver's license** was opened.

Minutes of the House Judiciary Committee at 3:30 p.m. on March 3, 2009, in Room 143-N of the Capitol.

Melissa Doeblin, Staff Revisor, presented the Committee with an overview of the bill.

There were no proponents appearing before the Committee.

Proponent-Written Only

Roger Werholtz, Secretary, Kansas Department of Corrections , provided written testimony in support of this bill. (Attachment 3)

Judge Phil Journey, Wichita provided the Committee with written testimony in support of this bill as amended. (Attachment 4)

A joint letter of written testimony in support of the bill was received from the following Presiding Judges: Karen Arnold-Burger, Overland Park; Randy McGrath, Lawrence; Steve Ebberts, Topeka; Brenda Stoss, Salina; Jennifer Jones, Wichita; Maurice Ryan-Unified Government-Wyandotte County. (Attachment 5)

Mary Ralston, Chief, Driver Control Bureau, Division of Vehicles, Department of Revenue appeared as neutral on this bill and stated they could administer the bill in its current form. (Attachment 6) She stated that based upon a person's driving record, restricted driving privileges may not always be granted for the purpose set out in the bill, therefore she did request a balloon to amend the bill to clarify that the $25.00 application fee is "non refundable". (Attachment 7)

The hearing on **SB 158** was closed.

**SB 132-Enacting business entity transaction act.**

Melissa Doebin provided an overview of the bill and provided copies of Balloon 1 and explained the technical changes. (Attachment 8)

Representative Kleeb moved **SB 132** be passed favorably with amendments. Representative Brookens seconded the motion.

Representative Brookens asked about the change requested by Diane Minear, Assistant Secretary of State, on the day the bill was heard, which referred to Page 6, Section 10, Line 24 to add "insurance companies organized. After additional research, it was determined this change was not necessary.

Motion carried.

The next meeting is scheduled for March 4, 2009.

The meeting was adjourned at 4:10 p.m.

# JUDICIARY COMMITTEE GUEST LIST

DATE: March 3, 2009

| NAME | REPRESENTING |
|---|---|
| Marcy Balster | KDOR |
| Jennifer Hermann | KDOR-DMV |
| Kelley Bo[illegible] | KDOR-DMV |
| Whitney Damron | KS Bar Assn |
| John Bottenberg | JCB : Assoc. |
| Diane Minear | Sec. of State |
| Stephanie Mickelsen | Sec of State |
| Joseph Molina | KS Bar Assn. |
| MIKE Taylor | Unified Government |
| Lane Welsh | Judicial Branch |
| ERIK SARTORIUS | City of OVERLAND PARK |
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State of Kansas
House of Representatives

**Gene Rardin**
16TH DISTRICT
STATE CAPITOL
TOPEKA, KANSAS 66612
(785) 296-7698
rardin@house.state.ks.us

10900 W. 104TH STREET
OVERLAND PARK, KANSAS 66214
(913) 492-2253

# MEMORANDUM

**TO:** The Honorable Lance Kinzer, Chair
The Honorable Jeff Whitham, Vice Chair
The Honorable Jan Pauls, Ranking Minority
Members, House Committee on the Judiciary

**FROM:** Representative Gene Rardin
**DATE:** March 3, 2009
**RE:** HB ~~2292~~ 2266 – AN ACT Concerning Service Members Relating to Civil Relief and Enacting the Kansas Military Service Relief Act

I am offering this testimony in support of HB ~~2292~~ 2266

**Summary:**
This bill is designed to recognize the extraordinary contribution that members of the Kansas National Guard and Reserve make when called to duty. Many reservists sustain major pay cuts for extended periods of time, while on active duty status which can result in financial hardship.

In addition, Kansas National Guard members may be called to duty beyond 30 days by order of the Governor of the state.

This bill will provide protections for both Kansas Reservists and Kansas National Guardsmen.

House Judiciary
Date 3-3-09
Attachment # 1

**TESTIMONY**

**TO:** **The Honorable Lance Kinzer, Chair**
**And Members of the House Judiciary Committee**

**FROM:** **Whitney Damron**
**On Behalf of the Kansas Bar Association**

**RE:** **SB 156 - An Act concerning corporations; relating to close corporations.**

**DATE:** **March 3, 2009**

Good afternoon Chairman Kinzer and Members of the House Judiciary Committee.

I am Whitney Damron and I appear before you today on behalf of the Kansas Bar Association in support of SB 156, which increases the allowable numbers of members of a close corporation in K.S.A. 17-7207(b) from 30 to 35.

This matter was brought to our attention last year from the Corporation, Banking and Business Law section of the KBA.

Several years ago the Legislature adopted changes to our corporate code and this section was inadvertently overlooked during the drafting process. For example, the change was made in K.S.A. 17-7202(a), but the change was not carried forward to 17-7207(b). This amendment will coordinate the number of allowable members in a close corporation to other Kansas statutes and the U.S. Securities Act of 1933.

Attached to my remarks are copies of both of the above-referenced statutes.

By way of information to the Committee, a "close corporation" is defined in statute at K.S.A. 17-7202. Characteristics and limitations upon a close corporation include a limit upon the number of shareholders (no more than 35), the corporation cannot make a public offering for its stock and transfer of stock may be restricted under the articles of incorporation, by-laws or agreement.

On behalf of the Kansas Bar Association, I thank you for your consideration of this legislation and respectfully request your support for SB 156.

WBD

Attachments.

919 South Kansas Avenue ■ Topeka, Kansas 66612-121
(785) 354-1354 (O) ■ (785) 354-8092 (F) ■ (785) 224-66
www.wbdpa.com ■ wbdamron@aol.com

House Judiciary
Date 3-3-09
Attachment # 2

Kansas Legislature



## 17-7202

Chapter 17.--CORPORATIONS
Article 72.--CLOSE CORPORATIONS

**17-7202. Close corporation defined; contents of articles of incorporation; effect of joint held stock.** (a) A close corporation is a corporation organized under this act whose articles of incorporation contain the provisions required by K.S.A. 17-6002, and amendments thereto, and, in addition, provide that:

(1) All of the corporation's issued stock of all classes, exclusive of treasury shares, shall be held of record by not more than a specified number of persons, not exceeding 35; and

(2) All of the issued stock of all classes shall be subject to one or more of the restrictions on transfer permitted by K.S.A. 17-6426, and amendments thereto; and

(3) The corporation shall make no offering of any of its stock of any class which would constitute a "public offering" within the meaning of the United States securities act of 1933, as it may be amended from time to time.

(b) The articles of incorporation of a close corporation may set forth the qualifications of stockholders, either by specifying classes of persons who shall be entitled to be holders of record of stock of any class, or by specifying classes of persons who shall not be entitled to be holders of stock of any class, or both.

(c) For purposes of determining the number of holders of record of the stock of a close corporation, stock which is held in joint or common tenancy or by the entireties shall be treated as held by one stockholder.

**History:** L. 1972, ch. 52, § 126; L. 2004, ch. 143, § 77; Jan. 1, 2005.

## 17-7207

Chapter 17.--CORPORATIONS
Article 72.--CLOSE CORPORATIONS

**17-7207. Issuance or transfer of stock of close corporation in breach of restrictions or conditions thereon; effect; conclusive presumptions; transfer defined; applicability and effect of section.** (a) If stock of a close corporation is issued or transferred to any person who is not entitled under any provision of the articles of incorporation permitted by subsection (b) of K.S.A. 17-7202 to be a holder of record of stock of such corporation, and if the certificate for such stock conspicuously notes the qualifications of the persons entitled to be holders of record thereof, such person is conclusively presumed to have notice of the fact of his ineligibility to be a stockholder.

(b) If the articles of incorporation of a close corporation state the number of persons, not in excess of thirty (30), who are entitled to be holders of record of its stock, and if the certificate for such stock conspicuously states such number, and if the issuance or transfer of stock to any person would cause the stock to be held by more than such number of persons, the person to whom such stock is issued or transferred is conclusively presumed to have notice of this fact.

(c) If a stock certificate of any close corporation conspicuously notes the fact of a restriction on transfer of stock of the corporation, and the restriction is one which is permitted by K.S.A. 17-6426, the transferee of the stock is conclusively presumed to have notice of the fact that he has acquired stock in violation of the restriction, if such acquisition violates the restriction.

(d) Whenever any person to whom stock of a close corporation has been issued or transferred has, or is conclusively presumed under this section to have, notice either (1) that he is a person not eligible to be a holder of stock of the corporation, or (2) that transfer of stock to him would cause the stock of the corporation to be held by more than the number of persons permitted by its articles of incorporation to hold stock of the corporation, or (3) that the transfer of stock is in violation of a restriction on transfer of stock, the corporation, at its option, may refuse to register transfer of the stock into the name of the transferee.

(e) The provisions of subsection (d) shall not be applicable if the transfer of stock, even though otherwise contrary to subsection (a), (b) or (c), has been consented to by all the stockholders of the close corporation, or if the close corporation has amended its articles of incorporation in accordance with K.S.A. 17-7206.

(f) The term "transfer," as used in this section, is not limited to a transfer for value.

(g) The provisions of this section do not impair in any way any rights of a transferee regarding any right to rescind the transaction or to recover under any applicable warranty, express or implied.

**History:** L. 1972, ch. 52, § 131; July 1.

KANSAS
DEPARTMENT OF CORRECTIONS

Kathleen Sebelius, Governor
Roger Werholtz, Secretary

www.dc.state.ks.us

Testimony on SB 158
to
The House Judiciary Committee

By Roger Werholtz
Secretary
Kansas Department of Corrections
March 3, 2009

The Department of Corrections supports SB 158. SB 158 was unanimously passed by the Senate. SB 158 provides for a 1-year period for the payment of the fines and court costs imposed for traffic citations during which time, upon payment of a $25 application fee, the driver will have a restricted driver's license in lieu of a suspended license as is provided by current law.

Drivers with a restricted license may drive to and from employment or schooling; in the course of their employment; during a medical emergency; going to and from probation or parole meetings; drug or alcohol counseling; and the court may further set out other locations to which the driver may drive.

The department surveyed 579 offenders released during the four month time period between July and October 2008 and found that 47% had either a suspended or revoked Kansas driver's license; 20% had no record of a Kansas license; and 10% had an expired Kansas license. As part of release planning, the department attempts to facilitate releasees obtaining a license but only 18% of the releasees had a current Kansas license and 5% had a license from another state, at the time of their release.

The department knows from working with offenders preparing for release that a significant number of releasees owe fines and court costs for traffic offenses, which accumulate court costs and interest for nonpayment during the period of incarceration, on top of the original fine and court costs; and often result in detainers that adversely impact release planning. SB 158 would permit those releasees to pay their outstanding obligations over a period of a year while using a restricted driver's license to drive for employment, treatment and to meet with their parole officer. This is particularly important in areas of the state where public transportation is limited. Also this law would allow offenders to set up payment plans while incarcerated to begin addressing pending fines and fees prior to release.

The department urges favorable consideration of SB 158.

DEPARTMENT OF CORRECTIONS
900 S.W. Jackson Street; Topeka, KS 66612-1284 • (785) 296-3317 • F

House Judiciary
Date 3-3-09
Attachment # 3

# Phillip B. Journey

7079 S. Meridian
Haysville, KS 67060

Office: 316-660-5601 Home: 316-522-7566


**Testimony Before the**
**Kansas House of Representatives Judiciary Committee**
**In Support of Senate Bill 158 as Amended**
**Tuesday, March 3rd, 2009**

Mr. Chairman, members of the Committee, thank you very much for having a hearing and the opportunity to submit written testimony in support of Senate Bill 158. I would like to express my regret that I am unavailable for today's hearing.

Senate Bill 158 permits eligible individuals to enter into an agreement with the Division of Motor Vehicles. In return for a $25.00 fee the driver is issued a restricted license to operate a motor vehicle while their licenses are suspended, revoked, or canceled for failing to pay a traffic citation or to set that same citation for court. Under current law, the restrictions on the drivers' licenses are required to be printed conspicuously on the face of those licenses. Under SB 158, each driver has 1 year to complete all cases and payments. Upon compliance with the terms of the payment agreement, the driver's privilege to operate a motor vehicle in the State of Kansas is reinstated without restriction.

The genesis of Senate Bill 158, which amends K.S.A. 8-2110, came from the 3R Commission. One of the commission's tasks was to determine ways in which individuals in pre-release programs and post-release supervision programs such as the Department of Correction's (D.O.C.) Work Release Program could obtain driving privileges while they are still under D.O.C. supervision. The predicament many offenders find themselves in is that they do not simply get into trouble in one jurisdiction, but in many instances get into trouble in multiple jurisdictions. While they are placed into custody of the D. O. C. for felony convictions, misdemeanor traffic cases and traffic infractions do not get resolved. While they are in D. O. C. custody they are not able to inform the Department of Revenue of their new place of residence. Their licenses are suspended for their failure to appear on pending citations that they may have received immediately prior to their placement in custody. Upon being placed in alternative custodial programs, such as work release, they are unable to obtain a driver's license until their pending traffic cases are resolved and all fines, court costs,

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Date 3-3-09
Attachment # 4

and reinstatement fees are paid in full. Without the ability to get to and from the work release facility to their place of employment, they are unable to obtain the funds necessary to pay the traffic case(s).

In reviewing the Kansas Division of Budget report regarding 2009 session Senate Bill 158, I believe the 10% estimate for the 172,000 eligible drivers is reasonable for the 1st fiscal year. There will certainly be some lag in response to this opportunity. I believe that the delay may be reduced by dissemination of this option to the public by free media or Public Service Announcements. With increased public awareness, the likelihood of a positive cash flow improves. The fees for re-issuance of the restricted driver's licenses should generate sufficient funds to cover much of the cost. Should the Committee desire to reduce the potential of a negative net cost the contract fees could be adjusted. With the Department of Revenue Division of Motor Vehicles is preparing to bid a new contract for the new computer system, it is important that this Bill proceed as soon as possible. This is so the change in statute can be incorporated in the bidding process.

I believe that the cost of reprogramming the computer system would be offset by reduced incarceration costs for individuals who have failed to comply with their post-release requirements as they would be able to succeed during that post-release period in rebuilding their lives.

We could also offset a considerable amount of the expense by the $25.00 contract administration fee and perhaps by increasing reinstatement fees nominally. An additional charge of $10.00 per reinstatement would help pay for these modifications in the program. Savings that can not be quantified would most certainly occur in the reduction of new crimes that would have been committed should these individuals fail to complete the rehabilitation process of these pre-release programs.

Further enhancement of state revenue would accrue, though unquantifiable:

- By fines and court costs being collected that would otherwise have gone uncollected.
- By sustained or increased collections of income and sales taxes as individuals are able to maintain their economic viability in this difficult economy.
- By reduction of social service costs and reduction of criminal justice activity as these individuals are in compliance with the law.

Not only will the state of Kansas receive these financial benefits but so will Kansas Municipalities. If a driver is licensed to operate a motor vehicle they are more likely to maintain liability insurance.

Senate Bill 158 also gives Kansans the opportunity to dispute a citation when a failure to comply has occurred. The common fact pattern this is also intended to address is when someone's identity has been stolen and a third person has received a citation in the name of the Kansas driver. The Kansas driver does not receive a copy of the citation as they were not the person issued the citation. Their licenses are suspended,

and so they are forced to pay the citation and have it affect their driving record even when they did not commit the driving infraction, or they are required to take their case to trial and have their license suspended while waiting for that trial. Few courts in Kansas recognize that entry of a not guilty plea and requesting a trial could be interpreted as complying with the terms of the citation. An individual may have the opportunity to prove their innocence, and while their case is pending still be able to operate a motor vehicle to and from their place of employment. This legislation was modified from the original 3R's version to account for that circumstance. It has evolved and been improved in the process which has brought it to your committee. I am requesting that the committee recommend this bill favorably for passage to the Kansas House or Representatives.

Respectfully submitted,

Phillip B. Journey

**Senate Bill 158**
**Written Testimony Before the House Judiciary Committee**
**Karen Arnold-Burger, Presiding Judge, Overland Park Municipal Court**
**Maurice Ryan, Presiding Judge, Unified Government Wyandotte County**
**Randy McGrath, Presiding Judge, Lawrence Municipal Court**
**Steve Ebberts, Presiding Judge, Topeka Municipal Court**
**Brenda Stoss, Presiding Judge, Salina Municipal Court**
**Jennifer Jones, Presiding Judge, Wichita Municipal Court**

**March 3, 2009**

We are submitting this testimony in support of Senate Bill 158 as it is currently drafted. We currently preside over municipal courts in the state of Kansas.

SB 158 appears to require the local municipal or district court to issue a restricted license to anyone whose license has been suspended, revoked, or cancelled for failing to comply with a traffic citation if the person pays a $25 fee and "is eligible." Eligibility is not defined. If the person fails to comply in one year, his or her license will again be suspended. For one year the person is allowed to be non-compliant with court orders, including any sentence imposed, and still drive.

Operating a vehicle when one's privilege to do so is suspended is all too common in our cities and counties. Drivers are often suspended by several different courts for tickets they have received across the state. It often involves paying a significant amount of money in fines and reinstatement fees to regain the privilege to drive. Suspension of a driver's license for failure to comply with a citation is the single biggest hammer courts have in gaining compliance with court orders. Compliance does not just mean paying fines, but also appearing in court to answer the charge. To dilute this process will hinder a court's enforcement efforts. By not appearing to answer to a traffic ticket, an alleged offender is able to avoid having a conviction on his record that would increase his insurance or even cause additional periods of suspension. Under this bill, for a mere $25, a driver can avoid the consequences of his behavior for a year and continue to drive.

Although we are sympathetic to the concern that a person should be able to get back and forth to work to make money to take care of his or her tickets so full privileges can be reinstated, **we feel strongly that the motor vehicle division is the most appropriate entity to grant such privileges. Because of this, we offered an amendment in the Senate Judiciary Committee to clarify this issue. It can be found in Section 1(b)(2) on page 2 of the bill.**

The DMV is the central repository of driver history. A driver may be, and often is, suspended by multiple jurisdictions for not taking care of tickets, even though the tickets themselves may be minor in nature. What if an Overland Park judge provides the driver with a restricted license, but the person still has other suspensions from other cities or counties? The motor vehicle division is in the best position to have the "whole picture" and act accordingly. We have no objection to the motor vehicle division entering restriction orders, as it deems appropriate, to drivers who are oth

House Judiciary
Date 3-3-09
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they comply with their citations. We would continue to notify the division upon compliance in the same manner we do now.

It is our understanding that the impetus behind this bill may have been the department of corrections risk reduction strategy, a strategy we wholeheartedly support. In an effort to assist parolees and probationers in being successful and retaining employment, they must be able to drive. Their incarceration may have caused non-compliance with traffic tickets and therefore, license suspension. Maintaining employment once released, a key to success, is hindered by the suspension of their driving privileges for tickets received pre-incarceration that they do not yet have enough money to clear. If the division of vehicles were the "restricting" agency, it could adopt "eligibility" requirements that target the intended population of offenders, without regard to which courts in which part of the state are involved. We have no objection to such an approach.

We respectfully ask that the Committee take these issues into consideration when acting on SB 158.

5-2

KANSAS
DEPARTMENT OF REVENUE

Kathleen Sebelius, Governor
Joan Wagnon, Secretary

www.ksrevenue.org

TO: Chairman Lance Kinzer
Members of the House Judiciary Committee

FROM: Marcy Ralston
Chief, Driver Control Bureau, Division of Vehicles

DATE: March 3, 2009

RE: Senate Bill 158

Thank you Mr. Chairman and Members of the Committee. My name is Marcy Ralston and I serve as the Chief of the Driver Control Bureau, Division of Vehicles, Department of Revenue.

The Division of Vehicles is neutral in position of Senate Bill 158 and can administer the bill in its current form.

However, we would like to address a concern regarding the $25.00 application fee for restricted driving privileges. Based upon a person's driving history, restricted driving privileges may not always be granted for the purpose set out in the bill. As such, we believe it is necessary to clarify that the $25.00 application fee is "nonrefundable" and respectfully ask this amendment be made to the bill.

Thank you for the opportunity to speak on Senate Bill 158 and I stand for any questions.

DIVISION OF VEHICLES
DOCKING STATE OFFICE BUILDING, 915 SW HARRISON ST., TOPEKA
Voice 785-296-3601 Fax 785-291-3755 http://www.ksre

House Judiciary
Date 3-3-09
Attachment # 6

*[As Amended by Senate Committee of the Whole]*

*As Amended by Senate Committee*

*Session of 2009*

# SENATE BILL No. 158

By Committee on Judiciary

2-2

AN ACT concerning driver's licenses; relating to restrictions for certain persons; amending K.S.A. 2008 Supp. 8-2110 and repealing the existing section.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 2008 Supp. 8-2110 is hereby amended to read as follows: 8-2110. (a) Failure to comply with a traffic citation means failure either to (1) appear before any district or municipal court in response to a traffic citation and pay in full any fine and court costs imposed or (2) otherwise comply with a traffic citation as provided in K.S.A. 8-2118, and amendments thereto. Failure to comply with a traffic citation is a misdemeanor, regardless of the disposition of the charge for which such citation was originally issued.

(b) *(1)* In addition to penalties of law applicable under subsection (a), when a person fails to comply with a traffic citation, except for illegal parking, standing or stopping, the district or municipal court in which the person should have complied with the citation shall mail notice to the person that if the person does not appear in district or municipal court or pay all fines, court costs and any penalties within 30 days from the date of mailing notice, the division of vehicles will be notified to suspend the person's driving privileges. The district or municipal court may charge an additional fee of $5 for mailing such notice. Upon the person's failure to comply within such 30 days of mailing notice, the district or municipal court shall electronically notify the division of vehicles. Upon receipt of a report of a failure to comply with a traffic citation under this subsection, pursuant to K.S.A. 8-255, and amendments thereto, the division of vehicles shall notify the violator and suspend the license of the violator until satisfactory evidence of compliance with the terms of the traffic citation has been furnished to the informing court. When the court determines the person has complied with the terms of the traffic citation, the court shall immediately electronically notify the division of vehicles of such compliance. Upon receipt of notification of such compliance from the

informing court, the division of vehicles shall terminate the suspension or suspension action.

*(2) In lieu of suspension under paragraph (1), the driver may submit* ***to the division of vehicles*** *a written request, with a $25 application fee,* ~~*for restricted driving privileges*~~ ***[to be applied by the division of vehicles for additional administrative costs to implement restrictive driving privileges]****. Upon review and approval of the driver's eligibility, the driving privileges will be restricted* ~~*pursuant to K.S.A. 8-292, and amendments thereto,*~~ ***by the division of vehicles*** *for a period up to one year or until the terms of the traffic citation have been complied with and the court shall immediately electronically notify the division of vehicles of such compliance. If the driver fails to comply with the traffic citation within the one year restricted period, the driving privileges will be suspended* ***by the division of vehicles*** *until the court determines the person has complied with the terms of the traffic citation and the court shall immediately electronically notify the division of vehicles of such compliance. Upon receipt of notification of such compliance from the informing court, the division of vehicles shall terminate the suspension action.* ***When restricted driving privileges are approved pursuant to this section, the person's driving privileges shall be restricted to driving only under the following circumstances: (1) In going to or returning from the person's place of employment or schooling; (2) in the course of the person's employment; (3) during a medical emergency; (4) in going to and returning from probation or parole meetings, drug or alcohol counseling or any place the person is required to go by a court.*** *The provisions of this paragraph shall expire on January 1, 2012.*

(c) Except as provided in subsection (d), when the district or municipal court notifies the division of vehicles of a failure to comply with a traffic citation pursuant to subsection (b), the court shall assess a reinstatement fee of $59 for each charge on which the person failed to make satisfaction regardless of the disposition of the charge for which such citation was originally issued ***and regardless of any application for restricted driving privileges***. Such reinstatement fee shall be in addition to any fine, ***restricted license fee,*** district or municipal court costs and other penalties. The court shall remit all reinstatement fees to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury and shall credit 42.37% of such moneys to the division of vehicles operating fund, 31.78% to the community alcoholism and intoxication programs fund created by K.S.A. 41-1126, and amendments thereto, 10.59% to the juvenile detention facilities fund created by K.S.A. 79-4803, and amendments thereto, and 15.26% to the judicial branch nonjudicial salary adjustment

non-refundable

fund created by K.S.A. 2008 Supp. 20-1a15, and amendments thereto.

(d) The district court or municipal court shall waive the reinstatement fee provided for in subsection (c), if the failure to comply with a traffic citation was the result of such person enlisting in or being drafted into the armed services of the United States, being called into service as a member of a reserve component of the military service of the United States, or volunteering for such active duty, or being called into service as a member of the state of Kansas national guard, or volunteering for such active duty, and being absent from Kansas because of such military service. In any case of a failure to comply with a traffic citation which occurred on or after August 1, 1990, and prior to the effective date of this act, in which a person was assessed and paid a reinstatement fee and the person failed to comply with a traffic citation because the person was absent from Kansas because of any such military service, the reinstatement fee shall be reimbursed to such person upon application therefor. The state treasurer and the director of accounts and reports shall prescribe procedures for all such reimbursement payments and shall create appropriate accounts, make appropriate accounting entries and issue such appropriate vouchers and warrants as may be required to make such reimbursement payments.

(e) The reinstatement fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for such reinstatement. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee.

Sec. 2. K.S.A. 2008 Supp. 8-2110 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

*As Amended by Senate Committee*

*Session of 2009*

Balloon 1 - Technical

House Judiciary
Date 2-3-09
Attachment # 8

# SENATE BILL No. 132

By Committee on Judiciary

1-28

AN ACT enacting the business entity ~~transaction~~ transactions act; amending K.S.A. 17-7675, 17-7681, 56a-401, 56a-502, 56a-905, 56a-906, 56a-907 and 56a-908 and repealing the existing sections; also repealing K.S.A. 17-7684, 17-7685, ***17-7701, 17-7702, 17-7703, 17-7704, 17-7705, 17-7706, 17-7707, 17-7708, 17-7709,*** 56a-901, 56a-902, 56a-903 and 56a-904.

*Be it enacted by the Legislature of the State of Kansas:*

New Section 1. This act may be cited as the business entity transactions act.

New Sec. 2. As used in in this act:

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

(b) "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.

(c) "Agreement" means a plan or agreement of merger, interest exchange, conversion or domestication.

(d) "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:

(1) Propose a transaction subject to this act;

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

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

(e) "Conversion" means a transaction authorized by ~~article 4~~ sections 23 through 28, and amendments thereto

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

(g) "Converting entity" means the domestic entity that approves an agreement of conversion pursuant to section 25, and amendments thereto, or the foreign entity that approves a conversion pursuant to the law of its jurisdiction of organization.

(h) "Domestic entity" means an entity whose internal affairs are gov-

erned by the law of this state.

(i) "Domesticated entity" means the domesticating entity as it continues in existence after a domestication.

(j) "Domesticating entity" means the domestic entity that approves an agreement of domestication pursuant to section 31, and amendments thereto, or the foreign entity that approves a domestication pursuant to the law of its jurisdiction of organization.

(k) "Domestication" means a transaction authorized by ~~article 5~~ ***sections 29 through 34, and amendments thereto***

***(l) "Entity" means:***

***(1) A corporation;***

***(2) a general partnership, including a limited liability partnership;***

***(3) a limited partnership, including a limited liability limited partnership;***

***(4) a limited liability company;***

***(5) a business trust or statutory trust entity;***

***(6) a cooperative; or***

***(7) 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:***

***(A) An individual;***

***(B) a testamentary, inter vivos, or charitable trust, with the exception of a business trust, statutory trust entity or similar trust;***

***(C) an association or relationship that is not a partnership solely by reason of subsection (c) of K.S.A. 56a-202, and amendments thereto, or a similar provision of the law of any other jurisdiction;***

***(D) a decedent's estate; or***

***(E) a government, a governmental subdivision, agency, or instrumentality or a quasi-governmental instrumentality.***

~~(l)~~ ***(m)*** "Filing entity" means an entity that is created by the filing of a public organic document.

~~(m)~~ ***(n)*** "Foreign entity" means an entity whose internal affairs are governed by the laws of a jurisdiction other than this state.

~~(n)~~ ***(o)*** "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:

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

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

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

~~(o)~~ ***(p)*** "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 pursuant to the organic law and organic rules of the entity.

~~(p)~~ ***(q)*** "Interest" means:

(1) A governance interest in an unincorporated entity;

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

(3) a share or membership in a corporation.

~~(q)~~ ***(r)*** "Interest exchange" means a transaction authorized by ~~article 3~~ sections 17 through 22, and amendments thereto

~~(r)~~ ***(s)*** "Interest holder" means a direct holder of an interest.

~~(s)~~ ***(t)*** "Interest holder liability" means:

(1) Personal liability for a liability of an entity that is imposed on a person:

(A) Solely by reason of the status of the person as an interest holder; or

(B) 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

(2) an obligation of an interest holder under the organic rules of an entity to contribute to the entity.

~~(t)~~ ***(u)*** "Jurisdiction of organization" of an entity means the jurisdiction whose law includes the organic law of the entity.

~~(u)~~ ***(v)*** "Liability" means a debt, obligation or any other liability arising in any manner, regardless of whether it is secured or whether it is contingent.

~~(v)~~ ***(w)*** "Merger" means a transaction in which two or more merging entities are combined into a surviving entity pursuant to a filing with the secretary of state.

~~(w)~~ ***(x)*** "Merging entity" means an entity that is a party to a merger and exists immediately before the merger becomes effective.

~~(x)~~ ***(y)*** "Organic law" means the statutes, if any, other than this act, governing the internal affairs of an entity.

~~(y)~~ ***(z)*** "Organic rules" means the public organic document and private organic rules of an entity.

~~(z)~~ ***(aa)*** "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.

~~(aa)~~ ***(bb)*** "Private organic rules" mean 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.

~~(bb)~~ ***(cc)*** "Protected agreement" means:

ganic rules of a domestic entity, approval of a transaction under this act by the unanimous vote or consent of its interest holders satisfies the requirements of this act for approval of the transaction.

New Sec. 9. (a) An interest holder of a domestic merging, acquired, converting or domesticating entity is 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 a limit.

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

(1) In the entity's organic rules;

(2) in the agreement; or

(3) in the case of a corporation, by action of its governors.

(c) If an interest holder is entitled to contractual appraisal rights under subsection (b) and the entity's organic law does not provide procedures for the conduct of an appraisal rights proceeding, the general corporate code applies to the extent practicable or as otherwise provided in the entity's organic rules or the agreement.

New Sec. 10. The following entities may not participate in a transaction under this act:

(a) Entities regulated under chapter 40 of the Kansas Statutes Annotated;

(b) banks and trust companies organized under chapter 9 of the Kansas Statutes Annotated;

(c) credit unions organized under K.S.A. 17-2201 et seq., and amendments thereto; and

(d) professional corporations formed under the Kansas professional corporation law or limited liability companies organized under the Kansas revised limited liability company act to render a professional service, as defined at K.S.A. 17-2707, and amendments thereto.

New Sec. 11. (a) Except as otherwise provided in this section, by complying with ~~this article~~ sections 11 through 16, and amendments thereto;

(1) One or more domestic entities may merge with one or more domestic or foreign entities into a domestic or foreign surviving entity; and

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

(b) Except as otherwise provided in this section, by complying with the provisions of ~~this article~~ sections 11 through 16, and amendments thereto, applicable to foreign entities a foreign entity may be a party to a merger under ~~this article~~ or may be the surviving

entity in such a merger if the merger is authorized by the law of the foreign entity's jurisdiction of organization.

(c) ~~This article does~~ Sections 11 through 16, and amendments thereto, do not apply to the following mergers:

(1) A merger between any two or more domestic corporations or one or more domestic corporations and one or more foreign corporations pursuant to K.S.A. 17-6701 et seq., and amendments thereto;

(2) a merger between any two or more domestic limited partnerships or one or more domestic limited partnerships and one or more foreign limited partnerships pursuant to K.S.A. 56-1a609, and amendments thereto;

(3) a merger between any two or more partnerships pursuant to K.S.A. 56a-905, and amendments thereto; or

(4) a merger between any two or more domestic limited liability companies or one or more domestic limited liability companies and one or more foreign limited liability companies pursuant to K.S.A. 17-7681, and amendments thereto.

New Sec. 12. (a) A domestic entity may become a party to a merger under ~~this article~~ sections 11 through 16, and amendments thereto, by approving an agreement of merger. The agreement shall be in a record and contain:

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

(2) if the surviving entity is to be created in the merger, a statement to that effect and its name, jurisdiction of organization and type;

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

(4) if the surviving entity exists before the merger, any proposed amendments to its public organic document or to its private organic rules that are, or are proposed to be, in a record;

(5) if the surviving entity is to be created in the merger, its proposed public organic document, if any, and the full text of its private organic rules that are proposed to be in a record;

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

(7) any other provision required by the law of a merging entity's jurisdiction of organization or the organic rules of a merging entity.

(b) An agreement of merger shall be signed on behalf of each merging entity.

(c) An agreement of merger may contain any other provision not prohibited by law.

New Sec. 13. (a) An agreement of merger is not effective unless it has been approved:

(1) By a domestic merging entity:

(A) In accordance with the requirements, if any, in its organic law

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(2) unless prohibited by the agreement, in the same manner as the agreement was approved.

(c) If an agreement of merger is terminated after a certificate of merger has been filed with the secretary of state and before the filing becomes effective, a certificate of termination, signed on behalf of a merging entity, shall be filed with the secretary of state before the time the certificate of merger becomes effective. The certificate of termination takes effect upon filing, and the merger is terminated and does not become effective. The certificate of termination shall contain:

(1) The name of each merging or surviving entity that is a domestic entity or a qualified foreign entity;

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

(3) a statement that the merger has been terminated in accordance with this section.

New Sec. 15. (a) A certificate of merger shall be signed on behalf of the surviving entity and filed with the secretary of state.

(b) A certificate of merger shall contain:

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

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

(3) if the certificate 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 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 article~~ sections 11 through 16, and amendments thereto, and by each foreign merging entity, if any, in accordance with the law of its jurisdiction of organization;

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

(6) if the surviving entity is created by the merger and is a domestic filing entity, its public organic document, 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 qualified foreign entity, a mailing address to which the secretary of state may send any process served on the secretary of state pursuant to subsection (e) of section 16, and amendments thereto.

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

(d) If the surviving entity is a domestic entity, its name and any at-

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enforcement of any liabilities of a domestic merging entity; and

(2) irrevocably appoints the secretary of state as its agent to accept service of process in any such suit or other proceeding. Service of process shall be made on the foreign entity pursuant to K.S.A. 60-304, and amendments thereto.

(f) When a merger becomes effective, the certificate of authority or other foreign qualification of any foreign merging entity that is not the surviving entity is canceled.

New Sec. 17. (a) Except as otherwise provided in this section, by complying with ~~this article~~ sections 17 through 22, and amendments thereto

(1) A domestic entity may acquire all of one or more classes or series of interests of another domestic or foreign entity in exchange for interests, securities, obligations, rights to acquire interests or securities, cash, or other property, or any combination of the foregoing; or

(2) all of one or more classes or series of interests of a domestic entity may be acquired by another domestic or foreign entity in exchange for interests, securities, obligations, rights to acquire interests or securities, cash, or other property, or any combination of the foregoing.

(b) Except as otherwise provided in this section, by complying with the provisions of ~~this article~~ sections 17 through 22, and amendments thereto, applicable to foreign entities a foreign entity may be the acquiring or acquired entity in an interest exchange under ~~this article~~ if the interest exchange is authorized by the law of the foreign entity's jurisdiction of organization.

(c) If a protected agreement contains a provision that applies to a merger of a domestic entity but does not refer to an interest exchange, the provision applies to an interest exchange in which the domestic entity is the acquired entity as if the interest exchange were a merger until the provision is amended after the effective date of this act.

New Sec. 18. (a) A domestic entity may be the acquired entity in an interest exchange under ~~this article~~ by approving an agreement of interest exchange. The agreement shall be in a record and contain:

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

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

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

(4) any proposed amendments to the public organic document or private organic rules that are, or are proposed to be, in a record of the acquired entity;

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

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

entity;

(3) if the certificate of interest exchange 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) a statement that the agreement of interest exchange was approved by the acquired entity in accordance with ~~this article~~ sections 17 through 22, and amendments thereto; and

(5) any amendments to the acquired entity's public organic document approved as part of the agreement of interest exchange.

(c) In addition to the requirements of subsection (b), a certificate of interest exchange may contain any other provision not prohibited by law.

(d) An agreement of interest exchange that is signed on behalf of a domestic acquired entity and meets all of the requirements of subsection (b) may be filed with the secretary of state instead of a certificate of interest exchange and upon filing has the same effect. If an agreement of interest exchange is filed as provided in this subsection, references in this act to a certificate of interest exchange refer to the agreement of interest exchange filed under this subsection.

(e) A certificate of interest exchange becomes effective upon the date and time of filing or the later date and time specified in the certificate of interest exchange.

New Sec. 22. (a) When an interest exchange becomes effective:

(1) The interests in the acquired entity that are the subject of the interest exchange cease to exist or are converted or exchanged and the interest holders of those interests are entitled only to the rights provided to them under the agreement of interest exchange and to any appraisal rights they have under section 9, and amendments thereto, and the acquired entity's organic law;

(2) the acquiring entity becomes the interest holder of the interests in the acquired entity stated in the agreement of interest exchange to be acquired by the acquiring entity;

(3) the public organic document, if any, of the acquired entity is amended as provided in the certificate of interest exchange and is binding on its interest holders; and

(4) the private organic rules of the acquired entity that are to be in a record, if any, are amended to the extent provided in the agreement of interest exchange and are binding on and enforceable by:

(A) Its interest holders; and

(B) in the case of an acquired entity that is not a corporation, any other person that is a party to an agreement that is part of the acquired entity's private organic rules.

(b) Except as otherwise provided in the organic law or organic rules of the acquired entity, the interest exchange 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 acquired entity.

(c) When an interest exchange becomes effective, a person that did not have interest holder liability with respect to the acquired entity and that becomes subject to interest holder liability with respect to a domestic entity as a result of the interest exchange 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 interest exchange becomes effective.

(d) When an interest exchange becomes effective, the interest holder liability of a person that ceases to hold an interest in a domestic acquired entity with respect to which the person had interest holder liability is as follows:

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

(2) the person does not have interest holder liability under the organic law of the domestic acquired entity for any liability that arises after the interest exchange becomes effective;

(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) as if the interest exchange had not occurred; and

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

New Sec. 23. (a) Except as otherwise provided in this section, by complying with ~~this article~~ sections 23 through 28, and amendments thereto, 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 ~~this article~~ sections 23 through 28, and amendments thereto, 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) 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 the effective date of this act.

New Sec. 24. (a) A domestic entity may convert to a different type of entity under ~~this article~~ sections 23 through 28, and amendments thereto, by approving an agreement of conversion. The agreement shall 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) if the certificate 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 domestic entity, a statement that the agreement of conversion was approved in accordance with ~~this article~~ sections 23 through 28, and amendments thereto, or, if the converting entity is a 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 its public organic document, as an attachment;

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

(7) if the converted entity is a foreign entity, a mailing address to which the secretary of state may send any process served on the secretary of state pursuant to subsection (e) of section 28, and amendments thereto.

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

(d) If the converted entity is a domestic entity, its name and 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) An agreement of conversion that is signed on behalf of a domestic converting entity and meets all of the requirements of subsection (b) may be filed with the secretary of state instead of a certificate of conversion and upon filing has the same effect. If an agreement of conversion is filed as provided in this subsection, references in this act to a certificate of conversion refer to the agreement of conversion filed under this subsection.

(f) A certificate of conversion becomes effective upon the date and time of filing or the later date and time specified in the certificate of conversion.

New Sec. 28. (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;

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son as are provided by the organic law or organic rules of the domestic converting entity with respect to any interest holder liability preserved under paragraph (1) 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 its liabilities; and

(2) irrevocably appoints the secretary of state as its agent to accept service of process in any such suit or other proceeding. Service of process shall be made on the foreign entity pursuant to K.S.A. 60-304, and amendments thereto.

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

New Sec. 29. (a) Except as otherwise provided in this section, by complying with ~~this article~~ sections 29 through 34, and amendments thereto, a domestic entity may become a domestic entity of the same type 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 article~~ sections 29 through 34, and amendments thereto, applicable to foreign entities a foreign entity may become a domestic entity of the same type in this state if the domestication is authorized by the law of the foreign entity's jurisdiction of organization.

(c) When the term domestic entity is used in ~~this article~~ with reference to a foreign jurisdiction, it means an entity whose internal affairs are governed by the law of the foreign jurisdiction.

(d) 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 the effective date of this act.

New Sec. 30. (a) A domestic entity may become a foreign entity in a domestication by approving an agreement of domestication. The agreement shall be in a record and contain:

(1) The name and type of the domesticating entity;

(2) the name and jurisdiction of organization of the domesticated entity;

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

(4) the proposed public organic document of the domesticated entity

the agreement of domestication was approved in accordance with ~~this article~~ sections 29 through 34, and amendments thereto, or, if the domesticating entity is a foreign entity, a statement that the domestication was approved in accordance with the law of its jurisdiction of organization;

(5) if the domesticated entity is a domestic filing entity, its public organic document, as an attachment;

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

(7) if the domesticated entity is a foreign entity, a mailing address to which the secretary of state may send any process served on the secretary of state pursuant to subsection (e) of section 34, and amendments thereto.

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

(d) If the domesticated entity is a domestic entity, its name and 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) An agreement of domestication that is signed on behalf of a domesticating domestic entity and meets all of the requirements of subsection (b) may be filed with the secretary of state instead of a certificate of domestication and upon filing has the same effect. If an agreement of domestication is filed as provided in this subsection, references in this act to a certificate of domestication refer to the agreement of domestication filed under this subsection.

(f) A certificate of domestication becomes effective upon the date and time of filing or the later date and time specified in the certificate of domestication.

New Sec. 34. (a) When a domestication becomes effective:

(1) The domesticated entity is:

(A) Organized under and subject to the organic law of the domesticated entity; and

(B) the same entity without interruption as the domesticating entity;

(2) all property of the domesticating entity continues to be vested in the domesticated entity without assignment, reversion or impairment;

(3) all liabilities of the domesticating entity continue as liabilities of the domesticated entity;

(4) except as provided by law other than this act or the agreement of domestication, all of the rights, privileges, immunities, powers and purposes of the domesticating entity remain in the domesticated entity;

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

(6) if the domesticated entity is a filing entity, its public organic doc-

into by the surviving ~~entity~~ *partnership* after the merger takes effect.

Sec. 49. K.S.A. 56a-907 is hereby amended to read as follows: 56a-907. (a) After a merger, the surviving partnership ~~or limited partnership~~ may file a statement that ~~one or more partnerships or limited partnerships~~ *the parties to the merger* have merged into the surviving ~~entity~~ *partnership*.

(b) A statement of merger must contain:

(1) The name of each partnership ~~or limited partnership~~ that is a party to the merger;

(2) the name of the surviving ~~entity~~ *partnership* into which the other partnerships ~~or limited partnership~~ were merged; *and*

(3) the street address of the surviving ~~entity's~~ *partnership's* principal office and of an office in this state, if any~~; and~~

~~(4) whether the surviving entity is a partnership or a limited partnership~~.

(c) Except as otherwise provided in subsection (d), for the purposes of K.S.A. 56a-302, *and amendments thereto*, property of the surviving partnership ~~or limited partnership which~~ *that* before the merger was held in the name of another party to the merger is property held in the name of the surviving ~~entity~~ *partnership* upon filing a statement of merger.

(d) For the purposes of K.S.A. 56a-302, *and amendments thereto*, real property of the surviving partnership ~~or limited partnership which~~ *that* before the merger was held in the name of another party to the merger is property held in the name of the surviving ~~entity~~ *partnership* upon recording a certified copy of the statement of merger in the office for recording transfers of that real property.

(e) A filed and, if appropriate, recorded statement of merger, executed and declared to be accurate pursuant to subsection (c) of K.S.A. 56a-105, *and amendments thereto*, stating the name of a partnership ~~or limited partnership~~ that is a party to the merger in whose name property was held before the merger and the name of the surviving ~~entity~~ *partnership*, but not containing all of the other information required by subsection (b), operates with respect to the partnerships ~~or limited partnerships~~ named to the extent provided in subsections (c) and (d).

Sec. 50. K.S.A. 56a-908 is hereby amended to read as follows: 56a-908. ~~This article is~~ not exclusive. Partnerships ~~or limited partnerships~~ may be ~~converted or~~ merged in any other manner provided by law.

Sections 56a-901 through 56a-908, and amendments thereto, are

Sec. 51. K.S.A. 17-7675, 17-7681, 17-7684, 17-7685, ***17-7701, 17-7702, 17-7703, 17-7704, 17-7705, 17-7706, 17-7707, 17-7708, 17-7709,*** 56a-401, 56a-502, 56a-901, 56a-902, 56a-903, 56a-904, 56a-905, 56a-906, 56a-907 and 56a-908 are hereby repealed.

Sec. 52. This act shall take effect and be in force from and after July 1, 2010, and its publication in the statute book.