

# 2018 Kansas Statutes

## **17-78-102. Definitions.** As used in this act:

- (a) "Acquired entity" means the entity, all of one or more classes or series of interests in which are acquired in an interest exchange.
- (b) "Acquiring entity" means the entity that acquires all of one or more classes or series of interests of the acquired entity in an interest exchange.
- (c) "Agreement" means a plan or agreement of merger, interest exchange, conversion or domestication.
- (d) "Approve" means, in the case of an entity, for its governors and interest holders to take whatever steps are necessary under its organic rules, organic law, and other law to:
- (1) Propose a transaction subject to this act;
  - (2) adopt and approve the terms and conditions of the transaction; and
  - (3) conduct any required proceedings or otherwise obtain any required votes or consents of the governors or interest holders.
- (e) "Conversion" means a transaction authorized by K.S.A. 2018 Supp. 17-78-401 through 17-78-406, and amendments thereto.
- (f) "Converted entity" means the converting entity as it continues in existence after a conversion.
- (g) "Converting entity" means the domestic entity that approves an agreement of conversion pursuant to K.S.A. 2018 Supp. 17-78-403, and amendments thereto, or the foreign entity that approves a conversion pursuant to the law of its jurisdiction of organization.
- (h) "Domestic entity" means an entity whose internal affairs are governed by the law of this state.
- (i) "Domesticated entity" means the domesticating entity as it continues in existence after a domestication.
- (j) "Domesticating entity" means the domestic entity that approves an agreement of domestication pursuant to K.S.A. 2018 Supp. 17-78-503, and amendments thereto, or the foreign entity that approves a domestication pursuant to the law of its jurisdiction of organization.
- (k) "Domestication" means a transaction authorized by K.S.A. 2018 Supp. 17-78-501 through 17-78-506, and amendments thereto.
- (l) "Entity" means:
- (1) A corporation;
  - (2) a general partnership, including a limited liability partnership;
  - (3) a limited partnership, including a limited liability limited partnership;
  - (4) a limited liability company;
  - (5) a business trust or statutory trust entity;
  - (6) a cooperative; or
  - (7) any other person that has a separate legal existence or has the power to acquire an interest in real property in its own name other than:
    - (A) An individual;
    - (B) a testamentary, inter vivos, or charitable trust, with the exception of a business trust, statutory trust entity or similar trust;
    - (C) an association or relationship that is not a partnership solely by reason of subsection (c) of K.S.A. 56a-202, and amendments thereto, or a similar provision of the law of any other jurisdiction;
    - (D) a decedent's estate; or
    - (E) a government, a governmental subdivision, agency, or instrumentality or a quasi-governmental instrumentality.
- (m) "Filing entity" means an entity that is created by the filing of a public organic document.
- (n) "Foreign entity" means an entity whose internal affairs are governed by the laws of a jurisdiction other than this state.
- (o) "Governance interest" means the right under the organic law or organic rules of an entity, other than as a governor, agent, assignee or proxy, to:
- (1) Receive or demand access to information concerning, or the books and records of, the entity;
  - (2) vote for the election of the governors of the entity; or
  - (3) receive notice of or vote on any or all issues involving the internal affairs of the entity.
- (p) "Governor" means a person by or under whose authority the powers of an entity are exercised and under whose direction the business and affairs of the entity are managed pursuant to the organic law and organic rules of the entity.
- (q) "Interest" means:
- (1) A governance interest in an unincorporated entity;
  - (2) a transferable interest in an unincorporated entity; or
  - (3) a share or membership in a corporation.
- (r) "Interest exchange" means a transaction authorized by K.S.A. 2018 Supp. 17-78-301 through 17-78-306, and amendments thereto.
- (s) "Interest holder" means a direct holder of an interest.
- (t) "Interest holder liability" means:
- (1) Personal liability for a liability of an entity that is imposed on a person:
    - (A) Solely by reason of the status of the person as an interest holder; or
    - (B) by the organic rules of the entity pursuant to a provision of the organic law authorizing the organic rules to make one or more specified interest holders or categories of interest holders liable in their capacity as interest holders for all or specified liabilities of the entity; or
  - (2) an obligation of an interest holder under the organic rules of an entity to contribute to the entity.
- (u) "Jurisdiction of organization" of an entity means the jurisdiction whose law includes the organic law of the entity.
- (v) "Liability" means a debt, obligation or any other liability arising in any manner, regardless of whether it is secured or whether it is contingent.
- (w) "Merger" means a transaction in which two or more merging entities are combined into a surviving entity pursuant to a filing with the secretary of state.
- (x) "Merging entity" means an entity that is a party to a merger and exists immediately before the merger becomes effective.
- (y) "Organic law" means the statutes, if any, other than this act, governing the internal affairs of an entity.
- (z) "Organic rules" means the public organic document and private organic rules of an entity.
- (aa) "Person" means an individual, corporation, estate, trust, partnership, limited liability company, business or similar trust, association, joint venture, public corporation, government, or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(bb) "Private organic rules" mean the rules, whether or not in a record, that govern the internal affairs of an entity, are binding on all of its interest holders and are not part of its public organic document, if any.

(cc) "Protected agreement" means:

(1) A record evidencing indebtedness and any related agreement in effect on the effective date of this act;

(2) an agreement that is binding on an entity on the effective date of this act;

(3) the organic rules of an entity in effect on the effective date of this act; or

(4) an agreement that is binding on any of the governors or interest holders of an entity on the effective date of this act.

(dd) "Public organic document" means the public record the filing of which creates an entity and any amendment to or restatement of that record.

(ee) "Qualified foreign entity" means a foreign entity that is authorized to transact business in this state pursuant to a filing with the secretary of state.

(ff) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(gg) "Sign" means, with present intent to authenticate or adopt a record:

(1) To execute or adopt a tangible symbol; or

(2) to attach to or logically associate with the record an electronic sound, symbol or process.

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

(ii) "Transferable interest" means the right under an entity's organic law to receive distributions from the entity.

(jj) "Type," with regard to an entity, means a generic form of entity:

(1) Recognized at common law; or

(2) organized under an organic law, whether or not some entities organized under that organic law are subject to provisions of that law that create different categories of the form of entity.

**History:** L. 2009, ch. 47, § 2; July 1, 2010.