

**PONCA TRIBE OF NEBRASKA
TITLE XIV
BUSINESS ENTITIES**

**CHAPTER 1
GENERAL PROVISIONS**

Section 14-1-1. Authority. This Title is enacted pursuant to and in accordance with:

1. Article V, Section 1(f), (j), (l), (n), (o), and (p) of the Constitution; and
2. The Tribe's inherent sovereignty, governmental power, and fiscal authority.

Section 14-1-2. Purpose. This Title shall be interpreted and construed to fulfill the purpose of providing for economic development of the Tribe and its members by:

1. Providing the legal framework for organizing individually-owned business entities in order to expand the private business sector in the territory of the Tribe;
2. Providing for the registration and regulation of foreign business entities doing business in the territory of the Tribe and with the Tribe; and
3. Authorizing the formation of business entities wholly owned by the Tribe, and providing for the governance of the same, for managing the Tribe's economic activities separate from the general affairs of the Tribe.

Section 14-1-3. Definitions. Unless the context requires otherwise or another definition is provided for a particular chapter or section, in this Title:

1. "Business entity" means any entity organized for the purpose of conducting or transacting business, regardless of whether for profit or the jurisdiction of formation, including corporations, limited liability companies, general partnerships, limited partnerships, limited liability partnerships, limited liability limited partnerships, and cooperatives.

2. "Domestic business entity" means a business entity organized or formed under the laws of the Tribe and includes a Tribal business entity formed under the laws of the United States.

3. "Foreign business entity" means a business entity formed under the law of a jurisdiction other than the Tribe, but does not include a Tribal business entity formed under the laws of the United States.

4. "Manager" means the board of directors, general partner, manager, or any other person or entity under whose authority the powers of a business entity are exercised and under whose direction the activities and affairs of the business entity are managed pursuant to the organizational documents of the business entity or, if there are not yet any owners or other managers of the business entity, the organizers of the business entity.

5. "Office of the Secretary" means the Secretary of the Tribal Council elected from the membership of the Tribal Council in accordance with Article IV, Section 1 of the Constitution or his or her designee.

6. "Organizer" means the incorporators, organizers, or other person who initially forms a business entity.

7. "Organizational documents" means the public organizational documents and private organizational documents of a business entity.

8. "Owner" means an owner, member, shareholder, general partner, limited partner, or other person who has an ownership or membership interest in a business entity.

9. "Principal office" means the principal executive office of a business entity, whether or not the office is located in the territory of the Tribe.

10. "Private organizational documents" means the currently adopted or effective rules, including operating agreements, partnership agreements, and bylaws, that govern and determine the internal governance and affairs of a business entity, are binding on all of its owners and managers, and are not part of the business entity's public organizational documents, if any.

11. "Public organizational documents" means the documents and records that establish a business entity or are filed with the Office of the Secretary or similar filing authority in a foreign jurisdiction pursuant to law applicable to that business entity, or the most recent restatement of those documents and records, together with any amendments to those documents and records or

restatement of those documents and records, including articles of incorporation, articles of organization, partnership agreements, statements of qualification, certificates of limited partnership, foreign registration statements, agreements of trust, and declarations of trust.

12. "Qualified foreign business entity" means a foreign business entity that is registered to do business in the territory of the Tribe pursuant to a filing with the Office of the Secretary in accordance with this Title.

13. "Registered agent" means an agent of a business entity which is authorized to receive service of any process, notice, or demand required or permitted by law to be served on the business entity.

14. "Tribal business entity" means a business entity which is owned, either in whole or in part, by the Tribe or the subsidiary of any such business entity.

Section 14-1-4. Applicability and Consent to Jurisdiction.

1. This Title shall apply to:
 - a. All domestic business entities;
 - b. All business entities that elect to accept the provisions of this Title or the laws of the Tribe governing business entities or claim a privilege under the laws of the Tribe;
 - c. All business entities, including qualified foreign business entities and other foreign business entities, conducting or transacting business within the territory of the Tribe;
 - d. All business entities which engage in a business transaction in the territory of the Tribe or with the Tribe or its members, enter into a consensual relationship with Tribe or its members, act under Tribal authority, or enter the territory of the Tribe.
2. Any business entity to which this Title applies shall be deemed to have consented to the following:
 - a. To be bound by the terms of this Title and all laws of the Tribe governing business entities generally and

governing the type of business entity of which it is organized; and

b. To the exercise of jurisdiction by the Tribal Court over the business entity in an action arising under this Title or a law of the Tribe governing business entities generally or governing the type of business entity of which it is organized.

3. The provisions of this Section shall supersede any contrary provision of any contract or agreement and no provision of a contract or agreement which purports to exempt or avoid the provisions of this Section shall be valid, including a provision of a contract or agreement providing for:

a. A particular law to govern the contract or agreement;

b. A particular law to be utilized for the construction or interpretation of the contract or agreement; or

c. The resolution of disputes in a particular court or jurisdiction or using a particular method of dispute resolution, including arbitration.

Section 14-1-5. No Impairment of Contracts.

1. This Title does not authorize an act prohibited by, and does not affect the application or requirements of, law other than this Title. Nothing in this Title shall be construed to restrict the general application of the laws of the Tribe to the acts and contracts of a business entity.

2. A transaction effected under this Title may not create or impair a right, duty, or obligation of a person under a law of the Tribe relating to a change in control, takeover, business combination, control-share acquisition, or similar transaction involving a domestic merging, acquired, or converting business entity, or domesticating business entity unless:

a. If the business entity does not survive the transaction, the transaction satisfies any requirements of the law; or

b. If the business entity survives the transaction, the approval of the plan is by a vote of the owners or managers

which would be sufficient to create or impair the right, duty, or obligation directly under the law.

3. Otherwise lawful contracts and other obligations of any business entity shall not be impaired by the enactment of this Title or any subsequent amendment thereto. Actions to restrain any attempts to impair contracts of a business entity or to declare such actions null and void shall be available in a proper action before the Tribal Court.

Section 14-1-6. Amendment or Repeal. The Tribe has the power to amend or repeal all or part of this Title and any other law of the Tribe governing business entities at any time and all business entities subject to this Title or such other law of the Tribe governing the business entity are governed by the amendment or repeal.

Section 14-1-7. Severability. If any chapter, section, or provision of this Title or amendment made by this Title is held invalid, the remaining chapters, sections, and provisions of this Title and amendments made by this Title shall continue in full force and effect.

Section 14-1-8. Sovereign Immunity. Nothing in this Title shall be construed as limiting, waiving, or abrogating the sovereignty or the sovereign immunity of the Tribe or any of its agencies, departments, enterprises, agents, officers, officials, or employees or as establishing or acknowledging any liability of the Tribe under any law.

CHAPTER 2 BUSINESS ENTITIES GENERALLY

Section 14-2-1. Business Entity Names.

1. In addition to any other requirements for the name of a business entity under the laws of the Tribe, the name of each business entity:

a. Shall not contain language stating or implying that the business entity is organized for a purpose other than that permitted by the laws of the Tribe and its organizational documents;

b. Shall not contain any term the inclusion of which would violate any law of the Tribe;

c. Shall be distinguishable from:

i. The name of any other domestic business entity or qualified foreign business entity; and

ii. Any trade name registered or reserved under this Title;

d. Shall not contain immoral, deceptive, or scandalous matter;

e. Except for Tribal business entities, shall not disparage or falsely suggest a connection with the Tribe;

f. If a corporation, shall contain the term or abbreviation "corporation", "incorporated", "company", "limited", "corp.", "inc.", "co.", or "ltd.", unless a law of the Tribe permits the use of other names;

g. If a nonprofit corporation, may, but need not, contain the term or abbreviation "corporation", "incorporated", "company", "limited", "corp.", "inc.", "co.", or "ltd.", unless a law of the Tribe requires otherwise;

h. If a limited liability company, shall contain the term or abbreviation "limited liability company", "ltd. liability company", "limited liability co.", "ltd. liability co.", "l.l.c.", or "llc", unless a law of the Tribe permits the use of other names;

i. If a limited liability partnership, shall contain the term or abbreviation "limited liability partnership", "registered limited liability partnership", "llp", "l.l.p.", "rllp", or "r.l.l.p.", unless a law of the Tribe permits the use of other names;

j. If a limited partnership that is not a limited liability limited partnership, shall contain the term or abbreviation "limited partnership", "l.p.", or "lp", unless a law of the Tribe permits the use of other names;

k. If a limited liability limited partnership, shall contain the term or abbreviation "limited liability limited partnership", "registered limited liability limited partnership", "l.p.", "lp", "l.l.l.p.", "lllp", "r.l.l.l.p.",

or "rlllp", unless a law of the Tribe permits the use of other names;

l. If a cooperative, may, but need not, contain the term "cooperative association" or "cooperative", provided "cooperative" may be abbreviated "co-op" or "coop" and "association" may be abbreviated "assoc." or "assn.", or the abbreviation "c.a.", or "ca", unless a law of the Tribe requires otherwise;

m. If a limited cooperative, must contain the term "limited cooperative association" or "limited cooperative", provided "limited" may be abbreviated "ltd.", "cooperative" may be abbreviated "co-op" or "coop", and "association" may be abbreviated "assoc." or "assn.", or the abbreviation "l.c.a." or "lca", unless a law of the Tribe requires otherwise;

n. If an unincorporated nonprofit association, may, but need not, contain the term or abbreviation "unincorporated nonprofit association," "nonprofit association", "nonprofit assoc.", "nonprofit assn.", "u.n.a", "una", "n.a.", or "na", unless a law of the Tribe requires otherwise;

o. If another business entity, such term or abbreviation required or allowed under the laws of the Tribe governing such business entity;

p. Shall not include the term or abbreviation "cooperative", "co-op", or "coop" unless organized on a cooperative basis under the laws of the Tribe or the equivalent laws of a foreign jurisdiction;

q. Need not be in Ponca or English if written in English letters or arabic or roman numerals;

r. Shall comply with any other requirements of the law of the Tribe under which the business entity is formed or otherwise applies to the business entity.

2. Except as otherwise provided in this Section, in determining whether a name is the same as or not distinguishable on the records of the Office of the Secretary, words, phrases, or abbreviations indicating the type of entity, such as "corporation",

"corp.", "incorporated", "inc.", "limited", "ltd.", "limited partnership", "lp", "l.p.", "limited liability partnership", "llp", "l.l.p.", "registered limited liability partnership", "rllp", "r.l.l.p.", "limited liability limited partnership", "lllp", "l.l.l.p.", "registered limited liability limited partnership", "rlllp", "r.l.l.l.p.", "limited liability company", "llc", or "l.l.c.", "cooperative association", "cooperative", "ca", or "c.a." may not be taken into account.

3. A business entity may use a name which is not distinguishable as provided in this Section if the applicant files with the Office of the Secretary either:

a. The written consent of the holder of the name to use the same name and one or more words are added or deleted to make the name distinguishable from the other name, including the addition of a word, phrase, or abbreviation indicating the type of business entity; or

b. A certified copy of a final decree of a court of competent jurisdiction establishing the prior right of the applicant to use the name applied for in the territory of the Tribe.

4. A business entity that is not a Tribal business entity may use a name which includes the name of the Tribe if the applicant files with the Office of the Secretary a resolution of the Tribal Council consenting to the use of the name of the Tribe and complies with any restrictions contained in such resolution.

Section 14-2-2. Governing Law. The laws of the Tribe govern:

1. The internal affairs of a domestic business entity; and
2. The liability of an owner as an owner and a manager as a manager for a debt, obligation, or other liability of a domestic business entity.

Section 14-2-3. Nature and Powers of Business Entities.

1. A business entity may be organized under the laws of the Tribe for any lawful purpose, regardless of whether for profit.
2. Unless the organizational documents state a term for a business entity's existence, the business entity has perpetual duration.

3. Unless otherwise provided in its organizational documents or a provision of law of the jurisdiction under whose law it is organized, a business entity has the same powers as an individual to do all things necessary or convenient to carry out its business and affairs, including power to:

a. Sue, complain, defend, and consent to be sued in its name, provided that if the business entity is a Tribal business entity, it shall be entitled to and shall enjoy the Tribe's sovereign immunity from suit unless its public organizational documents otherwise provide;

b. Have a seal, which may be altered at will, and to use it, or a facsimile of it, by impressing or affixing it or in any other manner reproducing it;

c. Make and amend private organizational documents, not inconsistent with its public organizational documents or the laws of the Tribe, for managing the business and regulating the affairs of the business entity;

d. Purchase, take, receive, lease, or otherwise acquire and own, hold, improve, use, and otherwise deal in or with real or personal property or any interest in property wherever located;

e. Sell, convey, mortgage, pledge, create a security interest in, lease, exchange, or otherwise dispose of all or any part of its property;

f. Purchase, take, receive, subscribe for, or otherwise acquire and own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of and deal in and with ownership or other interests in, or obligations of, any other entity;

g. Make contracts and guarantees, incur liabilities, borrow monies, issue its notes, bonds, and other obligations, and secure any of its obligations by mortgage, deed of trust, security agreement, pledge, or other encumbrance of any of its property, franchises, or income;

h. Lend monies, invest and reinvest its monies, and receive and hold real and personal property as security for repayment;

i. Be a promoter, incorporator, partner, owner, associate, or manager of any business entity, trust, or other entity;

j. Conduct its business, locate offices, and exercise the powers granted by the laws of the Tribe governing such business entity inside or outside the territory of the Tribe;

k. Elect or appoint managers, officers, agents, and employees, define their duties, fix their compensation, and, unless otherwise prohibited by its organizational documents or the laws of the Tribe governing the business entity, lend them monies and credit;

l. Unless otherwise prohibited by its organizational documents or the laws of the Tribe governing the business entity, lend money, property, and services to and otherwise assist its owners and managers;

m. Pay pensions and establish pension plans, pension trusts, profit sharing plans, bonus plans, and benefit or incentive plans for any of its or its affiliates' current or former directors, officers, employees and agents;

n. Provide benefits or payments to owners, managers, employees, and agents of the business entity and to their estates, families, dependents, or beneficiaries in recognition of past services of the owners, managers, employees, and agents of the business entity;

o. Indemnify an owner, manager, employee, officer, agent, or any other person;

p. Make donations to and otherwise devote its resources for the public welfare or for charitable, scientific, educational, humanitarian, philanthropic, or religious purposes;

q. Transact any lawful business that will aid governmental policy of the Tribe or another jurisdiction to the extent not contrary to the governmental policy and interests of the Tribe;

r. Make payments or donations or do any other act not inconsistent with the law that furthers the business of the business entity;

s. Take any action to pursue any purpose, including a nonmonetary purpose, or to create any private or public benefit; and

t. Transact any lawful business that the owners or the managers find to be appropriate to promote and further the business and affairs of the business entity.

Section 14-2-4. Conduct of Business Entities.

1. A business entity shall conduct its business, carry on its operations, and have and exercise its powers in a manner which balances the pecuniary interests of the owners, managers, and business entity with the best interests of persons that are materially affected by the conduct of the business entity.

2. In carrying out its obligations under this Section, a business entity shall consider the effects of any action or inaction on:

a. The owners of the business entity, including their pecuniary interests;

b. The employees and workforce of the business entity and its subsidiaries, if any, and each of their suppliers;

c. Interests of the customers or beneficiaries of the business entity;

d. Community and societal factors, including those which may be unique to the Tribe and its members;

e. The interests of anyone else who may be materially affected by the business entity's conduct;

f. The environment;

g. The short-term and long-term interests of the business entity and its owners, including whether any short-term benefit may harm the long-term interest of the business entity and its owners; and

h. The ability of the business entity to accomplish any specific non-pecuniary purpose, including a public benefit or charitable purpose, identified in its organizational documents.

3. The managers and officers of a business entity, if any, shall manage and direct the affairs of the business in accordance with this Section. With respect to a decision implicating the duties under this Section, a manager or officer of a business entity may not be held personally liable for monetary damages and will be deemed to satisfy the manager's or officer's fiduciary duties to the owners and the business entity if the manager's or officer's decision is both:

- a. Informed and disinterested; and
- b. A decision which a person of ordinary sound judgment would approve.

4. Nothing in this Section shall be construed as prohibiting a business entity from considering other pertinent factors in carrying out its obligations under this Section or any other applicable law or requiring the business entity to give priority to an particular interest or factor described in this Section over any other interest or factor, provided that the pecuniary interests of the business entity and/or its owners shall not alone justify or constitute a defense to causing a material harm to any other interest or factor required to be considered in this Section.

Section 14-2-5. Activities in Foreign Jurisdictions. A business entity may conduct its business, carry on its operations, and have and exercise the powers granted to it under the laws of the Tribe in any foreign jurisdiction, including any jurisdiction of another tribe, a foreign nation, the United States, or any state, territory, district, or possession of the United States.

Section 14-2-6. Indemnification of Owners and Managers.

1. A business entity shall indemnify or reimburse a present or former owner or manager for any expenses made by the owner or manager with respect to a proceeding where the owner or manager was a party in the capacity of an owner or manager of the business entity.

2. Except as otherwise provided in this Section, the organizational documents of a business entity may alter the rights to indemnification or reimbursement to owners and managers provided in this Section or provide rights to indemnification or reimbursement to owners and managers in addition to those provided in this Section.

3. Notwithstanding the provisions of this Section, a business entity may not indemnify or reimburse an owner or manager unless it is determined that the owner or manager did not breach or fail to perform a duty to the business entity as provided under the laws of the Tribe governing the business entity.

4. Unless otherwise provided in a business entity's organizational documents:

a. An owner or manager shall be conclusively presumed not to have breached or failed to perform a duty to the business entity to the extent that the owner or manager has been successful on the merits or otherwise in the defense of the proceeding; and

b. In situations where the owner or manager has not been successful on the merits or otherwise in the defense of the proceeding, the determination of whether the owner or manager breached or failed to perform a duty to the business entity shall be made by the vote of a majority of the ownership interests of the owners, excluding any owner who is a party to the same or related proceeding unless all owners are parties.

5. In this Section, "expenses" means all costs and expenses reasonably related to a proceeding, including attorney's fees, and any judgment or penalty, or settlement payment in lieu thereof, paid in connection with a proceeding against an owner or manager in such capacity.

6. A business entity may purchase and maintain insurance on behalf of an owner or manager against liability asserted against or incurred by the owner or manager in that capacity or arising from that status even if the organizational documents could not eliminate or limit the owner's or manager's liability to the business entity for the conduct giving rise to the liability.

Section 14-2-7. Statements of Authority and Denial.

1. A business entity may deliver to the Office of the Secretary for filing a statement of authority. The statement:

a. Must include the name of the business entity;

b. Must include the name and street and mailing addresses of the business entity's registered agent;

c. With respect to any position that exists in or with respect to the business entity, may state the authority, or limitations on the authority, of all persons holding the position to enter into transactions on behalf of, or otherwise act for or bind, the business entity; and

d. May state the authority, or limitations on the authority, of a specific person to enter into transactions on behalf of, or otherwise act for or bind, the business entity.

2. To amend or cancel a statement of authority filed by with the Office of the Secretary, a business entity must deliver to the Office of the Secretary for filing an amendment or cancellation stating:

a. The name of the business entity;

b. The name and street and mailing addresses of the business entity's registered agent;

c. The date the statement being affected became effective; and

d. The contents of the amendment or a declaration that the statement is canceled.

3. A statement of authority affects only the power of a person to bind a business entity to persons that are not owners. A statement of authority cannot grant a person power or authority contrary to the provisions of this Title or other law of the Tribe governing or applicable to the business entity or which the business entity has no authority to grant.

4. Except as otherwise provided in this Section, a limitation on the authority of a person or a position contained in an effective statement of authority is not by itself evidence of any person's knowledge or notice of the limitation.

5. A grant of authority contained in an effective statement of authority is conclusive in favor of a person that gives value in reliance on the grant, except to the extent that:

a. The person has knowledge to the contrary;

b. The statement has been canceled or restrictively amended in accordance with this Section; or

c. A limitation on the grant is contained in another statement of authority that became effective after the statement containing the grant.

6. An effective statement of dissolution or termination is a cancellation of any filed statement of authority and is a limitation on authority.

7. After a statement of dissolution becomes effective, a business entity may deliver to the Office of the Secretary for filing and, if appropriate, may record a statement of authority that is designated as a post-dissolution statement of authority.

8. Unless earlier canceled, an effective statement of authority is canceled by operation of law five (5) years after the date on which the statement, or its most recent amendment, becomes effective without the need for any recording or filing.

9. A person named in a filed statement of authority granting that person authority may deliver to the Office of the Secretary for filing a statement of denial which shall operate as a restrictive amendment under this Section. The statement of denial must:

- a. Provide the name of the business entity;
- b. State the caption of the statement of authority to which the statement of denial pertains; and
- c. Deny the grant of authority.

Section 14-2-8. Limitations on Organizational Documents. A business entity's organizational documents may not:

1. Vary the law applicable to the business entity as provided in this Title;

2. Except as expressly permitted in its public organizational documents, contain any provision in its private organizational documents contrary to the public organizational documents, provided that if a provision of a business entity's private organizational documents conflicts with a provision of its public organizational documents, the public organizational documents prevail;

3. Vary the business entity's capacity to sue, complain, defend, and consent to be sued in its name, provided that if the

business entity is a Tribal business entity, it shall be entitled to and shall enjoy the Tribe's sovereign immunity from suit unless its public organizational documents otherwise provide;

4. Vary any requirement, procedure, or other provision of this Title or other law of the Tribe pertaining to registered agents or the Office of the Secretary, including provisions pertaining to records authorized or required to be delivered to the Office of the Secretary for filing under the laws of the Tribe;

5. Vary the provisions of this Title governing execution and filing of documents pursuant to order of the Tribal Court;

6. Reduce or eliminate the fiduciary or other duties or standards of conduct of the business entity or its owners and managers provided in this Title or other law of the Tribe governing the business entity, except the organizational documents may:

a. Prescribe the standards by which the performance of the owners and managers is to be measured; and

b. Except in cases of bad faith, willful or intentional misconduct, or knowing violation of law:

i. Specify the method by which a specific act or transaction that would otherwise violate fiduciary or other duties or standards of conduct may be authorized or ratified by one or more disinterested and independent persons after full disclosure of all material facts; and

ii. To the extent the organizational documents expressly relieve an owner or manager of a responsibility that the owner or manager otherwise would have under this Title and imposes the responsibility on one or more other owners or managers, the organizational documents may also eliminate or limit any fiduciary duty of the owner or manager relieved of the responsibility which would have pertained to the responsibility.

7. Relieve or exonerate a person from liability for conduct involving bad faith, willful or intentional misconduct, or knowing violation of law;

8. Unreasonably restrict the duties and rights of owners and managers to information as provided in the laws of the Tribe governing the business entity, but the organizational documents may impose reasonable restrictions on the availability and use of

information obtained and may define appropriate remedies, including liquidated damages, for a breach of any reasonable restriction on use;

9. Vary the causes of dissolution specified in this Title or other law of the Tribe governing the business entity;

10. Vary the requirement to wind up the business entity's activities and affairs as specified in this Title or other law of the Tribe governing the business entity;

11. Unreasonably restrict the right of an owner to maintain an action against another owner, manager, or the business entity or in a derivative action as provided in the laws of the Tribe governing the business entity;

12. Vary the required contents of a plan of merger, interest exchange, conversion, domestication, or division under this Title or other law of the Tribe governing the business entity;

13. Vary the right of an owner to approve a merger, interest exchange, conversion, domestication, or division under this Title or other law of the Tribe governing the business entity; or

14. Except where otherwise provided in such provision or law, contain any provision contrary to the provisions of this Title or other law of the Tribe governing the business entity.

Section 14-2-9. Registered Agents.

1. Each domestic business entity organized under the laws of the Tribe and each qualified foreign business entity shall appoint and continuously maintain in the territory of the Tribe:

a. A known place of business that may be the address of its registered agent; and

b. A registered agent that is either an individual resident of the territory of the Tribe, a domestic business entity, a qualified foreign business entity, or, in the case of a Tribal business entity, the office of a designated officer of the Tribe.

2. The designation of a registered agent is an affirmation of fact by the business entity that the agent has consented to serve.

3. The only duties under this Title of a registered agent that has complied with this Title are:

a. To forward to the business entity at the address most recently supplied to the registered agent by the business entity any process, notice, or demand pertaining to the business entity which is served on or received by the registered agent;

b. If the registered agent changes its address or resigns, to provide the notice required by this Section to the business entity at the address most recently supplied to the registered agent by the business entity and file the statement required by this Section with the Office of the Secretary; and

c. To keep current the information with respect to the registered agent in the appropriate organizational documents of the business entity.

4. A business entity may change its known place of business or registered agent, or both, by delivering to the Office of the Secretary for filing a signed statement, which may be the annual report, setting forth:

a. The name of the business entity;

b. If the current known place of business is to be changed, the street address of the new known place of business; and

c. If its registered agent or the registered agent's street address is to be changed, the name and street address of its successor registered agent or the registered agent's new street address.

5. If a registered agent changes its street address to another place in the territory of the Tribe, it may change the address by delivering a statement to the Office of the Secretary as required by subsection 4 of this Section, except that it need be signed only by the registered agent. The statement shall recite that a copy of it has been mailed to the business entity.

6. A registered agent may resign its agency appointment by signing and delivering to the Office of the Secretary for filing the signed original statement of resignation. The statement may include a statement that the known place of business is also

discontinued. The registered agent shall give written notice of its resignation to the business entity at an address other than the registered agent's address.

Section 14-2-10. Service of Process.

1. A business entity may be served with any process, notice, or demand required or permitted by law by serving its registered agent and, when so served, is lawful personal service on the business entity.

2. In lieu of service on the registered agent, process, notice, or demand may be served by registered or certified mail, return receipt requested, or by similar commercial delivery service, addressed to the business entity at its principal office.

3. If a business entity fails to appoint or maintain a registered agent at the address shown on the records of the Office of the Secretary, the Office of the Secretary is an agent of the business entity on whom any process, notice, or demand may be served. Service on the Office of the Secretary of any process, notice, or demand for a business entity pursuant to this subsection shall be made by registered or certified mail, return receipt requested, or by similar commercial delivery service. Upon receipt of any such process, notice, or demand, the Office of the Secretary shall immediately cause a copy of the process, notice, or demand to be forwarded by mail, addressed to the business entity at its known place of business. If service is made on the Office of the Secretary, the business entity has thirty (30) days to respond in addition to the time otherwise provided by law.

Section 14-2-11. Annual Reports.

1. Each domestic business entity and each qualified foreign business entity shall deliver to the Office of the Secretary for filing an annual report that sets forth all of the following:

a. The name of the business entity and the jurisdiction under whose law it is organized;

b. The address of its known place of business and the name and address of its registered agent in the territory of the Tribe; and

c. The address of its principal office.

2. Information in the annual report must be current as of the date the report is signed by the business entity.

3. The annual report must be delivered to the Office of the Secretary for filing, and the annual fee paid, every year no sooner than ninety (90) calendar days before and no later than the date of the anniversary of the formation of the business entity or, in the case of a foreign business entity, registration to transact business in the territory of the Tribe.

4. If an annual report under this Section contains the name or address of a registered agent which differs from the information shown in the records of the Office of the Secretary immediately before the report becomes effective, the differing information is considered a statement of change.

5. If an annual report does not contain the information required by this Section, the Office of the Secretary shall promptly notify the business entity in writing and return the report for correction. If the report is corrected to contain the information required by this Section and delivered to the Office of the Secretary within thirty (30) days after the date of notice from the Office of the Secretary, it is deemed to be timely filed.

6. If the annual report is not delivered for filing and the fee is not paid within the time specified by this Section, the Office of the Secretary shall assess and collect penalties of twenty per cent (20%) per month or fraction of the month of the fees then due until either the payment is made or the business entity is administratively dissolved or the authority of the foreign business entity is revoked, whichever occurs first.

CHAPTER 3 DOCUMENTS AND FEES

Section 14-3-1. Execution of Documents.

1. Except where otherwise provided in the laws of the Tribe governing the business entity, a document delivered to the Office of the Secretary for filing must be signed as follows:

a. A business entity's initial organizational documents must be signed by at least one person acting as the organizer of the business entity;

b. A document filed on behalf of an existing business entity must be signed by the chairman of the board of directors, an officer, a manager, an owner, or another person authorized by the business entity;

c. A document filed on behalf of an individual must be signed by that individual; and

d. A document filed on behalf of a dissolved business entity must be signed by the person winding up the business entity's business.

2. A document delivered to the Office of the Secretary for filing may be signed by an agent. Whenever the laws of the Tribe require a particular individual to sign a document and the individual is deceased or incapacitated, the document may be signed by a legal representative of the individual. A person that signs a document as an agent or legal representative affirms as a fact that the person is authorized to sign the document.

3. An individual who signs a document authorized or required to be filed with the Office of the Secretary affirms under penalty of perjury that the information stated in the document is accurate.

4. If a document delivered to the Office of the Secretary for filing and filed by the Office of the Secretary contains inaccurate information, a person that suffers a loss by reliance on the information may recover damages for the loss from a person that signed the document or caused another to sign it on the person's behalf and knew at the time the document was signed that the information was inaccurate.

Section 14-3-2. Execution by Judicial Act.

1. If a person required by the laws of the Tribe to sign or deliver a document to the Office of the Secretary for filing does not do so, any other person that is aggrieved may petition the Tribal Court to order:

a. The person to sign the document;

b. The person to deliver the document to the Office of the Secretary for filing; or

c. The Office of the Secretary to file the document unsigned, which shall be effected upon filing without being signed.

2. If the petitioner under this Section is not the business entity to which the document pertains, the petitioner shall make the business entity a party to the action.

3. Review by the Tribal Court under this Section shall be limited to a determination whether the document complies with the applicable requirements of the laws of the Tribe governing such document.

4. Nothing in this Section shall be construed as limiting, waiving, or abrogating the sovereignty or the sovereign immunity of the Tribe.

5. Nothing in this Section shall authorize an action against the Office of the Secretary or for the award of damages or any other relief against the Office of the Secretary.

Section 14-3-3. Filing Documents.

1. The Office of the Secretary shall receive all filings required or permitted by the laws of the Tribe to be filed with the Office of the Secretary and maintain the records of such filings.

2. The Office of the Secretary shall file a document delivered to the Office of the Secretary for filing which satisfies the requirements of this Title and any other law of the Tribe applicable to the document.

3. When the Office of the Secretary files a document, the Office of the Secretary shall stamp or otherwise endorse the date and time of receipt of the document and record it as filed on that date and at that time. After filing a document, the Office of the Secretary shall deliver to the person that submitted the document a copy of the document with a stamp or endorsement acknowledging the date and time of filing.

4. If a document filed with the Office of the Secretary establishes a business entity or otherwise registers the business entity with the Office of the Secretary for the first time, the Office of the Secretary shall assign the business entity an identification number.

5. If the Office of the Secretary refuses to file a document, the Office of the Secretary shall, not later than five (5) business days after the document is delivered:

a. Return the document or notify the person that submitted the document of the refusal; and

b. Provide a brief explanation in writing of the reason for the refusal.

6. The filing of or refusal to file a document does not:

a. Affect the validity or invalidity of the document in whole or in part; or

b. Create a presumption that the information contained in the document is correct or incorrect.

7. Except as otherwise provided by the laws of the Tribe, the Office of the Secretary may deliver any document to a person by delivering it:

a. In person to the person that submitted it, including by electronic mail;

b. To the address, including the electronic mail address, of the person's registered agent;

c. To the principal office of the person; or

d. To another address, including an electronic mail address, the person provides to the Office of the Secretary for delivery.

8. Except where otherwise provided by applicable law, all documents filed with the Office of the Secretary shall be available for inspection by members of the public and, upon payment of all required fees, copies of the same may be provided to members of the public. The Office of the Secretary may establish procedures for the inspection or requesting of copies of documents filed with the Office of the Secretary.

Section 14-3-4. Requirements for Filing.

1. To be filed by the Office of the Secretary, a document must be received by the Office of the Secretary, comply with the laws of the Tribe, and satisfy the following:

a. The filing of the document must be required or permitted by the laws of the Tribe;

b. The document must be physically delivered in written form unless and to the extent the Office of the Secretary permits electronic delivery of documents;

c. The words in the document must be in English or an English translation included, and numbers must be in Arabic or Roman numerals, but the name of an entity need not be in Ponca or English if written in English letters or Arabic or Roman numerals;

d. The document must be signed by a person authorized or required under the laws of the Tribe to sign the document or ordered to be filed unsigned by the Tribal Court as provided in this Chapter; and

e. The document must state the name and capacity, if any, of each individual who signed it, either on behalf of the individual or the person authorized or required to sign the document, but need not contain a seal, attestation, acknowledgment, or verification.

2. If applicable law prohibits the disclosure by the Office of the Secretary of information contained in a document delivered to the Office of the Secretary for filing, the Office of the Secretary shall file the document if the document otherwise complies with the laws of the Tribe but may redact the information.

3. When a document is delivered to the Office of the Secretary for filing, any fee required under this Title and any fee, tax, interest, or penalty required to be paid under the laws the Tribe must be paid in a manner permitted by the Office of the Secretary.

4. The Office of the Secretary may require that a document delivered in written form be accompanied by an identical or conformed copy.

Section 14-3-5. Effective Time of Filing. Except as otherwise provided in the laws of the Tribe, a document filed with the Office of the Secretary is effective:

1. On the date and at the time of its filing by the Office of the Secretary;

2. On the date of filing and at the time specified in the document as its effective time, if later than the time of its filing by the Office of the Secretary;

3. At a specified delayed effective time and date, which may not be more than ninety (90) days after the date of filing; or

4. If a delayed effective date is specified, but no time is specified, at 12:01 a.m. on the date specified, which may not be more than ninety (90) days after the date of filing.

Section 14-3-6. Withdrawal of Filing.

1. Except as otherwise provided in the laws of the Tribe, a document delivered to the Office of the Secretary for filing may be withdrawn before it takes effect by delivering to the Office of the Secretary for filing a statement of withdrawal.

2. A statement of withdrawal must:

a. Be signed by each person that signed the document being withdrawn, except as otherwise agreed by those persons;

b. Identify the document to be withdrawn; and

c. If signed by fewer than all the persons that signed the document being withdrawn, state that the document is withdrawn in accordance with the agreement of all the persons that signed the document.

3. On filing by the Office of the Secretary of a statement of withdrawal, the action or transaction evidenced by the original document does not take effect.

Section 14-3-7. Correction of Filing.

1. A person on whose behalf a filed document was delivered to the Office of the Secretary for filing may correct the document if:

a. The document at the time of filing was inaccurate;

b. The document was defectively signed; or

c. The electronic transmission of the document to the Office of the Secretary was defective.

2. To correct a filed document, a person on whose behalf the document was delivered to the Office of the Secretary must deliver to the Office of the Secretary for filing a statement of correction.

3. A statement of correction:

- a. May not state a delayed effective date;
- b. Must be signed by the person correcting the filed document;
- c. Must identify the filed document to be corrected;
- d. Must specify the inaccuracy or defect to be corrected; and
- e. Must correct the inaccuracy or defect.

4. A statement of correction is effective as of the effective date of the filed document that it corrects except as to persons relying on the uncorrected filed document and adversely affected by the correction. For those purposes and as to those persons, the statement of correction is effective when filed.

Section 14-3-8. Liability for Inaccurate Filing. If a document delivered to the Office of the Secretary for filing and filed by the Office of the Secretary contains inaccurate information, a person that suffers loss by reliance on the information may recover damages for the loss from:

1. A person that signed the document, or caused another to sign it on the person's behalf, and knew the information to be inaccurate at the time the document was signed; and

2. An owner or manager of the business entity if:

a. The document was delivered for filing on behalf of the business entity; and

b. The owner or manager knew or had notice of the inaccuracy for a reasonably sufficient time before the information was relied upon so that, before the reliance, the owner or manager reasonably could have delivered to the Office of the Secretary for filing a statement of change or a statement of correction.

Section 14-3-9. Certificate of Status.

1. On request of any person, the Office of the Secretary shall issue a certificate of good standing for a domestic business entity or a certificate of registration for a qualified foreign business entity.

2. A certificate of good standing or certificate of registration, as appropriate, shall set forth the following:

a. The business entity's name or the qualified foreign business entity's name used in the territory of the Tribe;

b. That either:

i. The business entity is organized under the laws of the Tribe and the date of formation; or

ii. The foreign business entity is authorized to transact business in the territory of the Tribe and the date of registration;

c. The period of the business entity's duration if the records of the Office of the Secretary reflect that its period of duration is less than perpetual;

d. That:

i. No statement of dissolution, statement of administrative dissolution, or statement of termination has been filed; and

ii. The records of the Office of the Secretary do not otherwise reflect that the business entity has been dissolved or terminated;

e. That the most recent annual report required by this Title has been delivered to the Office of the Secretary for filing;

f. That all fees, taxes, interest, and penalties owed to the Tribe by the business entity before the date of the certificate and collected through the Office of the Secretary have been paid;

g. That, according to the records of the Office of the Secretary, the business entity is in good standing in the territory of the Tribe; and

h. Other facts reflected in the records of the Office of the Secretary pertaining to the business entity which the person requesting the certificate reasonably requests.

3. In the event the Office of the Secretary cannot certify all matters required for a certificate of good standing or certificate of registration under this Section, the domestic business entity or foreign business entity, as appropriate, shall not be deemed in good standing and the Office of the Secretary may issue a certificate that the business entity is not in good standing or not authorized to transact business in the territory of the Tribe, as appropriate.

4. Subject to any qualification stated in the certificate, a certificate issued by the Office of the Secretary under this Section may be relied on as conclusive evidence of the matters stated in the certificate.

Section 14-3-10. Invalid Provisions. If a document delivered to the Office of the Secretary for filing becomes effective and contains a provision that would be ineffective under or violate this Title or the laws of the Tribe governing the business entity subject of the document, the provision is ineffective and void regardless of its acceptance for filing.

Section 14-3-11. Forms.

1. The Office of the Secretary may develop and provide forms for filings required or permitted to be made with the Office of the Secretary, but their use shall not be required.

2. Notwithstanding anything to the contrary in this Section, the Office of the Secretary may require that a cover sheet for a filing be on a form prescribed by the Office of the Secretary.

Section 14-3-12. Fees.

1. The Office of the Secretary shall impose and collect a reasonable non-refundable filing fee for each document filed when the document is delivered to the Office of the Secretary, provided that the Office of the Secretary may provide, subject to the approval of the Tribal Council, for instances where no filing fee is required.

2. The Office the Secretary shall, subject to approval of the Tribal Council, have the authority to establish a schedule of filing fees applicable to documents filed with the Office of the Secretary and set such fees from time to time, but such fees shall be initially set as follows:

- a. Initial, amended, or restated organizational documents, one hundred dollars (\$100.00);
- b. Annual report, twenty-five dollars (\$25);
- c. A certificate of status, ten dollars (\$10);
- d. Statements of dissolution, merger, interest exchange, conversion, or domestication, seventy-five dollars (\$75.00);
- e. Application for registration of a foreign business entity, fifty dollars (\$50.00);
- f. A statement of a change of address, five dollars (\$5.00);
- g. A copy of any document or instrument, five dollars (\$5.00) plus fifty cents (\$0.50) per page; and
- h. Any other document not provided for herein, twenty-five dollars (\$25.00).

Section 14-3-13. Records as Evidence. All certificates and documents issued by the Office of the Secretary pursuant to this Title or other law of the Tribe governing business entities and all copies of documents filed with the Office of the Secretary in accordance with the provisions of this Title, when certified by the Office of the Secretary, shall be taken and received in all courts, public offices, and official bodies as prima facie evidence of the facts or nonexistence of facts stated therein.

CHAPTER 4 TRIBAL BUSINESS ENTITIES

Section 14-4-1. Definitions. Unless the context requires otherwise or another definition is provided for a particular section, in this Chapter, "Tribal governmental entity" means an agency, department, division, instrumentality, or subordinate or

other entity of the Tribe, but does not include the executive, legislative, or judicial branch of the Tribe or a Tribal business entity.

Section 14-4-2. Nature of Tribal Business Entities.

1. Unless the public organizational documents of a Tribal business entity wholly owned by the Tribe expressly provide that it is organized pursuant to Article V, Section 1(f) of the Constitution, Tribal business entities and subsidiaries of Tribal business entities at any level shall be deemed instrumentalities of the Tribe and subordinate organizations of the Tribe pursuant to Article V, Section 1(n) of the Tribal Constitution.

2. All Tribal business entities shall serve and support the needs, priorities, goals, objectives, and/or policies of the Tribe, including the Tribal business entity contributing to Tribal economic policy or development and furthering the goals of self-determination and economic self-sufficiency.

3. Notwithstanding any law of any jurisdiction to the contrary, including any contrary law of the Tribe applicable to the type of business entity of the Tribal business entity, all Tribal business entities shall be subject to the provisions of this Chapter regardless of the jurisdiction of formation of the Tribal business entity and the provisions of this Chapter shall be deemed incorporated into the public and private organizational documents of every Tribal business entity.

Section 14-4-3. Formation.

1. The Tribe may establish a Tribal business entity with the Tribe as the sole owner. The Chair of the Tribe shall be the organizer of any Tribal business entity established by the Tribe.

2. Tribal business entities in which the Tribe is an owner shall be established by a duly adopted resolution of the Tribal Council establishing the business entity and adopting the public organizational documents governing the business entity.

3. If authorized by the Tribal Council or by the law of the Tribe establishing or governing such Tribal governmental entity, a Tribal governmental entity may establish a Tribal business entity with the Tribal governmental entity as the sole owner. The chairperson of the board, commission, or other body overseeing such Tribal governmental entity or, in the absence thereof, the director of such Tribal governmental entity shall be the organizer

of any Tribal business entity established by such Tribal governmental entity.

4. Except as otherwise provided in the law establishing or governing such Tribal governmental entity, Tribal business entities owned by Tribal governmental entities shall be established by a duly adopted resolution of the board, commission, or other body governing such Tribal governmental entity or, in the absence such a board, commission, or other body, the Tribal Council establishing the business entity and adopting the public organizational documents governing the business entity.

5. Unless the organizational documents of the Tribal business entity provide otherwise, a Tribal business entity or subsidiary of a Tribal business entity at any level may establish a subsidiary Tribal business entity with such Tribal business entity or subsidiary as the sole owner. A member of the board of directors or, in the absence of a board of directors, the manager of the parent Tribal business entity shall be the organizer of any subsidiary Tribal business entity established by the parent Tribal business entity.

6. Subsidiaries of Tribal business entities at any level shall be created by a duly adopted resolution of the board of directors of the parent Tribal business entity establishing the subsidiary and adopting the public organizational documents governing the subsidiary and any other requirements of the organizational documents of the parent Tribal business entity.

7. A Tribal business entity shall file the public organizational documents establishing a subsidiary Tribal business entity with the Office of the Secretary as provided in this Title along with the resolution authorizing the formation of the subsidiary and approving the public organizational documents.

8. The Tribe, agency, department, instrumentality, or entity of the Tribe, or Tribal business entity, as the case may be, shall file the public organizational documents establishing a Tribal business entity with the Office of the Secretary as provided in this Title along with the resolution authorizing the formation of the Tribal business entity and approving the public organizational documents.

9. Unless a delayed effective date is specified, the existence of a Tribal business entity begins when its public organizational documents have been approved in accordance with

this Section and filed with the Office of the Secretary in accordance with this Title.

10. The Tribe, a Tribal governmental entity, or any Tribal business entity, including subsidiaries thereof at any level, may form, or own interests in, other business entities with each other and with other governmental or non-governmental entities or persons in accordance with the following:

a. The formation or ownership:

i. In the case of the Tribe, must be approved by a duly adopted resolution of the Tribal Council;

ii. In the case of a Tribal governmental entity, must be expressly authorized by the Tribal Council or by the law of the Tribe establishing or governing such Tribal governmental entity and comply with any requirements of such resolution or law of the Tribe;

iii. In the case of a Tribal business entity, including a subsidiary thereof at any level, must not be prohibited by the organizational documents of the Tribal business entity and must be approved by the board of directors or owner of the Tribal business entity and comply with any other requirements of the organizational documents of such Tribal business entity;

b. Such business entities may be established under the laws of the Tribe or another jurisdiction; and

c. The partial ownership interest of the Tribe, a Tribal governmental entity, or a Tribal business entity in such business entity shall not diminish or affect the privileges and immunities of the Tribe, its Tribal Council, commissions, boards, Tribal governmental entities, Tribal business entities, Tribal Council members, commissioners, board members, officials, agents, officers, or employees.

Section 14-4-4. Organizational Documents. In addition to any other requirements for the organizational documents of a business entity, the public organizational documents of all Tribal business entities shall provide for a purpose which supports and relates to the overall needs, priorities, goals, objectives, and/or policies of the Tribe.

Section 14-4-5. Registered Agent. Unless expressly provided otherwise in the public organizational documents of a Tribal business entity, the registered office and registered agent of a Tribal business entity shall be located on lands held in trust for the Tribe or lands owned by the Tribe in fee within the territory of the Tribe where the Tribe maintains jurisdiction to the same extent as its trust lands.

Section 14-4-6. Privileges and Immunities.

1. Except to the extent otherwise expressly provided in its public organizational documents and notwithstanding any power to sue or be sued or consent thereto vested in a Tribal business entity, a Tribal business entity wholly owned by the Tribe, including by a Tribal governmental entity, shall possess all of the privileges and immunities of the Tribe, including the Tribe's sovereign immunity.

2. Except to the extent otherwise expressly provided in its public organizational documents, a subsidiary of a Tribal business entity at any level wholly owned by a Tribal business entity shall possess all of the privileges and immunities of the Tribe, including the Tribe's sovereign immunity.

3. A business entity in which the Tribe, a Tribal governmental entity, a Tribal business entity or subsidiary thereof at any level, or any combination of the foregoing owns a majority of the ownership interests in such business entity may possess the privileges and immunities of the Tribe, including the Tribe's sovereign immunity, to the extent allowed by the laws of the Tribe, applicable federal law of the United States, and its public organizational documents.

4. Tribal business entities established under the laws of the Tribe shall be deemed to be instrumentalities of the Tribe, and their officers and employees considered officers and employees of the Tribe, created for the purpose of carrying out authorities and responsibilities of the Tribe for economic development of the Tribe and the advancement of members of the Tribe. Such Tribal business entities and their directors, officers, managers, and employees shall be entitled to all of the privileges and immunities enjoyed by the Tribe, including but not limited to, immunity from suit and other judicial process in Tribal, federal, and state courts and federal, state, and local taxation or regulation.

5. Nothing in this Title shall be construed as creating any liability or waiving of sovereign immunity of the Tribe in any

manner, provided that the assets of a Tribal business entity may be subject to liabilities and claims except where otherwise provided in this Chapter or other law of the Tribe. In no event shall any action taken by the Tribe as an owner with respect to a Tribal business entity be construed as a waiver of immunity or creation of a liability on the part of the Tribe separate and apart from its interests as an owner of the Tribal business entity.

6. No Tribal business entity may claim sovereign immunity as a defense or bar to any action brought or taken by the Tribe in any capacity or, in the case of a subsidiary of a Tribal business at any level, its parent Tribal business entity acting as owner.

Section 14-4-7. Waivers of Sovereign Immunity.

1. A Tribal business entity may specifically grant a limited waiver of its immunity from suit and consent to be sued in Tribal Court or another court of competent jurisdiction or consent to binding arbitration only in accordance with the provisions of its public organizational documents, subject to the following:

a. The waiver or consent to suit shall be in writing in a written contract or agreement to which the Tribal business entity is a full party;

b. The language of the waiver shall explicitly limit the waiver to a specific dollar amount not to exceed the dollar amount of the contract or agreement or to other specific, limited non-monetary relief;

c. The waiver or consent shall not be general, but shall be specific and limited as to:

i. The party for whose benefit the waiver or consent is granted;

ii. The duration of the waiver or consent;

iii. The transaction and claims or classes of claims for which the waiver or consent is granted;

iv. The property of the Tribal business entity which may be subject to execution to satisfy any judgment which may be entered;

v. Whether court action, arbitration, mediation, other alternative dispute resolution, or combination of

the foregoing is authorized, the requirements and procedures for initiating mediation or arbitration, if applicable, and, if the waiver or consent includes court other than the Tribal Court, the court in which an action may be brought; and

vi. The law to be applied in any action pursuant to the waiver or consent, provided the application of such law shall not permit or allow any violation of the laws of the Tribe applicable to such Tribal business entity;

d. The board of directors of the Tribal business entity or, in the absence of a board of directors, the owner's board of directors, must adopt a resolution for the specific purpose of approving and granting the waiver or consent;

e. Any waiver or consent to suit shall be strictly limited to the terms of such waiver or consent to suit;

f. Any contract or agreement containing written language of any such waiver or consent to suit shall be reviewed and approved by an attorney representing the Tribe or the Tribal business entity prior to the execution of such contract or agreement;

g. Any such waiver or consent to suit shall in no manner or way extend to any action against the Tribe or be deemed a waiver of any of the rights, privileges, or immunities of the Tribe;

h. Any recovery against the Tribal business entity shall be limited to the assets of the Tribal business entity or such portion of the assets of the Tribal business entity authorized in the waiver or consent; and

i. The Tribe shall not be liable for the payment or performance of any of the obligations of the Tribal business entity and no recourse shall be had or allowed against any assets or revenues of the Tribe in order to satisfy the obligations of the Tribal business entity, including assets of the Tribe leased, loaned, or otherwise assigned without transfer of title to the Tribal business entity for its use.

2. Notwithstanding any law to the contrary, a purported waiver of sovereign immunity or consent to be sued in any court or

resolve disputes by any means or in any tribunal shall not be valid and shall be void unless it complies with the provisions of this Section.

3. Notwithstanding the provisions of this Section, a Tribal business entity may specifically grant a limited waiver of its immunity from suit for participation in a federal program to the extent and in the manner required by federal regulations governing such program.

Section 14-4-8. Management.

1. Except in the case of a partnership, a Tribal business entity formed pursuant to the laws of the Tribe where the Tribe or a Tribal governmental entity is an owner shall be managed by a board of directors in the manner described in the Tribal business entity's public organizational documents in accordance with the following:

a. The qualifications, number, terms, and method for selecting and removing directors of the Tribal business entity shall be specified in the Tribal business entity's public organizational documents, subject to requirements set forth in this Chapter; and

b. Notwithstanding any provision to the contrary in its organizational documents, the Tribal Council shall have the power to appoint and remove the directors of all Tribal business entities wholly owned by the Tribe, provided that the public organizational documents may modify or limit the appointment and removal of directors serving in an ex-officio capacity.

2. A subsidiary of a Tribal business entity at any level formed pursuant to the laws of the Tribe may be managed by the owner or a manager as designated in the subsidiary's public organizational documents in accordance with the following:

a. If the subsidiary is managed by the owner, the subsidiary shall have one or more persons exercising the functions of a chief executive officer; and

b. If the subsidiary is managed by a manager, the subsidiary's public organizational documents shall set forth the qualifications, number, terms, and method for selecting and removing such managers.

3. The board of directors of any Tribal business entity which has a board of directors shall be composed of members of the Tribal Council, members of the Tribe, and/or individuals experienced in business and Tribal government.

4. In addition to any other requirements set forth in its public organizational documents, the directors of a Tribal business entity shall meet the following requirements, provided that the public organizational documents may provide different requirements for directors serving in an ex-officio capacity:

- a. Be at least twenty-five (25) years of age;
- b. Possess at least a bachelor's degree or possess a high school diploma or a equivalency diploma plus at least five (5) years of business, financial, legal, government contracting, or industry experience;
- c. Not have been convicted or pled guilty or no contest to any felony in any jurisdiction;
- d. Not have been convicted of, or pled guilty or no contest to, or otherwise found or admitted to committing any crime or civil violation in any jurisdiction involving tax evasion, tax fraud, theft, or embezzlement, of moral turpitude, or against the Tribe;
- e. Be willing and able to perform the director's duties in compliance with the laws of the Tribe;
- f. Not be an employee of the Tribal business entity or any of its subsidiaries, provided that an employee may be selected as a director on the condition the employee shall resign as an employee upon commencement of service as a director; and
- g. Submit to a background investigation for purposes of determining the director's qualifications for appointment.

5. The owner's determination as to whether an individual is qualified to be a director of a Tribal business entity, including whether the conviction, pleading guilty or no contest to, or admission to committing a particular crime or civil violation disqualifies an individual under this Section, shall be final and not subject to appeal, review, challenge, or other action in any court or tribunal, including the Tribal Court.

6. Except as otherwise expressly provided in its public organizational documents, a director of a Tribal business entity may be removed with or without cause by the owner. For purposes of this subsection, "cause" shall include:

- a. Breach of a fiduciary duty;
- b. Conviction or pleading guilty or no contest to a felony in any jurisdiction;
- c. Conviction or pleading guilty or no contest to any misdemeanor or violation of a law of the Tribe, including the provisions of this Title, that, in the sole determination of the owner, adversely affects the Tribal business entity or such director's ability to perform his or her duties;
- d. Adjudication as incapacitated to manage his or her own affairs by a court of competent jurisdiction;
- e. Theft, embezzlement, conversion, or misappropriation of funds of a Tribal business entity or other acts of dishonesty with respect to a Tribal business entity;
- f. Gross negligence, fraud, deceit, or intentional misconduct that has a material adverse effect on the Tribal business entity;
- g. Misconduct, including insubordination, related to the duties and performance as a director;
- h. Dissatisfaction with the performance of the director or the Tribal business entity; or
- i. The happening of any event which would have made the director ineligible for appointment if the event had occurred prior to appointment.

7. Unless otherwise expressly provided in the public organizational documents of a Tribal business entity:

- a. No person who has served as a director may appeal or challenge his or her removal in any court or tribunal, including the Tribal Court; and
- b. The owner's decision to remove a director of a Tribal business entity shall be solely within the discretion and determination of the owner and shall not be subject to

appeal, review, challenge, or other action in any court or tribunal, including the Tribal Court.

8. All managers and officers of Tribal business entities owe fiduciary duties to the Tribal business entity and the owner. In addition to any other requirements of a business entity governing the conduct of its business, carrying on its operations, and having and exercising its powers, a Tribal business entity and its managers and officers, as part of their fiduciary duties, shall consider the effects of any action or inaction on the interests of the Tribe and its members and not take any action or fail to act on any matter which would be detrimental to the interests of the Tribe and its members.

9. Unless otherwise provided in its organizational documents, a director of a Tribal business entity may resign by delivering a written resignation to the board of directors or owner and shall be effective upon receipt, unless the resignation states otherwise.

10. For purposes of this Section, "owner" includes the Tribal Council, a board, commission, or other body overseeing a Tribal governmental entity, and board of directors of a Tribal business entity acting as the representative of or on behalf of the owner of the Tribal business entity.

11. Notwithstanding any law to the contrary, a Tribal business entity shall not lend any money to or guarantee the personal debts or obligations of any manager, director, officer, or employee of the Tribal business entity under any circumstances.

Section 14-4-9. Voting of Owners.

1. The ownership interests in all Tribal business entities where the Tribe is an owner and any action which the Tribe is required or permitted to take with respect to any vote, approval, consent, appointment, direction, or other matter with respect to such Tribal business entities shall be voted in accordance with the Tribal Council's procedures for voting and passing motions or resolutions.

2. The ownership interests in a Tribal business entity in which a Tribal governmental entity is an owner or a subsidiary of a Tribal business entity at any level and any action which the owner is required or permitted to take with respect to any vote, approval, consent, appointment, direction, or other matter with

respect to such Tribal business entities shall be voted as provided in the subsidiary's public organizational documents.

3. Notwithstanding anything to the contrary in the organizational documents of a Tribal business entity, the affirmative vote, approval, or consent of the owner shall be required for any Tribal business entity to do any of the following:

a. Adopt, amend, restate, or revoke the Tribal business entity's public organizational documents;

b. Issue an interest in the Tribal business entity to any person;

c. Except in the case of a mortgage, pledge, or other grant a security interest, sell, exchange, or otherwise dispose of all or substantially all of the assets of the Tribal business entity;

d. Merge the Tribal business entity with another entity;

e. Allow the acquisition of any interest in the Tribal business entity by any person;

f. Convert the Tribal business entity into another form of business entity;

g. Domesticate the Tribal business entity in any jurisdiction other than the Tribe;

h. Divide the Tribal business entity;

i. Dissolve the Tribal business entity;

j. Establish or form any subsidiary of the Tribal business entity under the laws of any jurisdiction other than the Tribe;

k. Allow the Tribal business entity to accept any additional contribution for an owner or other investment in the business entity; or

l. Authorize a manager or other person to do any act on behalf of the Tribal business entity that contravenes its organizational documents.

Section 14-4-10. Meetings of Owner.

1. Unless otherwise provided in its public organizational documents, each Tribal business entity in which the Tribe is an owner shall hold an annual meeting of the owner at such time and place designated in the public organizational documents of the Tribal business entity or, if not stated therein, by the Tribal Council for any purpose and the board of directors of the Tribal business entity, if such board exists, shall attend the annual meeting.

2. Unless otherwise provided in its public organizational documents or prohibited by a law of the Tribe other than this Title, the Tribal Council, acting as owner, may call special meetings of the owner for any purpose and may require that the board of directors of a Tribal business entity in which the Tribe is an owner, if such board exists, attend the special meeting.

Section 14-4-11. Manager as Agent. No board of directors or other manager of a Tribal business entity shall have the authority to bind the Tribe in any manner, provided that the Tribe's interest as an owner may be bound by such board of directors or other manager as provided in the laws of the Tribe other than this Chapter or the public organizational documents of the Tribal business entity.

Section 14-4-12. Liability to Third Parties.

1. Notwithstanding any provision of any law or its organizational documents to the contrary:

a. A debt, obligation, or other liability of a Tribal business entity, whether arising in contract, tort, or otherwise, is solely the debt, obligation, or other liability of the Tribal business entity and may only be enforced, to the extent permitted by law, against the assets or revenues of the Tribal business entity;

b. The Tribe is not liable, directly or indirectly, by way of contribution or otherwise, for a debt, obligation, or other liability of a Tribal business entity solely by reason of being or acting as an owner; and

c. No recourse shall be had or allowed against any assets or revenues of the Tribe in order to satisfy the debts, obligations, or other liabilities of a Tribal business entity, including assets of the Tribe leased, loaned, or

otherwise assigned without transfer of title to the Tribal business entity for its use; and

d. The failure of a Tribal business entity to observe formalities relating to the exercise of its powers or management of its activities and affairs is not a ground for imposing liability on the Tribe for a debt, obligation, or other liability of the Tribal business entity.

2. Notwithstanding any provision of law or its organizational documents to the contrary, no Tribal business entity shall have the power to pledge or encumber the assets or revenues of the Tribe. The Tribe, as owner, may pledge, encumber, or consent to recourse against the assets or revenues of the Tribe if and only if such pledge, encumbrance, or consent is contained in a written resolution of the Tribal Council specifically identifying both:

a. The assets or revenues pledged, encumbered, or subject to recourse; and

b. The specific debt, obligation, or liability of the Tribal business entity for which such assets or revenues are pledged, encumbered, or subject to recourse.

3. The Tribe is not a proper party to a proceeding by or against a Tribal business entity solely by reason of being an owner, except if the action is brought by the Tribe.

4. This Section applies regardless of the type of business entity of the Tribal business entity and regardless of the dissolution of the Tribal business entity.

Section 14-4-13. Property of Tribal Business Entities.

1. Except where the title to such property is retained by or in the name of the Tribe, all property transferred to a Tribal business entity is property of the Tribal business entity and not the Tribe.

2. Except as provided otherwise in this Section or law of the Tribe other than this Chapter:

a. All property acquired by a Tribal business entity in its name is property of the Tribal business entity and not the Tribe; and

b. Property acquired with funds of a Tribal business entity is presumed to be property of the Tribal business entity.

3. Except as otherwise provided in its public organizational documents, whenever a Tribal business entity purchases lands or otherwise acquires or obtains title to lands located within the territory of the Tribe:

a. Such lands may be purchased, acquired, or obtained in the name of the Tribe or in the name of the Tribal business entity, provided that the Tribal Council may direct in whose name a particular piece or parcel of land shall be purchased, acquired, or obtained;

b. Any such lands purchased, acquired, or obtained in the name of the Tribe shall be property of the Tribe and not the Tribal business entity regardless of the source of funds used to acquire such lands;

c. Any such lands purchased, acquired, or obtained in the name of the Tribe shall be deemed assigned to the Tribal business entity for its exclusive use and management in accordance with the laws of the Tribe for the purposes of the Tribal business entity;

d. Unless the Tribal Council directs otherwise, the Tribal business entity shall pay, be responsible for, and indemnify the Tribe for the payment of any such lands purchased, acquired, or obtained in the name of the Tribe and any taxes, assessments, or other fees related to any such lands purchased, acquired, or obtained in the name of the Tribe or their purchase, acquisition, or obtainment unless and until the Tribal business entity relinquishes the assignment and use of such lands to the Tribe;

e. Notwithstanding that any lands of the Tribal business entity are acquired in the name of the Tribe pursuant to this subsection, unless the Tribal Council directs otherwise, if funds of the Tribal business entity are used to purchase, acquire, or obtain the lands, the Tribal business entity shall have the authority to sell, transfer, or otherwise alienate any such lands not held in trust for the Tribe by the United States or otherwise subject to a restriction against alienation and retain any income or revenues from such sale, transfer, or alienation.

Section 14-4-14. Interest in Business Entities.

1. All interests in any Tribal business entity shall be held by and for the Tribe or, in the case of a subsidiary of a Tribal business entity at any level, by the parent Tribal business entity. No individual member of the Tribe shall have any personal ownership interest in any Tribal business entity, whether by virtue of such person's status as a member of the Tribe, as an officer of the Tribe or its government, or otherwise.

2. No ownership interest of the Tribe in any Tribal business entity may be alienated or encumbered, expressly or by operation of law, unless expressly approved by a duly adopted resolution of the Tribal Council.

3. No ownership interest in any subsidiary of a Tribal business entity at any level may be alienated or encumbered, expressly or by operation of law, unless expressly approved by a duly adopted resolution of the board of directors of the parent Tribal business entity.

Section 14-4-15. Reports. In addition to any reports required by the laws of the Tribe or the organizational documents of a Tribal business entity, the board of directors of each Tribal business entity in which the Tribe is an owner shall submit the following information to the Tribal Council:

1. Promptly after such statements are furnished to the board of directors, copies of any periodic financial statements, including monthly or quarterly balance sheets, profit and loss statements, and cash flow statements, as may be prepared in the ordinary course of business;

2. Within one hundred twenty (120) days after the close of each fiscal year, a full report of the activities of the Tribal business entity;

3. Within one hundred twenty (120) days after the close of each fiscal year, a proposed annual plan for the following fiscal year, including any proposed funding from the Tribe or anticipated distributions to the Tribe; and

4. Unless otherwise provided in its public organizational documents, such other reports from time to time as reasonably requested by the Tribal Council.

Section 14-4-16. Audits. In addition to any rights of inspection provided in the laws of the Tribe to owners of business entities and in the public organizational documents of a Tribal business entity, the Tribal Council may, at any time, by process set forth in such law of the Tribe or the public organizational documents, require that any Tribal business entity be audited by an independent auditor hired by the Tribe who shall have the absolute right to require access to all of the Tribal business entity's records and documents necessary for such an audit.

Section 14-4-17. Distributions.

1. Subject to the Tribe's ultimate ownership right to all income generated by Tribal business entities, a Tribal business entity wholly owned by the Tribe shall distribute its net income to the Tribe as set forth in a dividend plan adopted in accordance with the Tribal business entity's public organizational documents and approved by the Tribal Council, except that a Tribal business entity may retain reserves necessary to carry on its business in a reasonably prudent manner and as recommended by the board of directors, subject to any additional limitations set forth in the laws of the Tribe governing the Tribal business entity and its public organizational documents.

2. Subject to the Tribe's or Tribal governmental entity's ultimate ownership right to all income generated by Tribal business entities owned by a Tribal governmental entity, a Tribal business entity wholly owned by a Tribal governmental entity shall distribute its net income to the Tribe or Tribal governmental entity as set forth in a dividend plan adopted in accordance with the Tribal business entity's public organizational documents and approved by the owner, except that the Tribal business entity may retain reserves necessary to carry on its business in a reasonably prudent manner and as recommended by the board of directors, subject to any additional limitations set forth in the laws of the Tribe governing the Tribal business entity and its public organizational documents.

3. Subject to the parent Tribal business entity's ultimate ownership right to all income generated by its subsidiaries, a subsidiary of a Tribal business entity shall distribute its net income to the parent Tribal business entity as set forth in a dividend plan adopted in accordance with its public organizational documents and duly approved by its parent Tribal business entity, except that a subsidiary may retain reserves necessary to carry on the subsidiary's business in a reasonably prudent manner and as recommended by its board of directors or other manager, subject to

any additional limitations set forth in the laws of the Tribe governing the subsidiary and its public organizational documents.

4. When any income or assets of a Tribal business entity are distributed or otherwise transferred to the Tribe, Tribal governmental entity, or, in the case of a subsidiary, its parent Tribal business entity, such income and assets shall cease being income or assets of the Tribal business entity and shall become income and assets of the Tribe, Tribal governmental entity, or, in the case of subsidiary, its parent Tribal business entity, and shall not be subject to any attachment or other process which may reach the income or assets of the Tribal business entity.

Section 14-4-18. Actions By Owner.

1. The Tribe or Tribal governmental entity, as owner of any Tribal business entity, or the parent Tribal business entity, acting as owner of any of its subsidiaries, may bring a civil action against the Tribal business entity to:

a. Enjoin temporarily or permanently any action of the Tribal business entity that:

i. Is outside the authority of the Tribal business entity;

ii. Has caused or could cause material harm to the assets of the Tribal business entity, the Tribe, or owner if no immediate action is taken; or

iii. Is otherwise unlawful; or

b. Require the distribution of the Tribal business entity's surplus net income to the extent permitted by its public organizational documents, this Chapter, or other law of the Tribe governing the Tribal business entity.

2. The filing of any action against a Tribal business entity pursuant to this Section must be authorized by the Tribe or Tribal governmental entity as owner or, in the case of a subsidiary, the parent Tribal business entity in the manner provided in this Chapter for voting of the owner, provided that the request for consideration of the proposed court action may be made by any member of the Tribal Council, the board, commission, or other body of the Tribal governmental entity that is an owner, or, in the case of a subsidiary, any member of the board of directors of the parent Tribal business entity.

3. In any action brought under this Section, the Tribal Court may, based on a preponderance of the evidence:

a. Issue a declaratory judgment, temporary restraining order, preliminary injunction, permanent injunction, or other appropriate relief pursuant to and in accordance with the laws of the Tribe governing the same, except that no bond, obligation, or other security shall be required from the Tribe, Tribal governmental entity, or, in the case of an action against a subsidiary, parent Tribal business entity; or

b. Order that funds of the Tribal business entity be distributed to the extent permitted by its public organizational documents, this Chapter, or other law of the Tribe governing the Tribal business entity.

4. An action against Tribal business entity pursuant to this Section by the Tribe, a Tribal governmental entity, or a parent Tribal business entity acting as owner shall not act as a waiver of the Tribe's, the Tribal governmental entity's, or the parent Tribal business entity's sovereign immunity from suit of any kind nor otherwise authorize a suit of any kind, including a countersuit or counterclaim by the Tribal business entity, its board of directors or other manager, or its officers.

5. Nothing contained herein shall be construed as authorizing actions of any kind whatsoever against the Tribe.

CHAPTER 5 TRADE NAMES

Section 14-5-1. Requirement of Trade Name. A person shall not transact business in the territory of the Tribe under a name other than the true name of the person unless an effective statement of trade name is on file in the records of the Office of the Secretary.

Section 14-5-2. Application.

1. A person or business entity may deliver to the Office of the Secretary for filing, in accordance with this Title, a statement of trade name for any name other than the true name of the person or business entity under which the person or business entity transacts business or contemplates transacting business in the territory of the Tribe.

2. A statement of trade name shall state:

a. The true name of the applicant;

b. In the case of an applicant that is a business entity, the form of the business entity and the jurisdiction under whose law it is organized;

c. If the applicant is a foreign business entity, whether the applicant is registered to transact business in the territory of the Tribe in accordance with this Title;

d. The applicant's address of its principal office;

e. The trade name, other than the true name of the applicant, under which the applicant transacts business or contemplates transacting business in the territory of the Tribe sought to be registered;

f. A brief description of the kind of business transacted or contemplated to be transacted in the territory of the Tribe under the name;

g. The true name and address of the individual filing the statement; and

h. Such other information as the Office of the Secretary of state may require.

3. A single trade name may be registered on each statement submitted under this Section.

Section 14-5-3. Issuance of Certificate.

1. Upon filing of a statement of trade name in compliance with this Chapter and a determination that the trade name may be registered under the requirements of this Section, the Office of the Secretary shall issue a certificate of registration. The certificate shall show the name and business address of the applicant, the trade name registered, the date of registration, and the term of registration.

2. The Office of the Secretary shall not file an application for the registration of any trade name or register a trade name if:

a. It contains any term the inclusion of which would violate any law of the Tribe;

b. It is not distinguishable from:

i. Any other trade name currently registered with the Office of the Secretary; and

ii. The name of any other domestic business entity or qualified foreign business entity, unless the applicant is the business entity with such indistinguishable name;

c. It contains any immoral, deceptive, or scandalous matter;

d. Unless the applicant is the Tribe or a Tribal business entity or the applicant files with the Office of the Secretary a resolution of the Tribal Council consenting to the use of the name of the Tribe and complies with any restrictions contained in such resolution, it disparages or falsely suggests a connection with the Tribe; or

e. If the applicant is a foreign business entity, the applicant is not registered to transact business in the territory of the Tribe in accordance with this Title.

Section 14-5-4. Term of Registration.

1. Registration of a trade name under this Chapter is effective for a term of one (1) year from the date of registration, except that a trade name registered by the Tribe or a Tribal business entity shall be effective in perpetuity or until voluntarily cancelled by the Tribe or Tribal business entity.

2. Upon application filed within sixty (60) days prior to the expiration of a trade name, the registration may be renewed by filing a statement of renewal which states:

a. The true name of the person holding the registration of the trade name;

b. The applicant's address of its principal office;

c. The trade name to be renewed;

d. A brief description of the kind of business transacted or contemplated to be transacted in the territory of the Tribe under the name;

e. The true name and address of the individual filing the statement; and

f. Such other information as the Office of the Secretary of state may require.

3. The Office of the Secretary shall notify registrants within the sixty (60) days before the expiration of registration of trade name of the necessity of renewal by sending such notification in writing to the last known address of the registrant.

Section 14-5-5. Transfer and Assignment.

1. Any trade name registered under this Chapter and its registration may be assigned and transferred by filing a statement of transfer with the Office of the Secretary.

2. A statement of transfer shall state:

a. The true name and principal address of the current trade name registrant transferring and assigning the trade name;

b. The true name and principal address of the assignee;

c. The trade name transferred and assigned;

d. A brief description of the kind of business transacted or contemplated to be transacted in the territory of the Tribe under the name once transferred and assigned;

e. The true name and address of the individual filing the statement; and

f. Such other information as the Office of the Secretary of state may require.

3. Upon the filing of a statement of transfer pursuant to this Section, the Office of the Secretary shall issue a new certificate of registration in the name of the assignee for the remainder of the term of the registration of the trade name.

Section 14-5-6. Exclusive Rights.

1. The registration of a trade name prior to the filing of public organizational documents of a business entity shall give to the holder of the registered trade name exclusive right to the use of such name.

2. Nothing in this Chapter shall adversely affect the rights or the enforcement of rights in trade names acquired in good faith at any time under the common law of the Tribe.

Section 14-5-7. Cancellation.

1. The Office of the Secretary shall cancel a trade name registration if:

a. The Office of the Secretary receives a voluntary request for cancellation from the registrant or the assignee of record;

b. The registration is not renewed in accordance with this Chapter;

c. If the registrant is a foreign business entity, the registrant's registration to transact business in the territory of the Tribe is cancelled or revoked;

d. The registrant is a business entity which has been dissolved at least six (6) months prior to cancellation;

e. A court of competent jurisdiction orders the cancellation on any grounds; or

f. The registration was obtained fraudulently by containing false or misleading information.

2. The Office of the Secretary shall release a trade name for use pursuant to this Chapter after the trade name's registration has been cancelled.

**CHAPTER 6
FOREIGN BUSINESS ENTITIES**

Section 14-6-1. Governing Law.

1. The law of the jurisdiction of formation of a foreign business entity governs:

a. The internal affairs of the foreign business entity; and

b. The liability that a person has as an owner, director, officer, or manager for a debt, obligation, or liability of the foreign business entity.

2. A foreign business entity is not precluded from registering to do business in the territory of the Tribe because of any difference between the law of its jurisdiction of formation and the laws of the Tribe.

3. Registration of a foreign business entity to do business in the territory of the Tribe does not:

a. Grant any rights and privileges greater than a domestic business entity; or

b. Authorize the foreign business entity to engage in any activities and affairs or exercise any power that a domestic business entity may not engage in or exercise in the territory of the Tribe.

4. This Section applies even if a foreign business entity fails to register under this Chapter.

Section 14-6-2. Registration.

1. A foreign business entity may not do business in the territory of the Tribe until it registers with the Office of the Secretary under this Chapter.

2. A foreign business entity doing business in the territory of the Tribe may not maintain an action or proceeding in the territory of the Tribe or regarding a business transaction in the territory of the Tribe or with the Tribe or its members, including in the Tribal Court, unless it is registered to do business in the territory of the Tribe.

3. No waiver of sovereign immunity by the Tribe, consent to jurisdiction in any court or tribunal, including the Tribal Court, or agreement to arbitrate or otherwise submit a dispute to arbitration asserted or claimed by, or purportedly granted in favor of, a foreign business entity doing business in the territory of

the Tribe or with the Tribe or its members shall be valid or enforceable unless the foreign business entity is registered to do business in the territory of the Tribe.

4. Neither the successor to a foreign business entity that does business in the territory of the Tribe without registering under this Chapter nor the assignee of a cause of action arising out of that business may maintain an action or proceeding based on that cause of action in the territory of the Tribe, including the Tribal Court, unless the foreign business entity or its successor or assignee is registered to do business in the territory of the Tribe.

5. The Tribal Court shall dismiss any action or proceeding maintained by a foreign business entity or any successor or assignee thereof which is not registered under this Chapter, provided that the Tribal Court may stay such action or proceeding until the foreign business entity, successor, or assignee is registered pursuant to this Title if the foreign business entity, successor, or assignee requests such a stay and represents that it will obtain such registration.

6. The failure of a foreign business entity to register to do business in the territory of the Tribe does not:

a. Impair the validity of a contract or act of the foreign business entity or its title to any property in the territory of the Tribe;

b. Affect the right of any person to maintain an action or proceeding against the foreign business entity; or

c. Preclude the foreign business entity from defending an action or proceeding in the territory of the Tribe, including the Tribal Court.

7. A limitation on the liability of an owner, officer, director, or manager of a foreign business entity is not waived solely because the foreign business entity does business in the territory of the Tribe without registering to do business in the territory of the Tribe.

8. The provisions of this Section shall supersede any contrary provision of any contract or agreement and no provision of a contract or agreement which purports to exempt or avoid the provisions of this Section shall be valid, including a provision of a contract or agreement providing for:

a. A particular law to govern the contract or agreement;

b. A particular law to be utilized for the construction or interpretation of the contract or agreement; or

c. The resolution of disputes in a particular court or jurisdiction or using a particular method of dispute resolution, including arbitration.

Section 14-6-3. Registration Statement.

1. To register to do business in the territory of the Tribe, a foreign business entity must deliver a foreign registration statement to the Office of the Secretary for filing. The statement must state:

a. The name of the foreign business entity and, if the name does not comply with the requirements of this Title, an alternate name adopted pursuant to this Chapter;

b. That the foreign business entity is a foreign business entity and the type of business entity;

c. The foreign business entity's jurisdiction of formation;

d. The date of formation of the foreign business entity in its jurisdiction of formation;

e. A statement that the foreign business entity is in good standing in its jurisdiction of formation;

f. The street and mailing addresses of the foreign business entity's principal office and, if the law of the foreign business entity's jurisdiction of formation requires the foreign business entity to maintain an office in that jurisdiction, the street and mailing addresses of the required office; and

g. The name and street and mailing addresses of the foreign business entity's registered agent in the territory of the Tribe.

2. A qualified foreign business entity shall deliver to the Office of the Secretary for filing an amendment to its foreign registration statement if there is a change in:

- a. The name of the foreign business entity;
- b. The foreign business entity's jurisdiction of formation;
- c. An address required by subsection 1 of this Section; or
- d. The name or address of the foreign business entity's registered agent in the territory of the Tribe.

Section 14-6-4. Activities Not Constituting Doing Business.

1. For purposes of this Chapter, activities of a foreign business entity which do not constitute doing business in the territory of the Tribe include:

- a. Maintaining, defending, mediating, arbitrating, or settling an action or proceeding;
- b. Carrying on any activity concerning its internal affairs, including holding meetings of its owners or manager;
- c. Maintaining accounts in financial institutions;
- d. Maintaining offices or agencies for the transfer, exchange, and registration of securities of the foreign business entity or maintaining trustees or depositories with respect to those securities;
- e. Selling through independent contractors;
- f. Soliciting or obtaining orders by any means if the orders require acceptance outside the territory of the Tribe before they become contracts;
- g. Creating or acquiring indebtedness, mortgages, or security interests in property;
- h. Securing or collecting debts or enforcing mortgages or security interests in property securing the debts, and holding, protecting, or maintaining property;

i. Except with respect to claiming or asserting a waiver of sovereign immunity by the Tribe, consent to jurisdiction in a court or tribunal, including the Tribal Court, or agreement to arbitrate or submit a dispute to arbitration, conducting an isolated transaction that is completed within thirty (30) days or less and is not in the course of similar transactions; and

j. Owning, without more, property.

2. A person does not do business in the territory of the Tribe solely by being an owner or manager of a foreign business entity that does business in the territory of the Tribe.

3. This Section does not apply in determining the contacts or activities that may subject a foreign business entity to service of process, taxation, or regulation under the laws of the Tribe other than this Chapter.

Section 14-6-5. Noncomplying Name.

1. A foreign business entity whose name does not comply with this Title may not register to do business in the territory of the Tribe until it adopts, for the purpose of doing business in the territory of the Tribe, an alternate name that complies with this Title. A foreign business entity that registers under an alternate name under this subsection need not comply with the trade name provisions of this Title. After registering to do business in the territory of the Tribe with an alternate name, a foreign business entity shall do business in the territory of the Tribe under:

a. The alternate name;

b. The foreign business entity's name, with the addition of its jurisdiction of formation; or

c. A trade name the foreign business entity is authorized to use under this Title.

2. If a qualified foreign business entity changes its name to one that does not comply with this Title, it may not do business in the territory of the Tribe until it complies with this Section by amending its registration to adopt an alternate name that complies with this Title.

Section 14-6-6. Withdrawal of Registration.

1. A qualified foreign business entity may withdraw its registration by delivering a statement of withdrawal to the Office of the Secretary for filing. The statement of withdrawal must state:

a. The name of the foreign business entity and its jurisdiction of formation;

b. That the foreign business entity is not doing business in the territory of the Tribe and that it withdraws its registration to do business in the territory of the Tribe;

c. That the foreign business entity revokes the authority of its registered agent to accept service on its behalf in the territory of the Tribe; and

d. An address to which service of process may be made on the foreign business entity for any action or proceeding based on a cause of action arising during the time the foreign business entity was registered to do business in the territory of the Tribe.

2. After the withdrawal of the registration of a foreign business entity, service of process in any action or proceeding based on a cause of action arising during the time the foreign business entity was registered to do business in the territory of the Tribe may be made on the address provided under subsection 1 of this Section or pursuant to Chapter 2 of this Title.

3. A qualified foreign business entity that converts to a domestic business entity whose formation requires delivery of a record to the Office of the Secretary for filing is deemed to have withdrawn its registration on the effective date of the conversion.

4. Withdrawal of registration under this Section does not affect a determination of the contacts or activities that may subject a foreign business entity to service of process, taxation, or regulation under the laws of the Tribe.

Section 14-6-7. Transfer of Registration.

1. When a qualified foreign business entity has merged into a foreign business entity that is not registered to do business in the territory of the Tribe or has converted to a foreign business entity required to register with the Office of the Secretary to do

business in the territory of the Tribe, the foreign business entity shall deliver to the Office of the Secretary for filing an application for transfer of registration. The application must state:

a. The name of the qualified foreign business entity before the merger or conversion;

b. The type of entity of the qualified foreign business entity before the merger or conversion and its jurisdiction of formation;

c. The name of the applicant foreign business entity into which the foreign business entity has merged or to which it has been converted and, if the name does not comply with this Title, an alternate name adopted pursuant to this Chapter;

d. The type of entity of the applicant foreign business entity and its jurisdiction of formation;

e. The street and mailing addresses of the principal office of the applicant foreign business entity and, if the law of the entity's jurisdiction of formation requires the entity to maintain an office in that jurisdiction, the street and mailing addresses of that office; and

f. The name and street and mailing addresses of the foreign business entity's registered agent in the territory of the Tribe.

2. When an application for transfer of registration takes effect, the registration of the foreign business entity to do business in the territory of the Tribe is transferred without interruption to the foreign business entity into which the foreign business entity has merged or to which it has been converted.

Section 14-6-8. Termination of Registration.

1. The Office of the Secretary may terminate the registration of a qualified foreign business entity if:

a. The foreign business entity does not pay, not later than sixty (60) days after the due date, any fee, tax, interest, or penalty required to be paid to the Office of the Secretary under this Title or law other than this Title;

b. The foreign business entity does not deliver to the Office of the Secretary for filing, not later than sixty (60) days after the due date, an annual report required under this Title;

c. The foreign business entity does not have a registered agent as required by this Title;

d. The foreign business entity does not deliver to the Office of the Secretary for filing a statement of change pursuant to this Title not later than thirty (30) days after a change has occurred in the name or address of the registered agent;

e. The foreign business entity obtained its registration through fraud;

f. The Office of the Secretary receives an order from the Tribal Court terminating the registration; or

g. The Office of the Secretary receives a certificate from an official having custody of records pertaining to the foreign business entity in its jurisdiction of formation stating that it has been dissolved, is no longer in good standing in that jurisdiction, or ceased to exist.

2. The Office of the Secretary may terminate the registration of a qualified foreign business entity by:

a. Filing a notice of termination in the records of the Office of the Secretary; and

b. Delivering a copy of the notice to the foreign business entity's registered agent or, if the foreign business entity does not have a registered agent, to the foreign business entity's principal office.

3. A notice of termination must state:

a. The effective date of the termination, which must be at least thirty (30) days after the date the Office of the Secretary delivers the copy; and

b. The grounds for termination under this Section.

4. A foreign business entity may seek judicial review of a termination of its registration by the Office of the Secretary in the Tribal Court in accordance with the following:

a. The petition for judicial review shall be filed within thirty (30) days after service of the notice of termination;

b. No new or additional information or evidence may be introduced, but the matter shall be heard on the information provided to and in the records of the Office of the Secretary;

c. The Tribal Court shall uphold all factual findings of the Office of the Secretary unless the Tribal Court concludes that such findings are not supported by the substantive evidence in the record established before the Office of the Secretary;

d. In reviewing legal conclusions reached by the Office of the Secretary, the Tribal Court shall give proper weight to the Office of the Secretary's interpretation of this Title and other laws of the Tribe administered by the Office of the Secretary;

e. The Tribal Court may affirm, reverse, modify, or vacate and remand the Office of the Secretary's termination of registration, but shall affirm the denial unless the Tribal Court concludes that the denial is:

i. Not supported by the evidence;

ii. Arbitrary or capricious;

iii. An abuse of discretion; or

iv. Otherwise contrary to the laws of the Tribe.

5. The authority of a qualified foreign business entity to do business in the territory of the Tribe ceases on the effective date of the notice of termination, unless before that date the foreign business entity cures each ground for termination stated in the notice. If the foreign business entity cures each ground, the Office of the Secretary shall file a record so stating.

6. Revocation of a foreign business entity's registration does not terminate the authority of its registered agent.

Section 14-6-9. Judicial Termination of Registration.

1. The Tribal Court may order the termination of the registration of a qualified foreign business entity in a proceeding initiated by the Tribal Attorney, if the business entity:

- a. Obtained its registration through fraud;
- b. Has continued to exceed or abuse the authority conferred upon it by the laws of the Tribe; or
- c. Has repeatedly conducted its business, carried on its operations, or exercised its powers in the territory of the Tribe in a manner that has caused significant harm to the interests of persons that are materially affected by the conduct of the business entity and the business entity has not undertaken measures to address the causes of such misconduct.

2. This Section shall not apply to a qualified foreign business entity in which the Tribe is an owner.

3. Nothing in this Section shall be construed as limiting, waiving, or abrogating the sovereignty or the sovereign immunity of the Tribe.

Section 14-6-10. Violation of Chapter.

1. A foreign business entity that does business in the territory of the Tribe without registering to do business in the territory of the Tribe shall be subject to a civil fine for each year or any part thereof during which it did business in the territory of the Tribe without registering in an amount equal to one hundred fifty percent (150%) of all fees that the foreign business entity would have been required to pay under this Title had it registered to do business in the territory of the Tribe or \$5,000.00, whichever is more. The Office of the Secretary shall not file a registration of a foreign business entity which owes amounts under this subsection until the foreign business entity pays such amounts in full.

2. In addition to any other consequences for failing to register to do business in the territory of the Tribe or other remedies provided under the laws of the Tribe, the Tribal Attorney may maintain an action to enjoin a foreign business entity from doing business in the territory of the Tribe in violation of this Chapter.

CHAPTER 7
MERGER

Section 14-7-1. Definitions. Unless the context requires otherwise or another definition is provided for a particular section, in this Chapter:

1. "Merging entity" means a business entity that is a party to a merger and exists immediately before the merger becomes effective.

2. "Surviving entity" means the entity that continues in existence after or is created by a merger.

Section 14-7-2. Merger Authorized.

1. Unless otherwise provided in the organizational documents of a business entity, by complying with this Chapter, one or more domestic business entities may merge with one or more domestic or foreign business entities.

2. A foreign business entity may be a merging entity in a merger under this Chapter or may be the surviving entity in such a merger if the merger is authorized by the law of the foreign business entity's jurisdiction of formation.

Section 14-7-3. Plan of Merger.

1. A domestic business entity may become a party to a merger under this Chapter by approving a plan of merger. The plan must be in writing and contain:

a. As to each merging entity, its name, jurisdiction of formation, and type of entity;

b. If the surviving entity is to be created in the merger, a statement to that effect and its name, jurisdiction of formation, and type of entity;

c. The manner of converting the ownership interests in each party to the merger into interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing;

d. If the surviving entity exists before the merger, any proposed amendments to its organizational documents, if any;

e. If the surviving entity is to be created in the merger, its proposed public organizational documents, if any, and the full text of its proposed private organizational documents;

f. The other terms and conditions of the merger; and

g. Any other provision required by the law of a merging entity's jurisdiction of formation or the organic documents of a merging entity.

2. A plan of merger may contain any other provision not prohibited by law.

Section 14-7-4. Approval of Merger.

1. A plan of merger is not effective unless it has been approved by a domestic merging entity:

a. In accordance with the requirements, if any, in the laws of the Tribe governing the merging entity and its organizational documents for approval of a merger; or

b. If neither the laws of the Tribe governing the merging entity nor its organizational documents provide for approval of a merger, then by all of the owners of the merging entity entitled to vote on or consent to any matter or, if there are no such owners, then by all of the managers of the merging entity.

2. A merger involving a foreign merging entity is not effective unless the merger is approved by the foreign business entity in accordance with the law of the foreign business entity's jurisdiction of formation.

3. Upon approval of a merger, the merging entity shall notify its owners of the approval and of the effective date of the merger.

Section 14-7-5. Amendment or Abandonment of Merger.

1. A plan of merger may be amended only with the consent of each party to the plan of merger except as otherwise provided in the plan.

2. A domestic merging entity may approve an amendment to a plan of merger:

a. 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

b. By the owners or managers of the merging entity in the manner provided in the plan, but an owner that was entitled to vote on or consent to approval of the merger is entitled to vote on or consent to any amendment of the plan that will change:

i. The amount or kind of interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing, to be received by the owners of any party to the plan;

ii. The organizational documents, if any, of the surviving entity that will be in effect immediately after the merger becomes effective, except for changes that do not require approval of the owners of the surviving entity under the law of its jurisdiction of formation; or

iii. Any other terms or conditions of the plan if the change would adversely affect the owner in any material respect.

3. After a plan of merger has been approved and before a statement of merger becomes effective, the plan may be abandoned as provided in the plan. Unless prohibited by the plan, a domestic merging business entity may abandon the plan in the same manner as the plan was approved.

4. If a plan of merger is abandoned after a statement of merger have been delivered to the Office of the Secretary for filing and before the statement becomes effective, a statement of abandonment, signed by a party to the plan, must be delivered to the Office of the Secretary for filing before the statement of

merger become effective. The statement of abandonment takes effect on filing and the merger is abandoned and does not become effective. The statement of abandonment must contain:

- a. The name of each party to the plan of merger;
- b. The date on which the statement of merger was filed by the Office of the Secretary; and
- c. A statement that the merger has been abandoned in accordance with this Section.

Section 14-7-6. Statement of Merger.

1. A statement of merger must be signed by each merging entity and delivered to the Office of the Secretary for filing.

2. A statement of merger must contain:

- a. The name, jurisdiction of formation, and type of entity of each merging entity that is not the surviving entity;

- b. The name, jurisdiction of formation, and type of entity of the surviving entity;

- c. If the statement of merger is not to be effective upon filing, the later date and time on which it will become effective pursuant to this Title;

- d. A statement that the merger was approved by each domestic merging entity, if any, in accordance with this Chapter and by each foreign merging entity, if any, in accordance with the law of its jurisdiction of formation;

- e. If the surviving entity exists before the merger and is a domestic business entity, any amendment to its public organizational documents approved as part of the plan of merger;

- f. If the surviving entity is created by the merger and is a domestic business entity, its public organizational documents, as an attachment;

- g. A statement as to whether the surviving entity is a Tribal business entity and, if so, a statement as to whether

the surviving entity enjoys the Tribe's sovereign immunity;
and

h. If the surviving entity is a foreign business entity that is not a qualified foreign business entity, a mailing address to which the Office of the Secretary may send any process served on the Office of the Secretary pursuant to this Title.

3. A statement of merger may contain any other provision not prohibited by law.

4. A plan of merger that is signed by all the merging entities and meets all the requirements of subsection 2 of this Section may be delivered to the Office of the Secretary for filing instead of a statement of merger and on filing has the same effect. If a plan of merger is filed as provided in this subsection, references in this Chapter to a statement of merger refer to the plan of merger filed under this subsection.

5. If the surviving entity is a domestic business entity, its organizational documents, if any, must satisfy the requirements of the laws of the Tribe, except that the organizational documents are deemed to be signed by means of the signing of the statement of merger.

6. If the surviving entity is a domestic business entity, a merger becomes effective when the statement of merger is effective. If the surviving entity is a foreign business entity, the merger becomes effective on the later of:

a. The date and time provided by the law of the jurisdiction of formation of the surviving entity; or

b. When the statement of merger is effective.

Section 14-7-7. Effect of Merger.

1. When a merger becomes effective:

a. The surviving entity continues or comes into existence;

b. Each merging entity that is not the surviving entity ceases to exist;

c. All property of each merging entity vests in the surviving entity without transfer, reversion, or impairment;

d. All debts, obligations, and other liabilities of each merging entity are debts, obligations, and other liabilities of the surviving entity;

e. Except as otherwise provided by law or the plan of merger, all the rights, privileges, immunities, powers, and purposes of each merging entity vest in the surviving entity;

f. If the surviving entity exists before the merger:

i. All its property continues to be vested in it without transfer, reversion, or impairment;

ii. It remains subject to all its debts, obligations, and other liabilities;

iii. All its rights, privileges, immunities, powers, and purposes continue to be vested in it; and

iv. Its organizational documents, if any, are amended to the extent provided in the statement of merger;

g. The name of the surviving entity may be substituted for the name of any merging entity that is a party to any pending action or proceeding;

h. If the surviving entity is created by the merger, its organizational documents are effective; and

i. The ownership interests in each merging entity which are to be converted in the merger are converted, and the interest holders of those ownership interests are entitled only to the rights provided to them under the plan of merger and to any appraisal rights they have under the laws of the Tribe and the merging entity's law of jurisdiction of formation.

2. Except as otherwise provided in the law of the jurisdiction of formation or organizational documents of a merging entity, the merger does not give rise to any rights that an owner, manager, or third party would have upon a dissolution, liquidation, or winding up of the merging entity.

3. When a merger becomes effective, a foreign business entity that is the surviving entity may be served with process in the territory of the Tribe for the collection and enforcement of any debts, obligations, or other liabilities of a domestic merging entity.

4. When a merger becomes effective, the registration to do business in the territory of the Tribe of any foreign merging entity that is not the surviving entity is canceled.

Section 14-7-8. Ineffectiveness of Merger Due to Foreign Law.

1. If a statement of merger is filed with the Office of the Secretary involving a foreign business entity and the merger is not authorized by the law of the relevant foreign jurisdiction as required by this Chapter, the merger is ineffective.

2. A statement of ineffectiveness of merger must be signed on behalf of each business entity which signed the statement of merger and must be delivered for filing with the Office of the Secretary to reflect that ineffectiveness in the public record.

3. The statement of ineffectiveness of merger must contain:

a. The name of each business entity that attempted the merger;

b. The date on which the statement of merger was filed; and

c. A statement that the merger was ineffective because it was not authorized by the law of the relevant foreign jurisdiction.

4. The business entities that attempted the merger are both:

a. Responsible to any other person for any obligation incurred by that person that arises out of or relates to the ineffectiveness of the attempted merger unless the business entities establish that the obligation was not incurred in good faith; and

b. Deemed to have appointed the Office of the Secretary as the agent of each business entity for service of process for any action arising under this Section unless the

business entity is a domestic business entity or a qualified foreign business entity.

5. If they were acting in good faith, the business entities that attempted the merger and their respective owners, managers, or other representatives are not civilly or criminally liable and may not be found guilty in connection with an ineffective merger under any laws of the Tribe pertaining to:

a. The filing of a false or otherwise misleading or inaccurate document;

b. The making of a false or otherwise misleading or inaccurate statement; or

c. Any similar matter.

CHAPTER 8 INTEREST EXCHANGE

Section 14-8-1. Definitions. Unless the context requires otherwise or another definition is provided for a particular section, in this Chapter:

1. "Acquired entity" means the business entity with one or more interests acquired in an interest exchange.

2. "Acquiring entity" means the entity that acquires one or more interests of the acquired entity in an interest exchange.

3. "Interest" means an ownership interest or management interest in a business entity.

Section 14-8-2. Interest Exchange Authorized.

1. Unless otherwise provided in the organizational documents of a business entity, by complying with this Chapter:

a. A domestic business entity may acquire the interests of another domestic or foreign business entity in exchange for interests, securities, obligations, rights to acquire interests or securities, money, other property, or any combination of the foregoing; or

b. Interests of a domestic business entity may be acquired by another domestic or foreign business entity in

exchange for interests, securities, obligations, rights to acquire interests or securities, money, other property, or any combination of the foregoing.

2. A foreign business entity may be an acquiring entity or acquired entity in an interest exchange under this Chapter if the interest exchange is authorized by the law of the foreign business entity's jurisdiction of formation.

Section 14-8-3. Plan of Interest Exchange.

1. A domestic business entity may be the acquired entity in an interest exchange under this Chapter by approving a plan of interest exchange. The plan must be in writing and contain:

- a. The name of the acquired entity;
- b. The name, jurisdiction of formation, and type of entity of the acquiring entity;
- c. The manner of converting the interests in the acquired entity into interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing;
- d. Any proposed amendments to the organizational documents of the acquired entity;
- e. The other terms and conditions of the interest exchange; and
- f. Any other provision required by the laws of the Tribe or the organizational documents of the acquired entity.

2. In addition to the requirements of this Section, a plan of interest exchange may contain any other provision not prohibited by law.

Section 14-8-4. Approval of Interest Exchange.

1. A plan of interest exchange is not effective unless it has been approved by a domestic acquired entity as provided in its organizational documents and the laws of the Tribe governing the acquired entity or, if not provided therein, a majority of the owners of the acquired entity.

2. A plan of interest exchange is not effective unless it has been approved by a domestic acquired entity:

a. In accordance with the requirements, if any, in the laws of the Tribe governing the acquired entity and its organizational documents for approval of an interest exchange;

b. If neither the laws of the Tribe governing the acquired entity nor its organizational documents provide for approval of an interest exchange, in accordance with the requirements, if any, in the laws of the Tribe governing the acquired entity or its organizational documents for approval of a merger, as if the interest exchange were a merger; or

c. If neither the laws of the Tribe governing the acquired entity nor its organizational documents provide for approval of an interest exchange or a merger, then by all of the owners of the merging entity entitled to vote on or consent to any matter or, if there are no such owners, then by all of the managers of the acquired entity.

3. An interest exchange involving a foreign acquired entity is not effective unless it is approved by the foreign acquired entity in accordance with the law of the foreign acquired entity's jurisdiction of formation.

4. Except as otherwise provided in the laws of acquiring entity's jurisdiction of formation or its organizational documents, the owners of the acquiring entity are not required to approve the interest exchange.

5. Upon approval of an interest exchange, the acquired entity shall notify its owners of the approval and of the effective date of the interest exchange.

Section 14-8-5. Amendment or Abandonment of Interest Exchange.

1. A plan of interest exchange may be amended only with the consent of each party to the plan, except as otherwise provided in the plan.

2. A domestic acquired entity may approve an amendment to a plan of interest exchange:

a. 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

b. In the manner provided in the plan, but an owner that was entitled to vote on or consent to approval of the interest exchange is entitled to vote on or consent to any amendment of the plan that will change:

i. The amount or kind of interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing, to be received by any of the owners under the plan;

ii. The organizational documents of the acquired entity that will be in effect immediately after the interest exchange becomes effective, except for changes that do not require approval of the owners of the acquired entity under the laws of the Tribe governing the acquired entity or its organizational documents; or

iii. Any other terms or conditions of the plan, if the change would adversely affect the owner in any material respect.

3. After a plan of interest exchange has been approved and before a statement of interest exchange becomes effective, the plan may be abandoned as provided in the plan. Unless prohibited by the plan, a domestic acquired entity may abandon the plan in the same manner as the plan was approved.

4. If a plan of interest exchange is abandoned after a statement of interest exchange has been delivered to the Office of the Secretary for filing and before the statement becomes effective, a statement of abandonment, signed by the acquired entity, must be delivered to the Office of the Secretary for filing before the statement of interest exchange becomes effective. The statement of abandonment takes effect on filing, and the interest exchange is abandoned and does not become effective. The statement of abandonment must contain:

a. The name of the acquired entity;

b. The date on which the statement of interest exchange was filed with the Office of the Secretary; and

c. A statement that the interest exchange has been abandoned in accordance with this Section.

Section 14-8-6. Statement of Interest Exchange.

1. A statement of interest exchange must be signed by a domestic acquired entity and delivered to the Office of the Secretary for filing.

2. A statement of interest exchange must contain:

a. The name of the acquired entity;

b. A statement as to whether the acquired entity is a Tribal business entity;

c. The name, jurisdiction of formation, and type of entity of the acquiring entity;

d. A statement as to whether the acquiring entity is a Tribal business entity; and

e. If the statement of interest exchange is not to be effective upon filing, the later date and time on which it will become effective pursuant to this Title;

f. A statement that the plan of interest exchange was approved by the acquired entity in accordance with this Chapter; and

g. Any amendments to the acquired entity's organizational documents approved as part of the plan of interest exchange.

3. A statement of interest exchange may contain any other provision not prohibited by law.

4. A plan of interest exchange that is signed by a domestic acquired entity and meets all the requirements of subsection 2 of this Section may be delivered to the Office of the Secretary for filing instead of a statement of interest exchange and on filing has the same effect. If a plan of interest exchange is filed as provided in this subsection, references in this Chapter to a statement of interest exchange refer to the plan of interest exchange filed under this subsection.

5. An interest exchange becomes effective when the statement of interest exchange is effective.

Section 14-8-7. Effect of Interest Exchange.

1. When an interest exchange in which the acquired entity is a domestic business entity becomes effective:

a. The interests in the acquired entity which are the subject of the interest exchange are converted, and the owners or managers holding those interests are entitled only to the rights provided to them under the plan of interest exchange and to any appraisal rights they have under the laws of the Tribe;

b. The acquiring entity becomes the interest holder of the interests in the acquired entity stated in the plan of interest exchange to be acquired by the acquiring entity; and

c. The organizational documents of the acquired entity are amended to the extent provided in the statement of interest exchange.

2. Except as otherwise provided in the organizational documents of an acquired entity, the interest exchange does not give rise to any rights that an owner, manager, or third party would have upon a dissolution, liquidation, or winding up of the acquired entity.

Section 14-8-8. Ineffectiveness of Interest Exchange Due to Foreign Law.

1. If a statement of interest exchange is filed with the Office of the Secretary involving a foreign business entity and the interest exchange is not authorized by the law of the relevant foreign jurisdiction as required by this Chapter, the interest exchange is ineffective.

2. A statement of ineffectiveness of interest exchange must be signed on behalf of the domestic acquired entity which signed the statement of interest exchange and must be delivered for filing with the Office of the Secretary to reflect that ineffectiveness in the public record.

3. The statement of ineffectiveness of interest exchange must contain each of the following:

a. The name of the domestic acquired entity that attempted the interest exchange;

b. The date on which the statement of interest exchange was filed; and

c. A statement that the interest exchange was ineffective because it was not authorized by the law of the relevant foreign jurisdiction.

4. The domestic acquired entity that attempted the interest exchange is responsible to any other person for any obligation incurred by that person that arises out of or relates to the ineffectiveness of the attempted interest exchange unless the acquired entity establishes that the obligation was not incurred in good faith.

5. If they were acting in good faith, the domestic acquired entity that attempted the interest exchange and its owners, managers, or other representatives are not civilly or criminally liable and may not be found guilty in connection with an ineffective merger under any laws of the Tribe pertaining to:

a. The filing of a false or otherwise misleading or inaccurate document;

b. The making of a false or otherwise misleading or inaccurate statement; or

c. Any similar matter.

CHAPTER 9 CONVERSION

Section 14-9-1. Definitions. Unless the context requires otherwise or another definition is provided for a particular section, in this Chapter:

1. "Converted entity" means the converting entity as it continues in existence after a conversion.

2. "Converting entity" means the domestic business entity that approves a plan of conversion pursuant to this Chapter or the foreign business entity that approves a conversion pursuant to the law of its jurisdiction of formation.

Section 14-9-2. Conversion Authorized.

1. By complying with this Chapter, a domestic business entity may become either of the following:

- a. A domestic business entity of a different type; or
- b. A foreign business entity of a different type if the conversion is authorized by the law of the foreign jurisdiction.

2. A foreign business entity may become a domestic business entity of a different type under this Chapter if the conversion is authorized by the law of the foreign business entity's jurisdiction of formation.

Section 14-9-3. Plan of Conversion.

1. A domestic business entity may convert to a different type of business entity under this Chapter by approving a plan of conversion. The plan must be in writing and contain:

- a. The name of the converting entity;
- b. The name, jurisdiction of formation, and type of business entity of the converted entity;
- c. The manner of converting the ownership interests in the converting entity into interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing;
- d. The proposed organizational documents of the converted entity;
- e. The other terms and conditions of the conversion;
and
- f. Any other provision required by the laws of the Tribe or the organizational documents of the converting entity.

2. A plan of conversion may contain any other provision not prohibited by law.

Section 14-9-4. Approval of Conversion.

1. A plan of conversion is not effective unless it has been approved by a domestic converting entity:

a. In accordance with the requirements, if any, in the laws of the Tribe governing the converting entity and its organizational documents for approval of a conversion; or

b. If neither the laws of the Tribe governing the converting entity nor its organizational documents provide for approval of a conversion, in accordance with the requirements, if any, in the laws of the Tribe governing the converting entity or its organizational documents for approval of a merger, as if the conversion were a merger; or

c. If neither the laws of the Tribe governing the converting entity nor its organizational documents provide for approval of a conversion or a merger, then by all of the owners of the converting entity entitled to vote on or consent to any matter or, if there are no such owners, then by all of the managers of the converting entity.

2. A conversion of a foreign converting entity is not effective unless it is approved by the foreign business entity in accordance with the law of the foreign business entity's jurisdiction of formation.

3. Upon approval of a conversion, the converting entity shall notify its owners of the approval and of the effective date of the conversion.

Section 14-9-5. Amendment or Abandonment of Conversion.

1. A plan of conversion of a domestic converting entity may be amended either:

a. In the same manner as the plan was approved if the plan does not provide for the manner in which it may be amended;

b. By the managers or owners of the converting entity in the manner provided in the plan except that an owner 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 any of the following:

i. The amount or kind of interests, securities, obligations, rights to acquire interests or securities, money, other property, or any combination of the foregoing, to be received by any of the interest holders of the domestic converting entity under the plan;

ii. The organizational documents of the domestic converted entity that will be in effect immediately after the conversion becomes effective, except for changes that do not require approval of the owners of the domesticated converted entity under the laws of the Tribe governing the converted entity or its organizational documents; or

iii. Any other terms or conditions of the plan if the change would adversely affect the owner in any material respect.

2. 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 as provided in the plan. Unless prohibited by the plan, a domestic converting entity may abandon the plan in the same manner as the plan was approved.

3. If a plan of conversion is abandoned after a statement of conversion has been delivered to the Office of the Secretary for filing and before the statement becomes effective, a statement of abandonment, signed by the converting entity, must be delivered to the Office of the Secretary for filing before the statement of conversion becomes effective. The statement of abandonment takes effect on filing and the conversion is abandoned and does not become effective. The statement of abandonment must contain:

a. The name of the converting entity;

b. The date on which the statement of conversion was filed with the Office of the Secretary; and

c. A statement that the conversion has been abandoned in accordance with this Section.

Section 14-9-6. Statement of Conversion.

1. A statement of conversion must be signed by the converting entity and delivered to the Office of the Secretary for filing.

2. A statement of conversion must contain:

a. The name, jurisdiction of formation, and type of entity of the converting entity;

b. A statement as to whether the converting entity is a Tribal business entity and, if so, a statement as to whether the converting entity enjoys the Tribe's sovereign immunity;

c. The name, jurisdiction of formation, and type of entity of the converted entity;

d. If the converting entity is a Tribal business entity, a statement as to whether the converted entity enjoys the Tribe's sovereign immunity;

e. If the converting entity is a domestic business entity, a statement that the plan of conversion was approved in accordance with this Chapter or, if the converting entity is a foreign business entity, a statement that the conversion was approved by the foreign converting entity in accordance with the law of its jurisdiction of formation;

f. If the converted entity is a domestic business entity, its public organizational documents, as an attachment; and

g. If the converted entity is a foreign business entity, a mailing address to which the Office of the Secretary may send any process served on the Office of the Secretary pursuant to this Chapter.

3. A statement of conversion may contain any other provision not prohibited by law.

4. A plan of conversion that is signed by a domestic converting entity and meets all the requirements of subsection 2 of this Section may be delivered to the Office of the Secretary for filing instead of a statement of conversion and on filing has the same effect. If a plan of conversion is filed as provided in this subsection, references in this Chapter to a statement of conversion refer to the plan of conversion filed under this subsection.

5. If the converted entity is a domestic business entity, its organizational documents, if any, must satisfy the requirements of the laws of the Tribe, except that the

organizational documents are deemed to be signed by means of the signing of the statement of conversion.

6. If the converted entity is a domestic business entity, the conversion becomes effective when the statement of conversion is effective. In all other cases, the conversion becomes effective on the later of:

a. The date and time provided by the law of the jurisdiction of formation of the converted entity; or

b. When the statement of conversion is effective.

Section 14-9-7. Effect of Conversion.

1. When a conversion becomes effective:

a. The converted entity is:

i. Organized under and subject to the law of the jurisdiction of formation of the converted entity; and

ii. The same entity without interruption as the converting entity;

b. All property of the converting entity continues to be vested in the converted entity without transfer, reversion, or impairment;

c. All debts, obligations, and other liabilities of the converting entity continue as debts, obligations, and other liabilities of the converted entity;

d. Except as otherwise provided by law or the plan of conversion, all the rights, privileges, immunities, powers, and purposes of the converting entity remain in the converted entity;

e. The name of the converted entity may be substituted for the name of the converting entity in any pending action or proceeding;

f. If the converted entity is a domestic business entity, its public organizational documents are effective and binding on its owners;

g. If the converted entity is to be a qualified foreign business entity, the documents it filed to become a qualified foreign business entity are effective simultaneously;

h. The private organizational documents of the converted entity, if any, approved as part of the plan of conversion are effective and are binding; and

i. The ownership interests in the converting entity are converted, and the owners of the converting entity are entitled only to the rights provided to them under the plan of conversion and to any appraisal rights they have under the laws of the Tribe.

2. Except as otherwise provided in the organizational documents of a domestic converting entity, the conversion does not give rise to any rights that an owner, manager, or third party would have upon a dissolution, liquidation, or winding up of the converting entity.

3. When a conversion becomes effective, a foreign business entity that is the converted entity may be served with process in the territory of the Tribe for the collection and enforcement of any of its debts, obligations, and other liabilities as provided in this Title.

4. If the converting entity is a qualified foreign business entity, its registration to do business in the territory of the Tribe is canceled when the conversion becomes effective.

5. A conversion does not require the business entity to wind up its affairs and does not constitute or cause the dissolution of the business entity.

Section 14-9-8. Ineffectiveness of Conversion Due to Foreign Law.

1. If a statement of conversion is filed with the Office of the Secretary involving a foreign business entity but the conversion is not authorized by the law of the relevant foreign jurisdiction as required by this Chapter, the conversion is ineffective.

2. A statement of ineffectiveness of conversion must be signed on behalf of the business entity which signed the statement of conversion and must be delivered for filing with the Office of the Secretary to reflect that ineffectiveness in the public record.

3. The statement of ineffectiveness of conversion must contain:

a. The name of the business entity that attempted the conversion;

b. The date on which the statement of conversion was filed; and

c. A statement that the conversion was ineffective because it was not authorized by the law of the relevant foreign jurisdiction.

4. The business entity that attempted the conversion is both:

a. Responsible to any other person for any obligation incurred by that person that arises out of or relates to the ineffectiveness of the attempted conversion, unless the business entity establishes that the obligation was not incurred in good faith; and

b. Deemed to have appointed the Office of the Secretary as its agent for service of process for any action arising under this Section unless the business entity is a domestic business entity or a qualified foreign business entity.

5. If they were acting in good faith, the business entity that attempted the conversion and its owners, managers, or other representatives are not civilly or criminally liable and may not be found guilty in connection with an ineffective conversion under any laws of the Tribe pertaining to:

a. The filing of a false or otherwise misleading or inaccurate document;

b. The making of a false or otherwise misleading or inaccurate statement; or

c. Any similar matter.

CHAPTER 10
DOMESTICATION

Section 14-10-1. Definitions. Unless the context requires otherwise or another definition is provided for a particular section, in this Chapter:

1. "Domesticated entity" means the domesticating business entity as it continues in existence after a domestication.

2. "Domesticating entity" means the domestic business entity that approves a plan of domestication pursuant to this Chapter or the foreign business entity that approves a domestication pursuant to the law of its jurisdiction of formation.

Section 14-10-2. Domestication Authorized.

1. By complying with this Chapter, a domestic business entity may become a foreign business entity of the same type if the domestication is authorized by the law of the foreign jurisdiction.

2. A foreign business entity may become a domestic business entity of the same type under this Chapter if the domestication is authorized by the law of the foreign business entity's jurisdiction of formation.

Section 14-10-3. Plan of Domestication.

1. A domestic business entity may become a foreign business entity in a domestication by approving a plan of domestication. The plan must be in writing and contain:

- a. The name and type of the domesticating entity;
- b. The name and jurisdiction of formation of the domesticated entity;
- c. The manner of converting the ownership interests in the domesticating entity into interests, securities, obligations, rights to acquire interests or securities, money, other property, or any combination of the foregoing;
- d. The proposed public organizational documents of the domesticated entity;

e. The other terms and conditions of the domestication, if any; and

f. Any other provision required by the laws of the Tribe or the organizational documents of the domesticating entity.

2. A plan of domestication may contain any other provision not prohibited by law.

Section 14-10-4. Approval of Domestication.

1. A plan of domestication is not effective unless it has been approved by a domestic domesticating entity:

a. In accordance with the requirements, if any, in the laws of the Tribe governing the domesticating entity and its organizational documents for approval of a domestication; or

b. If neither the laws of the Tribe governing the domesticating entity nor its organizational documents provide for approval of a domestication, in accordance with the requirements, if any, in the laws of the Tribe governing the domesticating entity or its organizational documents for approval of a merger, as if the domestication were a merger; or

c. If neither the laws of the Tribe governing the domesticating entity nor its organizational documents provide for approval of a domestication or a merger, then by all of the owners of the domesticating entity entitled to vote on or consent to any matter or, if there are no such owners, then by all of the managers of the domesticating entity.

2. A domestication of a foreign domesticating entity is not effective unless it is approved by the foreign business entity in accordance with the law of the foreign business entity's jurisdiction of formation.

3. Upon approval of a domestication, the domesticating entity shall notify its owners of the approval and of the effective date of the domestication.

Section 14-10-5. Amendment or Abandonment of Domestication.

1. A plan of domestication of a domestic domesticating entity may be amended either:

a. In the same manner as the plan was approved, if the plan does not provide for the manner in which it may be amended;

b. By the managers or owners of the business entity in the manner provided in the plan, except that an owner that was entitled to vote on or consent to approval of the domestication is entitled to vote on or consent to any amendment of the plan that will change any of the following:

i. The amount or kind of interests, securities, obligations, rights to acquire interests or securities, money, other property, or any combination of the foregoing, to be received by any of the owners of the domesticating entity under the plan;

ii. The organizational documents of the domestic domesticated entity that will be in effect immediately after the domestication becomes effective, except for changes that do not require approval of the owners of the domestic domesticated entity under the laws of the Tribe governing the domesticated entity or its organizational documents; or

iii. Any other terms or conditions of the plan if the change would adversely affect the owner in any material respect.

2. After a plan of domestication has been approved by a domestic domesticating entity and before a statement of domestication becomes effective, the plan may be abandoned as provided in the plan. Unless prohibited by the plan, a domestic domesticating entity may abandon the plan in the same manner as the plan was approved.

3. If a plan of domestication is abandoned after a statement of domestication has been delivered to the Office of the Secretary for filing and before the statement becomes effective, a statement of abandonment, signed by the domesticating entity, must be delivered to the Office of the Secretary for filing before the statement of domestication becomes effective. The statement of abandonment takes effect on filing and the domestication is abandoned and does not become effective. The statement of abandonment must contain:

a. The name of the domestic domesticating entity;

b. The date on which the statement of domestication was filed; and

c. A statement that the domestication has been abandoned in accordance with this Section.

Section 14-10-6. Statement of Domestication.

1. A statement of domestication must be signed by the domesticating entity and delivered to the Office of the Secretary for filing.

2. A statement of domestication must contain:

a. The name, jurisdiction of formation, and type of the domesticating entity;

b. A statement as to whether the domesticating entity is a Tribal business entity and, if so, a statement as to whether the domesticating entity enjoys the Tribe's sovereign immunity;

c. The name and jurisdiction of formation of the domesticated entity;

d. If the domesticating entity is a Tribal business entity, a statement as to whether the domesticated entity enjoys the Tribe's sovereign immunity;

e. If the domesticating entity is a domestic business entity, a statement that the plan of domestication was approved in accordance with this Chapter or, if the domesticating entity is a foreign business entity, a statement that the domestication was approved in accordance with the law of its jurisdiction of formation;

f. The public organizational documents of the domesticated entity, as an attachment;

g. If the domesticated entity is a foreign business entity that is required to register to do business in the territory of the Tribe, any documents required under this Title for it to register to do business in the territory of the Tribe, as an attachment; and

h. If the domesticated entity is a foreign business entity that is not required to register to do business in the territory of the Tribe, a mailing address to which the Office of the Secretary may send any process served on the Office of the Secretary pursuant to this Title.

3. A statement of domestication may contain any other provision not prohibited by law.

4. A plan of domestication that is signed by a domestic domesticating entity and meets all the requirements of subsection 2 of this Section may be delivered to the Office of the Secretary for filing instead of a statement of domestication and on filing has the same effect. If a plan of domestication is filed as provided in this subsection, references in this Chapter to a statement of domestication refer to the plan of domestication filed under this subsection.

5. If the domesticated entity is a domestic business entity, its public organizational documents attached to the statement of domestication must satisfy the requirements of the laws of the Tribe, except that the public organizational documents are deemed to be signed by means of the signing of the statement of domestication.

6. If the domesticated entity is a domestic business entity, the domestication becomes effective when the statement of domestication is effective. In all other cases, the domestication becomes effective on the later of:

a. The date and time provided by the law of the jurisdiction of formation of the domesticated entity; or

b. When the statement of domestication is effective.

Section 14-10-7. Effect of Domestication.

1. When a domestication becomes effective:

a. The domesticated entity is:

i. Organized under and subject to the law of the jurisdiction of formation of the domesticated entity; and

ii. The same entity without interruption as the domesticating entity;

b. All property of the domesticating entity continues to be vested in the domesticated entity without transfer, reversion, or impairment;

c. All debts, obligations, and other liabilities of the domesticating entity continue as debts, obligations, and other liabilities of the domesticated entity;

d. Except as otherwise provided by law or the plan of domestication, all the rights, privileges, immunities, powers, and purposes of the domesticating entity remain in the domesticated entity;

e. The name of the domesticated entity may be substituted for the name of the domesticating entity in any pending action or proceeding;

f. If the domesticated entity is a domestic business entity, its public organizational documents are effective and binding on its owners;

g. If the domesticated entity is to be a qualified foreign business entity, the documents it filed to become a qualified foreign business entity are effective simultaneously;

h. The private organizational documents of the domesticated entity, if any, approved as part of the plan of domestication are effective and are binding; and

i. The ownership interests in the domesticating entity are converted to the extent and as approved in connection with the domestication, and the owners of the domesticating entity are entitled only to the rights provided to them under the plan of domestication and to any appraisal rights they have under the laws of the Tribe.

2. Except as otherwise provided in the law of the jurisdiction of formation or organizational documents of the domesticating entity, the domestication does not give rise to any rights that an owner, manager, or third party would have upon a dissolution, liquidation, or winding-up of the domesticating entity.

3. When a domestication becomes effective, a foreign business entity that is the domesticated entity may be served with

process in the territory of the Tribe for the collection and enforcement of any of its debts, obligations, and other liabilities as provided in this Title.

4. If the domesticating entity is a qualified foreign business entity, its registration to do business in the territory of the Tribe is canceled when the domestication becomes effective.

5. A domestication does not require the business entity to wind up its affairs and does not constitute or cause the dissolution of the entity.

Section 14-10-8. Ineffectiveness of Domestication Due to Foreign Law.

1. If a statement of domestication is filed with the Office of the Secretary involving a foreign business entity but the domestication is not authorized by the law of the relevant foreign jurisdiction as required by this Chapter, the domestication is ineffective.

2. A statement of ineffectiveness of domestication must be signed on behalf of the business entity which signed the statement of domestication and must be delivered for filing with the Office of the Secretary to reflect that ineffectiveness in the public record.

3. The statement of ineffectiveness of domestication must contain:

a. The name of the business entity that attempted the domestication;

b. The date on which the statement of domestication was filed; and

c. A statement that the domestication was ineffective because it was not authorized by the law of the relevant foreign jurisdiction.

4. The business entity that attempted the domestication is both:

a. Responsible to any other person for any obligation incurred by that person that arises out of or relates to the ineffectiveness of the attempted domestication, unless the

business entity establishes that the obligation was not incurred in good faith; and

b. Deemed to have appointed the Office of the Secretary as its agent for service of process for any action arising under this Section unless the business entity is a domestic business entity or a qualified foreign business entity.

5. If they were acting in good faith, the business entity that attempted the domestication and its owners, managers, or other representatives are not civilly or criminally liable and may not be found guilty in connection with an ineffective domestication under any laws of the Tribe pertaining to:

a. The filing of a false or otherwise misleading or inaccurate document;

b. The making of a false or otherwise misleading or inaccurate statement; or

c. Any similar matter.

CHAPTER 11 DIVISION

Section 14-11-1. Definitions. Unless the context requires otherwise or another definition is provided for a particular section, in this Chapter:

1. "Dividing entity" means the domestic business entity that approves a plan of division pursuant to this Chapter or the foreign business entity that approves a division pursuant to the law of its jurisdiction of formation and is also a resulting entity if the dividing entity survives the division.

2. "Resulting entity" means a business entity that continues in existence after, or is organized as a result of, a division and includes a dividing entity if the dividing entity survives the division.

Section 14-11-2. Division Authorized.

1. By complying with this Chapter, a domestic business entity may divide into either:

a. The dividing entity and one or more new entities, whether domestic or foreign; or

b. Two (2) or more new entities, whether domestic or foreign.

2. A foreign business entity may be created by the division of a domestic business entity under this Chapter only if the division is authorized by the law of the foreign business entity's jurisdiction of formation.

3. A domestic business entity may be created by the division of a foreign business entity under this Chapter only if the division is authorized by the law of the foreign business entity's jurisdiction of formation.

Section 14-11-3. Plan of Division.

1. A domestic business entity may divide under this Chapter by approving a plan of division. The plan must be in writing and contain:

a. The name and type of the dividing entity;

b. A statement as to whether the dividing entity will survive the division;

c. The name, jurisdiction of formation, and type of each new resulting entity;

d. The manner of all of the following:

i. Converting the ownership interests in the dividing entity into interests, securities, obligations, rights to acquire interests or securities, money, other property, or any combination of the foregoing;

ii. Allocating between or among the resulting entities the property of the dividing entity that will not be owned by all of the resulting entities as tenants in common pursuant to this Chapter and those obligations of the dividing entity as to which not all of the resulting entities will be liable jointly and severally pursuant to this Chapter;

iii. Distributing the ownership interests in the resulting entities created in the division;

e. The proposed public organizational documents of each new resulting entity;

f. The proposed public organizational documents, if any, of each new resulting entity and the full text of its proposed private organizational documents;

g. If the dividing entity will survive the division, any proposed amendments to its organizational documents;

h. The other terms and conditions of the division, if any; and

i. Any other provisions required by the laws of the Tribe or the organizational documents of the dividing entity.

2. A plan of division may contain any other provision not prohibited by law.

Section 14-11-4. Approval of Division.

1. A plan of division is not effective unless it has been approved by a domestic dividing entity:

a. In accordance with the requirements, if any, in the laws of the Tribe governing the dividing entity and its organizational documents for approval of a division; or

b. If neither the laws of the Tribe governing the dividing entity nor its organizational documents provide for approval of a division, in accordance with the requirements, if any, in the laws of the Tribe governing the dividing entity or its organizational documents for approval of a merger, as if the division were a merger; or

c. If neither the laws of the Tribe governing the dividing entity nor its organizational documents provide for approval of a division or a merger, then by all of the owners of the dividing entity entitled to vote on or consent to any matter or, if there are no such owners, then by all of the managers of the dividing entity.

2. A division of a foreign business entity is not effective unless it is approved by the foreign business entity in accordance with the law of the foreign business entity's jurisdiction of formation.

3. Upon approval of a division, the dividing entity shall notify its owners of the approval and of the effective date of the division.

Section 14-11-5. Amendment or Abandonment of Plan of Division.

1. A plan of division of a domestic dividing entity may be amended either:

a. In the same manner as the plan was approved, if the plan does not provide for the manner in which it may be amended;

b. By the managers or owners of the business entity in the manner provided in the plan, except that an owner that was entitled to vote on or consent to approval of the division is entitled to vote on or consent to any amendment of the plan that will change any of the following:

i. The amount or kind of interests, securities, obligations, rights to acquire interests or securities, money or other property or any combination of the foregoing, to be received by any of the owners of the dividing entity under the plan;

ii. The organizational documents of any of the resulting entities that will be in effect immediately after the division becomes effective, except for changes that do not require approval of the owners of the applicable resulting entity under the laws of the jurisdiction of formation of the resulting entity or its organizational documents; or

iii. Any other terms or conditions of the plan, if the change would adversely affect the owner in any material respect.

2. After a plan of division has been approved by a domestic dividing entity and before a statement of division becomes effective, the plan may be abandoned as provided in the plan. Unless prohibited by the plan, a domestic dividing entity may abandon the plan in the same manner as the plan was approved.

3. If a statement of division has been delivered for filing with the Office of the Secretary, the plan of division may be abandoned only if the statement of division sets forth a delayed

effective date. A plan of division may be abandoned by delivering for filing with the Office of the Secretary on or before that delayed effective date a statement of abandonment, signed on behalf of the domestic dividing entity. The statement of abandonment takes effect on delivery for filing and the division is abandoned and does not become effective. The statement of abandonment must contain all of the following:

- a. The name of the domestic dividing entity;
- b. The date on which the statement of division was filed; and
- c. A statement that the division has been abandoned in accordance with this Section.

Section 14-11-6. Statement of Division.

1. A statement of division must be signed on behalf of the dividing entity and delivered to the Office of the Secretary for filing:

- a. For a division of a domestic business entity, for the domestic dividing entity and any domestic resulting entity; and
- b. For a division of a foreign business entity that creates one or more domestic business entities, for each domestic resulting entity.

2. A statement of division must contain:

- a. The name, jurisdiction of formation, and type of the dividing entity;
- b. A statement as to whether the dividing entity is a Tribal business entity;
- c. A statement as to whether the dividing entity will survive the division;
- d. The name, jurisdiction of formation, and type of each resulting entity created by the division and, if a resulting entity is a domestic business entity or a qualified foreign business entity:

i. The street address of the resulting entity's known place of business in the territory of the Tribe; and

ii. The name and street address of the resulting entity's registered agent in the territory of the Tribe and, if required by this Title, a statement accepting the appointment signed by the registered agent attached to the statement of division;

e. A statement as to whether each resulting entity is a Tribal business entity and, if so, a statement as to whether the resulting entity enjoys the Tribe's sovereign immunity;

f. With respect to the effective date and time of the division:

i. If the dividing entity or at least one resulting entity is a domestic business entity and if the statement of division is not to be effective on delivery to the Office of the Secretary, the later date and time on which it will become effective, which may not be more than ninety (90) days after the date of delivery; or

ii. If neither the dividing entity nor any resulting entity is a domestic business entity and if the statement of division is not to be effective on the signing of the statement of division, the later date and time on which it will become effective.

g. If the dividing entity is a domestic business entity, a statement that the plan of division was approved in accordance with this Chapter or, if the dividing entity is a foreign business entity, a statement that the division was approved by the foreign dividing entity in accordance with the law of its jurisdiction of formation;

h. If the dividing entity is a domestic business entity and survives the division, any amendment to its public organizational documents approved as part of the plan of division, as an attachment, and the attachment is deemed to be delivered to the Office of the Secretary for filing;

i. For each domestic resulting entity created by the division, its public organizational documents as an

attachment, and the attachment is deemed to be delivered to the Office of the Secretary for filing;

j. For each foreign resulting entity that is required to be registered to do business in the territory of the Tribe, any documents that the laws of the Tribe require it to file to become registered to do business in the territory of the Tribe as an attachment, and the attachment is deemed to be delivered to the Office of the Secretary for filing; and

k. For each foreign resulting entity that is not required to be registered to do business in the territory of the Tribe, a mailing address to which the Office of the Secretary may send any process served on the Office of the Secretary pursuant to this Title.

3. A statement of division may contain any other provision not prohibited by law.

4. A plan of division that is signed by a domestic dividing entity and meets all the requirements of subsection 2 of this Section may be delivered to the Office of the Secretary for filing instead of a statement of division and on filing has the same effect. If a plan of division is filed as provided in this subsection, references in this Chapter to a statement of division refer to the plan of division filed under this subsection.

5. If a resulting entity created in the division is a domestic business entity, its public organizational documents or an amendment to its public organizational documents attached to the statement of division must satisfy the requirements of the laws of the Tribe, except that the public organizational documents or amendment are deemed to be signed by means of the signing of the statement of division.

6. If the dividing entity or at least one resulting entity is a domestic business entity, once a statement of division has been approved for filing by the Office of the Secretary, both the division and the statement of division are deemed to have become effective on the date and time of the delivery of the statement of division for filing or, if applicable, on the later date and time specified in the statement of division.

Section 14-11-7. Effect of Division.

1. When a division becomes effective:

a. If the dividing entity is to survive the division, the dividing entity continues to exist;

b. If the dividing entity is not to survive the division, the dividing entity ceases to exist;

c. The resulting entities created in the division come into existence;

d. As and to the extent specified in the plan of division, property of the dividing entity, including rights, privileges, immunities, and powers, is allocated to and vests in the resulting entities created in the division or continues to be vested in the dividing entity, in each case automatically and without assignment, reversion, or impairment;

e. Any property not allocated by the plan of division, including rights, privileges, immunities, and powers:

i. If the dividing entity survives the division, remains vested in the dividing entity;

ii. If the dividing entity does not survive the division, is allocated to and vests equally in the resulting entities as tenants in common, in each case automatically and without assignment, reversion, or impairment;

f. Any pending action or proceeding to which the dividing entity is a party at the effective time of the division continues and the name of a new resulting entity to which a cause of action is allocated as provided in this Section may be substituted for the name of the dividing entity or added in that action or proceeding;

g. All obligations of the dividing entity are allocated between or among the resulting entities as provided in this Chapter;

h. If the dividing entity survives the division, its organizational documents, if any, are amended if and to the extent provided in the statement of division; and

i. The ownership interests in the dividing entity that are to be converted in the division are converted and the owners of those ownership interests are entitled only to the

rights provided to them under the plan of division and to any appraisal rights they have under the laws of the Tribe.

2. Except as otherwise provided in the law of the jurisdiction of formation or organizational documents of the dividing entity, the division does not give rise to any rights that an owner, manager, or third party would have upon a dissolution, liquidation, or winding-up of the dividing entity.

3. When a division becomes effective, a foreign business entity that is a resulting entity may be served with process in the territory of the Tribe for the collection and enforcement of any of its debts, obligations, and other liabilities as provided in this Title.

4. If the dividing entity is a qualified foreign business entity, its authority, registration, or other qualification to do business in the territory of the Tribe is canceled when the division becomes effective if the foreign business entity does not survive the division.

Section 14-11-8. Allocation of Obligations.

1. Except as provided in this Section, when a division becomes effective, each resulting entity is liable, jointly and severally, with the other resulting entities for the obligations of the dividing entity that existed immediately before the effectiveness of the division, and all those obligations of the dividing entity are automatically obligations of each resulting entity without assignment, assumption, or delegation.

2. A resulting entity is not liable for an obligation of the dividing entity if and to the extent:

a. The obligee has consented in writing to the obligations being allocated to, or continuing to be the obligation of, one or more of the other resulting entities and the plan of division states that the obligation is being allocated to, or will continue to be the obligation of, those entities, or those entities have otherwise expressly assumed the obligation;

b. A court or other tribunal of competent jurisdiction or a governmental agency having jurisdiction as to the matter has issued an order, finding, rule, regulation, or other ruling that has become final and non-appealable and in which the obligation is deemed to be allocated to, or to continue

to be the obligation of, one or more of the other resulting entities;

c. Recourse regarding the obligation is, by contract or by law, limited to an asset of one or more of the other resulting entities; or

d. Recourse regarding the obligation is, by contract or by law, limited to one or more of the other resulting entities.

3. A resulting entity may enter into agreements or other arrangements for purposes of mitigating risks associated with the entity's liability for an obligation of the dividing entity. The agreements or arrangements may be entered into with one or more of the other resulting entities or with third parties. The agreements or arrangements may include indemnification, contribution, guaranty, insurance, offset, loan, investment, or any other lawful means of dealing with the risks associated with the liability for the obligation.

4. Unless the obligee has otherwise agreed or consented, liens, security interests, and other encumbrances on the property of the dividing entity are not impaired by the division regardless of:

a. Whether that property has become the property of a resulting entity that is not the dividing entity;

b. The dividing entity is one of the resulting entities; and

c. Any otherwise enforceable allocation of obligations of the dividing entity.

5. If the dividing entity is bound by a security agreement and the security agreement provides that the security interest attaches to after-acquired collateral, each resulting entity is bound by the security agreement unless the secured party has otherwise agreed or consented.

6. For purposes of and notwithstanding any provision of the law of the jurisdiction of formation of the dividing entity or any resulting entity, the division is deemed not to be a dividend or other distribution by the dividing entity or any resulting entity.

Section 14-11-9. Ineffectiveness of Division Due to Foreign Law.

1. If a statement of division is filed with the Office of the Secretary involving a foreign business entity but the division is not authorized by the law of the relevant foreign jurisdiction as required by this Chapter, the division is ineffective.

2. A statement of ineffectiveness of division must be signed on behalf of the business entity which signed the statement of division and must be delivered for filing with the Office of the Secretary to reflect that ineffectiveness in the public record.

3. The statement of ineffectiveness of division must contain:

- a. The name of the entity that attempted the division;
- b. The date on which the statement of division was filed; and
- c. A statement that the division was ineffective because it was not authorized by the law of the relevant foreign jurisdiction.

4. The business entity that attempted the division is both:

- a. Responsible to any other person for any obligation incurred by that person that arises out of or relates to the ineffectiveness of the attempted division, unless the business entity establishes that the obligation was not incurred in good faith; and
- b. Deemed to have appointed the Office of the Secretary as its agent for service of process for any action arising under this Section unless the business entity is a domestic business entity or a qualified foreign business entity.

5. If they were acting in good faith, the business entity that attempted the division and its owners, managers, or other representatives are not civilly or criminally liable and may not be found guilty in connection with an ineffective division under any laws of the Tribe pertaining to:

- a. The filing of a false or otherwise misleading or inaccurate document;

b. The making of a false or otherwise misleading or inaccurate statement; or

c. Any similar matter.

CHAPTER 12 DISSOLUTION

Section 14-12-1. Dissolution. Except as otherwise provided in this Chapter, a business entity is dissolved and its activities must be wound up:

1. Upon the occurrence of an event or at a time specified in its organizational documents;

2. Upon the action of a majority of the organizers or initial managers of a business entity that has not yet begun business activity or the conduct of its affairs;

3. A majority of the managers of a nonprofit business entity that does not have any members;

4. In the case of a partnership for a definite term or particular undertaking, the expiration of the term or the completion of the undertaking;

5. Upon the written consent of all owners of the business entity;

6. Upon the vote of the number of owners specified in its organizational documents or, if none is specified, a vote of the majority of ownership interests in the business entity;

7. Except for a nonprofit business entity without members, unless before the end of the period at least one person becomes an owner in accordance with the laws of the Tribe governing the business entity or its organizational documents, the passage of one hundred eighty (180) consecutive days during which:

a. In the case of a business entity that is not a partnership, the business entity has no owners; or

b. In the case of a business entity that is a partnership, the partnership has only one (1) partner.

8. Unless the illegality is cured within ninety (90) days, upon the occurrence of an event that makes it unlawful for all or substantially all of the business of the business entity to be continued;

9. Entry of a decree of judicial dissolution under this Chapter; or

10. The signing and filing of a statement of administrative dissolution by the Office of the Secretary under this Chapter.

Section 14-12-2. Judicial Dissolution. The Tribal Court may dissolve a domestic business entity or order any action that under the circumstances is appropriate and equitable:

1. In a proceeding initiated by the Tribal Attorney, if the business entity:

a. Obtained its organizational documents through fraud;

b. Has continued to exceed or abuse the authority conferred upon it by the laws of the Tribe; or

c. Has engaged in repeated, egregious, or illegal misconduct that has caused significant harm to the interests of persons that are materially affected by the conduct of the business entity and the business entity has not undertaken measures to address the causes of such misconduct; or

2. In a proceeding initiated by an owner, if:

a. It is not reasonably practicable to carry on the business of the business entity;

b. The business entity is not acting in conformity with its organizational documents;

c. The business entity has repeatedly conducted its business, carried on its operations, or exercised its powers in a manner that has caused significant harm to the interests of persons that are materially affected by the conduct of the business entity and the business entity has not undertaken measures to address the causes of such misconduct;

d. The managers, if the business entity has managers, are deadlocked in the management of the business entity's

affairs, the owners are unable to break the deadlock, and irreparable injury to the business entity is occurring or is threatened because of the deadlock;

e. The managers, if the business entity has managers, the owners, or those in control of the business entity have acted, are acting, or will act in a manner that is illegal, oppressive, or fraudulent;

f. The owners are deadlocked in voting power and have failed to elect successors to managers, if the business entity has managers, whose terms have expired for two consecutive periods during which annual meetings of the owners were held or were to be held; or

g. The assets of the business entity are being misapplied or wasted.

Section 14-12-3. Administrative Dissolution.

1. The Office of the Secretary may commence a proceeding to dissolve a domestic business entity administratively if the business entity does not:

a. Pay any fee, tax, interest, or penalty required to be paid to the Office of the Secretary not later than sixty (60) days after it is due;

b. Deliver an annual report to the Office of the Secretary not later than sixty (60) days after it is due;

c. Have a registered agent in the territory of the Tribe for sixty (60) consecutive days;

d. Have a principal address in the territory of the Tribe for at least sixty (60) consecutive days; or

e. Notify the Office of the Secretary within sixty (60) days after its registered agent or principal address has changed or its registered agent has resigned.

2. If the Office of the Secretary determines that one or more grounds exist for administratively dissolving a domestic business entity, the Office of the Secretary shall serve the business entity with written notice of the Office of the Secretary's determination by delivering the notice to the business entity's registered agent or, if the business entity does not have

a registered agent or the registered agent's address is invalid, to the business entity's principal office or known place of business.

3. If a business entity, not later than sixty (60) days after service of notice under this Section, does not cure or demonstrate to the satisfaction of the Office of the Secretary the nonexistence of each ground determined by the Office of the Secretary, the Office of the Secretary shall administratively dissolve the business entity by signing a statement of administrative dissolution that recites the grounds for dissolution and the effective date of dissolution. The Office of the Secretary shall file the statement and serve a copy on the business entity by delivering the notice to the business entity's registered agent or, if the business entity does not have a registered agent or the registered agent's address is invalid, to the business entity's principal office or known place of business.

4. A business entity that is administratively dissolved continues in existence as an entity but may not carry on any activities except as necessary to wind up its activities and affairs and liquidate its assets under this Chapter or to apply for reinstatement under this Section.

5. The administrative dissolution of a business entity does not terminate the authority of its registered agent.

6. A business entity that is administratively dissolved under this Section may apply to the Office of the Secretary for reinstatement not later than two (2) years after the effective date of dissolution. The application for reinstatement must state:

a. The name of the business entity at the time of its administrative dissolution and, if needed, a different name that satisfies the provisions of this Title;

b. The address of the principal office of the business entity and the name and street and mailing addresses of its registered agent;

c. The effective date of the business entity's administrative dissolution; and

d. That the grounds for dissolution did not exist or have been cured.

7. To be reinstated, a business entity must pay all fees, taxes, interest, and penalties that were due to the Office of the Secretary at the time of the business entity's administrative dissolution and all fees, taxes, interest, and penalties that would have been due to the Office of the Secretary while the business entity was administratively dissolved.

8. If the Office of the Secretary determines that an application for reinstatement under this Section contains the required information, is satisfied that the information is correct, and determines that all payments required to be made to the Office the Secretary have been made, the Office of the Secretary shall:

a. Cancel the statement of administrative dissolution and prepare a statement of reinstatement that states the Office of the Secretary's determination and the effective date of reinstatement; and

b. File the statement of reinstatement and serve a copy on the business entity by delivering the statement to the business entity's registered agent.

9. When reinstatement under this Section is effective the following rules apply:

a. The reinstatement relates back to and takes effect as of the effective date of the administrative dissolution;

b. The business entity resumes carrying on its activities and affairs as if the administrative dissolution had not occurred; and

c. The rights of a person arising out of an act or omission in reliance on the dissolution before the person knew or had notice of the reinstatement are not affected.

10. If the Office of the Secretary denies a business entity's application for reinstatement following administrative dissolution, the Office of the Secretary shall serve the business entity with written notice that explains the reasons for the denial. A business entity may seek judicial review of denial of reinstatement in the Tribal Court in accordance with the following:

a. The petition for judicial review shall be filed within thirty (30) days after service of the notice of denial;

b. No new or additional information or evidence may be introduced, but the matter shall be heard on the information provided to and in the records of the Office of the Secretary;

c. The Tribal Court shall uphold all factual findings of the Office of the Secretary unless the Tribal Court concludes that such findings are not supported by the substantive evidence in the record established before the Office of the Secretary;

d. In reviewing legal conclusions reached by the Office of the Secretary, the Tribal Court shall give proper weight to the Office of the Secretary's interpretation of this Title and other laws of the Tribe administered by the Office of the Secretary;

e. The Tribal Court may affirm, reverse, modify, or vacate and remand the Office of the Secretary's denial of reinstatement, but shall affirm the denial unless the Tribal Court concludes that the denial is:

- i. Not supported by the evidence;
- ii. Arbitrary or capricious;
- iii. An abuse of discretion; or
- iv. Otherwise contrary to the laws of the Tribe.

Section 14-12-4. Rescinding Dissolution.

1. A business entity may rescind its dissolution, unless a statement of dissolution applicable to the business entity is effective, a court has entered an order dissolving the business entity, or the Office of the Secretary has dissolved the business entity.

2. Rescinding dissolution under this Section requires:

a. Either:

i. Authorization in the same manner as the dissolution was authorized unless that authorization permitted revocation by other means, in which event the revocation may be accomplished by such other means; or

ii. The affirmative vote or consent of each owner;

b. If a statement of dissolution applicable to the business entity has been filed by the Office of the Secretary but has not become effective, the delivery to the Office of the Secretary for filing of a statement of withdrawal applicable to the statement of dissolution; and

c. If a statement of dissolution applicable to the business entity is effective, the delivery to the Office of the Secretary for filing of a statement of rescission stating the name of the business entity and that dissolution has been rescinded under this Section.

3. If a business entity rescinds its dissolution:

a. The business entity resumes carrying on its activities and affairs as if dissolution had never occurred;

b. Subject to subparagraph c of this subsection, any liability incurred by the business entity after the dissolution and before the rescission is effective is determined as if dissolution had never occurred; and

c. The rights of a third party arising out of conduct in reliance on the dissolution before the third party knew or had notice of the rescission may not be adversely affected.

Section 14-12-5. Statement of Dissolution.

1. A business entity that has dissolved or is about to dissolve may deliver to the Office of the Secretary for filing a statement of dissolution that states:

a. The name of the business entity;

b. The date of filing of its initial public organizational documents;

c. Whether the business entity is a Tribal business entity;

d. The basis under this Chapter for dissolution;

e. The date the business entity dissolved or will dissolve; and

f. Any other information the business entity considers relevant.

2. A person has notice of a business entity's dissolution on the later of:

a. Ninety (90) days after a statement of dissolution is filed; or

b. The effective date stated in the statement of dissolution.

3. A business entity is dissolved on the effective date of its statement of dissolution.

Section 14-12-6. Effect of Dissolution.

1. A dissolved business entity continues its existence but shall not carry on any business except that business appropriate to wind up and liquidate its business and affairs, including:

a. Collecting its assets;

b. Disposing of its properties that will not be distributed in kind to its owners;

c. Discharging or making provisions for discharging its liabilities;

d. Distributing its remaining property among its owners according to their ownership interests;

e. Doing every other act necessary to wind up and liquidate its business and affairs.

2. Dissolution of a business entity does not:

a. Transfer title to the business entity's property;

b. Prevent transfer of its ownership interests, although the authorization to dissolve may provide for closing the business entity's ownership transfer records;

c. Subject its manager or officers to standards of conduct different from those prescribed in the laws of the Tribe governing the business entity;

- d. Alter the liability of an owner;
- e. Change quorum or voting requirements for its owners or managers, change provisions for selection, resignation, or removal of its managers or officers, or both, or change provisions for amending its organizational documents;
- f. Prevent commencement of a civil, criminal, administrative, investigatory, or other proceeding by or against the business entity or any of its owners, managers, or officers or affect applicable statutes of limitation;
- g. Abate or suspend a civil, criminal, administrative, investigatory, or other proceeding pending by or against the business entity or any of its owners, managers, or officers on the effective date of dissolution; or
- h. Terminate the authority of the registered agent of the business entity.

Section 14-12-7. Distribution of Assets and Winding Up.

1. A dissolved business entity shall wind up its activities and affairs and continues after dissolution only for the purpose of winding up.

2. A dissolved business entity may be wound up by any of the following:

- a. The managers, if the business entity has managers, or owners who had authority to manage the business entity before dissolution;

- b. In a judicial dissolution, the person designated by the court; or

- c. A person appointed by the Tribal Court in a proceeding to appoint a person to wind up the business entity brought pursuant to this Section.

3. In winding up its activities and affairs, the person winding up the affairs of the business entity:

- a. Shall discharge the business entity's debts, obligations, or other liabilities, settle and close the business entity's activities, and marshal and distribute the assets of the business entity; and

b. May:

i. Deliver to the Office of the Secretary for filing a statement of dissolution stating the name of the business entity and that the business entity is dissolved;

ii. Preserve the business entity's activities, affairs, and property as a going concern for a reasonable time;

iii. Prosecute and defend actions and proceedings, whether civil, criminal, or administrative;

iv. Transfer the business entity's property;

v. Settle disputes by mediation or arbitration;

vi. Deliver to the Office of the Secretary for filing a statement of termination stating the name of the business entity and that the business entity is terminated; and

vii. Perform other acts necessary or appropriate to the winding up.

4. After dissolution and upon application of a business entity, an owner, or a holder of financial rights, the Tribal Court may order judicial supervision of the winding up of the business entity, including the appointment of a person to wind up the business entity's activities, if:

a. After a reasonable time, the business entity has not wound up its activities; or

b. The applicant establishes other good cause.

5. If a person is appointed by the Tribal Court pursuant to this Section to wind up the activities of a business entity, the business entity shall promptly deliver to the Office of the Secretary for filing an amendment to the public organizational documents to reflect the appointment.

6. Upon the winding up of a business entity, the assets shall be distributed in the following order:

a. To creditors, including to the extent permitted by law, owners and former owners in satisfaction of liabilities of the business entity;

b. Unless otherwise provided in the public organizational documents, to owners and former owners in satisfaction of liabilities for distributions;

c. Unless otherwise provided in the public organizational documents, to owners and former owners first for the return of any contributions in proportion to their respective values and, thereafter, in proportion to their respective rights to share in distributions from the business entity before dissolution; and

d. In the case of a nonprofit business entity, to such persons, societies, organizations, or business entities, whether for profit or not, engaged in activities which will, as nearly as possible, accomplish the general purpose of the dissolving business entity.

7. Property held in trust or otherwise dedicated to a charitable purpose may not be diverted from its purpose by the dissolution of a business entity.

8. Except for reasonable compensation for services rendered, a person who is a member of a nonprofit business entity may not receive a direct or indirect financial benefit in connection with the dissolution of the business entity unless the person is a nonprofit business entity, a charitable trust, government entity, or another entity that has a charitable purpose.

Section 14-12-8. Known Claims Against Dissolved Business Entity.

1. Except as otherwise provided in this Section, a dissolved business entity may give notice of a known claim under this Section, which has the effect provided in this Section.

2. A dissolved business entity may notify its known claimants in writing of the dissolution. The notice must:

a. Specify the information required to be included in a claim;

b. State that a claim must be in writing and provide a mailing address to which the claim is to be sent;

c. State the deadline for receipt of a claim, which may not be less than one hundred twenty (120) days after the date the notice is received by the claimant; and

d. State that the claim will be barred if not received by the deadline.

3. A claim against a dissolved business entity is barred if the requirements of notice of this Section are met and:

a. The claim is not received by the specified deadline; or

b. If the claim is timely received but rejected by the business entity:

i. The business entity notifies the claimant in writing that the claim is rejected and will be barred unless the claimant commences an action against the business entity to enforce the claim not later than ninety (90) days after the claimant receives the notice; and

ii. The claimant does not commence the required action within the time provided after the claimant receives the notice.

4. This Section does not apply to a claim based on an event occurring after the effective date of dissolution or a liability that on the effective date of dissolution is contingent.

Section 14-12-9. Other Claims Against Dissolved Business Entity.

1. A dissolved business entity may publish notice of its dissolution and request persons having claims against the business entity to present them in accordance with the notice.

2. A notice authorized under this Section must:

a. Be published at least once in a newspaper of general circulation in the service area of the Tribe in which the dissolved business entity's principal office is located or, if the principal office is not located in the territory of the Tribe, in the service area of the Tribe in which the office of the business entity's registered agent is or was last located;

b. Describe the information required to be contained in a claim, state that the claim must be in writing, and provide a mailing address to which the claim is to be sent; and

c. State that a claim against the business entity is barred unless an action to enforce the claim is commenced not later than three (3) years after publication of the notice.

3. If a dissolved business entity publishes a notice in accordance with this Section, the claim of each of the following claimants is barred unless the claimant commences an action to enforce the claim against the business entity not later than three (3) years after the publication date of the notice:

a. A claimant that did not receive written notice of a known claim under this Chapter;

b. A claimant whose claim was timely sent to the business entity but not acted on; and

c. A claimant whose claim is contingent at or based on an event occurring after the effective date of dissolution.

4. A claim not barred under this Chapter may be enforced:

a. Against a dissolved business entity, to the extent of its undistributed assets; and

b. If the assets of the business entity have been distributed after dissolution, against an owner, other than the Tribe, to the extent of that owner's proportionate share of the claim or the assets distributed to the owner after dissolution, whichever is less, but a person's total liability for all claims under this paragraph may not exceed the total amount of assets distributed to the owner after dissolution.

Section 14-12-10. Statement of Termination.

1. A dissolved business entity that has completed winding up may deliver to the Office of the Secretary for filing a statement of termination that states:

a. The name of the business entity;

b. The date of filing of its initial public organizational documents; and

c. That the business entity is terminated.

2. The filing of a statement of termination does not itself terminate the business entity.

Section 14-12-11. Actions Involving Tribal Business Entities.

1. If the Tribe is an owner of a business entity:

a. Any action to dissolve the business entity, to seek judicial supervision of winding up the business entity, or otherwise involving the dissolution of the business entity must be brought in the Tribal Court unless explicitly provided otherwise in the business entity's organizational documents approved by the owners;

b. No member of the Tribe or other individual may bring an action for or on behalf of the Tribe as owner to dissolve the business entity, to seek judicial supervision of winding up the business entity, or otherwise involving the dissolution of the business entity; and

c. Only the Tribal Council may authorize an action by the Tribe as owner to dissolve the business entity, to seek judicial supervision of winding up the business entity, or otherwise involving the dissolution of the business entity.

2. Nothing in this Chapter shall be construed as limiting, waiving, or abrogating the sovereignty or the sovereign immunity of the Tribe or any Tribal business entity.

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