

Senate File 2468 - Introduced

SENATE FILE 2468
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SF 2363)
(SUCCESSOR TO SSB 3160)

A BILL FOR

1 An Act providing for the conversion of partnerships into other
2 forms of domestic or foreign organizations, and providing for
3 fees.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 486A.901, Code 2026, is amended by
2 striking the section and inserting in lieu thereof the following:

3 **486A.901 Definitions.**

4 In this article:

5 1. "*Converted organization*" means the organization into which
6 a converting domestic partnership converts pursuant to this
7 article, and continues in existence after the conversion takes
8 effect.

9 2. "*Converting organization*" means a domestic partnership
10 that converts into another organization pursuant to this article
11 and does not continue in existence after the conversion takes
12 effect.

13 3. "*Domestic*", with respect to an organization, means formed
14 and governed as to its internal affairs by a domestic governing
15 statute.

16 4. "*Domestic governing statute*" means a statute of this
17 state governing the formation and internal affairs of a domestic
18 organization, including this chapter governing a partnership;
19 chapter 488 governing a limited partnership, including a limited
20 liability limited partnership; chapter 489 governing a limited
21 liability company; chapter 490 governing a business corporation;
22 chapter 504 governing a not-for-profit corporation; or chapter
23 633A governing a business trust.

24 5. "*Foreign*", with respect to an organization, means formed
25 and governed as to its internal affairs by the laws of another
26 jurisdiction.

27 6. "*Foreign governing statute*" means a statute of another
28 jurisdiction governing the formation and internal affairs of a
29 foreign organization.

30 7. "*General partner*" means a partner in a partnership and a
31 general partner in a limited partnership.

32 8. "*Governing statute*" means a domestic governing statute or
33 foreign governing statute, including any predecessor statute.

34 9. "*Limited partner*" means a limited partner in a limited
35 partnership.

1 10. "*Limited partnership*" means a limited partnership formed
2 under chapter 488.

3 11. "*Organization*" means a partnership; limited partnership,
4 including a limited liability limited partnership; limited
5 liability company; business corporation; nonprofit corporation;
6 or business trust formed if the organization is formed under
7 a domestic governing statute or foreign governing statute; or
8 any other foreign organization formed under a comparable foreign
9 governing statute.

10 12. a. "*Organizational document*" means a public organic
11 document and other document or record that determines an
12 organization's internal governance and the relations among the
13 persons that own the organization, have an interest in the
14 organization, or are members of the organization, as provided
15 in its governing statute, and includes any amendment to or
16 restatement of that document or record.

17 b. "*Organizational document*" includes but is not limited to
18 the following:

19 (1) For a domestic general partnership, its partnership
20 agreement as provided in its domestic governing statute; or for
21 a foreign general partnership, its partnership agreement or a
22 comparable document as provided in its foreign governing statute.

23 (2) For a domestic limited partnership, its certificate
24 of limited partnership as provided in its domestic governing
25 statute; or for a foreign limited partnership, its certificate of
26 limited partnership or a comparable document as provided in its
27 foreign governing statute.

28 (3) For a domestic limited liability company, its certificate
29 of organization and operating agreement as provided in its
30 domestic governing statute; or for a foreign limited liability
31 company, its certificate of organization or articles of
32 organization, and operating agreement, or comparable records as
33 provided in its foreign governing statute.

34 (4) For a domestic business corporation, its articles
35 of incorporation, bylaws, and other agreements among its

1 shareholders authorized by its domestic governing statute, as
2 provided in its domestic governing statute; or for a foreign
3 business corporation, its articles of incorporation, bylaws,
4 other agreements among its shareholders authorized by its foreign
5 governing statute, or comparable documents as provided in its
6 foreign governing statute.

7 (5) For a domestic nonprofit corporation, its articles of
8 incorporation, bylaws, and other agreements among its members
9 authorized by its domestic governing statute, as provided in
10 its domestic governing statute; and for a foreign nonprofit
11 corporation, its articles of incorporation, bylaws, and other
12 agreements among its members authorized by its foreign governing
13 statute, or comparable records as provided in its foreign
14 governing statute.

15 (6) For a domestic business trust, its certificate of trust,
16 agreement of trust, or declaration of trust; and for a foreign
17 business trust, its certificate of trust, agreement of trust,
18 declaration of trust, or comparable records as provided in its
19 foreign governing statute.

20 13. "Partner" includes either a partner in a general
21 partnership or a general or limited partner in a limited
22 partnership.

23 14. a. "Public organic document" means a document or record
24 the filing of which by the secretary of state is required to form
25 an organization and includes any amendment to or restatement of
26 that document or record.

27 b. "Public organic document" includes but is not limited to
28 any of the following:

29 (1) For a domestic limited partnership, a certificate of
30 limited partnership as provided in its domestic governing
31 statute; or for a foreign limited partnership, its certificate of
32 limited partnership or a comparable document as provided in its
33 foreign governing statute.

34 (2) For a domestic limited partnership, its certificate
35 of limited partnership as provided in its domestic governing

1 statute; or for a foreign limited partnership, its certificate of
2 limited partnership or a comparable document as provided in its
3 foreign governing statute.

4 (3) For a domestic limited liability company, its certificate
5 of organization as provided in its domestic governing statute;
6 or for a foreign limited liability company, its certificate of
7 organization or articles of organization or comparable records as
8 provided in its foreign governing statute.

9 (4) For a domestic business corporation, its articles of
10 incorporation as provided in its domestic governing statute; or
11 for a foreign business corporation, its articles of incorporation
12 or comparable documents as provided in its foreign governing
13 statute.

14 (5) For a domestic nonprofit corporation, its articles of
15 incorporation as provided in its domestic governing statute;
16 and for a foreign nonprofit corporation, its articles of
17 incorporation or comparable records as provided in its foreign
18 governing statute.

19 (6) For a domestic business trust, its certificate of trust,
20 agreement of trust, or declaration of trust; and for a foreign
21 business trust, its certificate of trust, agreement of trust,
22 declaration of trust, or comparable documents as provided in its
23 foreign governing statute.

24 Sec. 2. Section 486A.902, Code 2026, is amended by striking
25 the section and inserting in lieu thereof the following:

26 **486A.902 Conversion of partnership to another type of**
27 **organization.**

28 1. A domestic partnership may be converted to another type of
29 domestic or foreign organization pursuant to this section if all
30 of the following apply:

31 a. The other organization's governing statute authorizes the
32 conversion.

33 b. The conversion is not prohibited by the law of the
34 jurisdiction that enacted the other organization's governing
35 statute.

1 c. The other organization complies with its governing statute
2 in effecting the conversion.

3 2. A plan of conversion setting forth the terms and
4 conditions of the conversion of a domestic partnership to another
5 organization must be approved by all of the partners or by a
6 number or percentage specified for conversion in the partnership
7 agreement.

8 3. A plan of conversion must be in a document and must
9 include all of the following:

10 a. The name of the converting organization.

11 b. The name, type of organization, and jurisdiction of the
12 governing statute of the converted organization.

13 c. The terms and conditions of the conversion, including
14 the manner and basis for converting interests in the converting
15 organization into any combination of money, interests in the
16 converted organization, and other consideration.

17 d. The organizational documents of the converted
18 organization.

19 e. In addition to the requirements of paragraphs "a" through
20 "d", a plan of conversion may contain any other provision not
21 prohibited by law.

22 4. After the plan of conversion is approved by the partners,
23 the partnership shall deliver to the secretary of state for
24 filing articles of conversion which must include all of the
25 following:

26 a. A statement that the partnership has been converted into
27 another type of organization.

28 b. The name, type of organization of the converting
29 organization, and the jurisdiction of the governing statute of
30 the converted organization.

31 c. The name, type of organization of the converted
32 organization, and the jurisdiction of the governing statute of
33 the converted organization.

34 d. The date the conversion is effective under the governing
35 statute of the converted organization.

1 e. A statement that the conversion was approved as required
2 by this chapter.

3 f. A statement that the conversion was approved as required
4 by the governing statute of the converted organization.

5 5. The conversion takes effect when the articles of
6 conversion and any public organic document required by the
7 converted organization's governing statute are filed or at any
8 later date specified in the filed articles of conversion.

9 6. After a conversion pursuant to this chapter, a general
10 partner of a converting general partnership remains liable as
11 a general partner for an obligation incurred by the partnership
12 before the conversion takes effect. A person not a partner
13 is deemed to have notice of a partnership's participation in a
14 conversion ninety days after the articles of conversion under
15 this section become effective.

16 Sec. 3. Section 486A.904, Code 2026, is amended by striking
17 the section and inserting in lieu thereof the following:

18 **486A.904 Effect of conversion.**

19 1. An organization that has been converted pursuant to this
20 article is for all purposes the same organization that existed
21 before the conversion.

22 2. When a conversion takes effect, all of the following
23 procedures apply:

24 a. All property owned by the converting organization remains
25 vested in the converted organization.

26 b. All debts, liabilities, and other obligations of the
27 converting organization continue as obligations of the converted
28 organization.

29 c. An action or proceeding pending by or against the
30 converting organization may be continued as if the conversion had
31 not occurred.

32 d. Except as prohibited by other law, all of the rights,
33 privileges, immunities, powers, and purposes of the converting
34 organization remain vested in the converted organization.

35 e. Except as otherwise provided in the plan of conversion,

1 the terms and conditions of the plan of conversion take effect.

2 f. Except as otherwise agreed, the conversion does not
3 dissolve a partnership for the purposes of article 8.

4 3. a. A converted foreign organization consents to the
5 jurisdiction of the courts of this state to enforce any
6 obligation owed by the converting organization, if before the
7 conversion the converting organization was subject to suit in
8 this state on the obligation.

9 b. A converted foreign organization that is not authorized
10 to transact business in this state shall appoint the secretary
11 of state as its agent for service of process for purposes of
12 enforcing an obligation under this subsection.

13 Sec. 4. Section 486A.1202, subsection 1, Code 2026, is
14 amended by adding the following new paragraph:

15 NEW PARAGRAPH. Oh. Articles of conversion..... \$ 50

16 Sec. 5. Section 488.1101, subsection 9, paragraph c, Code
17 2026, is amended to read as follows:

18 c. For a domestic or foreign limited liability company, its
19 ~~articles~~ certificate of organization and operating agreement, or
20 comparable records as provided in its governing statute.

21 EXPLANATION

22 The inclusion of this explanation does not constitute agreement with
23 the explanation's substance by the members of the general assembly.

24 BACKGROUND — GENERAL. This bill amends the "Uniform
25 Partnership Act" (Code chapter 486A) prepared and recommended
26 by the national conference of commissioners of uniform state
27 laws, and providing for partnership law in Iowa. A partnership
28 refers to a general partnership which involves an association
29 of individuals who assume co-ownership of business assets.
30 Generally, the general partners are responsible for collective
31 decisionmaking, taking an equal share of business profits, and
32 assuming full personal liability in case of a lawsuit or creditor
33 action. A partnership is governed by a partnership agreement
34 which is a type of private contract entered into by the partners
35 that describes the internal affairs of the organization, and is

1 not required to be filed with the secretary of state.

2 TYPES OF ORGANIZATIONS. A partnership is often compared with
3 other types of organizations that limit the income earned
4 and liability incurred by investors based on their respective
5 contributions. The organization may delegate control over the
6 organization's affairs to one or more persons who serve in a
7 fiduciary capacity as one or more general partners of a limited
8 partnership (Code chapter 488), managers of a limited liability
9 company (Code chapter 489), or board members of a business
10 corporation (Code chapter 490) or nonprofit corporation (Code
11 chapter 504). These types of filing organizations must be formed
12 under what the bill refers to as a domestic governing statute
13 or foreign governing statute that controls the organization's
14 internal governance with certain tax consequences. A foreign
15 organization may also include other types of organizations
16 under a comparable foreign governing statute. A public organic
17 document required to be filed to form a domestic organization
18 includes a certificate of limited partnership for a domestic
19 limited partnership, a certificate of organization for a domestic
20 limited liability company, articles of incorporation for a
21 domestic business corporation or not-for-profit corporation. An
22 organizational document includes a public organic document and
23 other documents not required to be filed, including a partnership
24 agreement for a domestic partnership, an operating agreement for
25 a domestic limited liability company, bylaws and shareholder
26 agreements for a domestic business corporation, and bylaws and
27 other member agreements for a nonprofit corporation.

28 BACKGROUND — CONVERSION. The process of conversion allows
29 a domestic organization to become another type of domestic or
30 foreign organization. Under Code chapter 486A, the conversion
31 process is limited. A domestic partnership formed under Code
32 chapter 486A may only convert to a limited partnership governed
33 under Code chapter 488 and only pursuant to certain requirements.
34 The terms of the conversion must be approved by the partners.
35 After the conversion, the converted limited partnership must file

1 a certificate of limited partnership with the secretary. A
2 general partner which becomes a limited partner of a converted
3 limited partnership must remain liable as a general partner for
4 any liability for an obligation incurred by the partnership.

5 BILL'S PROVISIONS — PROCESS OF CONVERSION. The bill provides
6 for the conversion of a domestic partnership to a domestic
7 limited partnership or any other type of domestic or foreign
8 organization, so long as the other organization's governing
9 statute authorizes the conversion, the conversion is not
10 prohibited by the other organization's governing statute, and
11 the other organization complies with its governing statute. The
12 terms of the conversion must be set out in a plan of conversion
13 for approval by all of the general partnership's partners or a
14 percentage specified in its partnership agreement. The plan of
15 conversion must include organizational documents of the converted
16 organization. After the conversion is approved, the secretary
17 of state must file articles of conversion with the secretary
18 of state that includes information regarding the converting
19 partnership and converted organization. The conversion takes
20 effect when articles of conversion and any public organic record
21 for the converted organization are filed, or a later date as
22 specified in the filed articles. The bill retains a provision
23 that holds a general partner liable for any obligation incurred
24 by the partnership before the conversion takes effect.

25 BILL'S PROVISIONS — EFFECT OF CONVERSION. When a conversion
26 takes effect, property owned by the converting organization
27 becomes property of the converted organization. Obligations,
28 including debts, incurred by the converting organization become
29 obligations of the converted organization. Any pending legal
30 action brought by or against the converting organization
31 continues as if the conversion had not occurred. The converted
32 foreign organization consents to the jurisdiction of the courts
33 of this state to enforce any obligation owed by the converting
34 organization. A converted foreign organization that is not
35 authorized to transact business in this state must appoint the

1 secretary of state as its agent for service of process.

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