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Domestication and Conversion of Business Entities

By Victoria Applewhite, Legal Intern, Mississippi Secretary of State's Office

Introduction

To take advantage of favorable corporate law in another state or a more suitable form of business, an entity may desire to change either its state of incorporation or business entity form through the use of a single-step process. While the majority of states have statutory provisions authorizing domestication and/or conversion, Mississippi has no statutes that explicitly permit these changes.

While the term “domestication” is sometimes used to describe the process of licensing a foreign corporation to do business in this state, for purposes of this article, the term refers to a corporation discontinuing its incorporation under the foreign state and reincorporating under the laws of this state or vice versa.¹ Whether a corporation is a foreign or domestic corporation generally depends upon its place of incorporation and organization, not upon its business activities or location of members and stockholders.²

Conversion of business entities permits the more efficient accomplishment of what would otherwise be a burdensome multi-step process. Without statutory authority to change its organizational form, an entity is not precluded from doing so.³ Instead, the entity must engage in procedures that are more elaborate, more cumbersome, and more expensive but achieve the same result.⁴ Because the end result of conversion can still be achieved through the use of alternative processes, a statutory provision authorizing domestication and/or conversion would merely create a more efficient system involving only one entity and one document.⁵

With the authorization of conversion, several problem areas could potentially arise. The rights of creditors, litigants, and owners must be protected.⁶ The conversion documents must clearly indicate the transfer of business property, and administrative procedures must enable the state to easily record and report on the current status of a business.⁷ In the case of conversions involving two jurisdictions, additional issues of coordination, reciprocity, and multiple sets of law arise.⁸

This article will examine general domestication and conversion statutes, discuss the advantages of each, and analyze how other states have dealt with the issue.

Domestication

Corporations often conduct a substantial amount of business outside their state of incorporation with the approval of other states.⁹ Most commonly, corporations obtain this approval through a certificate of authority, permitting the corporation to do business in the

state without altering its status as a foreign corporation.¹⁰ Domestication is a procedure whereby a foreign corporation discontinues its incorporation under the laws of the foreign state and becomes incorporated under the laws of the subject state or vice versa.¹¹ A domesticated corporation typically has all of the powers, privileges, and rights granted to corporations originally incorporated in the subject state, as well as all duties, liabilities, and limitations imposed upon them.¹²

Domestication under the Model Business Corporation Act

Section 9.20 of the Model Business Corporation Act provides for two types of domestication: a foreign business corporation becoming a domestic business corporation, and a domestic business corporation becoming a foreign business corporation.¹³ In each case, domestication must be permitted by the laws of the foreign jurisdiction, which also determine the conditions upon which a foreign corporation is authorized to domesticate in this state.¹⁴ A foreign corporation may become a domestic corporation only if the laws of its jurisdiction of incorporation so authorize.¹⁵ The domestication must be approved in the manner prescribed by domestication laws in the subject state.¹⁶

Domestication statutes typically include provisions for a plan of domestication, action on the plan, articles of domestication, surrender of charter upon domestication, effect of domestication, and abandonment of domestication.¹⁷ The filing of the articles of charter surrender terminates the status of corporation as a corporation incorporated under the laws of this state, but the procedure whereby a foreign corporation terminates its incorporation in the foreign state is governed by statute in that jurisdiction.¹⁸ When domestication becomes effective, the corporation is considered to be incorporated under and subject to the organic law of this state for all purposes.¹⁹ The domesticated corporation retains both its original date of incorporation in the former state and an uninterrupted status as the same corporation both before and after domestication.²⁰ Though each state has the option to adopt all or part of the Model Business Corporation Act's provisions, the act provides an accurate estimate of general domestication statutes.

Advantages of Domestication

Changing the state of incorporation may be favorable for several reasons, all depending on the laws of the subject state. Most notably, a corporation may want to domesticate in a certain state to benefit from advantageous tax laws in that state.²¹ For example, Nevada, Texas, and Wyoming impose no corporate income taxes, which may significantly reduce taxes overall, depending on the corporation's business operations.²² The laws of the jurisdiction in which a corporation is domesticated provide guidance on such issues as voting rights, protection of officers and directors, and liability.²³ Delaware has notoriously favorable corporate governance regulations,²⁴ while Nevada laws offer greater privacy and corporate officer liability protection.²⁵

Statutory Provisions for Domestication

Thirty jurisdictions in total provide for domestication of corporations.²⁶ Twenty jurisdictions have authorized domestication specifically by statute,²⁷ while ten additional jurisdictions have provided for domestication as a type of conversion authorized in conversion statutes.²⁸ Of the thirty jurisdictions authorizing domestication, five jurisdictions only authorize the domestication of foreign corporations domesticating into the state.²⁹

Entity Conversion

Entity Conversion under the Model Business Corporation Act

Section 9.50 of the Model Business Corporation Act provides for four types of entity conversions: (1) a domestic business corporation to a domestic other entity; (2) a domestic corporation to a foreign other entity; (3) a domestic other entity converting into a domestic business corporation; and (4) a foreign other entity converting to a domestic business corporation.³⁰ Chapter Nine of the Model Business Corporation Act concerns the conversion of entities, nonprofit corporations, and foreign nonprofit corporations.³¹ Though this article focuses solely on entity conversion, the provisions for nonprofit conversion and foreign nonprofit conversion are quite similar.³²

The concept of entity conversion as discussed in section 9.50 is scarcely found in statutes governing the incorporation and organization of business entities.³³ Thus, if the organic law of a domesticating unincorporated entity does not specifically provide for this type of conversion, section 9.50(c) is intended to authorize such a conversion: “A domestic unincorporated entity may become a domestic business corporation.”³⁴ A foreign unincorporated entity may only convert under section 9.50 if the laws of the foreign jurisdiction allow the conversion.³⁵ This provision avoids problematic issues arising if a foreign unincorporated entity were authorized to participate in transactions in this state which would not be permitted under the laws of the foreign jurisdiction.³⁶

Though many states have adopted parts, rather than the whole, of section 9.50, the Model Business Corporation Act’s conversion statute includes provisions for a plan of entity conversion, action on a plan of entity conversion, articles of entity conversion, surrender of charter upon conversion, effect of entity conversion, and abandonment of an entity conversion.³⁷ The plan of conversion must be adopted by the board of directors and include: (1) a statement of the type of entity the surviving entity will be; (2) the terms and conditions of the conversion; (3) the manner and basis of converting the corporation’s shares into interests or other securities, obligations, etc.; and (4) the text of the organic documents of the surviving entity.³⁸

The plan must be approved by the shareholders, voting individually as each class or series of shares of the corporation.³⁹ The meeting at which votes are cast must have a quorum of at least a majority of eligible voters in that voting group.⁴⁰ If the conversion would expose any shareholder to owner liability, each shareholder must consent in writing.⁴¹ After approval of the plan, the articles of conversion are executed and delivered to the secretary of state for filing.⁴² In the case of conversion from a domestic corporation to a foreign entity, articles of charter surrender are to be executed and filed.⁴³ The existence of the surviving entity is uninterrupted, and its date of incorporation or organization remains on its original date of incorporation or organization.⁴⁴ The surviving entity is subject to the rights and liabilities of the original entity, though a shareholder who becomes subject to owner liability is liable only for obligations arising post-conversion.⁴⁵

Several types of conversions are outside the scope of this provision: a domestic other entity to another form of unincorporated entity or to a foreign business corporation, and a foreign entity or foreign corporation to a domestic unincorporated entity.⁴⁶ However, many states have chosen to generalize the terms of their conversion provisions to allow these types of conversions not covered by section 9.50.⁴⁷

Advantages of Conversion

Without express statutory authority, an entity may still change its organizational form through the use of a multi-step process which is eliminated by the more efficient method prescribed by conversion statutes.⁴⁸ For example, without the use of a conversion statute, a partnership may change to a corporation through several methods.⁴⁹ In each situation, however, multiple steps are involved: the partnership is dissolved, its assets are transferred or sold to a newly formed corporation, and the former partners become shareholders in the new corporation.⁵⁰ Though accomplishing the desired result, this multi-step process involves expenses that would not otherwise exist with a statutory provision authorizing conversion.⁵¹ Distribution of assets is a taxable event, and the dissolution and sale of assets may trigger contractual terms already in existence, requiring accelerated debt payment.⁵² Additionally, documentation is necessary for transfers of assets, transfers of real estate, and the sale or assignment of personal property, all of which may impose additional expenses.⁵³

Conversion provisions offer a greatly simplified method of accomplishing a change in entity form with respect to property, transfer restrictions, and transaction costs.⁵⁴ Property of the converting entity becomes property of the surviving entity by operation of law, without the need for deeds, assignments, or other documents of conveyance.⁵⁵ Title insurance continues in favor of the surviving entity, and no sales or transfer taxes apply to a conversion.⁵⁶ Additionally, restrictions on transfer, such as non-assignment clauses in leases, are not triggered.⁵⁷

Statutory Provisions for Conversion

Of the forty-two jurisdictions that have a statutory provision for business entity conversions, twenty-eight have either adopted provisions identical to section 9.50 or authorized the types of conversions enumerated in section 9.50.⁵⁸ Furthermore, eighteen of those jurisdictions have chosen to adopt provisions authorizing other types of conversions beyond the four provided in section 9.50.⁵⁹

Ten jurisdictions have elected to not only expand the types of conversions authorized by statute but also to use such broad terms as to include domestication as a type of authorized conversion in lieu of providing a separate domestication statute.⁶⁰ The following states have included domestication in conversion statutes: Alabama, California, Colorado, Georgia, Hawaii, Michigan, North Carolina, Oregon, Rhode Island, and Texas.⁶¹ Wyoming has perhaps the most expansive conversion statute, broadly stating that “any entity, domestic or foreign, may convert to any other entity, domestic or foreign.”⁶²

In addition to flexibility regarding the provision’s coverage, states have options concerning the drafting and placement of conversion provisions. In the “junction box” model, cross-entity provisions are contained in a single statute, while the “self-contained” model repeats cross-entity provisions in individual statutory chapters governing the specific entity forms.⁶³ The “junction box” model assures consistency and requires fewer provisions; however, these provisions note that any conversion is subject to organic statutes governing each entity type that may prohibit or restrict any aspect involved in conversion.⁶⁴ Thus, three statutory provisions would need to be consulted to determine if conversion from one entity to a different entity form is authorized.⁶⁵ Though repetitive and lengthy, the “self-contained” model places a conversion provision in its entirety in chapters governing each entity form, reducing the number of provisions that must be consulted.⁶⁶

Conclusion

At a minimum, Mississippi would create a more efficient system by following the forty-one states that have enacted a statute authorizing conversion. Twenty-eight jurisdictions provide for both domestication and conversion.⁶⁷ Thirteen jurisdictions provide only for conversion,⁶⁸ while a mere two states provide only for domestication.⁶⁹ Thus, if a state authorizes conversion, it likely authorizes domestication as well. Furthermore, if Mississippi also elects to authorize domestication, the most efficient method would be to follow the ten states that authorize it as a type of conversion instead of creating a separate provision.

¹ See William Meade Fletcher, *Fletcher Cyclopaedia of the Law of Corporations* § 8302 (2012) (Westlaw, through February 2012).

² 36 Am. Jur. 2d *Determination as to domestic or foreign nature, generally* § 2 (2012).

³ See Robert C. Art, *Conversion and Merger of Disparate Business Entities*, 76 Wash. L. Rev. 349, 368-369 (2001), WL 76 WALR 349.

⁴ *Id.*

⁵ See *id.* at 352.

⁶ *Id.* at 353.

⁷ *Id.*

⁸ *Id.*

⁹ Fletcher, *supra* note 1, § 8302.

¹⁰ *Id.*

¹¹ *Id.*

¹² Model Bus. Corp. Act Ann. § 9.24 cmt. (2008) (revised 2009).

¹³ *Id.* § 9.20(a)-(b).

¹⁴ *Id.* § 9.20 cmt. 1.

¹⁵ Fletcher, *supra* note 1, § 8304.

¹⁶ *Id.*

¹⁷ See Model Bus. Corp. Act Ann., *supra* note 12, §§ 9.20-9.25.

¹⁸ *Id.* § 9.23 cmt.

¹⁹ *Id.* § 9.24(a)(6)(i).

²⁰ *Id.* § 9.24(a)(6)(ii)-(iii).

²¹ See generally Mark Robyn, *2012 State Business Tax Climate Index* (January 25, 2012), at taxfoundation.org/article/2012-state-business-tax-climate-index.

²² See *id.*

²³ See generally David Mace Roberts and Rob Pivnick, *Tale of the Corporate Tape: Delaware, Nevada and Texas* 52 Baylor L. Rev. 45 (2000), WL 52 BLRLR 45.

²⁴ See *id.* at 81.

²⁵ See *id.* at 51.

²⁶ See, e.g., D.C. Code § 29-205.01 (West, through May 10, 2012); Va. Code Ann. § 13.1-722.2 (West, through End of 2012 Reg. Sess. and End of 2012 Sp. Sess. I.); Wis. Stat. Ann. § 181.1533 (West, through 2011 Act 286, published April 26, 2012).

²⁷ See, e.g., Idaho Code § 30-18-501 (West, through End of 2012 2nd Regular Session of the 61st Legislature); La. Rev. Stat. Ann. § 12:164 (West, through 2011 First Extraordinary and Reg. Sess.).

²⁸ See, e.g., Col. Rev. Stat. Ann. § 7-90-201 (West, through laws effective July 1, 2012); Haw. Rev. Stat. Ann. § 414-271 (West, through Act 129 of 2012 Reg. Sess.); Or. Rev. Stat. Ann. § 60.472 (West, through 7/1/12).

²⁹ See, e.g., Fla. Stat. Ann. § 607.1801 (West, through Chapter 229 (End) of 2012 Second Reg. Sess. and 2012 Extraordinary Apportionment Sess. of Twenty-Second Leg.); Neb. Rev. St. § 21-20, 181.01 (West, through 102nd Legislature 1st Special Session (2011)).

³⁰ See Model Bus. Corp. Act Ann., *supra* note 12, § 9.50(a)-(d).

³¹ *Id.* §§ 9.30-9.56.

³² See Fletcher, *supra* note 1, § 3993.50.

³³ See Model Bus. Corp. Act Ann., *supra* note 12, § 9.50 cmt. 2.

³⁴ *Id.*

³⁵ *Id.*

³⁶ See *id.*

³⁷ See Model Bus. Corp. Act Ann., *supra* note 12, §§ 9.50-9.56.

- ³⁸ See *id.* § 9.51(a).
- ³⁹ *Id.* § 9.52(2)-(5).
- ⁴⁰ See *id.* § 9.52(5).
- ⁴¹ Fletcher, *supra* note 1, § 3993.50.
- ⁴² See Model Bus. Corp. Act Ann., *supra* note 12, § 9.53(d).
- ⁴³ *Id.* § 9.54.
- ⁴⁴ See *id.* § 9.55(a)(7).
- ⁴⁵ Fletcher, *supra* note 1, § 3993.50.
- ⁴⁶ See Model Bus. Corp. Act Ann., *supra* note 12, § 9.50 cmt. 1.
- ⁴⁷ See, e.g., Col. Rev. Stat. Ann. § 7-90-201 (West, through laws effective July 1, 2012).
- ⁴⁸ See Art, *supra* note 3, at 369.
- ⁴⁹ *Id.*
- ⁵⁰ See *id.*
- ⁵¹ See *id.*
- ⁵² *Id.* at 370.
- ⁵³ See *id.* at 371.
- ⁵⁴ See *id.* at 372-373.
- ⁵⁵ *Id.* at 373.
- ⁵⁶ *Id.*
- ⁵⁷ *Id.*
- ⁵⁸ See, e.g., Idaho Code § 30-18-401 (West, through End of 2012 2nd Regular Session of the 61st Legislature); Col. Rev. Stat. Ann. § 7-90-201 (West, through laws effective July 1, 2012).
- ⁵⁹ See, e.g., D.C. Code § 29-204.01 (West, through May 10, 2012); Wis. Stat. Ann. § 180.1161 (West, through 2011 Act 286, published April 26, 2012).
- ⁶⁰ See, e.g., Col. Rev. Stat. Ann. § 7-90-201 (West, through laws effective July 1, 2012); R.I. Gen. Laws § 7-1.2-1007 (West, through chapter 109 of 2012 Regular Session).
- ⁶¹ See, e.g., Haw. Rev. Stat. Ann. § 414-271 (West, through Act 129 of 2012 Reg. Sess.); Or. Rev. Stat. Ann. § 60.472 (West, through 7/1/12).
- ⁶² Wyo. Stat. Ann. § 17-26-101 (West, through the 2012 Budget Session).
- ⁶³ See Robert C. Art, *Conversion and Merger of Disparate Business Entities*, 76 Wash. L. Rev. 349, 381 (2001), WL 76 WALR 349.
- ⁶⁴ See *id.* at 381-382.
- ⁶⁵ See *id.* at 382.
- ⁶⁶ See *id.* at 383.
- ⁶⁷ See, e.g., Va. Code Ann. §§ 13.1-722.2, 13.1-722.9 (West, through End of 2012 Reg. Sess. and End of 2012 Sp. Sess. I.).
- ⁶⁸ See, e.g., Ark. Code Ann. § 4-26-1002 (West, Westlaw through end of 2012 Fiscal Sess.); Iowa Code Ann. § 490.1111 (West, through legislation from the 2012 Reg.Sess.).
- ⁶⁹ See Ariz. Rev. Stat. Ann. § 10-220 (Westlaw through legislation effective May 11, 2012 of the Second Regular Session of the Fiftieth Legislature (2012)); Neb. Rev. St. § 21-20, 181.01 (West, through the 102nd Legislature 1st Special Session (2011)).



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Domestication Fact Sheet

25 Jurisdictions with General Provisions Allowing for Domestication of a Foreign Corporation into This State and Vice Versa, Comparable to § 9.20(a) and (b):

ALABAMA	INDIANA	RHODE ISLAND
ARIZONA	KANSAS	SOUTH DAKOTA
COLORADO	LOUISIANA	TEXAS
CONNECTICUT	MAINE	UTAH
DELAWARE	MASSACHUSETTS	VIRGINIA
DISTRICT OF COLUMBIA	MICHIGAN	WISCONSIN
GEORGIA	NEVADA	WYOMING
HAWAII	NORTH CAROLINA	
IDAHO	OREGON	

5 States whose Statutes *Only* Apply to a *Foreign Corporation* Seeking to Transfer Domicile into the State:

CALIFORNIA	NEBRASKA	SOUTH CAROLINA
FLORIDA	PENNSYLVANIA	

10 States that Include Domestication as One of the Authorized *Conversions* in General Conversion Statutes:

ALABAMA	HAWAII	RHODE ISLAND
CALIFORNIA	MICHIGAN	TEXAS
COLORADO	NORTH CAROLINA	
GEORGIA	OREGON	



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Conversion Fact Sheet

42 Jurisdictions that Provide for the Conversion of Business Entities from or to the Various Forms of Business Available in that Jurisdiction:

ALABAMA	INDIANA	OHIO
ALASKA	KANSAS	OKLAHOMA
ARKANSAS	KENTUCKY	OREGON
CALIFORNIA	LOUISIANA	PENNSYLVANIA
COLORADO	MAINE	RHODE ISLAND
CONNECTICUT	MASSACHUSETTS	SOUTH CAROLINA
DELAWARE	MICHIGAN	SOUTH DAKOTA
DISTRICT OF COLUMBIA	MINNESOTA	TENNESSEE
FLORIDA	MONTANA	TEXAS
GEORGIA	NEVADA	UTAH
HAWAII	NEW HAMPSHIRE	VIRGINIA
IDAHO	NEW MEXICO	WEST VIRGINIA
INDIANA	NORTH CAROLINA	WISCONSIN
IOWA	NORTH DAKOTA	WYOMING

CONVERSIONS AUTHORIZED

7 Jurisdictions Adopted Provisions Virtually Identical to § 9.20(a)-(d):

FLORIDA	MAINE	SOUTH DAKOTA
IDAHO	MASSACHUSETTS	
INDIANA	MICHIGAN	

21 Jurisdictions Authorize the Four Types Listed in § 9.20(a)-(d):

ALABAMA	GEORGIA	OHIO
ARKANSAS	HAWAII	OKLAHOMA
CALIFORNIA	INDIANA	OREGON
COLORADO	IOWA	RHODE ISLAND
CONNECTICUT	KANSAS	TEXAS
DELAWARE	NEVADA	WISCONSIN
DISTRICT OF COLUMBIA	NORTH CAROLINA	WYOMING

9 Jurisdictions Permit Conversion into LLCs:

ALASKA	MONTANA	TENNESSEE
KENTUCKY	NEW HAMPSHIRE	VIRGINIA
MINNESOTA	NEW MEXICO	WEST VIRGINIA

Only Allows for Conversions of Domestic Entities into Other Domestic Forms:

LOUISIANA

Only Allows for a Business Corporation to Convert to a Non-Profit Corp.:

PENNSYLVANIA

Allows Conversion to or from a Corporation in All Situations Except Conversion of a Corporation to a General Partnership:

NORTH DAKOTA

South Carolina Labels Conversions “Mergers” and Explicitly Lists the Types of Entity a Business Corporation May Merge “With or Into”:

FOREIGN BUSINESS CORP.	LIMITED LIABILITY CO.	LIMITED PARTNERSHIP
NONPROFIT CORPORATION	PARTNERSHIP	

Utah Lists Types of Permissible Conversions:

CORPORATION TO A NONPROFIT CORP.	DOMESTIC LLC TO A CORPORATION
CORPORATION TO A DOMESTIC LLC	OTHER ENTITIES TO DOMESTIC COMPANY



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Comparison of Statutory Provisions

State	Conversion		Domestication	
	From:	To:	Domestication Provision	Authorized in Conversion Statute
AL *^	Corporation Limited Partnerships Limited Liability Company General Partnership Real Estate Investment Trust Other Entity Foreign Entity Domestic Entity	Other Form Entity Other Form Entity Other Form Entity Other Form Entity Other Form Entity Other Form Entity Domestic Entity Foreign Entity		X
AK	Other Form Entity	LLC		
AZ			X	
AR	"Other" Entity "Other" Entity	Domestic Corporation LLC		
CA *^	Corporation "Other" Entity (For. or Dom.) Foreign Corporation	Domestic "Other" Entity Corporation Domestic Corporation		X**
CO *^	Dom. Entity (including Corp.) Dom. Entity (including Corp.) For. Entity (including Corp.)	Other Form Dom. Entity Foreign Entity (incl. Corp.) Dom. Entity (incl. Corp.)		X
CT *	Domestic Entity Domestic Entity Foreign Entity	Other Form Dom. Entity Other Form For. Entity Other Form Dom. Entity	X	
DE *	Foreign Corporation "Other" Entity (Domestic) Domestic Corporation Domestic Corporation	Domestic Corporation Domestic Corporation Foreign Corporation "Other" Entity	X	
DC *	Domestic Entity Domestic Entity Foreign Entity	Other Form Dom. Entity Other Form For. Entity Other Form Dom. Entity	X	
FL	Domestic Corporation Domestic Corporation "Other" Entity (Dom. or For.)	"Other" Entity For. "Other" Entity Domestic Corporation	X**	
GA *^	Domestic Corporation Domestic Corporation	Foreign "Other" Entity Foreign Corporation		X

	Foreign Corporation Foreign "Other" Entities Limited Liability Company	Domestic Corporation Domestic Corporation For. Entity or Corporation		
HI*^	Domestic Corporation Domestic Corporation Foreign Corporation Foreign "Other" Entity	Foreign Corporation "Other" Entity Domestic Corporation Domestic Corporation		X
ID	Domestic Entity Domestic Entity Foreign Entity	Other Form Dom. Entity Other Form For. Entity Other Form Dom. Entity	X	
IN*	Domestic Corporation Domestic Corporation Domestic "Other" Entity Domestic "Other" Entity Domestic "Other" Entity Foreign "Other" Entity Foreign Corporation	Domestic "Other" Entity Foreign "Other" Entity Domestic Corporation Foreign "Other" Entity Foreign Corporation Domestic Corporation Domestic "Other" Entity	X	
IA	"Other" Entity (For. or Dom.) Domestic Corporation	Domestic Corporation "Other" Entity (For. or Dom.)		
KS*	Domestic Entity Domestic Entity Foreign Entity	Other Form Domestic Entity Other Form Foreign Entity Other Form Domestic Entity	X	
KY	Corporation Limited Liability Company Limited Partnerships	Limited Liability Company Limited Partnership Limited Liability Company		
LA	Dom. Entity (including Corp.)	Another Domestic Entity	X	
ME	Domestic Corporation Domestic Corporation Domestic "Other" Entity Foreign "Other" Entity	Foreign "Other" Entity Domestic "Other" Entity Domestic Corporation Domestic Corporation	X	
MA	Domestic Corporation Domestic Corporation Domestic "Other" Entity Foreign "Other" Entity	Domestic "Other" Entity Foreign "Other" Entity Domestic Corporation Domestic Corporation	X	
MI*^	Domestic Corporation Domestic Corporation Domestic Corporation Domestic "Other" Entity Foreign Corporation Foreign "Other" Entity	Domestic "Other" Entity Foreign "Other" Entity Foreign Corporation Domestic Corporation Domestic Corporation Domestic Corporation		X
MN	Corporation Limited Liability Company	Domestic LLC Corporation		
MT	Gen. or Lim. Partnership	Limited Liability Company		
NE			X**	
NV*	Dom. Entity (except Nonprofit)	Other Form Dom. Entity	X	

	Dom. Entity (except Nonprofit) Foreign Entity	Foreign Entity Domestic Entity		
NH	Corporation Any Other Entity Limited Liability Company	Limited Liability Company Limited Liability Company Another Entity		
NM	Corporation, Partnership, LP Limited Liability Company	Limited Liability Company Corp., Partnership, LP		
NC*^	"Other" Entity (For. or Dom.) Domestic Corporation Domestic Corporation	Domestic Corporation Other Form Domestic Entity Other Form Foreign Entity		X
ND	"Other" Entity (For. or Dom.) Domestic Corporation	Domestic Corporation "Other" Entity (For. or Dom.)		
OH	Domestic "Other" Entity Foreign "Other" Entity Domestic Corporation Domestic Corporation	Domestic Corporation Domestic Corporation Domestic "Other" Entity Foreign "Other" Entity		
OK	Domestic "Other" Entity Foreign "Other" Entity Domestic Corporation Domestic Corporation	Domestic Corporation Domestic Corporation Domestic "Other" Entity Foreign "Other" Entity		
OR*^	Dom. or For. Entity (incl. Corp.) Domestic Corporation Domestic Corporation	Domestic Corporation Another Domestic Entity For. Entity (including Corp.)		X
PA	Any Business Corporation "Other" Entities (For. or Dom.)	Nonprofit Corporation	X**	
RI*^	Foreign Corporation Domestic Corporation Domestic Corporation	Domestic Corporation Domestic Corporation "Other" Entities Foreign Corporation		X
SC	Gen. or Lim. Partnership Corporation Corporation Corporation Corporation	Corporation Limited Liability Company Gen. or Lim. Partnership Nonprofit Corporation For. Business Corporation	X**	
SD	Domestic Corporation Domestic Corporation Domestic "Other" Entity Foreign "Other" Entity	Domestic "Other" Entity Foreign "Other" Entity Domestic Corporation Domestic Corporation	X	
TN	Another Entity Domestic LLC Gen. or Lim. Partnership	Domestic LLC Another Entity Limited Liability Company		
TX*^	Domestic Entity Non-code Organization	Non-code Organization Domestic Entity		X
UT	Corporation Corporation	Nonprofit Corporation Domestic LLC	X	

	Domestic LLC "Other" Entities (For. or Dom.)	Corporation Domestic Company		
VA	Corporation Limited Liability Company	Limited Liability Company Domestic Corporation	X	
WV	Domestic Corporation Gen. or Lim. Partnership	Domestic LLC Limited Liability Company		
WI*	Domestic Corporation "Other" Entities (For. or Dom.)	"Other" Entities Domestic Corporation	X	
WY*	Any Entity (Dom. or For.)	Another Entity (Dom. or For.)	X	

*Adopted additional or more expansive provisions than §9.50 of Model Business Corporation Act

^Includes domestication as one of the authorized conversions in general conversion states

**Only applies to foreign corporation seeking to transfer domicile into the state



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Sample Domestication Statute

DISTRICT OF COLUMBIA

D.C. STAT. §§ 29-205.01. DOMESTICATION AUTHORIZED.

(a) Except as otherwise provided in this section, by complying with this subchapter, 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 subchapter applicable to foreign entities, a foreign entity may become a domestic entity of the same type in the District 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 subchapter 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 shall apply to a domestication of the entity as if the domestication were a merger until the provision is amended after the effective date of this chapter.

(e) The following entities shall not engage in a domestication under this subchapter:

- (1) A business corporation subject to subchapter VII of Chapter 3 of this title;
- (2) A nonprofit corporation subject to subchapter VII of Chapter 4 of this title; or
- (3) A limited liability company subject to subchapter IX of Chapter 8 of this title.

D.C. STAT. §§ 29-205.02. PLAN OF DOMESTICATION.

(a) A domestic entity may become a foreign entity in a domestication by approving a plan of domestication. The plan 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 if it is a filing entity;

- (5) The full text of the private organic rules of the domesticated entity that are proposed to be in a record;
- (6) The other terms and conditions of the domestication; and
- (7) Any other provision required by the law of the District or the organic rules of the domesticating entity.

(b) A plan of domestication may contain any other provision not prohibited by law.

D.C. STAT. §§ 29-205.06. EFFECT OF DOMESTICATION.

(a) When a domestication becomes effective:

(1) The domesticated entity shall be:

(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 shall continue to be vested in the domesticated entity without assignment, reversion, or impairment;

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

(4) Except as otherwise provided by law other than this chapter or the plan of domestication, all of the rights, privileges, immunities, powers, and purposes of the domesticating entity shall 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 document shall be effective and shall be binding on its interest holders;

(7) If the domesticated entity is a limited liability partnership, its statement of qualification shall be effective simultaneously;

(8) The private organic rules of the domesticated entity that are to be in a record, if any, approved as part of the plan of domestication shall be effective and shall be binding on and enforceable by:

(A) Its interest holders; and

(B) In the case of a domesticated entity that is not a business corporation or nonprofit corporation, any other person that is a party to an agreement that is part of the domesticated entity's private organic rules; and

(9) The interests in the domesticating entity shall be converted to the extent and as approved in connection with the domestication, and the interest holders of the domesticating entity shall be entitled only to the rights provided to them under the plan of domestication, and to any appraisal rights they have under § 29-201.09 and the domesticating entity's organic law.

(b) Except as otherwise provided in the organic law or organic rules of the domesticating entity, the domestication shall 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 domesticating entity.

(c) When a domestication becomes effective, a person that did not have interest holder liability with respect to the domesticating entity and that becomes subject to interest holder liability with respect to a domestic entity as a result of the domestication shall have interest holder liability only to the extent provided by the organic law of the entity and only for those liabilities that arise after the domestication becomes effective.

(d) When a domestication becomes effective:

(1) The domestication shall not discharge any interest holder liability under the organic law of a domesticating domestic entity to the extent the interest holder liability arose before the domestication became effective;

(2) A person shall not have interest holder liability under the organic law of a domestic domesticating entity for any liability that arises after the domestication becomes effective;

(3) The organic law of a domestic domesticating entity shall continue to apply to the release, collection, or discharge of any interest holder liability preserved under paragraph (1) of this subsection as if the domestication had not occurred; and

(4) A person shall have whatever rights of contribution from any other person as are provided by the organic law or organic rules of a domestic domesticating entity with respect to any interest holder liability preserved under paragraph (1) of this subsection as if the domestication had not occurred.

(e) When a domestication becomes effective, a foreign entity that is the domesticated entity may be served with process in the District for the collection and enforcement of any of its liabilities in the manner provided in § 29-104.12.

(f) If the domesticating entity is a qualified foreign entity, the certificate of registration or other foreign qualification of the domesticating entity shall be canceled when the domestication becomes effective.

(g) A domestication shall not require the entity to wind up its affairs and shall not constitute or cause the dissolution of the entity.



DELBERT HOSEMANN
Secretary of State

Sample Conversion Statute

DISTRICT OF COLUMBIA

D.C. STAT. § 29-204.01. CONVERSION AUTHORIZED.

(a) Except as otherwise provided in this section, by complying with this subchapter, 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 subchapter 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 shall apply to a conversion of the entity as if the conversion were a merger until the provision is amended after the effective date of this chapter.

D.C. STAT. § 29-204.02. PLAN OF CONVERSION.

(a) A domestic entity may convert to a different type of entity under this subchapter by approving a plan of conversion. The plan 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) The manner of converting the interests in the converting entity into interests, securities, obligations, rights to acquire interests or securities, cash, or other property, or any combination of the foregoing;
- (4) The proposed public organic document of the converted entity if it will be a filing entity;
- (5) The full text of the private organic rules of the converted entity that are proposed to be in a record;
- (6) The other terms and conditions of the conversion; and
- (7) Any other provision required by the law of the District or the organic rules of the converting entity.

(b) A plan of conversion may contain any other provision not prohibited by law.

D.C. STAT. § 29-204.03. APPROVAL OF CONVERSION.

(a) A plan of conversion shall not be effective unless it has been approved:

(1) By a domestic converting entity:

(A) In accordance with the requirements, if any, in its organic rules for approval of a conversion;

(B) If its organic rules do not provide for approval of a conversion, in accordance with the requirements, if any, in its organic law and organic rules for approval of:

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

(ii) In the case of a business corporation, a merger requiring approval by a vote of the interest holders of the business corporation as if the conversion were that type of merger; or

(C) If its organic law or organic rules do not provide for approval of a conversion or a merger described in subparagraph (B)(ii) of this paragraph, by all of the interest holders of the entity entitled to vote on or consent to any matter; and

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

(A) The organic rules of the entity provide in a record for the approval of a conversion or a merger in which some or all of its interest holders become subject to interest holder liability by the vote or consent of less than all of the interest holders; and

(B) The interest holder voted for or consented in a record to that provision of the organic rules or became an interest holder after the adoption of that provision.

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

D.C. STAT. § 29-204.04. AMENDMENT OR ABANDONMENT OF PLAN OF CONVERSION.

(a) A plan of conversion of a domestic converting entity may be amended:

(1) In the same manner as the plan was approved if the plan does not provide for the manner in which it may be amended; or

(2) By the governors or interest holders of the entity in the manner provided in the plan, but an interest holder that was entitled to vote on or consent to approval of the conversion is entitled to vote on or consent to any amendment of the plan that will change:

(A) The amount or kind of interests, securities, obligations, rights to acquire interests or securities, cash, or other property, or any combination of the foregoing, to be received by any of the interest holders of the converting entity under the plan;

(B) The public organic document or private organic rules of the converted entity that will be in effect immediately after the conversion becomes effective, except for changes that do not require approval of the interest holders of the converted entity under its organic law or organic rules; or

(C) Any other terms or conditions of the plan if the change would adversely affect the interest holder in any material respect.

(b) After a plan of conversion has been approved by a domestic converting entity and before a statement of conversion becomes effective, the plan may be abandoned:

(1) As provided in the plan; or

(2) Unless prohibited by the plan, in the same manner as the plan was approved.

(c) If a plan of conversion is abandoned after a statement of conversion has been filed with the Mayor and before the filing becomes effective, a statement of abandonment, signed on behalf of the entity, shall be filed with the Mayor before the time the statement of conversion becomes effective. The statement of abandonment shall be effective upon filing, and the conversion shall be abandoned and shall not become effective. The statement of abandonment shall contain:

(1) The name of the converting entity;

(2) The date on which the statement of conversion was filed; and

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

D.C. STAT. § 29-204.05. STATEMENT OF CONVERSION; EFFECTIVE DATE.

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

(b) A statement of conversion shall contain:

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

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

(3) If the statement of conversion is not to be effective upon filing, the later date and time on which it will become effective, which shall not be more than 90 days after the date of filing;

(4) If the converting entity is a domestic entity, a statement that the plan of conversion was approved in accordance with this subchapter 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; and

(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 that is not a qualified foreign entity, a mailing address to which process may be served pursuant to § 29-204.06(e).

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

(d) If the converted entity is a domestic entity, its public organic document, if any, shall satisfy the requirements of the law of the District, except that it does not need to be signed and may omit any provision that is not required to be included in a restatement of the public organic document.

(e) A plan of conversion that is signed on behalf of a domestic converting entity and meets all of the requirements of subsection (b) of this section may be filed with the Mayor instead of a statement of conversion and, upon filing, shall have the same effect. If a plan of conversion is filed as provided in this subsection, references in this chapter to a statement of conversion shall refer to the plan of conversion filed under this subsection.

(f) A statement of conversion shall be effective upon the date and time of filing or the later date and time specified in the statement of conversion.

D.C. STAT. § 29-204.06. EFFECT OF CONVERSION.

(a) When a conversion becomes effective:

(1) The converted entity shall be:

(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 shall continue to be vested in the converted entity without assignment, reversion, or impairment;

(3) All liabilities of the converting entity shall continue as liabilities of the converted entity;

(4) Except as otherwise provided by law other than this chapter or the plan of conversion, all of the rights, privileges, immunities, powers, and purposes of the converting entity shall remain in the converted entity;

(5) The name of the converted entity may be substituted for the name of the converting entity in any pending action or proceeding;

(6) If a converted entity is a filing entity, its public organic document shall be effective and shall be binding on its interest holders;

(7) If the converted entity is a limited liability partnership, its statement of qualification shall be effective simultaneously;

(8) The private organic rules of the converted entity that are to be in a record, if any, approved as part of the plan of conversion shall be effective and shall be binding on and enforceable by:

(A) Its interest holders; and

(B) In the case of a converted entity that is not a business corporation or nonprofit corporation, any other person that is a party to an agreement that is part of the entity's private organic rules; and

(9) The interests in the converting entity shall be converted, and the interest holders of the converting entity shall be entitled only to the rights provided to them under the plan of conversion, and to any appraisal rights they have under § 29-201.09 and the converting entity's organic law.

(b) Except as otherwise provided in the organic law or organic rules of the converting entity, the conversion shall not give rise to any rights that an interest holder, governor, or third party would otherwise have upon a dissolution, liquidation, or winding-up of the converting entity.

(c) When a conversion becomes effective, a person that did not have interest holder liability with respect to the converting entity and that becomes subject to interest holder liability with respect to a domestic entity as a result of a conversion shall have interest holder liability only to the extent provided by the organic law of the entity and only for those liabilities that arise after the conversion becomes effective.

(d) When a conversion becomes effective:

(1) The conversion shall not discharge any interest holder liability under the organic law of a domestic converting entity to the extent the interest holder liability arose before the conversion became effective

(2) A person shall not have interest holder liability under the organic law of a domestic converting entity for any liability that arises after the conversion becomes effective;

(3) The organic law of a domestic converting entity shall continue to apply to the release, collection, or discharge of any interest holder liability preserved under paragraph (1) of this subsection as if the conversion had not occurred; and

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

(e) When a conversion becomes effective, a foreign entity that is the converted entity may be served with process in the District for the collection and enforcement of any of its liabilities in the manner provided in § 29-104.12.

(f) If the converting entity is a qualified foreign entity, the certificate of registration or other foreign qualification of the converting entity shall be canceled when the conversion becomes effective.

(g) A conversion shall not require the entity to wind up its affairs and shall not constitute or cause the dissolution of the entity.

v. Cleveland Trust Co. supra. of corporation are (1) cor- onal franchises, which are o exist as corporation; (2) onary franchises, which are ts conferred on existing cor- Gulf Ref. Co. v. Cleveland supra. on does not refer to primary corporation, but to its second- al franchise. Gulf Ref. Co. v. rust Co. supra. franchise of corporation can- under execution on judgment, cial and secondary franchises sold. Gulf Ref. Co. v. Cleve- Co. supra.

months. e time of the sale of the hichise which has been sold : from the date of sale, by ant paid by him, with ten to any allowance for the ime. 415; 1880, § 1039; 1892, § 846; 4159.

om execution or mortgage sale.

nesticated. ed under the laws of any business in this state, or e, and desiring to become ; with the governor of the rporation or association, or orated merely by a certifi- ion, duly authenticated and which it was incorporated

, § 4089; 1930, § 4160. nce §§ 5672 et seq. ions, §§ 384 et seq.

r debt of foreign corporation do- come incorporated under its laws .05. § ALR 1503.

s and is subject to attachment in ppi courts as a "nonresident," r purpose of removing to Federal a action brought in State of tion, a domesticated foreign cor- is a nonresident. Southern Mo- p. Co. v. Magee Truck Lines, 181 177 So 653, 114 ALR 1377.

§ 5340. Foreign corporations may be domesticated—attorney-gen- eral and the governor to approve charter.

When said copy has been filed with the governor of this state, he shall first take the advice of the attorney-general of the state as to the constitutionality and legality of the provisions of such charter or articles of incorporation or association, and if the attorney-general shall certify to the governor that he finds nothing in said charter or articles of incor- poration or association that are violative of the constitution or laws of this state, the governor of the state may approve the same, and he shall write his approval at the bottom of said charter or articles of incorpora- tion or association or certificate of incorporation, and shall sign his name thereto, and shall cause the great seal of the state to be thereto affixed by the secretary of state; but the governor may require amendments or alterations to be made previous to signing same, or if deemed expedient by him he may withhold his approval entirely.

SOURCES: Codes, 1906, § 916; Hemingway's 1917, § 4090; 1930, § 4161. CROSS REFERENCES: § 5310, this title. REFERENCES: 23 Am Jur 392, Foreign Corporations §§ 384 et seq.

★ § 5341. Foreign corporations may be domesticated—charter to be recorded by secretary of state.

The secretary of state shall then cause all such charters or articles of incorporation or association, or certificate of incorporation, after he has received the same from the governor with his approval as provided in the preceding section, to be duly recorded in a book to be kept for that purpose, and shall cause to be issued to said corporation a copy of the charter or articles of incorporation or certificate so filed properly certified under the seal of his office, and a copy of such charter of incorporation or articles of incorporation, or certificate certified to by the secretary of state, shall be taken by all courts of this state as evidence that the said corporation has complied with the provisions of this act, and is entitled to all the rights and benefits therein conferred, but said corporation shall pay to the secretary of state the same fees required of similar corporations formed under the laws of this state. Any corporation shall, upon com- pliance with this law, become to all intents and purposes a corporation of this state, and shall be entitled to all the rights and privileges and be subject to all the duties, obligations, restrictions, liabilities, limits and penalties conferred and imposed by laws of this state upon similar cor- porations incorporated under the laws of this state.

SOURCES: Codes, 1906, § 917; Hemingway's 1917, § 4091; 1930, § 4162. CROSS REFERENCES: § 5324, this title. REFERENCES: 23 Am Jur 392, Foreign Corporations §§ 384 et seq.

JUDICIAL DECISIONS

A foreign corporation domesticated in Mississippi under statute remains a resi- dent of State of original incorporation for all jurisdictional purposes, State and Federal, and is subject to attachment in Mississippi courts as a "nonresident," since, for the purpose of removing to Fed- eral court an action brought in State of domestication, a domesticated foreign cor- poration is a nonresident. Southern Mo- tor Exp. Co. v. Magee Truck Lines, 181 M 223, 177 So 653, 114 ALR 1377.

§ 5342. Agent upon whom process to be served.

In any action against any foreign corporation becoming domesticated under the provisions of this act process therein to be executed upon such corporations may be served upon the secretary of state, or any agent of such corporation of this state, and such service of process shall be as

see 1437 on foreign corp. not authorized to do business in state

Repealed in 1988 but effect were made to domesticate prior to

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CORPORATIONS, GENERALLY § 79-1-23

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d to assert tort tion pursuant to of corporation's r dissolution disr of assets, and or, suc corpora f merits of claim, g steps against utees of corpora- f Mississippi Indus- il, 161 So 133. holders of a cor- uity, averring its party defendant, iver to collect its pro rata to its ly void. Smith v o. 79 M 266, 30

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0, § 4160; 1942,

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corporation, sec- ure corporation.

ALR Annotations—

Personal liability of stockholder, officer, or agent for debt of foreign corpora- tion doing business in the state. 51 ALR 376.

Power of state to require foreign corporation to become incorporated under its laws as a condition of doing business in state. 72 ALR 105.

Effect of domestication of foreign corporations. 126 ALR 1503.

JUDICIAL DECISIONS

Shares of stock in Louisiana corpora- tion, doing business and domesticated in Mississippi, have their situs for dev- olution purposes in this state. Ewing v Warren, 144 M 233, 109 So 601.

A foreign corporation domesticated in Mississippi under statute remains a resident of state of original incorpora- tion for all jurisdictional purposes,

state and federal, and is subject to attachment in Mississippi courts as a "nonresident," since, for purpose of removing to federal court an action brought in state of domestication, a domesticated foreign corporation is a nonresident. Southern Motor Exp. Co. v Magee Truck Lines, 181 M 223, 177 So 653, 114 ALR 1377.

§ 79-1-21. Foreign corporations may be domesticated— attorney general and the governor to approve charter.

When said copy has been filed with the governor of this state, he shall first take the advice of the attorney general of the state as to the constitutionality and legality of the provisions of such charter or articles of incorporation or association, and if the attorney general shall certify to the governor that he finds nothing in said charter or articles of incorporation or association that are violative of the constitution or laws of this state, the governor of the state may approve the same. He shall write his approval at the bottom of said charter or articles of incorporation or association or certificate of incorporation, shall sign his name thereto, and shall cause the great seal of the state to be thereto affixed by the secretary of state; but the governor may require amendments or alterations to be made previous to signing same, or if deemed expedient by him he may withhold his approval entirely.

SOURCES: Codes, 1906, § 916; Hemingway's 1917, § 4090; 1930, § 4161; 1942, § 5340.

Cross references—

As to articles of incorporation of business corporations, see §§ 79-3-105, 79-3-107.

As to admission of foreign business corporations, see § 79-3-211.

Research and Practice References—

36 Am Jur 2d, Foreign Corporations §§ 378 et seq.

20 CJS, Corporations §§ 1795-1797.

§ 79-1-23. Foreign corporations may be domesticated— charter to be recorded by secretary of state.

The secretary of state shall then cause all such charters or

1973 Replacement Volume

★ § 79-1-23 CORPORATIONS, ASSOCIATIONS, ETC.

articles of incorporation or association, or certificate of incorporation, after he has received the same from the governor with his approval as provided in section 79-1-21, to be duly recorded in a book to be kept for that purpose, and shall cause to be issued to said corporation a copy of the charter or articles of incorporation or certificate so filed, properly certified under the seal of his office. A copy of such charter of incorporation or articles of incorporation, or certificate certified to by the secretary of state, shall be taken by all courts of this state as evidence that the said corporation has complied with the provisions of this chapter, and is entitled to all the rights and benefits therein conferred, but said corporation shall pay to the secretary of state the same fees required of similar corporations formed under the laws of this state. Any corporation shall, upon compliance with this chapter, become to all intents and purposes a corporation of this state, and shall be entitled to all the rights and privileges and be subject to all the duties, obligations, restrictions, liabilities, limits and penalties conferred and imposed by laws of this state upon similar corporations incorporated under the laws of this state.

SOURCES: Codes, 1906, § 917; Hemingway's 1917, § 4091; 1930, § 4162; 1942, § 5341.

Cross references—

As to filing application by foreign business corporation for certificate of authority, see § 79-3-221.

Research and Practice References—

36 Am Jur 2d, Foreign Corporations §§ 378 et seq.
20 CJS, Corporations §§ 1795-1797.

JUDICIAL DECISIONS

A foreign corporation domesticated in Mississippi under statute remains a resident of state of original incorporation for all jurisdictional purposes, state and federal, and is subject to attachment in Mississippi courts as a "nonresident," since, for the purpose of removing to federal court an action brought in state of domestication, a domesticated foreign corporation is a nonresident. Southern Motor Exp. Co. v Magee Truck Lines, 181 M 223, 177 So 653, 114 ALR 1377.

§ 79-1-25. Agent of domesticated foreign corporation upon whom process to be served.

In any action against any foreign corporation becoming domesticated under the provisions of this chapter, process therein to be executed upon such corporations may be served upon the secretary of state or any agent of such corporation of this state, and such service of process shall be as effectual and shall have the same force and effect as if it had been served upon the officers of domestic corporations, as provided by law, and the venue of such

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SOURCES: C § 5342.

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State of Mississippi



Office of Secretary of State Jackson

I, Heber Ladner, Secretary of State, do certify that the Charter of Incorporation hereto attached entitled the Charter of Incorporation of

PLANTATION SHORES PROPERTY OWNERS ASSOCIATION, INC.

was, pursuant to the provisions of Title 21, Code of Mississippi of 1942, as amended, Recorded in the Records of Incorporations in this office, in

PHOTOSTAT BOOK 236, PAGES 35-42.



Given under my hand and the Great Seal of the State of Mississippi hereunto affixed this

FOURTEENTH day of July, 1977.

Heber Ladner
Secretary of State

State of Mississippi



EXECUTIVE

OFFICE

JACKSON

The within and foregoing Charter of Incorporation of

PLANTATION SHORES PROPERTY OWNERS ASSOCIATION, INC.

is hereby approved.

In testimony whereof, I have hereunto set
my hand and caused the Great Seal of
the State of Mississippi to be affixed
this 13th day of July A. D., 1977.



Calvin T. King
Governor

By the Governor

Heber Ladner
Secretary of State



A.F. SUMMER
ATTORNEY GENERAL

State of Mississippi
DEPARTMENT OF JUSTICE
Office of the Attorney General
JACKSON, MISSISSIPPI 39205

July 11, 1977

JOHN M. WESTON
SPECIAL ASSISTANT
ATTORNEY GENERAL

Mr. Herman Glazier
Executive Assistant
to the Governor
New Capitol
Jackson, Mississippi 39205

Re: Application for domestication
of Plantation Shores Property
Owners Assn., Inc. Houston,
Texas

Dear Mr. Glazier:

In accordance with your request of June 29, 1977, regarding the above captioned foregoing corporation, I have examined the documents enclosed herewith and find nothing in said charter or articles of incorporation or association that is violative of the Constitution or Laws of this State.

It is understood, of course, that upon domestication of said corporation, it shall, regardless of any provisions of its charter or the laws of the State of its creation, become subject to all the relevant laws of the State of Mississippi and particularly, the last sentence of Section 79-1-23, Mississippi Code of 1972.

With kind regards, I am

Very truly yours,
Handwritten signature of John M. Weston in cursive.

John M. Weston
Special Assistant Attorney General

JMW/ped
Enclosures



THE CAPITOL
JACKSON

BOOK 238 PAGE 37

CLIFF FINCH
GOVERNOR

June 29, 1977

The Honorable A. F. Summer
Attorney General
Carroll Gartin Justice Building
Jackson, Mississippi

Dear General Summer:

Governor Finch requests the advice of the Attorney General as to the constitutionality and legality of the provisions of the attached Articles of Incorporation of Plantation Shores Property Owners Association, Inc., Houston, Texas, and its application for domestication in the State of Mississippi.

Yours truly,

Herman Glavin
Executive Assistant
to the Governor

Enclosures

(200)

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BOOK 236 PAGE 38

David A. Harris
William E. McLellan, III

Harris and McLellan

ATTORNEYS AT LAW
4541 Office Park Drive
Post Office Box 16257
Jackson, Mississippi 39206

SEARCHED _____ INDEXED _____
SERIALIZED _____ FILED _____
JUN 10 1977
FBI - JACKSON

Telephone
Office (601) 982-0231
Residence (601) 982-0509

June 7, 1977

Honorable Cliff Finch
Governor
State of Mississippi
Jackson, Mississippi

RE: Domestication of a Foreign Non-Profit
Corporation - Plantation Shores Property
Owner's Association, Inc., a Texas
Non-Profit Corporation

Dear Sir:

Please find enclosed a copy of the Charter of this Corporation, as certified to by the proper recording Officer of the State of Texas. There are no amendments to this Charter.

Please find enclosed our appointment of a resident agent for process with the written acceptance of such agent endorsed thereon.

Also, find enclosed our check in the amount of \$25.00, payable to the Secretary of State of Mississippi, for his fees.

We wish to let the Governor and the Attorney General approve this Texas Charter of Incorporation for Domestication in the State of Mississippi.

Thanking you for your attention to this letter and to our request for domestication, we remain

Very truly yours,

PLANTATION SHORES PROPERTY
OWNER'S ASSOCIATION, INC.

BY Edward F. Tyrone, Jr.
PRESIDENT



ATTEST:

Josephine R. Murphy
SECRETARY

:ch
Encl.



CERTIFIED COPY OF
RESOLUTION DESIGNATING MISSISSIPPI AGENT

THIS IS TO CERTIFY, That at a meeting of the Board of Directors of Plantation Shores
Property Owner's Association, Inc.

properly convened and held on the 14th day of June, 19 77,
the following resolution was duly adopted:

"RESOLVED, that David A. Harris, Attorney

4541 Office Park Drive of Jackson
(Post Office Address showing street and number)

Mississippi, be and he hereby is designated and appointed the resident agent of this Corporation in
the State of Mississippi upon whom service of process against this Corporation may be had in the
event of any suit against this Corporation in said State; and that all prior designations and appoint-
ments of resident agent be and the same are hereby revoked."

WITNESS my signature, and the Seal of said Company, at JACKSON, MS.

this the 14th day of June A. D., 1977

Josephine G. Murphy
Secretary.



ACCEPTANCE BY AGENT

The undersigned hereby accepts the above designation and appointment as resident agent for
service of process.

Date at Jackson, Miss., this the 14th day of June, 19 77

David A. Harris
DAVID A. HARRIS

ARTICLES OF INCORPORATION OF PLANTATION SHORES

PROPERTY OWNERS ASSOCIATION, INC.

Filed in the Office of the Secretary of State of Texas This 20th day of Oct 1970 Larry M. Pennington Deputy Director, Corporation Division

WE, the undersigned natural persons of the age of twenty-one (21) years or more, all citizens of the state of Texas, acting as Incorporators of a corporation under the Texas Non-Profit Corporation Act, adopt the following Articles of Incorporation for such corporation:

- 1. The name of the corporation is Plantation Shores Property Owners Association, Inc.
2. The period of its duration is perpetual. The Corporation is a non-profit corporation.
3. The purpose or purposes for which the corporation is organized are:

To enforce, supervise, put into effect and otherwise carry out the restrictions pertaining to the properties situated in Plantation Shores Subdivision, a subdivision in Rankin County, Mississippi; to consent, approve, grant permission and otherwise perform all such functions and do any and all things that may be permitted or required by the restrictions pertaining to said subdivision; to promote and supervise the beautification, care, maintenance and upkeep of said subdivision; and, to otherwise promote harmonious relations among the residents of said subdivision; generally to carry out any other purpose in connection with the foregoing and to have and exercise all the powers conferred by the Laws of Texas upon non-profit corporations formed under the Texas Non-Profit Corporation Act and to do any and all other things hereinbefore set forth to the same extent as natural persons might or could do.

- 4. The members of the corporation shall be as are designated by the By-Laws.
5. The street address of the initial registered office of the corporation is 1420 Post Oak Tower, Houston, Texas and the name of its initial registered agent at such address is John M. Pennington.

6. The number of directors constituting the initial Board of Directors of the corporation is three(3), and the names and addresses of the persons who are to serve as the initial directors are:

JOHN M PENNINGTON	1420 Post Oak Tower Houston, Texas
RICHARD B GEMMER	2400 West Loop South Houston, Texas
E. P. GEMMER, Jr.	4140 Southwest Freeway Houston, Texas

7. The name and street address of each incorporator is:

JOHN M PENNINGTON	1420 Post Oak Tower Houston, Texas
GAYLE CHRIST	1420 Post Oak Tower Houston, Texas
HELEN BULLOCK	1420 Post Oak Tower Houston, Texas

IN WITNESS WHEREOF, we have hereunto set our hands, this 8th day of October, 1970



JOHN M. PENNINGTON



GAYLE CHRIST




HELEN BULLOCK

THE STATE OF TEXAS
COUNTY OF HARRIS

I, JAN BEDNAR, a Notary Public do hereby certify that on this 8th day of October, 1970, personally appeared before me, JOHN M. PENNINGTON, GAYLE CHRIST, AND HELEN BULLOCK, who, each being by me first duly sworn, severally declare that they are the persons who signed the foregoing document as Incorporators, and that the statements therein contained are true.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year above written.



Notary Public in and for
Harris County, Texas

My commission expires:
6-71



OFFICE OF THE SECRETARY OF STATE

CERTIFICATE OF INCORPORATION
OF

PLANTATION SHORES PROPERTY OWNERS ASSOCIATION, INC.
CHARTER NO. 282975

The undersigned, as Secretary of State of the State of Texas, hereby certifies that duplicate originals of Articles of Incorporation for the above corporation duly signed and verified pursuant to the provisions of the Texas Non-Profit Corporation Act, have been received in this office and are found to conform to law.

ACCORDINGLY the undersigned, as such Secretary of State, and by virtue of the authority vested in him by law, hereby issues this Certificate of Incorporation and attaches hereto a duplicate original of the Articles of Incorporation.

Dated October 20, 1970

Martin Dies Jr.
Secretary of State