

AMENDED IN SENATE JUNE 29, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 197

Introduced by Assembly Member Ackerman

January 21, 1999

An act to amend Sections 15679.1, 16101, 16901, 16903, 16905, 16906, 16907, 16911, 16914, 16915, 16916, and 17600 of, and to add Article 7.4 (commencing with Section 15677.1) to Chapter 3 of Title 2 of, and to add Chapter 11.5 (commencing with Section 17540.1) to Title 2.5 of, the Corporations Code, relating to legal entities.

LEGISLATIVE COUNSEL'S DIGEST

AB 197, as amended, Ackerman. Limited partnerships and limited liability companies: conversion.

Existing provisions of the California Revised Limited Partnership Act govern limited partnerships. Limited liability companies are regulated pursuant to the Beverly-Killea Limited Liability Company Act.

This bill would specify a comprehensive scheme for the conversion of limited partnerships and limited liability companies into an other business entity (defined to include a corporation, business trust, and real estate investment trust), or a foreign limited partnership, subject to certain conditions. The bill would also specify certain service of process requirements with respect to the merger or conversion of partnerships to other business entities and the surviving domestic or foreign business entities.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Article 7.4 (commencing with Section
2 15677.1) is added to Chapter 3 of Title 2 of the
3 Corporations Code, to read:

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5
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Article 7.4. Conversion

7 15677.1. For purposes of this article, the following
8 definitions shall apply:

9 (a) “Converted entity” means the other business
10 entity or foreign limited partnership that results from a
11 conversion of a domestic limited partnership under this
12 chapter.

13 (b) “Converted limited partnership” means a
14 domestic limited partnership that results from a
15 conversion of an other business entity or a foreign limited
16 partnership pursuant to Section 15677.8.

17 (c) “Converting limited partnership” means a
18 domestic limited partnership that converts to an other
19 business entity or a foreign limited partnership pursuant
20 to this chapter.

21 (d) “Converting entity” means an other business
22 entity or foreign limited partnership that converts to a
23 domestic limited partnership pursuant to the terms of
24 Section 15677.8.

25 15677.2. A limited partnership may be converted into
26 an other business entity or a foreign limited partnership
27 pursuant to this article if, pursuant to the proposed
28 conversion, each of the partners of the converting limited
29 partnership receives a percentage interest in the profits
30 and capital of the converted entity equal to that partner’s
31 percentage interest in profits and capital of the
32 converting limited partnership as of the effective time of
33 the conversion. The conversion of a limited partnership
34 to an other business entity or a foreign limited



1 partnership may be effected only if both of the following
2 conditions are satisfied:

3 (a) The law under which the converted entity will
4 exist expressly permits the formation of that entity
5 pursuant to a conversion.

6 (b) The limited partnership complies with all other
7 requirements of any other law that applies to conversion
8 to the converted entity.

9 15677.3. (a) A limited partnership that desires to
10 convert to an other business entity or a foreign limited
11 partnership shall approve a plan of conversion. The plan
12 of conversion shall state all of the following:

13 (1) The terms and conditions of the conversion.

14 (2) The place of the organization of the converted
15 entity and of the converting limited partnership and the
16 name of the converted entity after conversion.

17 (3) The manner of converting the limited and general
18 partnership interests of each of the partners into
19 securities of, or interests in, the converted entity.

20 (4) The provisions of the governing documents for the
21 converted entity, including the partnership agreement
22 or limited liability company articles of organization and
23 operating agreement, to which the holders of interests in
24 the converted entity are to be bound.

25 (5) Any other details or provisions that are required by
26 the laws under which the converted entity is organized,
27 or that are desired by the parties.

28 (b) The plan of conversion shall be approved by all
29 general partners of the converting limited partnership
30 and by a majority in interest of each class of limited
31 partners of the converting limited partnership, unless a
32 greater or lesser approval is required by the partnership
33 agreement of the converting limited partnership.
34 However, if the limited partners of the limited
35 partnership would become personally liable for any
36 obligations of the converted entity as a result of the
37 conversion, the plan of conversion shall be approved by
38 all of the limited partners of the converting limited
39 partnership, unless the plan of conversion provides that
40 all limited partners will have dissenters' rights as



1 provided in Article 7.6 (commencing with Section
2 15679.1).

3 (c) Upon the effectiveness of the conversion, all
4 partners of the converting limited partnership, except
5 those that exercise dissenters' rights as provided in Article
6 7.6 (commencing with Section 15679.1), shall be deemed
7 parties to any governing documents for the converted
8 entity adopted as part of the plan of conversion,
9 irrespective of whether or not the partner has executed
10 the plan of conversion or the governing documents for
11 the converted entity. Any adoption of governing
12 documents made pursuant thereto shall be effective at
13 the effective time or date of the conversion.

14 (d) Notwithstanding its prior approval, a plan of
15 conversion may be amended before the conversion takes
16 effect if the amendment is approved by all general
17 partners of the converting limited partnership and, if the
18 amendment changes any of the principal terms of the
19 plan of conversion, the amendment is approved by the
20 limited partners of the converting limited partnership in
21 the same manner and to the same extent as required for
22 the approval of the original plan of conversion.

23 (e) The general partners of a converting limited
24 partnership may, by unanimous approval at any time
25 before the conversion is effective, in their discretion,
26 abandon a conversion, without further approval by the
27 limited partners, subject to the contractual rights of third
28 parties other than limited partners.

29 (f) The converted entity shall keep the plan of
30 conversion at the principal place of business of the
31 converted entity if the converted entity is a domestic
32 partnership or foreign other business entity or at the
33 office at which records are to be kept under Section 17057
34 if the converted entity is a domestic limited liability
35 company. Upon the request of a partner of a converting
36 limited partnership, the authorized person on behalf of
37 the converted entity shall promptly deliver to the partner
38 or the holder of interests or other securities, at the
39 expense of the converted entity, a copy of the plan of



1 conversion. A waiver by a partner of the rights provided
2 in this subdivision shall be unenforceable.

3 15677.4. (a) A conversion into an other business
4 entity, or a foreign limited partnership shall become
5 effective upon the earliest date that all of the following
6 occur:

7 (1) The approval of the plan of conversion by the
8 partners of the converting limited partnership as
9 provided in Section 15677.3.

10 (2) The filing of all documents required by law to
11 create the converted entity, which documents shall also
12 contain a statement of conversion, if required under
13 Section 15677.6.

14 (3) The occurrence of the effective date, if set forth in
15 the plan of conversion occurs.

16 (b) A copy of the statement of partnership authority
17 or articles of organization complying with Section
18 15677.6, if applicable, duly certified by the Secretary of
19 State, is conclusive evidence of the conversion of the
20 limited partnership.

21 15677.5. (a) The conversion of a limited partnership
22 into a foreign limited partnership or foreign other
23 business entity shall be required to comply with Section
24 15677.2.

25 (b) If the limited partnership is converting into a
26 foreign limited partnership or foreign other business
27 entity, those conversion proceedings shall be in
28 accordance with the laws of the state or place of
29 organization of the foreign limited partnership or foreign
30 other business entity and the conversion shall become
31 effective in accordance with that law.

32 (c) (1) To enforce an obligation of a limited
33 partnership that has converted to a foreign limited
34 partnership or foreign other business entity, the
35 Secretary of State shall only be the agent for service of
36 process in an action or proceeding against that converted
37 foreign entity, if the agent designated for the service of
38 process for that entity is a natural person and cannot be
39 found with due diligence or if the agent is a corporation
40 and no person, to whom delivery may be made, may be



1 located with due diligence, or if no agent has been
2 designated and if no one of the officers, partners,
3 managers, members, or agents of that entity may be
4 located after diligent search, and it is so shown by affidavit
5 to the satisfaction of the court. The court then may make
6 an order that service be made by personal delivery to the
7 Secretary of State or to an assistant or deputy Secretary
8 of State of two copies of the process together with two
9 copies of the order, and the order shall set forth an address
10 to which the process shall be sent by the Secretary of
11 State. Service in this manner is deemed complete on the
12 10th day after delivery of the process to the Secretary of
13 State.

14 (2) Upon receipt of the process and order and the fee
15 set forth in Section 12206 of the Government Code, the
16 Secretary of State shall provide notice to that entity of the
17 service of the process by forwarding by certified mail,
18 return receipt requested, a copy of the process and order
19 to the address specified in the order.

20 (3) The Secretary of State shall keep a record of all
21 process served upon the Secretary of State and shall
22 record therein the time of service and the Secretary of
23 State's action with respect thereto. The certificate of the
24 Secretary of State, under the Secretary of State's official
25 seal, certifying to the receipt of process, the providing of
26 notice thereof to that entity, and the forwarding of the
27 process shall be competent and prima facie evidence of
28 the matters stated therein.

29 15677.6. (a) Upon conversion of a limited
30 partnership one of the following applies:

31 (1) If the limited partnership is converting into a
32 domestic limited liability company, a statement of
33 conversion shall be completed on the articles of
34 organization for the converted entity.

35 (2) If the limited partnership is converting into a
36 domestic partnership, a statement of conversion shall be
37 completed on the statement of partnership authority for
38 the converted entity, or if no statement of partnership
39 authority is filed, then a certificate of conversion shall be
40 filed separately.



1 (3) If the limited partnership is converting to a foreign
2 limited partnership or foreign other business entity, a
3 certificate of conversion shall be filed with the Secretary
4 of State.

5 (b) Any certificate or statement of conversion shall be
6 executed and acknowledged by all general partners,
7 unless a lesser number is provided in the certificate of
8 limited partnership, and shall set forth all of the following:

9 (1) The name and the Secretary of State's file number
10 of the converting limited partnership.

11 (2) A statement that the principal terms of the plan of
12 conversion were approved by a vote of the partners,
13 which equaled or exceeded the vote required under
14 Section 15677.3, specifying each class entitled to vote and
15 the percentage vote required of each class.

16 (3) The form of organization of the converted entity.

17 (4) The mailing address of the converted entity's
18 agent for service of process and the chief executive office
19 of the converted entity.

20 (c) The filing with the Secretary of State of a
21 certificate of conversion or a statement of partnership
22 authority or articles of organization containing a
23 statement of conversion as set forth in subdivision (a)
24 shall have the effect of the filing of a certificate of
25 cancellation by the converting limited partnership and
26 no converting limited partnership that has made the
27 filing is required to file a certificate of dissolution or a
28 certificate of cancellation under Section 15623 as a result
29 of that conversion.

30 15677.7. (a) Whenever a limited partnership or other
31 business entity having any real property in this state
32 converts into a limited partnership or an other business
33 entity pursuant to the laws of this state or of the state or
34 place in which the limited partnership or other business
35 entity was organized, and the laws of the state or place of
36 organization, including this state, of the converting
37 limited partnership or other converting entity provide
38 substantially that the conversion vests in the converted
39 limited partnership or other converted entity all the real
40 property of the converting limited partnership or other



1 converting entity, the filing for record in the office of the
2 county recorder of any county in this state in which any
3 of the real property of the converting limited partnership
4 or other converting entity is located of either (1) a
5 certificate of conversion or statement of partnership
6 authority, or a certificate of limited partnership or articles
7 of organization complying with Section 15677.6, in the
8 form prescribed and certified by the Secretary of State,
9 or (2) a copy of a certificate of conversion or a statement
10 of partnership authority, certificate of limited
11 partnership, articles of organization or other certificate
12 evidencing the creation of a foreign other business entity
13 or foreign limited partnership by conversion, containing
14 a statement of conversion, certified by the Secretary of
15 State or an authorized public official of the state or place
16 pursuant to the laws of which the conversion is effected,
17 shall evidence record ownership in the converted limited
18 partnership or other converted entity of all interest of the
19 converting limited partnership or other converting
20 entity in and to the real property located in that county.

21 (b) A filed and, if appropriate, recorded certificate of
22 conversion or a statement of partnership authority,
23 certificate of limited partnership, articles of organization,
24 or other certificate evidencing the creation of a foreign
25 other business entity or foreign limited partnership by
26 conversion, containing a statement of conversion, filed
27 pursuant to subdivision (a) of Section 15677.6, stating the
28 name of the converting limited partnership or other
29 converting entity in whose name property was held
30 before the conversion and the name of the converted
31 entity or converted limited partnership, but not
32 containing all of the other information required by
33 Section 15677.6, operates with respect to the entities
34 named to the extent provided in subdivision (a).

35 (c) Recording of a certificate of conversion, or a
36 statement of partnership authority, certificate of limited
37 partnership, articles of organization, or other certificate
38 evidencing the creation of an other business entity or a
39 limited partnership by conversion, containing a
40 statement of conversion, in accordance with subdivision



1 (a), shall create, in favor of bona fide purchasers or
2 encumbrances for value, a conclusive presumption that
3 the conversion was validly completed.

4 15677.8. (a) An other business entity or a foreign
5 limited partnership may be converted to a domestic
6 limited partnership pursuant to this article only if the
7 converting entity is not prohibited by the laws under
8 which it is organized to effect the conversion.

9 (b) An other business entity or a foreign limited
10 partnership that desires to convert into a domestic
11 limited partnership shall approve a plan of conversion or
12 an instrument as is required to be approved to effect the
13 conversion pursuant to the laws under which that entity
14 is organized.

15 (c) The conversion of an other business entity or a
16 foreign limited partnership shall be approved by the
17 number or percentage of the partners, members, or
18 holders of interest of the converting entity as is required
19 by the law under which that entity is organized, or a
20 greater or lesser percentage, subject to applicable laws,
21 as set forth in the converting entity's partnership
22 agreement, articles of organization, operating
23 agreement, or other governing document.

24 (d) The conversion by an other business entity or a
25 foreign limited partnership into a domestic limited
26 partnership shall be effective under this article at the
27 time the conversion is effective under the law under
28 which the converting entity is organized as long as a
29 certificate of limited partnership has been filed with the
30 Secretary of State. If the converting entity's governing
31 law is silent as to the effectiveness of the conversion, the
32 conversion shall be effective upon the completion of all
33 acts required under this title to form a limited
34 partnership.

35 15677.9. (a) An entity that converts into another
36 entity pursuant to this article is for all purposes the same
37 entity that existed before the conversion.

38 (b) Upon a conversion taking effect, all of the
39 following apply:

1 (1) All the rights and property, whether real, personal,
2 or mixed, of the converting entity or converting limited
3 partnership are vested in the converted entity or
4 converted limited partnership.

5 (2) All debts, liabilities, and obligations of the
6 converting entity or converting limited partnership
7 continue as debts, liabilities, and obligations of the
8 converted entity or converted limited partnership.

9 (3) All rights of creditors and liens upon the property
10 of the converting entity or converting limited
11 partnership shall be preserved unimpaired and remain
12 enforceable against the converted entity or converted
13 limited partnership to the same extent as against the
14 converting entity or converting limited partnership as if
15 the conversion had not occurred.

16 (4) Any action or proceeding pending by or against
17 the converting entity or converting limited partnership
18 may be continued against the converted entity or
19 converted limited partnership as if the conversion had
20 not occurred.

21 (c) A partner of a converting limited partnership is
22 liable for:

23 (1) All obligations of the converting limited
24 partnership for which the partner was personally liable
25 before the conversion.

26 (2) All obligations of the converted entity incurred
27 after the conversion takes effect, but those obligations
28 may be satisfied only out of property of the entity if that
29 partner is a limited partner, a shareholder in a
30 corporation, or unless expressly provided otherwise in the
31 articles of organization or other governing documents, a
32 member of a limited liability company, or a holder of
33 equity securities in an other converted entity if the
34 holders of equity securities in that entity are not
35 personally liable for the obligations of that entity under
36 the law under which the entity is organized or its
37 governing documents.

38 (d) A partner of a converted limited partnership
39 remains liable for any and all obligations of the converting
40 entity for which the partner was personally liable before



1 the conversion, but only to the extent that the partner
2 was liable for the obligations of the converting entity
3 prior to the conversion.

4 *(e) If the other party to a transaction with the limited
5 partnership reasonably believes when entering the
6 transaction that the limited partner is a general partner,
7 the limited partner is liable for an obligation incurred by
8 the limited partnership within 90 days after the
9 conversion takes effect. The limited partner's liability for
10 all other obligations of the limited partnership incurred
11 after the conversion takes effect is that of a limited
12 partner.*

13 SEC. 2. Section 15679.1 of the Corporations Code is
14 amended to read:

15 15679.1. (a) For purposes of this article,
16 “reorganization” refers to either of the following:

17 (1) A conversion pursuant to Article 7.4 (commencing
18 with Section 15677.1).

19 (2) A merger pursuant to Article 7.5 (commencing
20 with Section 15678.1).

21 (3) The acquisition by one limited partnership in
22 exchange, in whole or part, for its partnership interests
23 (or the partnership interests or equity securities of a
24 partnership or other business entity that is in control of
25 the acquiring limited partnership) of partnership
26 interests or equity securities of another limited
27 partnership or other business entity if, immediately after
28 the acquisition, the acquiring limited partnership has
29 control of the other limited partnership or other business
30 entity.

31 (4) The acquisition by one limited partnership in
32 exchange in whole or in part for its partnership interests
33 (or the partnership interests or equity securities of a
34 partnership or other business entity which is in control of
35 the acquiring limited partnership) or for its debts
36 securities (or debt securities of a limited partnership or
37 other business entity which is in control of the acquiring
38 limited partnership) which are not adequately secured
39 and which have a maturity date in excess of five years
40 after the consummation of the acquisition, or both, of all



1 or substantially all of the assets of another limited
2 partnership or other business entity.

3 (b) For purposes of this article, “control” means the
4 possession, direct or indirect, of the power to direct or
5 cause the direction of the management and policies of a
6 limited partnership or other business entity.

7 SEC. 3. Section 16101 of the Corporations Code is
8 amended to read:

9 16101. As used in this chapter, the following terms and
10 phrases have the following meanings:

11 (1) “Business” includes every trade, occupation, and
12 profession.

13 (2) “Debtor in bankruptcy” means a person who is the
14 subject of either of the following:

15 (A) An order for relief under Title 11 of the United
16 States Code or a comparable order under a successor
17 statute of general application.

18 (B) A comparable order under federal, state, or
19 foreign law governing insolvency.

20 (3) “Distribution” means a transfer of money or other
21 property from a partnership to a partner in the partner’s
22 capacity as a partner or to the partner’s transferee.

23 (4) (A) “Foreign limited liability partnership” means
24 a partnership, other than a limited partnership, formed
25 pursuant to an agreement governed by the laws of
26 another jurisdiction and denominated or registered as a
27 limited liability partnership or registered limited liability
28 partnership under the laws of that jurisdiction (i) in
29 which each partner is a licensed person or a person
30 licensed or authorized to provide professional limited
31 liability partnership services in a jurisdiction or
32 jurisdictions other than this state, (ii) which is licensed
33 under the laws of the state to engage in the practice of
34 architecture, the practice of public accountancy, or the
35 practice of law, or (iii) which (I) is related to a registered
36 limited liability partnership that practices public
37 accountancy or, to the extent permitted by the State Bar,
38 practices law or is related to a foreign limited liability
39 partnership and (II) provides services related or
40 complementary to the professional limited liability



1 partnership services provided by, or provides services or
2 facilities to, that registered limited liability partnership or
3 foreign limited liability partnership.

4 (B) For the purposes of clause (iii) of subparagraph
5 (A), a partnership is related to a registered limited
6 liability partnership or foreign limited liability
7 partnership if (i) at least a majority of the partners in one
8 partnership are also partners in the other partnership, or
9 (ii) at least a majority in interest in each partnership hold
10 interests in or are members of another person, except an
11 individual, and each partnership renders services
12 pursuant to an agreement with that other person, or (iii)
13 one partnership, directly or indirectly through one or
14 more intermediaries, controls, is controlled by, or is under
15 common control with, the other partnership.

16 (5) “Licensed person” means any person who is duly
17 licensed, authorized, or registered under the provisions
18 of the Business and Professions Code to provide
19 professional limited liability partnership services or who
20 is lawfully able to render professional limited liability
21 partnership services in this state.

22 (6) (A) “Registered limited liability partnership”
23 means a partnership, other than a limited partnership,
24 formed pursuant to an agreement governed by Article 10
25 (commencing with Section 16951), that is registered
26 under Section 16953 and (i) each of the partners of which
27 is a licensed person or a person licensed or authorized to
28 provide professional limited liability partnership services
29 in a jurisdiction or jurisdictions other than this state, (ii)
30 is licensed under the laws of the state to engage in the
31 practice of architecture, practice of public accountancy,
32 or the practice of law, or (iii)(I) is related to a registered
33 limited liability partnership that practices public
34 accountancy or, to the extent permitted by the State Bar,
35 practices law or is related to a foreign limited liability
36 partnership and (II) provides services related or
37 complementary to the professional limited liability
38 partnership services provided by, or provides services or
39 facilities to, that registered limited liability partnership or
40 foreign limited liability partnership.



1 (B) For the purposes of clause (iii) of subparagraph
2 (A), a partnership is related to a registered limited
3 liability partnership or foreign limited liability
4 partnership if (i) at least a majority of the partners in one
5 partnership are also partners in the other partnership, or
6 (ii) at least a majority in interest in each partnership hold
7 interests in or are members of another person, other than
8 an individual, and each partnership renders services
9 pursuant to an agreement with that other person, or (iii)
10 one partnership, directly or indirectly through one or
11 more intermediaries, controls, is controlled by, or is under
12 common control with, the other partnership.

13 (7) “Partnership” means an association of two or more
14 persons to carry on as coowners a business for profit
15 formed under Section 16202, predecessor law, or
16 comparable law of another jurisdiction, and includes, for
17 all purposes of the laws of this state, a registered limited
18 liability partnership, *and excludes any partnership*
19 *formed under Chapter 2 (commencing with Section*
20 *15501) or Chapter 3 (commencing with Section 15611).*

21 (8) “Partnership agreement” means the agreement,
22 whether written, oral, or implied, among the partners
23 concerning the partnership, including amendments to
24 the partnership agreement.

25 (9) “Partnership at will” means a partnership in which
26 the partners have not agreed to remain partners until the
27 expiration of a definite term or the completion of a
28 particular undertaking.

29 (10) “Partnership interest” or “partner’s interest in
30 the partnership” means all of a partner’s interests in the
31 partnership, including the partner’s transferable interest
32 and all management and other rights.

33 (11) “Person” means an individual, corporation,
34 business trust, estate, trust, partnership, limited
35 partnership, limited liability partnership, limited liability
36 company, association, joint venture, government,
37 governmental subdivision, agency, or instrumentality, or
38 any other legal or commercial entity.



1 (12) “Professional limited liability partnership
2 services” means the practice of architecture, the practice
3 of public accountancy, or the practice of law.

4 (13) “Property” means all property, real, personal, or
5 mixed, tangible or intangible, or any interest therein.

6 (14) “State” means a state of the United States, the
7 District of Columbia, the Commonwealth of Puerto Rico,
8 or any territory or insular possession subject to the
9 jurisdiction of the United States.

10 (15) “Statement” means a statement of partnership
11 authority under Section 16303, a statement of denial
12 under Section 16304, a statement of dissociation under
13 Section 16704, a statement of dissolution under Section
14 16805, a statement of conversion or a certificate of
15 conversion under Section 16906, a statement of merger
16 under Section 16915, or an amendment or cancellation of
17 any of the foregoing.

18 (16) “Transfer” includes an assignment, conveyance,
19 lease, mortgage, deed, and encumbrance.

20 (17) The inclusion of the practice of architecture as a
21 professional limited liability partnership service
22 permitted by this section shall extend only until January
23 1, 2002.

24 SEC. 4. Section 16901 of the Corporations Code is
25 amended to read:

26 16901. In this article, the following terms have the
27 following meanings:

28 (1) “Constituent other business entity” means any
29 other business entity that is merged with or into one or
30 more partnerships and includes a surviving other
31 business entity.

32 (2) “Constituent partnership” means a partnership
33 that is merged with or into one or more other
34 partnerships or other business entities and includes a
35 surviving partnership.

36 (3) “Disappearing other business entity” means a
37 constituent other business entity that is not the surviving
38 other business entity.

39 (4) “Disappearing partnership” means a constituent
40 partnership that is not the surviving partnership.



1 (5) “Domestic” means organized under the laws of
2 this state when used in relation to any partnership, other
3 business entity, or person (other than an individual).

4 (6) “Foreign other business entity” means any other
5 business entity formed under the laws of any state other
6 than this state or under the laws of the United States or
7 of a foreign country.

8 (7) “Foreign partnership” means a partnership
9 formed under the laws of any state other than this state
10 or under the laws of a foreign country.

11 (8) “General partner” means a partner in a
12 partnership and a general partner in a limited
13 partnership.

14 (9) “Limited liability company” means a limited
15 liability company created under Title 2.5 (commencing
16 with Section 17000), or comparable law of another
17 jurisdiction.

18 (10) “Limited partner” means a limited partner in a
19 limited partnership.

20 (11) “Limited partnership” means a limited
21 partnership created under Chapter 3 (commencing with
22 Section 15611), predecessor law, or comparable law of
23 another jurisdiction.

24 (12) “Other business entity” means a limited
25 partnership, limited liability company, corporation,
26 business trust, real estate investment trust, or an
27 unincorporated association (other than a nonprofit
28 association), but excluding a partnership.

29 (13) “Partner” includes both a general partner and a
30 limited partner.

31 (14) “Surviving other business entity” means an other
32 business entity into which one or more partnerships are
33 merged.

34 (15) “Surviving partnership” means a partnership into
35 which one or more other partnerships or other business
36 entities are merged.

37 SEC. 5. Section 16903 of the Corporations Code is
38 amended to read:

39 16903. (a) A partnership that desires to convert to a
40 domestic limited partnership or limited liability company



1 or foreign other business entity shall approve a plan of
2 conversion. The plan of conversion shall state the
3 following:

4 (1) The terms and conditions of the conversion.

5 (2) The place of the organization of the converted
6 entity and of the converting partnership and the name of
7 the converted entity after conversion, if different from
8 that of the converting partnership.

9 (3) The manner of converting the partnership
10 interests of each of the partners into securities of or
11 interests in the converted entity.

12 (4) The provisions of the governing document for the
13 converted entity, such as a limited partnership
14 agreement or limited liability company articles of
15 organization and operating agreement, to which the
16 holders of interest in the converted entity are to be
17 bound.

18 (5) Any other details or provisions as are required by
19 laws under which the converted entity is organized.

20 (6) Any other details or provisions that are desired.

21 (b) The plan of conversion shall be approved by that
22 number or percentage of partners required by the
23 partnership agreement to approve a conversion of the
24 partnership as set forth in the partnership agreement. If
25 the partnership agreement fails to specify the required
26 partner approval for a conversion of the partnership, the
27 plan of conversion shall be approved by that number or
28 percentage of partners required by the partnership
29 agreement to approve an amendment to the partnership
30 agreement unless the conversion effects a change for
31 which the partnership agreement requires a greater
32 number or percentage of partners than that required to
33 amend the partnership agreement, in which case the plan
34 of conversion shall be approved by that greater number
35 or percentage. If the partnership agreement fails to
36 specify the vote required to amend the partnership
37 agreement, the plan of conversion shall be approved by
38 all partners.

39 (c) If the partnership is converting into a limited
40 partnership, in addition to the approval of the partners as



1 set forth in subdivision (b), the plan of conversion shall
2 be approved by all partners who will become general
3 partners of the converted limited partnership pursuant to
4 the plan of conversion.

5 (d) All partners of the converting partnership except
6 those that dissociate upon effectiveness of the conversion
7 pursuant to subdivision (e) of Section 16909 shall be
8 deemed parties to any partnership or operating or
9 organic document for the converted entity adopted as
10 part of the plan of conversion, regardless of whether that
11 partner has executed the plan of conversion or the
12 operating or partnership agreement or other organic
13 document for the converted entity. Any adoption of a
14 new partnership, operating agreement, or other organic
15 document made pursuant to the foregoing sentence shall
16 be effective at the effective time or date of the
17 conversion.

18 (e) Notwithstanding its prior approval, a plan of
19 conversion may be amended before the conversion takes
20 effect if the amendment is approved by the partnership
21 in the same manner, and by the same number or
22 percentage of partners, as was required for approval of
23 the original plan of conversion.

24 (f) The partners of a converting partnership may, at
25 any time before the conversion is effective, in their
26 discretion, abandon a conversion, without further
27 approval by the partners, in the same manner, and by the
28 same number or percentage of partners, as was required
29 for approval of the original plan of conversion at any time
30 before the conversion is effective, subject to the
31 contractual rights of third parties.

32 (g) The converted entity shall keep the plan of
33 conversion at: (1) the principal place of business of the
34 converted entity, if the converted entity is a foreign other
35 business entity; or (2) the office at which records are to
36 be kept under Section 15614 if the converted entity is a
37 domestic limited partnership, or at the office at which
38 records are to be kept under Section 17057 if the
39 converted entity is a domestic limited liability company.
40 Upon the request of a partner of a converting



1 partnership, the authorized person on behalf of the
2 converted entity shall promptly deliver to the partner or
3 the holder of interests or other securities, at the expense
4 of the converted entity, a copy of the plan of conversion.
5 A waiver by a partner of the rights provided in this
6 subdivision shall be unenforceable.

7 SEC. 6. Section 16905 of the Corporations Code is
8 amended to read:

9 16905. (a) The conversion of a partnership into a
10 foreign other business entity shall comply with Section
11 16902.

12 (b) If the partnership is converting into a foreign other
13 business entity, then the conversion proceedings shall be
14 in accordance with the laws of the state or place of
15 organization of the foreign other business entity and the
16 conversion shall become effective in accordance with
17 that law.

18 (c) (1) Unless a statement of conversion has been
19 filed to effect the conversion, the converted foreign
20 partnership or foreign other business entity shall
21 promptly notify the Secretary of State of the mailing
22 address of its agent for service of process, its chief
23 executive office, and of any change of address. To enforce
24 an obligation of a partnership that has converted to a
25 foreign partnership or foreign other business entity, the
26 Secretary of State shall only be the agent for service of
27 process in an action or proceeding against the converted
28 foreign partnership or foreign other business entity, if the
29 agent designated for the service of process for that entity
30 is a natural person and cannot be found with due
31 diligence or if the agent is a corporation and no person,
32 to whom delivery may be made, may be located with due
33 diligence, or if no agent has been designated and if no one
34 of the officers, partners, managers, members, or agents of
35 that entity may be located after diligent search, and it is
36 so shown by affidavit to the satisfaction of the court. The
37 court then may make an order that service be made by
38 personal delivery to the Secretary of State or to an
39 assistant or deputy Secretary of State of two copies of the
40 process together with two copies of the order, and the



1 order shall set forth an address to which the process shall
2 be sent by the Secretary of State. Service in this manner
3 is deemed complete on the 10th day after delivery of the
4 process to the Secretary of State.

5 (2) Upon receipt of the process and order and the fee
6 set forth in Section 12206 of the Government Code, the
7 Secretary of State shall provide notice to the entity of the
8 service of the process by forwarding by certified mail,
9 return receipt requested, a copy of the process and order
10 to the address specified in the order.

11 (3) The Secretary of State shall keep a record of all
12 process served upon the Secretary of State and shall
13 record therein the time of service and the Secretary of
14 State's action with respect thereto. The certificate of the
15 Secretary of State, under the Secretary of State's official
16 seal, certifying to the receipt of process, the providing of
17 notice thereof to the entity, and the forwarding of the
18 process, shall be competent and prima facie evidence of
19 the matters stated therein.

20 SEC. 7. Section 16906 of the Corporations Code is
21 amended to read:

22 16906. (a) If the converting partnership has filed a
23 statement of partnership authority under Section 16303
24 that is effective at the time of the conversion, then upon
25 conversion to a domestic limited partnership or limited
26 liability company, the certificate of limited partnership or
27 articles of organization filed by the converted entity, as
28 applicable, shall contain a statement of conversion, in that
29 form as may be prescribed by the Secretary of State. If the
30 converting partnership has not filed a statement of
31 partnership authority under Section 16303 that is
32 effective at the time of the conversion, upon conversion
33 to a domestic limited partnership or limited liability
34 company, the converted entity may, but is not required
35 to file, on its certificate of limited partnership or articles
36 of organization, a statement of conversion. A statement
37 of conversion shall set forth all of the following:

38 (1) The name and the Secretary of State's file number,
39 if any, of the converting partnership.



1 (2) A statement that the principal terms of the plan of
2 conversion were approved by a vote of the partners,
3 which equaled or exceeded the vote required under
4 Section 16903.

5 (b) A partnership converting to a foreign other
6 business entity that has filed a statement of partnership
7 authority under Section 16303 that is effective at the time
8 of conversion may file a certificate of conversion with the
9 Secretary of State. The certificate of conversion shall
10 contain the following:

11 (1) The names of the converting partnership and the
12 converted entity.

13 (2) The street address of the converted entity's chief
14 executive office and of an office in this state, if any.

15 (3) The form of organization of the converted entity.

16 (c) The filing with the Secretary of State of a
17 certificate of limited partnership or articles of
18 organization containing a statement of conversion as set
19 forth in subdivision (a) or a certificate of conversion filed
20 pursuant to subdivision (b) shall have the effect of the
21 filing of a cancellation by the converting partnership of
22 any statement of partnership authority filed by it.

23 SEC. 8. Section 16907 of the Corporations Code is
24 amended to read:

25 16907. (a) Whenever a partnership or other business
26 entity having any real property in this state converts into
27 a partnership or an other business entity pursuant to the
28 laws of this state or of the state or place in which the other
29 business entity was organized, and the laws of the state or
30 place of organization (including this state) of the
31 converting partnership or other business entity provide
32 substantially that the conversion of a converting entity
33 vests in the converted partnership or other business
34 entity all the real property of the converting partnership
35 or converting other business entity, the filing for record
36 in the office of the county recorder of any county in this
37 state in which any of the real property of the converting
38 partnership or converting other business entity is located
39 of either (1) a certificate of conversion or a certificate of
40 limited partnership or articles of organization complying



1 with Section 16906, in such form as prescribed by the
2 Secretary of State, certified by the Secretary of State, or
3 (2) a copy of a certificate of conversion, or a certificate of
4 limited partnership, articles of organization, or other
5 certificate evidencing the creation of a foreign other
6 business entity by conversion, containing a statement of
7 conversion, certified by the Secretary of State or an
8 authorized public official of the state or place pursuant to
9 the laws of which the conversion is effected, shall
10 evidence record ownership in the converted partnership
11 or converted other business entity of all interest of the
12 converting partnership or converting other business
13 entity in and to the real property located in that county.

14 (b) A filed and, if appropriate, recorded certificate of
15 conversion, certificate of limited partnership, articles of
16 organization, or other certificate evidencing the creation
17 of an other business entity by conversion, containing a
18 statement of conversion, executed and declared to be
19 accurate pursuant to subdivision (c) of Section 16105,
20 stating the name of the converting partnership or
21 converting other business entity in whose name property
22 was held before the conversion and the name of the
23 converted entity, but not containing all of the other
24 information required by Section 16906, operates with
25 respect to the entities named to the extent provided in
26 subdivision (a).

27 (c) Recording of a certificate of conversion, or a
28 certificate of limited partnership, articles of organization,
29 or other certificate evidencing the creation of another
30 business entity by conversion, containing a statement of
31 conversion, in accordance with paragraph (1) of Section
32 16902 shall create, in favor of bona fide purchasers or
33 encumbrancers for value, a conclusive presumption that
34 the conversion was validly completed.

35 SEC. 9. Section 16911 of the Corporations Code is
36 amended to read:

37 16911. (a) Each partnership and other business
38 entity which desires to merge shall approve an
39 agreement of merger. The agreement of merger shall be
40 approved by the number or percentage of partners



1 specified for merger in the partnership agreement of the
2 constituent partnership. If the partnership agreement
3 fails to specify the required partner approval for merger
4 of the constituent partnership, then the agreement of
5 merger shall be approved by that number or percentage
6 of partners specified by the partnership agreement to
7 approve an amendment to the partnership agreement.
8 However, if the merger effects a change for which the
9 partnership agreement requires a greater number or
10 percentage of partners than that required to amend the
11 partnership agreement, then the merger shall be
12 approved by that greater number or percentage. If the
13 partnership agreement contains no provision specifying
14 the vote required to amend the partnership agreement,
15 then the agreement of merger must be approved by all
16 the partners. The agreement of merger shall be approved
17 on behalf of each constituent other business entity by
18 those persons required to approve the merger by the laws
19 under which it is organized. Other persons may be parties
20 to the agreement of merger. The agreement of merger
21 shall state all of the following:

- 22 (1) The terms and conditions of the merger.
- 23 (2) The name and place of organization of the
24 surviving partnership or surviving other business entity,
25 and of each disappearing partnership and disappearing
26 other business entity, and the agreement of merger may
27 change the name of the surviving partnership, which new
28 name may be the same as or similar to the name of a
29 disappearing partnership.
- 30 (3) The manner of converting the partnership
31 interests of each of the constituent partnerships into
32 interests or other securities of the surviving partnership
33 or surviving other business entity, and if partnership
34 interests of any of the constituent partnerships are not to
35 be converted solely into interest or other securities of the
36 surviving partnership or surviving other business entity,
37 the cash, property, rights, interests, or securities which
38 the holders of the partnership interest are to receive in
39 exchange for the partnership interests, which cash,
40 property, rights, interests, or securities may be in addition



1 to or in lieu of interests of other securities of the surviving
2 partnership or surviving other business entity, or that the
3 partnership interests are canceled without consideration.

4 (4) Any other details or provisions as are required by
5 the laws under which any constituent other business
6 entity is organized.

7 (5) Any other details or provisions that are desired,
8 including, without limitation, a provision for the
9 treatment of fractional partnership interests.

10 (b) If the partnership is merging into a limited
11 partnership, then in addition to the approval of the
12 partners as set forth under subdivision (a), the agreement
13 of merger must be approved by all partners who will
14 become general partners of the surviving limited
15 partnership upon the effectiveness of the merger.

16 (c) Notwithstanding its prior approval, an agreement
17 of merger may be amended before the merger takes
18 effect if the amendment is approved by the partners of
19 each constituent partnership, in the same manner as
20 required for approval of the original agreement of
21 merger, and by each of the constituent other business
22 entities.

23 (d) The partners of a constituent partnership may in
24 their discretion, abandon a merger, subject to the
25 contractual rights, if any, of third parties, including other
26 constituent partnerships and constituent other business
27 entities, if the abandonment is approved by the partners
28 of the constituent partnership in the same manner as
29 required for approval of the original agreement of
30 merger.

31 (e) An agreement of merger approved in accordance
32 with subdivision (a) may (1) effect any amendment to
33 the partnership agreement of any domestic constituent
34 partnership or (2) effect the adoption of a new
35 partnership agreement for a domestic constituent
36 partnership if it is the surviving partnership in the
37 merger. Any amendment to a partnership agreement or
38 adoption of a new partnership agreement made pursuant
39 to the foregoing sentence shall be effective at the
40 effective time or date of the merger.



1 (f) The surviving partnership or surviving other
2 business entity shall keep the agreement of merger at the
3 principal place of business of the surviving entity if the
4 surviving entity is a partnership or a foreign other
5 business entity, at the office referred to in Section 1500 if
6 the surviving entity is a domestic corporation, at the
7 office referred to in subdivision (a) of Section 15614 if the
8 surviving entity is a domestic limited partnership, or at
9 the office referred to in Section 17057 if the surviving
10 entity is a domestic limited liability company and, upon
11 the request of a partner of a constituent partnership or a
12 holder of interests or other securities of a constituent
13 other business entity, the authorized person on behalf of
14 the partnership or the surviving other business entity
15 shall promptly deliver to the partner or the holder of
16 interests or other securities, at the expense of the
17 surviving partnership or surviving other business entity,
18 a copy of the agreement of merger. A waiver by a partner
19 or holder of interests or other securities of the rights
20 provided in this subdivision shall be unenforceable.

21 SEC. 10. Section 16914 of the Corporations Code is
22 amended to read:

23 16914. (a) When a merger takes effect, all of the
24 following apply:

25 (1) The separate existence of the disappearing
26 partnerships and disappearing other business entities
27 ceases and the surviving partnership or surviving other
28 business entity shall succeed, without other transfer, act
29 or deed, to all the rights and property whether real,
30 personal, or mixed, of each of the disappearing
31 partnerships and disappearing other business entities and
32 shall be subject to all the debts and liabilities of each in the
33 same manner as if the surviving partnership or surviving
34 other business entity had itself incurred them.

35 (2) All rights of creditors and all liens upon the
36 property of each of the constituent partnerships and
37 constituent other business entities shall be preserved
38 unimpaired and may be enforced against the surviving
39 partnership or the surviving other business entity to the
40 same extent as if the debt, liability, or duty that gave rise



1 to that lien had been incurred or contracted by it,
2 provided that the liens upon the property of a
3 disappearing partnership or disappearing other business
4 entity shall be limited to the property affected thereby
5 immediately prior to the time the merger is effective.

6 (3) Any action or proceeding pending by or against
7 any disappearing partnership or disappearing other
8 business entity may be prosecuted to judgment, which
9 shall bind the surviving partnership or surviving other
10 business entity, or the surviving partnership or surviving
11 other business entity may be proceeded against or be
12 substituted in the disappearing partnership's or the
13 disappearing other business entity's place.

14 (b) (1) Unless a certificate of merger has been filed
15 to effect the merger, the surviving foreign entity shall
16 promptly notify the Secretary of State of the mailing
17 address of its agent for service of process, its chief
18 executive office, and of any change of address. To enforce
19 an obligation of a partnership that has merged with a
20 foreign partnership or foreign other business entity, the
21 Secretary of State shall only be the agent for service of
22 process in an action or proceeding against the surviving
23 foreign partnership or foreign other business entity, if the
24 agent designated for the service of process for that entity
25 is a natural person and cannot be located with due
26 diligence or if the agent is a corporation and no person,
27 to whom delivery may be made, can be located with due
28 diligence, or if no agent has been designated and if no one
29 of the officers, partners, managers, members, or agents of
30 the entity can be located after diligent search, and it is so
31 shown by affidavit to the satisfaction of the court. The
32 court then may make an order that service be made by
33 personal delivery to the Secretary of State or to an
34 assistant or deputy Secretary of State of two copies of the
35 process together with two copies of the order, and the
36 order shall set forth an address to which the process shall
37 be sent by the Secretary of State. Service in this manner
38 is deemed complete on the 10th day after delivery of the
39 process to the Secretary of State.



1 (2) Upon receipt of the process and order and the fee
2 set forth in Section 12206 of the Government Code, the
3 Secretary of State shall provide notice to the entity of the
4 service of the process by forwarding by certified mail,
5 return receipt requested, a copy of the process and order
6 to the address specified in the order.

7 (3) The Secretary of State shall keep a record of all
8 process served upon the Secretary of State and shall
9 record therein the time of service and the Secretary of
10 State's action with respect thereto. The certificate of the
11 Secretary of State, under the Secretary of State's official
12 seal, certifying to the receipt of process, the providing of
13 notice thereof to the entity, and the forwarding of the
14 process, shall be competent and prima facie evidence of
15 the matters stated therein.

16 (c) A partner of the surviving partnership or surviving
17 limited partnership, a member of the surviving limited
18 liability company, a shareholder of the surviving
19 corporation, or a holder of equity securities of the
20 surviving other business entity is liable for all of the
21 following:

22 (1) All obligations of a party to the merger for which
23 that person was personally liable before the merger.

24 (2) All other obligations of the surviving entity
25 incurred before the merger by a party to the merger, but
26 those obligations may be satisfied only out of property of
27 the entity.

28 (3) All obligations of the surviving entity incurred
29 after the merger takes effect, but those obligations may
30 be satisfied only out of property of the entity if that person
31 is a limited partner, a shareholder in a corporation, or,
32 unless expressly provided otherwise in the articles of
33 organization or other governing documents, a member of
34 a limited liability company or a holder of equity securities
35 in a surviving other business entity.

36 (d) If the obligations incurred before the merger by a
37 party to the merger are not satisfied out of the property
38 of the surviving partnership or surviving other business
39 entity, the general partners of that party immediately
40 before the effective date of the merger, to the extent such



1 party was a partnership or a limited partnership, shall
2 contribute the amount necessary to satisfy that party's
3 obligations to the surviving entity, in the manner
4 provided in Section 16807 or in the limited partnership
5 act of the jurisdiction in which the party was formed, as
6 the case may be, as if the merged party were dissolved.

7 (e) A partner of a domestic disappearing partnership,
8 who does not vote in favor of the merger and does not
9 agree to become a partner, member, shareholder, or
10 holder of interest or equity securities of the surviving
11 partnership or surviving other business entity shall have
12 the right to dissociate from the partnership, as of the date
13 the merger takes effect. Within 10 days after the approval
14 of the merger by the partners as required under this
15 article, each domestic disappearing partnership shall
16 send notice of the approval of the merger to each partner
17 that has not approved the merger, accompanied by a
18 copy of Section 16701 and a brief description of the
19 procedure to be followed under that section if the partner
20 wishes to dissociate from the partnership. A partner that
21 desires to dissociate from a disappearing partnership shall
22 send written notice of such dissociation within 30 days
23 after the date of the notice of the approval of the merger.
24 The disappearing partnership shall cause the partner's
25 interest in the entity to be purchased under Section
26 16701. The surviving entity is bound under Section 16702
27 by an act of a general partner dissociated under this
28 subdivision, and the partner is liable under Section 16703
29 for transactions entered into by the surviving entity after
30 the merger takes effect. ~~The disassociation~~ *dissociation* of
31 a partner in connection with a merger pursuant to the
32 terms of this subdivision shall not be deemed a wrongful
33 disassociation under Section 16602.

34 SEC. 11. Section 16915 of the Corporations Code is
35 amended to read:

36 16915. (a) In a merger involving only partnerships,
37 or in a merger to which a domestic partnership and an
38 other business entity is a party but in which no other
39 domestic other business entity is a party, the surviving
40 partnership or surviving foreign other business entity



1 may file with the Secretary of State a statement that one
2 or more partnerships have merged into the surviving
3 partnership or surviving other business entity. A
4 statement of merger shall contain the following:

5 (1) The name of each partnership or other business
6 entity that is a party to the merger.

7 (2) The name of the surviving entity into which the
8 other partnerships or other business entities were
9 merged.

10 (3) The street address of the surviving entity's chief
11 executive office and of an office in this state, if any.

12 (4) Whether the surviving entity is a partnership or an
13 other business entity, specifying the type of the entity.

14 (b) In a merger involving a domestic partnership in
15 which a domestic other business entity is also a party, after
16 approval of the merger by the constituent partnerships
17 and any constituent other business entities, the
18 constituent partnerships and constituent other business
19 entities shall file a certificate of merger in the office of and
20 on a form prescribed by, the Secretary of State, and if the
21 surviving entity is a domestic corporation or a foreign
22 corporation in a merger in which a domestic corporation
23 is a constituent party, the surviving corporation shall file
24 in the office of the Secretary of State a copy of the
25 agreement of merger and attachments required pursuant
26 to paragraph (1) of subdivision (g) of Section 1113. The
27 certificate of merger shall be executed and
28 acknowledged by each domestic constituent partnership
29 by two partners (unless a lesser number is provided in the
30 partnership agreement) and by each foreign constituent
31 partnership by one or more partners, and by each
32 constituent other business entity by those persons
33 required to execute the certificate of merger by the laws
34 under which the constituent other business entity is
35 organized. The certificate of merger shall set forth all of
36 the following:

37 (1) The names and the Secretary of State's file
38 numbers, if any, of each of the constituent partnerships
39 and constituent other business entities, separately
40 identifying the disappearing partnerships and



1 disappearing other business entities and the surviving
2 partnership or surviving other business entity.

3 (2) If a vote of the partners was required under
4 Section 16911, a statement that the principal terms of the
5 agreement of merger were approved by a vote of the
6 partners, which equaled or exceeded the vote required.

7 (3) If the surviving entity is a domestic partnership
8 and not an other business entity, any change to the
9 information set forth in any filed statement of partnership
10 authority of the surviving partnership resulting from the
11 merger, including any change in the name of the
12 surviving partnership resulting from the merger. The
13 filing of a certificate of merger setting forth any changes
14 to any filed statement of partnership authority of the
15 surviving partnership shall have the effect of the filing of
16 a certificate of amendment of the statement of
17 partnership authority by the surviving partnership, and
18 the surviving partnership need not file a certificate of
19 amendment under Section 16015 to reflect those changes.

20 (4) The future effective date or time (which shall be
21 a date or time certain not more than 90 days subsequent
22 to the date of filing) of the merger, if the merger is not
23 to be effective upon the filing of the certificate of merger
24 with the office of the Secretary of State.

25 (5) If the surviving entity is an other business entity or
26 a foreign partnership, the full name, type of entity, legal
27 jurisdiction in which the entity was organized and by
28 whose laws its internal affairs are governed, and the
29 address of the principal place of business of the entity.

30 (6) Any other information required to be stated in the
31 certificate of merger by the laws under which each
32 constituent other business entity is organized.

33 (c) A statement of merger or a certificate of merger,
34 as is applicable under subdivision (a) or (b), shall have
35 the effect of the filing of a cancellation for each
36 disappearing partnership of any statement of partnership
37 authority filed by it.

38 SEC. 12. Section 16916 of the Corporations Code is
39 amended to read:



1 16916. (a) Whenever a domestic or foreign
2 partnership or other business entity having any real
3 property in this state merges with another partnership or
4 other business entity pursuant to the laws of this state or
5 of the state or place in which any constituent partnership
6 or constituent other business entity was organized, and
7 the laws of the state or place of organization (including
8 this state) of any disappearing partnership or
9 disappearing other business entity provide substantially
10 that the making and filing of a statement of merger,
11 agreement of merger, or certificate of merger vests in the
12 surviving partnership or surviving other business entity
13 all the real property of any disappearing partnership and
14 disappearing other business entity, the filing for record in
15 the office of the county ~~record~~ recorder of any county in
16 this state in which any of the real property of the
17 disappearing partnership or disappearing other business
18 entity is located of either (1) a certificate of merger or
19 agreement of merger certified by the Secretary of State,
20 or other certificate prescribed by the Secretary of State,
21 or (2) a copy of the statement of merger, agreement of
22 merger, or certificate of merger, certified by the
23 Secretary of State or an authorized public official of the
24 state or place pursuant to the laws of which the merger
25 is effected, shall evidence record ownership in the
26 surviving partnership or surviving other business entity
27 of all interest of such disappearing partnership or
28 disappearing other business entity in and to the real
29 property located in that county.

30 (b) A filed and, if appropriate, recorded statement of
31 merger, executed and declared to be accurate pursuant
32 to subdivision (c) of Section 16105, stating the name of a
33 partnership or other business entity that is a party to the
34 merger in whose name property was held before the
35 merger and the name of the surviving entity, but not
36 containing all of the other information required by
37 Section 16915, operates with respect to the partnerships
38 or other business entities named to the extent provided
39 in subdivision (a).



1 (c) Recording of the certificate of merger in
2 accordance with subdivision (a) shall create, in favor of
3 bona fide purchasers or encumbrancers for value, a
4 conclusive presumption that the merger was validly
5 completed.

6 SEC. 13. Chapter 11.5 (commencing with Section
7 17540.1) is added to Title 2.5 of the Corporations Code, to
8 read:

9

10 CHAPTER 11.5. CONVERSION

11

12 17540.1. For purposes of this chapter, the following
13 definitions shall apply:

14 (a) “Converted entity” means the other business
15 entity or foreign limited liability company that results
16 from a conversion of a domestic limited liability company
17 under this chapter.

18 (b) “Converted limited liability company” means a
19 domestic limited liability company that results from a
20 conversion of an other business entity or a foreign limited
21 liability company pursuant to Section 17540.8.

22 (c) “Converting limited liability company” means a
23 domestic limited liability company that converts to an
24 other business entity or a foreign limited liability
25 company pursuant to this chapter.

26 (d) “Converting entity” means an other business
27 entity or foreign limited liability company that converts
28 to a domestic limited liability company pursuant to the
29 terms of Section 17540.8.

30 17540.2. A limited liability company may be
31 converted into an other business entity or a foreign
32 limited liability company pursuant to this chapter if,
33 pursuant to the proposed conversion, each of the
34 members of the converting limited liability company
35 would receive a percentage interest in profits and capital
36 of the converted entity equal to that member’s
37 percentage interest in profits and capital of the
38 converting limited liability company as of the effective
39 time of the conversion. Notwithstanding this section, the
40 conversion of a limited liability company to an other



1 business entity or a foreign limited liability company may
2 be effected only if both of the following conditions are
3 complied with:

4 (a) The law under which the converted entity will
5 exist expressly permits the formation of that entity
6 pursuant to a conversion.

7 (b) The limited liability company complies with any
8 and all other requirements of any other law that applies
9 to conversion to the converted entity.

10 17540.3. (a) A limited liability company that desires
11 to convert to an other business entity or a foreign limited
12 liability company shall approve a plan of conversion.

13 The plan of conversion shall state all of the following:

14 (1) The terms and conditions of the conversion.

15 (2) The place of the organization of the converted
16 entity and of the converting limited liability company
17 and the name of the converted entity after conversion.

18 (3) The manner of converting the membership
19 interests of each of the members into securities of, or
20 interests in, the converted entity.

21 (4) The provisions of the governing documents for the
22 converted entity, including the partnership agreement,
23 to which the holders of interests in the converted entity
24 are to be bound.

25 (5) Any other details or provisions that are required by
26 the laws under which the converted entity is organized,
27 or that are desired by the parties.

28 (b) The plan of conversion shall be approved by a vote
29 of a majority in interest of the members of the converting
30 limited liability company, or a greater percentage of the
31 voting interests of members as may be specified in the
32 articles of organization or written operating agreement
33 of the converting limited liability company. However, if
34 the members of the limited liability company would
35 become personally liable for any obligations of the
36 converted entity as a result of the conversion, the plan of
37 conversion shall be approved by all of the members of the
38 converting limited liability company, unless the plan of
39 conversion provides that all members will have



1 dissenters' rights as provided in Chapter 13 (commencing
2 with Section 17600).

3 (c) If the limited liability company is converting into
4 a limited partnership, then in addition to the approval of
5 the members set forth in subdivision (b), the plan of
6 conversion shall be approved by those members who will
7 become general partners of the converted limited
8 partnership pursuant to the plan of conversion.

9 (d) Upon the effectiveness of the conversion, all
10 members of the converting limited liability company,
11 except those that exercise dissenters' rights as provided
12 in Chapter 13 (commencing with Section 17600) shall be
13 deemed parties to any governing documents for the
14 converted entity adopted as part of the plan of
15 conversion, irrespective of whether or not a member has
16 executed the plan of conversion or such governing
17 documents for the converted entity. Any adoption of
18 governing documents made pursuant thereto shall be
19 effective at the effective time or date of the conversion.

20 (e) Notwithstanding its prior approval, a plan of
21 conversion may be amended before the conversion takes
22 effect if the amendment is approved by the members of
23 the converting limited liability company in the same
24 manner as was required for approval of the original plan
25 of conversion.

26 (f) A plan of conversion may be abandoned by the
27 members of a converting limited liability company in the
28 manner as required for approval of the plan of
29 conversion, subject to the contractual rights of third
30 parties, at any time before the conversion is effective.

31 (g) The converted entity shall keep the plan of
32 conversion at the principal place of business of the
33 converted entity if the converted entity is a domestic
34 partnership or foreign other business entity or at the
35 office at which records are to be kept under Section 15614
36 if the converted entity is a domestic limited partnership.
37 Upon the request of a member of a converting limited
38 liability company, the authorized person on behalf of the
39 converted entity shall promptly deliver to the member or
40 the holder of interests or other securities, at the expense



1 of the converted entity, a copy of the plan of conversion.
2 A waiver by a member of the rights provided in this
3 subdivision shall be unenforceable.

4 17540.4. (a) A conversion into an other business
5 entity or a foreign limited liability company shall become
6 effective upon the earliest date that all of the following
7 occur:

8 (1) The approval of the plan of conversion by the
9 members of the converting limited liability company as
10 provided in Section 17540.3.

11 (2) The filing of all documents required by law to
12 effect the conversion and create the converted entity,
13 which documents shall also contain a statement of
14 conversion, if required under Section 17540.6.

15 (3) The occurrence of the effective date, if set forth in
16 the plan of conversion.

17 (b) A copy of the statement of partnership authority
18 or certificate of limited partnership complying with
19 Section 17540.6, if applicable, duly certified by the
20 Secretary of State, is conclusive evidence of the
21 conversion of the limited liability company.

22 17540.5. (a) The conversion of a limited liability
23 company into a foreign other business entity or a foreign
24 limited liability company shall be required in order to
25 comply with Section 17540.2.

26 (b) If the limited liability company is converting into
27 a foreign other business entity or a foreign limited liability
28 company, those conversion proceedings shall be in
29 accordance with the laws of the state or place of
30 organization of the foreign other business entity or
31 foreign limited liability company and the conversion shall
32 become effective in accordance with that law.

33 (c) (1) To enforce an obligation of a limited liability
34 company that has converted to a foreign limited liability
35 company or foreign other business entity, the Secretary
36 of State shall only be the agent for service of process in an
37 action or proceeding against that converted foreign
38 entity, if the agent designated for the service of process
39 for the entity is a natural person and cannot be located
40 with due diligence or if the agent is a corporation and no



1 person, to whom delivery may be made, may be located
2 with due diligence, or if no agent has been designated and
3 if no one of the officers, partners, managers, members, or
4 agents of that entity may be located after diligent search,
5 and it is so shown by affidavit to the satisfaction of the
6 court. The court then may make an order that service be
7 made by personal delivery to the Secretary of State or to
8 an assistant or deputy Secretary of State of two copies of
9 the process together with two copies of the order, and the
10 order shall set forth an address to which the process shall
11 be sent by the Secretary of State. Service in this manner
12 is deemed complete on the 10th day after delivery of the
13 process to the Secretary of State.

14 (2) Upon receipt of the process and order and the fee
15 set forth in Section 12206 of the Government Code, the
16 Secretary of State shall give notice to such entity of the
17 service of the process by forwarding by certified mail,
18 return receipt requested, a copy of the process and order
19 to the address specified in the order.

20 (3) The Secretary of State shall keep a record of all
21 process served upon the Secretary of State and shall
22 record therein the time of service and the Secretary of
23 State's action with respect thereto. The certificate of the
24 Secretary of State, under the Secretary of State's official
25 seal, certifying to the receipt of process, the giving of
26 notice thereof to that entity, and the forwarding of the
27 process, shall be competent and prima facie evidence of
28 the matters stated therein.

29 17540.6. (a) Upon conversion of a limited liability
30 company:

31 (1) If the limited liability company is converting into
32 a domestic limited partnership, a statement of conversion
33 shall be completed on the certificate of limited
34 partnership for the converted entity.

35 (2) If the limited liability company is converting into
36 a domestic partnership, a statement of conversion shall be
37 completed on the statement of partnership authority for
38 the converted entity, or if no statement of partnership
39 authority is filed then a certificate of conversion shall be
40 filed separately.



1 (3) If the limited liability company is converting into
2 a foreign limited liability company or foreign other
3 business entity, a certificate of conversion shall be filed
4 with the Secretary of State.

5 (b) Any certificate or statement of conversion shall be
6 executed and acknowledged by all of the managers,
7 unless a lesser number is provided in the articles of
8 organization or the operating agreement of the
9 converting limited liability company, and shall set forth
10 all of the following:

11 (1) The name and the Secretary of State's file number
12 of the converting limited liability company.

13 (2) A statement that the principal terms of the plan of
14 conversion were approved by a vote of the members,
15 which equaled or exceeded the vote required under
16 Section 17540.3, specifying each class entitled to vote and
17 the percentage vote required of each class.

18 (3) The form of organization of the converted entity.

19 (c) The filing with the Secretary of State of a
20 certificate of conversion or an organizational document
21 containing a statement of conversion as set forth in
22 subdivision (a) shall have the effect of the filing of a
23 certificate of cancellation by the converting limited
24 liability company and no converting limited liability
25 company that has made the filing is required to file a
26 certificate of dissolution or a certificate of cancellation
27 under Section 17356 as a result of that conversion.

28 17540.7. (a) Whenever a limited liability company or
29 other business entity having any real property in this state
30 converts into a limited liability company or an other
31 business entity pursuant to the laws of this state or of the
32 state or place in which the limited liability company or
33 other business entity was organized, and the laws of the
34 state or place of organization, including this state, of the
35 converting limited liability company or other converting
36 entity provide substantially that the conversion vests in
37 the converted limited liability company or other
38 converted entity all the real property of the converting
39 limited liability company or other converting entity, the
40 filing for record in the office of the county recorder of any



1 county in this state in which any of the real property of
2 the converting limited liability company or other
3 converting entity is located of either (1) a certificate of
4 conversion, statement of partnership authority,
5 certificate of limited partnership, or articles of
6 organization complying with Section 17540.6, in the form
7 prescribed and certified by the Secretary of State, or (2)
8 a copy of a certificate of conversion, or a statement of
9 partnership authority, certificate of limited partnership,
10 articles of organization, or other certificate evidencing
11 the creation of a foreign other business entity or foreign
12 limited liability company by conversion, containing a
13 statement of conversion, certified by the Secretary of
14 State or an authorized public official of the state or place
15 pursuant to the laws of which the conversion is effected,
16 shall evidence record ownership in the converted limited
17 liability company or other converted entity of all interest
18 of the converting limited liability company or other
19 converting entity in and to the real property located in
20 that county.

21 (b) A filed and, if appropriate, recorded certificate of
22 conversion, or a statement of partnership authority,
23 certificate of limited partnership or articles of
24 organization or other certificate evidencing the
25 formation of a foreign other business entity or a foreign
26 limited liability company filed pursuant to Section 17540.6
27 containing a statement of conversion, stating the name of
28 the converting limited liability company or other
29 converting entity in whose name property was held
30 before the conversion and the name of the converted
31 entity or converted limited liability company, but not
32 containing all of the other information required by
33 Section 17540.6, operates with respect to the converted
34 entities named to the extent provided in subdivision (a).

35 (c) Recording of a certificate of conversion or a
36 statement of partnership authority, certificate of limited
37 partnership or articles of organization, or other certificate
38 evidencing the creation of an other business entity or a
39 limited liability company by conversion, containing a
40 statement of conversion, in accordance with subdivision



1 (a), shall create, in favor of bona fide purchasers or
2 encumbrances for value, a conclusive presumption that
3 the conversion was validly completed.

4 17540.8. (a) An other business entity or foreign
5 limited liability company may be converted to a domestic
6 limited liability company pursuant to this chapter only if
7 the converting entity is not prohibited by the law under
8 which it is organized to effect the conversion.

9 (b) An other business entity or a foreign limited
10 liability company that desires to convert into a domestic
11 limited liability company shall approve a plan of
12 conversion or such instrument as is required to be
13 approved to effect the conversion pursuant to the laws
14 under which that entity is organized.

15 (c) The conversion of an other business entity or a
16 foreign limited liability company shall be approved by
17 that number or percentage of the partners, members, or
18 holders of interest of the converting entity as is required
19 by the law under which that entity is organized, or a
20 greater or lesser percentage, subject to applicable laws,
21 as set forth in the converting entity's partnership
22 agreement, articles of organization, operating
23 agreement, or other governing document.

24 (d) The conversion by an other business entity or
25 foreign limited liability company shall be effective under
26 this chapter at the time the conversion is effective under
27 the law under which the converting entity is organized
28 as long as the articles of organization have been filed with
29 the Secretary of State. If the converting entity's
30 governing law is silent as to the effectiveness of the
31 conversion, the conversion shall be effective upon the
32 completion of all acts required under this title to form a
33 limited liability company.

34 17540.9. (a) An entity that converts into another
35 entity pursuant to this chapter is for all purposes the same
36 entity that existed before the conversion.

37 (b) Upon a conversion taking effect, all of the
38 following apply:

39 (1) All the rights and property, whether real, personal,
40 or mixed, of the converting entity or converting limited



1 liability company are vested in the converted entity or
2 converted limited liability company.

3 (2) All debts, liabilities, and obligations of the
4 converting entity or converting limited liability company
5 continue as debts, liabilities, and obligations of the
6 converted entity or converted limited liability company.

7 (3) All rights of creditors and liens upon the property
8 of the converting entity or converting limited liability
9 company shall be preserved unimpaired and remain
10 enforceable against the converted entity or converted
11 limited liability company to the same extent as against the
12 converting entity or converting limited liability company
13 as if the conversion had not occurred.

14 (4) Any action or proceeding pending by or against
15 the converting entity or converting limited liability
16 company may be continued against the converted entity
17 or converted limited liability company as if the
18 conversion had not occurred.

19 (c) A member of a converting limited liability
20 company is liable for:

21 (1) All obligations of the converting limited liability
22 company for which the member was personally liable
23 before the conversion.

24 (2) All obligations of the converted entity incurred
25 after the conversion takes effect, but those obligations
26 may be satisfied only out of property of the entity if that
27 member is a limited partner, a shareholder in a
28 corporation, or unless expressly provided otherwise in the
29 articles of organization or other governing documents, a
30 member of a converted limited liability company or a
31 holder of equity securities in an other converted entity if
32 the holders of equity securities in such entity are not
33 personally liable for the obligations of such entity under
34 the law under which that entity is organized or its
35 governing documents.

36 (d) A member of a converted limited liability
37 company remains liable for any and all obligations of the
38 converting entity for which the member was personally
39 liable before the conversion, but only to the extent that



1 the member was personally liable for the obligations of
2 the converting entity prior to the conversion.

3 *(e) If the other party to a transaction with the limited*
4 *liability company reasonably believes when entering the*
5 *transaction that the limited liability company member is*
6 *a general partner, the limited liability company member*
7 *is liable for an obligation incurred by the limited liability*
8 *company within 90 days after the conversion takes effect.*
9 *The limited liability company member's liability for all*
10 *other obligations of the limited liability company*
11 *incurred after the conversion takes effect is that of a*
12 *limited liability company member.*

13 SEC. 14. Section 17600 of the Corporations Code is
14 amended to read:

15 17600. (a) For purposes of this chapter,
16 “reorganization” refers to any of the following:

17 (1) A conversion pursuant to Chapter 11.5
18 (commencing with Section 17540.1).

19 (2) A merger pursuant to Chapter 12 (commencing
20 with Section 17550).

21 (3) The acquisition by one limited liability company,
22 in exchange, in whole or part, for its membership
23 interests (or the membership interests or equity
24 securities of a limited liability company or other business
25 entity that is in control of the acquiring limited liability
26 company), of membership interests or equity securities
27 of another limited liability company or other business
28 entity if, immediately after the acquisition, the acquiring
29 limited liability company has control of the other limited
30 liability company or other business entity.

31 (4) The acquisition by one limited liability company in
32 exchange in whole or in part for its membership interests
33 (or the membership interests or equity securities of a
34 limited liability company or other business entity that is
35 in control of the acquiring limited liability company) or
36 for its debt securities (or debt securities of a limited
37 liability company or other business entity that is in control
38 of the acquiring limited liability company) that are not
39 adequately secured and that have a maturity date in
40 excess of five years after the consummation of the



1 acquisition, or both, of all or substantially all of the assets
2 of another limited liability company or other business
3 entity.

4 (b) For purposes of this chapter, “control” means the
5 possession, direct or indirect, of the power to direct or
6 cause the direction of the management and policies of a
7 limited liability company or other business entity.

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