

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
3 for fees.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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

4 **486A.901 Definitions.**

5 In this article:

- 6 1. "*Converted organization*" means the organization into
7 which a converting domestic partnership converts pursuant to
8 this article, and continues in existence after the conversion
9 takes effect.
- 10 2. "*Converting organization*" means a domestic partnership
11 that converts into another organization pursuant to this
12 article and does not continue in existence after the conversion
13 takes effect.
- 14 3. "*Domestic*", with respect to an organization, means formed
15 and governed as to its internal affairs by a domestic governing
16 statute.
- 17 4. "*Domestic governing statute*" means a statute of this
18 state governing the formation and internal affairs of a
19 domestic organization, including this chapter governing a
20 partnership; chapter 488 governing a limited partnership,
21 including a limited liability limited partnership; chapter 489
22 governing a limited liability company; chapter 490 governing a
23 business corporation; chapter 504 governing a not-for-profit
24 corporation; or chapter 633A governing a business trust.
- 25 5. "*Foreign*", with respect to an organization, means formed
26 and governed as to its internal affairs by the laws of another
27 jurisdiction.
- 28 6. "*Foreign governing statute*" means a statute of another
29 jurisdiction governing the formation and internal affairs of
30 a foreign organization.
- 31 7. "*General partner*" means a partner in a partnership and a
32 general partner in a limited partnership.
- 33 8. "*Governing statute*" means a domestic governing statute or
34 foreign governing statute, including any predecessor statute.
- 35 9. "*Limited partner*" means a limited partner in a limited

1 partnership.

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

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

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

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

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

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

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

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

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

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

22 13. "Partner" includes either a partner in a general
23 partnership or a general or limited partner in a limited
24 partnership.

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

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

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

1 (2) For a domestic limited partnership, its certificate
2 of limited partnership as provided in its domestic governing
3 statute; or for a foreign limited partnership, its certificate
4 of limited partnership or a comparable document as provided in
5 its foreign governing statute.

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

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

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

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

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

29 **486A.902 Conversion of partnership to another type of**
30 **organization.**

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

34 a. The other organization's governing statute authorizes the
35 conversion.

1 *b.* The conversion is not prohibited by the law of the
2 jurisdiction that enacted the other organization's governing
3 statute.

4 *c.* The other organization complies with its governing
5 statute in effecting the conversion.

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

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

13 *a.* The name of the converting organization.

14 *b.* The name, type of organization, and jurisdiction of the
15 governing statute of the converted organization.

16 *c.* The terms and conditions of the conversion, including
17 the manner and basis for converting interests in the converting
18 organization into any combination of money, interests in the
19 converted organization, and other consideration.

20 *d.* The organizational documents of the converted
21 organization.

22 *e.* In addition to the requirements of paragraphs "a" through
23 "d", a plan of conversion may contain any other provision not
24 prohibited by law.

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

29 *a.* A statement that the partnership has been converted into
30 another type of organization.

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

34 *c.* The name, type of organization of the converted
35 organization, and the jurisdiction of the governing statute of

1 the converted organization.

2 *d.* The date the conversion is effective under the governing
3 statute of the converted organization.

4 *e.* A statement that the conversion was approved as required
5 by this chapter.

6 *f.* A statement that the conversion was approved as required
7 by the governing statute of the converted organization.

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

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

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

21 **486A.904 Effect of conversion.**

22 1. An organization that has been converted pursuant to this
23 article is for all purposes the same organization that existed
24 before the conversion.

25 2. When a conversion takes effect, all of the following
26 procedures apply:

27 *a.* All property owned by the converting organization remains
28 vested in the converted organization.

29 *b.* All debts, liabilities, and other obligations of
30 the converting organization continue as obligations of the
31 converted organization.

32 *c.* An action or proceeding pending by or against the
33 converting organization may be continued as if the conversion
34 had not occurred.

35 *d.* Except as prohibited by other law, all of the rights,

1 privileges, immunities, powers, and purposes of the converting
2 organization remain vested in the converted organization.

3 e. Except as otherwise provided in the plan of conversion,
4 the terms and conditions of the plan of conversion take effect.

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

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

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

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

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

19 Sec. 5. Section 488.1101, subsection 9, paragraph c, Code
20 2026, is amended to read as follows:

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

24 EXPLANATION

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

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

1 creditor action. A partnership is governed by a partnership
2 agreement which is a type of private contract entered into
3 by the partners that describes the internal affairs of
4 the organization, and is not required to be filed with the
5 secretary of state.

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

33 BACKGROUND — CONVERSION. The process of conversion allows
34 a domestic organization to become another type of domestic or
35 foreign organization. Under Code chapter 486A, the conversion

1 process is limited. A domestic partnership formed under
2 Code chapter 486A may only convert to a limited partnership
3 governed under Code chapter 488 and only pursuant to certain
4 requirements. The terms of the conversion must be approved
5 by the partners. After the conversion, the converted limited
6 partnership must file a certificate of limited partnership
7 with the secretary. A general partner which becomes a limited
8 partner of a converted limited partnership must remain liable
9 as a general partner for any liability for an obligation
10 incurred by the partnership.

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

32 BILL'S PROVISIONS — EFFECT OF CONVERSION. When a
33 conversion takes effect, property owned by the converting
34 organization becomes property of the converted organization.
35 Obligations, including debts, incurred by the converting

1 organization become obligations of the converted organization.
2 Any pending legal action brought by or against the converting
3 organization continues as if the conversion had not occurred.
4 The converted foreign organization consents to the jurisdiction
5 of the courts of this state to enforce any obligation owed by
6 the converting organization. A converted foreign organization
7 that is not authorized to transact business in this state must
8 appoint the secretary of state as its agent for service of
9 process.