

1 HB202
2 173107-5
3 By Representative Poole
4 RFD: Judiciary
5 First Read: 11-FEB-16

1
2 ENROLLED, An Act,

3 To adopt a revised Alabama Limited Partnership Law
4 as Chapter 9A of Title 10A of the Code of Alabama 1975; to
5 provide for the various processes of formation of a limited
6 partnership; to provide default provisions; to provide that
7 certain obligations of a limited partnership may not be
8 modified in the agreement; to specify the information required
9 to be included in various filings; to specify that when both
10 the converting entity and the converted entity are domestic
11 entities, the statement of conversion and the certificate of
12 formation would be filed simultaneously with the Secretary of
13 State; to make various harmonizing changes to the limited
14 liability company law; to amend Sections 10A-1-1.03,
15 10A-1-1.06, 10A-1-1.08, 10A-1-4.26, 10A-1-6.02, 10A-1-6.13,
16 10A-1-6.25, 10A-1-7.07, 10A-5A-1.10, 10A-5A-4.01, 10A-5A-5.04,
17 10A-5A-7.01, 10A-5A-7.02, 10A-5A-10.03, 10A-5A-10.04,
18 10A-5A-10.07, and 10A-5A-10.08, Code of Alabama 1975; and to
19 repeal Sections 10A-9-1.01 to 10A-9-12.08, inclusive, Code of
20 Alabama 1975.

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

22 Section 1. Chapter 9A of Title 10A, comprised of
23 Articles 1 to 11, inclusive, is added to the Code of Alabama
24 1975, as follows:

25 Chapter 9A. Alabama Limited Partnership Law.

1 Article 1. General Provisions.

2 § 10A-9A-1.01. Short title. This chapter and the
3 provisions of Chapter 1, to the extent applicable to limited
4 partnerships, shall be known and may be cited as the Alabama
5 Limited Partnership Law.

6 § 10A-9A-1.02. Definitions. Notwithstanding Section
7 10A-1-1.03, as used in this chapter, unless the context
8 otherwise requires, the following terms mean:

9 (1) "Certificate of Formation" with respect to a
10 limited partnership means the certificate of formation
11 required by Section 10A-9A-2.01, and the certificate of
12 formation as amended or restated.

13 (2) "Distribution" except as otherwise provided in
14 Section 10A-9A-5.08(f), means a transfer of money or other
15 property from a limited partnership to another person on
16 account of a transferable interest.

17 (3) "Foreign limited liability limited partnership"
18 means a foreign limited partnership whose general partners
19 have limited liability for the obligations of the foreign
20 limited partnership under a provision similar to Section
21 10A-9A-4.04(c).

22 (4) "Foreign limited partnership" means a
23 partnership formed under the laws of a jurisdiction other than
24 this state and required by those laws to have one or more

1 general partners and one or more limited partners. The term
2 includes a foreign limited liability limited partnership.

3 (5) "General partner" means:

4 (A) with respect to a limited partnership, a person
5 that:

6 (i) is admitted as a general partner under Section
7 10A-9A-4.01;

8 or

9 (ii) was a general partner in a limited partnership
10 when the limited partnership became subject to this chapter
11 under Section 10A-9A-11.01(a); and

12 (B) with respect to a foreign limited partnership, a
13 person that has rights, powers, and obligations similar to
14 those of a general partner in a limited partnership.

15 (6) "Limited liability limited partnership," except
16 in the phrase "foreign limited liability limited partnership,"
17 means a limited partnership whose certificate of formation
18 states that the limited partnership is a limited liability
19 limited partnership.

20 (7) "Limited partner" means:

21 (A) with respect to a limited partnership, a person
22 that:

23 (i) is admitted as a limited partner under Section
24 10A-9A-3.01; or

1 (ii) was a limited partner in a limited partnership
 2 when the limited partnership became subject to this chapter
 3 under Section 10A-9A-11.01(a); and

4 (B) with respect to a foreign limited partnership, a
 5 person that has rights, powers, and obligations similar to
 6 those of a limited partner in a limited partnership.

7 (8) "Limited partnership," except in the phrases
 8 "foreign limited partnership" and "foreign limited liability
 9 limited partnership," means an entity, having one or more
 10 general partners and one or more limited partners, which is
 11 formed under this chapter by two or more persons or becomes
 12 subject to this chapter under Article 10 or Section
 13 10A-9A-11.01(a). The term includes a limited liability
 14 limited partnership.

15 (9) "Partner" means a limited partner or general
 16 partner.

17 (10) "Partnership agreement" means any agreement
 18 (whether referred to as a partnership agreement or otherwise),
 19 written, oral or implied, of the partners as to the activities
 20 and affairs of a limited partnership. The partnership
 21 agreement includes any amendments to the partnership
 22 agreement.

23 (11) "Person dissociated as a general partner" means
 24 a person dissociated as a general partner of a limited
 25 partnership.

1 (12) "Required information" means the information
2 that a limited partnership is required to maintain under
3 Section 10A-9A-1.11.

4 (13) "Transfer" means an assignment, conveyance,
5 deed, bill of sale, lease, mortgage, security interest,
6 encumbrance, gift, or transfer by operation of law.

7 (14) "Transferable interest" means a partner's right
8 to receive distributions from a limited partnership.

9 (15) "Transferee" means a person to which all or
10 part of a transferable interest has been transferred, whether
11 or not the transferor is a partner.

12 § 10A-9A-1.03. Knowledge and notice.

13 (a) A person knows a fact when the person:

14 (1) has actual knowledge of it; or

15 (2) is deemed to know it under law other than this
16 chapter.

17 (b) A person has notice of a fact when the person:

18 (1) knows of it;

19 (2) receives notification of it;

20 (3) has reason to know the fact from all of the
21 facts known to the person at the time in question; or

22 (4) is deemed to have notice of the fact under
23 subsection (d).

24 (c) A person notifies or gives a notification to
25 another person by taking steps reasonably required to inform

1 the other person in ordinary course, whether or not the other
2 person knows the fact.

3 (d) A person is deemed to have notice of a limited
4 partnership's:

5 (1) matters included in the certificate of formation
6 under Sections 10A-9A-2.01(a)(1), (a)(2), (a)(3), (a)(4), if
7 applicable, (a)(5), and (a)(6) upon filing;

8 (2) general partner dissociating as a general
9 partner, 90 days after the effective date of an amendment to
10 the certificate of formation which states that the general
11 partner has dissociated or 90 days after the effective date of
12 a statement of dissociation pertaining to the general partner,
13 whichever occurs first;

14 (3) dissolution, 90 days after a statement of
15 dissolution under Section 10A-9A-8.02 or Section 10A-9A-8.03
16 becomes effective;

17 (4) merger or conversion under Article 10 or under
18 Article 8 of Chapter 1, 90 days after the statement of merger
19 or conversion becomes effective; or

20 (5) reinstatement, 90 days after a certificate of
21 reinstatement under Section 10A-9A-8.11 becomes effective.

22 (e) A general partner's knowledge, notice, or
23 receipt of a notification of a fact relating to the limited
24 partnership is effective immediately as knowledge of, notice
25 to, or receipt of a notification by the limited partnership,

1 except in the case of a fraud on the limited partnership
2 committed by or with the consent of the general partner. A
3 limited partner's knowledge, notice, or receipt of a
4 notification of a fact relating to the limited partnership is
5 not effective as knowledge of, notice to, or receipt of a
6 notification by the limited partnership solely by reason of
7 the partner's capacity as a limited partner.

8 § 10A-9A-1.04. Nature and purpose.

9 (a) A limited partnership is a separate legal
10 entity. A limited partnership's status for tax purposes shall
11 not affect its status as a separate legal entity formed under
12 this chapter. A limited partnership is the same entity
13 regardless of whether its certificate of formation states that
14 the limited partnership is a limited liability limited
15 partnership. A partner has no interest in any specific
16 property of a limited partnership.

17 (b) A limited partnership may carry on any lawful
18 activity, whether or not for profit, except a banking or
19 insurance business.

20 § 10A-9A-1.05. Powers; Indemnification.

21 (a) A limited partnership shall possess and may
22 exercise all the powers and privileges granted and enumerated
23 by Chapter 1 or by any other law or by its partnership
24 agreement, together with any powers incidental thereto,
25 including those powers and privileges necessary or convenient

1 to the conduct, promotion, or attainment of the business,
 2 purposes, or activities and affairs of the limited partnership
 3 and including the power to sue, be sued, and defend in its own
 4 name and to maintain an action against a partner for harm
 5 caused to the limited partnership by a breach of the
 6 partnership agreement or violation of a duty to the
 7 partnership.

8 (b) A limited partnership may indemnify and hold
 9 harmless a partner or other person, pay in advance or
 10 reimburse expenses incurred by a partner or other person, and
 11 purchase and maintain insurance on behalf of a partner or
 12 other person.

13 § 10A-9A-1.06. Governing law.

14 (a) The law of this state governs:

15 (1) the organization and internal affairs of a
 16 limited partnership;

17 (2) the liability of a partner as a partner for the
 18 debts, obligations, or other liabilities of a limited
 19 partnership; and

20 (3) the authority of the partners of a limited
 21 partnership.

22 (b) The law of the state or other jurisdiction under
 23 which a foreign limited partnership is formed governs:

24 (1) the organization and internal affairs of a
 25 foreign limited partnership;

1 (2) the liability of a partner as a partner for the
2 debts, obligations, or other liabilities of a foreign limited
3 partnership; and

4 (3) the authority of the partners of a foreign
5 limited partnership.

6 § 10A-9A-1.07. Supplemental principles of law; rate
7 of interest.

8 (a) It is the policy of this chapter and this state
9 to give maximum effect to the principles of freedom of
10 contract and to the enforceability of partnership agreements.

11 (b) Unless displaced by particular provisions of
12 this chapter, the principles of law and equity supplement this
13 chapter.

14 (c) If an obligation to pay interest arises under
15 this chapter and the rate is not specified, the rate is the
16 applicable federal rate as determined from time to time by the
17 United States Treasury pursuant to 26 U.S.C. § 1274(d) or any
18 successor law.

19 (d) The rule that statutes in derogation of the
20 common law are to be strictly construed shall have no
21 application to this chapter.

22 (e) The use of any gender shall be applicable to all
23 genders. The captions contained in this chapter are for
24 purposes of convenience only and shall not control or affect
25 the construction of this chapter.

1 (f) Sections 7-9A-406 and 7-9A-408 of the Uniform
2 Commercial Code, and all successor statutes thereto, do not
3 apply to any interest in a limited partnership, including all
4 rights, powers, and interests arising under a partnership
5 agreement or this chapter. This provision prevails over
6 Sections 7-9A-406 and 7-9A-408 of the Uniform Commercial Code,
7 and all successor statutes thereto, and is expressly intended
8 to permit the enforcement of the provisions of a partnership
9 agreement that would otherwise be ineffective under Sections
10 7-9A-406 and 7-9A-408 of the Uniform Commercial Code, and all
11 successor statutes thereto.

12 (g) Division E of Article 3 of Chapter 1 shall have
13 no application to this chapter.

14 (h) Sections 10A-1-1.03(73), (81), (88), and (91)
15 shall have no application to this chapter.

16 (i) Section 10A-1-2.13(c) shall have no application
17 to this chapter.

18 § 10A-9A-1.08. Effect of partnership agreement;
19 nonwaivable provisions.

20 (a) Except as otherwise provided in Subsections (b)
21 and (c):

22 (1) the partnership agreement governs relations
23 among the partners as partners and between the partners and
24 the partnership; and

1 (2) to the extent the partnership agreement does not
2 otherwise provide for a matter described in Subsection (a)(1),
3 this chapter governs the matter.

4 (b)(1) To the extent that, at law or in equity, a
5 partner or other person has duties, including fiduciary
6 duties, to a limited partnership or to another partner or to
7 another person that is a party to or is otherwise bound by a
8 partnership agreement, the partner's or other person's duties
9 may be expanded or restricted or eliminated by provisions in a
10 written partnership agreement, but the implied contractual
11 covenant of good faith and fair dealing may not be eliminated.

12 (2) A written partnership agreement may provide for
13 the limitation or elimination of any and all liabilities for
14 breach of contract and breach of duties, including fiduciary
15 duties, of a partner or other person to a limited partnership
16 or to another partner or to another person that is a party to
17 or is otherwise bound by a partnership agreement, but a
18 partnership agreement may not limit or eliminate liability for
19 any act or omission that constitutes a bad faith violation of
20 the implied contractual covenant of good faith and fair
21 dealing.

22 (3) A partner or other person shall not be liable to
23 a limited partnership or to another partner or to another
24 person that is a party to or is otherwise bound by a
25 partnership agreement for breach of fiduciary duty for the

1 partner's or other person's good faith reliance on the
2 partnership agreement.

3 (4) A partnership agreement may provide that:

4 (A) a partner or transferee who fails to perform in
5 accordance with, or to comply with the terms and conditions
6 of, the partnership agreement shall be subject to specified
7 penalties or specified consequences; and

8 (B) at the time or upon the happening of events
9 specified in the partnership agreement, a partner or
10 transferee may be subject to specified penalties or specified
11 consequences.

12 (5) A penalty or consequence that may be specified
13 under paragraph (4) of this subsection may include and take
14 the form of reducing or eliminating the defaulting partner's
15 or transferee's proportionate interest in a limited
16 partnership, subordinating the partner's or transferee's
17 transferable interest to that of non-defaulting partners or
18 transferees, forcing a sale of that transferable interest,
19 forfeiting the defaulting partner's or transferee's
20 transferable interest, the lending by other partners or
21 transferees of the amount necessary to meet the defaulting
22 partner's or transferee's commitment, a fixing of the value of
23 the defaulting partner's or transferee's transferable interest
24 by appraisal or by formula and redemption or sale of the

1 transferable interest at that value, or other penalty or
2 consequence.

3 (6) A written partnership agreement may supersede,
4 in whole or in part, the provisions of Division C and Division
5 D of Article 3 of Chapter 1.

6 (c) A partnership agreement may not:

7 (1) vary the nature of the limited partnership as a
8 separate legal entity under Section 10A-9A-1.04(a);

9 (2) vary a limited partnership's power under Section
10 10A-9A-1.05 to sue, be sued, and defend in its own name;

11 (3) vary the law applicable to a limited partnership
12 under Section 10A-9A-1.06;

13 (4) restrict rights under this chapter of a person
14 other than a partner, a dissociated partner, or a transferee;

15 (5) vary the requirements of Section 10A-9A-2.03;

16 (6) vary the information required under Section
17 10A-9A-1.11 or unreasonably restrict the right to information
18 under Sections 10A-9A-3.04 or 10A-9A-4.07, but the partnership
19 agreement may impose reasonable restrictions on the
20 availability and use of information obtained under those
21 sections and may define appropriate remedies, including
22 liquidated damages, for a breach of any reasonable restriction
23 on use;

24 (7) vary the power of the court under Section
25 10A-9A-2.04;

1 (8) eliminate the implied contractual covenant of
2 good faith and fair dealing as provided under Section
3 10A-9A-1.08(b)(1);

4 (9) eliminate or limit the liability of a partner or
5 other person for any act or omission that constitutes a bad
6 faith violation of the implied contractual covenant of good
7 faith and fair dealing as provided under Section
8 10A-9A-1.08(b)(2);

9 (10) waive the requirements of Section
10 10A-9A-5.02(e);

11 (11) reduce the limitations period specified under
12 Section 10A-9A-5.08(d) for an action commenced under other
13 applicable law;

14 (12) waive the prohibition on issuance of a
15 certificate of a transferable interest in bearer form under
16 Section 10A-9A-7.02(c);

17 (13) vary the power of a person to dissociate as a
18 general partner under Section 10A-9A-6.04(a) except that the
19 partnership agreement may require that the notice under
20 Section 10A-9A-6.03(1) be in a writing or in a specific form
21 thereof;

22 (14) vary the power of a court to decree dissolution
23 in the circumstances specified in Section 10A-9A-8.01(f);

1 (15) vary the requirement to wind up the
2 partnership's activities and affairs as specified in Section
3 10A-9A-8.02; or

4 (16) vary the rights of a partner under Section
5 10A-9A-10.10.

6 § 10A-9A-1.09. Partnership agreement; effect on
7 limited partnership and persons admitted as partners.

8 (a) A limited partnership is bound by and may
9 enforce the partnership agreement, whether or not the limited
10 partnership has itself manifested assent to the partnership
11 agreement.

12 (b) A person that is admitted as a partner of a
13 limited partnership becomes a party to and assents to the
14 partnership agreement except as provided in Section
15 10A-9A-7.02 (g) .

16 (c) Two or more persons intending to be the initial
17 general partner and the initial limited partner of a limited
18 partnership may make an agreement providing that upon the
19 formation of the limited partnership, the agreement will
20 become the partnership agreement.

21 § 10A-9A-1.10. Partnership agreement; effect on
22 third parties and relationship to writings effective on behalf
23 of limited partnership.

24 (a) If a partnership agreement provides for the
25 manner in which it may be amended, including by requiring the

1 approval of a person who is not a party to the partnership
2 agreement or the satisfaction of conditions, it may be amended
3 only in that manner or as otherwise permitted by law, except
4 that the approval of any person may be waived by that person
5 and any conditions may be waived by all persons for whose
6 benefit those conditions were intended.

7 (b) A partnership agreement may provide rights to
8 any person, including a person who is not a party to the
9 partnership agreement, to the extent set forth in the
10 partnership agreement.

11 (c) The obligations of a limited partnership and its
12 partners to a person in the person's capacity as a transferee
13 or dissociated partner are governed by the partnership
14 agreement. A transferee and a dissociated partner are bound by
15 the partnership agreement.

16 (d) If a writing that has been delivered by a
17 limited partnership for filing in accordance with Chapter 1
18 and has become effective conflicts with a provision of the
19 partnership agreement:

20 (1) The partnership agreement prevails as to
21 partners, dissociated partners, and transferees; and

22 (2) The writing prevails as to other persons to the
23 extent they reasonably rely on the writing.

24 § 10A-9A-1.11. Required information. A limited
25 partnership shall maintain the following information:

1 (1) A current list of the full name and last known
2 business or residential street and mailing address of each
3 partner, separately identifying the general partners, in
4 alphabetical order, and the limited partners, in alphabetical
5 order.

6 (2) Copies of the filed certificate of formation and
7 all amendments thereto, together with signed copies of any
8 powers of attorney under which any certificate of formation,
9 amendment, or restatement has been signed.

10 (3) Copies of any filed statement of conversion or
11 merger.

12 (4) Copies of the limited partnership's federal,
13 state, and local income tax returns and reports, if any, for
14 the three most recent years.

15 (5) Copies of the then effective partnership
16 agreement and any amendment thereto.

17 (6) Copies of any financial statement of the limited
18 partnership for the three most recent years.

19 (7) Copies of any writing made by the limited
20 partnership during the past three years of any approval or
21 consent given by or taken of any partner pursuant to this
22 chapter or the partnership agreement.

23 (8) Unless contained in a partnership agreement made
24 in a writing, a writing stating:

1 (A) the amount of cash, and a description and
2 statement of the agreed value of the other benefits,
3 contributed and agreed to be contributed by each partner;

4 (B) the times at which, or events on the happening
5 of which, any additional contributions agreed to be made by
6 each partner are to be made;

7 (C) for any person that is both a general partner
8 and a limited partner, a specification of what transferable
9 interest the person owns in each capacity; and

10 (D) any events upon the happening of which the
11 limited partnership is to be dissolved and its activities and
12 affairs wound up.

13 § 10A-9A-1.12. Transactions of partner with
14 partnership. A partner may lend money to and transact other
15 activities or affairs with the limited partnership and has the
16 same rights and obligations with respect to the loan or other
17 transaction as a person that is not a partner.

18 § 10A-9A-1.13. Dual capacity. A person may be both a
19 general partner and a limited partner. A person that is both a
20 general and limited partner has the rights, powers, duties,
21 and obligations provided by this chapter and the partnership
22 agreement in each of those capacities. When the person acts as
23 a general partner, the person is subject to the obligations,
24 duties and restrictions under this chapter and the partnership
25 agreement for general partners. When the person acts as a

1 limited partner, the person is subject to the obligations,
2 duties, and restrictions under this chapter and the
3 partnership agreement for limited partners.

4 § 10A-9A-1.14. Consent and proxies of partners.
5 Action requiring the consent of partners under this chapter
6 may be taken without a meeting, and a partner may appoint a
7 proxy to consent or otherwise act for the partner by signing a
8 writing of appointment, either personally or by the partner's
9 attorney in fact.

10 Article 2. Formation; Certificate of Formation and
11 other Filings.

12 § 10A-9A-2.01. Formation of limited partnership;
13 certificate of formation.

14 (a) In order to form a limited partnership, a person
15 must deliver a certificate of formation for filing to the
16 filing officer as provided in subsection (e). Notwithstanding
17 Section 10A-1-3.05, the certificate of formation shall set
18 forth:

19 (1) the name of the limited partnership, which must
20 comply with Article 5 of Chapter 1;

21 (2) the address of the registered office required by
22 Article 5 of Chapter 1;

23 (3) the name of the registered agent at the
24 registered office as required by Article 5 of Chapter 1;

1 (4) the name and the street and mailing address of
2 each general partner;

3 (5) whether the limited partnership is a limited
4 liability limited partnership;

5 (6) any additional information required by Article 8
6 of Chapter 1 or by Article 10 of this Chapter; and

7 (7) any other matters the partners determine to
8 include therein which comply with Section 10A-9A-1.08.

9 (b) A limited partnership is formed when the
10 certificate of formation becomes effective in accordance with
11 Article 4 of Chapter 1.

12 (c) The fact that a certificate of formation has
13 been filed and is effective in accordance with Article 4 of
14 Chapter 1 is notice of the matters required to be included by
15 Subsections (a) (1), (a) (2), (a) (3), (a) (4), if applicable,
16 (a) (5), and (a) (6), but is not notice of any other fact.

17 (d) A partnership agreement shall be entered into
18 either before, after, or at the time of filing the certificate
19 of formation and, whether entered into before, after, or at
20 the time of filing, may be made effective as of the filing of
21 the certificate of formation or at any other time or date
22 provided in the partnership agreement.

23 (e) A certificate of formation shall be delivered
24 for filing to the judge of probate of the county in which the
25 initial registered office of the limited partnership is

1 located pursuant to Article 4 of Chapter 1 unless the
2 certificate of formation is required to be delivered for
3 filing to a different filing officer under Article 8 of
4 Chapter 1 or Article 10 of this Chapter.

5 § 10A-9A-2.02. Amendment or restatement of
6 certificate of formation.

7 Notwithstanding Division B of Article 3 of Chapter
8 1:

9 (a) A certificate of formation may be amended at any
10 time.

11 (b) A certificate of formation may be restated with
12 or without amendment at any time.

13 (c) To amend its certificate of formation, a limited
14 partnership must deliver a certificate of amendment for filing
15 to the filing officer provided for in subsection (j) which
16 certificate of amendment shall state:

17 (1) the name of the limited partnership;

18 (2) the date of filing of its certificate of
19 formation, and of all prior amendments and the office or
20 offices where filed; and

21 (3) the changes the amendment makes to the
22 certificate of formation as most recently amended or restated.

23 (d) Prior to a statement of dissolution being
24 delivered to the filing officer for filing, a limited
25 partnership shall promptly deliver a certificate of amendment

1 for filing with the filing officer provided for in subsection
2 (j) to reflect:

- 3 (1) the admission of a new general partner; or
- 4 (2) the dissociation of a person as a general
5 partner.

6 (e) Prior to a statement of dissolution being
7 delivered to the filing officer for filing, if a general
8 partner knows that any information in a filed certificate of
9 formation was inaccurate when the certificate of formation was
10 filed or has become inaccurate due to changed circumstances
11 and if such information is required to be set forth in a newly
12 filed certificate of formation under this Chapter, the general
13 partner shall promptly:

- 14 (1) cause the certificate of formation to be
15 amended; or
- 16 (2) if appropriate, deliver for filing with the
17 filing officer provided for in subsection (j) a statement of
18 change in accordance with Division D of Article 4 of Chapter 1
19 or a statement of correction in accordance with Division C of
20 Article 5 of Chapter 1.

21 (f) A certificate of formation may be amended at any
22 time pursuant to this section for any other proper purpose as
23 determined by the limited partnership. A certificate of
24 formation may also be amended in a statement of merger

1 pursuant to Article 8 of Chapter 1 or Article 10 of this
2 Chapter.

3 (g) In order to restate its certificate of
4 formation, a limited partnership must deliver a restated
5 certificate of formation for filing with the filing officer
6 provided for in subsection (j). A restated certificate of
7 formation must:

8 (1) be designated as such in the heading;

9 (2) state the name of the limited partnership;

10 (3) state the date of filing of its certificate of
11 formation, and of all prior amendments and the filing office
12 or offices where filed; and

13 (4) set forth any amendment or change effected in
14 connection with the restatement of the certificate of
15 formation. Any such restatement that effects an amendment
16 shall be subject to any other provision of this chapter not
17 inconsistent with this section, which would apply if a
18 separate certificate of amendment were filed to effect the
19 amendment or change.

20 (h) The original certificate of formation, as
21 theretofore amended, shall be superseded by the restated
22 certificate of formation and thenceforth, the restated
23 certificate of formation, including any further amendment or
24 changes made thereby, shall be the certificate of formation of

1 the limited partnership, but the original effective date of
2 formation shall remain unchanged.

3 (i) An amended or restated certificate of formation
4 may contain only the provisions that would be permitted at the
5 time of the amendment if the amended or restated certificate
6 of formation were a newly filed original certificate of
7 formation.

8 (j) If a limited partnership is not an organization
9 described in Section 10A-1-4.02(c) (4), then that limited
10 partnership shall deliver the certificate of amendment or
11 restated certificate of formation for filing with the judge of
12 probate in whose office the original certificate of formation
13 is filed. If a limited partnership is an organization
14 described in Section 10A-1-4.02(c) (4), then that limited
15 partnership shall deliver the certificate of amendment or
16 restated certificate of formation for filing with the
17 Secretary of State.

18 (k) The filing of a certificate of amendment to the
19 certificate of formation shall have the effect, and shall take
20 effect, as provided in Section 10A-1-3.14.

21 (l) The filing of a restated certificate of
22 formation shall have the effect, and shall take effect, as
23 provided in Section 10A-1-3.18.

24 § 10A-9A-2.03. Execution of documents.

1 (a) A writing delivered to a filing officer for
2 filing pursuant to this chapter must be signed as provided by
3 this section.

4 (1) A limited partnership's initial certificate of
5 formation must be signed by all general partners listed in the
6 certificate of formation.

7 (2) An amendment adding or deleting a statement that
8 the limited partnership is a limited liability limited
9 partnership must be signed by all general partners listed in
10 the certificate of formation.

11 (3) An amendment designating as general partner a
12 person admitted under Section 10A-9A-8.01(c) following the
13 dissociation of a limited partnership's last general partner
14 must be signed by the person or persons so designated.

15 (4) Any other amendment must be signed by:

16 (A) at least one general partner; and

17 (B) each other person designated in the amendment as
18 a new general partner.

19 (5) A restated certificate of formation must be
20 signed by at least one general partner and, to the extent the
21 restated certificate of formation effects a change under any
22 other paragraph of this subsection, the restated certificate
23 of formation must be signed in a manner that satisfies that
24 paragraph.

1 (6) a statement of dissolution must be signed by all
2 general partners or by the person or persons appointed
3 pursuant to Section 10A-9A-8.03(b) or (c) to wind up the
4 dissolved limited partnership's activities and affairs.

5 (7) A statement of conversion must be signed by each
6 general partner of the limited partnership.

7 (8) A statement of merger must be signed by each
8 general partner of the limited partnership.

9 (9) Any other writing delivered on behalf of a
10 limited partnership for filing must be signed by at least one
11 general partner.

12 (10) A statement of withdrawal by a person pursuant
13 to Section 10A-9A-3.06 must be signed by that person.

14 (11) A writing delivered on behalf of a foreign
15 limited partnership to the Secretary of State for filing must
16 be signed by at least one general partner of the foreign
17 limited partnership.

18 (12) Any other writing delivered on behalf of any
19 person for filing must be signed by that person.

20 (b) Any writing to be filed under this chapter may
21 be signed by an agent, including an attorney-in-fact. Powers
22 of attorney relating to the signing of the writing need not be
23 delivered to the filing officer.

24 (c) Any writing which is required in this chapter to
25 be signed by a person need not be signed by any person:

1 (1) who is deceased or dissolved or for whom a
2 guardian or general conservator has been appointed, if the
3 record so states; or

4 (2) who has previously delivered for filing with the
5 filing officer pursuant to Article 4 of Chapter 1 a statement
6 of dissociation or withdrawal.

7 § 10A-9A-2.04. Signing and filing pursuant to
8 judicial order.

9 (a) If a person required by this chapter to sign a
10 writing or deliver a writing to a filing officer for filing
11 under this chapter does not do so, any other person that is
12 aggrieved by that failure may petition the circuit court in
13 the county in which the limited partnership's principal place
14 of business within this state is located, and if the limited
15 partnership does not have a principal place of business within
16 this state then the circuit court for the county in which the
17 limited partnership's most recent registered office is
18 located, to order:

19 (1) the person to sign the writing;

20 (2) the person to deliver the writing to the filing
21 officer for filing; or

22 (3) the filing officer to file the writing unsigned.

23 (b) If a petitioner under subsection (a) is not the
24 limited partnership or foreign limited partnership to whom the
25 writing pertains, the petitioner shall make the limited

1 partnership or foreign limited partnership a party to the
2 action. A person aggrieved under subsection (a) may seek the
3 remedies provided in subsection (a) in a separate action
4 against the person required to sign or deliver the writing or
5 as a part of any other action concerning the limited
6 partnership or foreign limited partnership in which the person
7 required to sign or deliver the writing is made a party.

8 (c) A writing filed unsigned pursuant to this
9 section is effective without being signed.

10 (d) A court may award reasonable expenses, including
11 reasonable attorneys' fees, to the party or parties who
12 prevail, in whole or in part, with respect to any claim made
13 under subsection (a).

14 § 10A-9A-2.05. Liability for false information in a
15 filed writing.

16 If a writing delivered for filing under this chapter
17 and filed under this chapter contains information which is
18 false in any material respect and if such information is
19 required to be set forth on a newly filed certificate of
20 formation under this chapter, a person that suffers loss by
21 reasonable reliance on the information may recover damages for
22 the loss from:

23 (1) a person that signed the writing, or caused
24 another to sign it on the person's behalf, and knew the

1 information to be false at the time the writing was signed;
2 and

3 (2) a general partner that has notice that the
4 information was false when the writing was filed or has become
5 false because of changed circumstances, if the general partner
6 has notice for a reasonably sufficient time before the
7 information is relied upon to enable the general partner to
8 effect an amendment under Section 10A-9A-2.02, file a petition
9 pursuant to Division B of Article 5 of Chapter 1, or deliver
10 for filing a statement of change or a statement of correction
11 pursuant to Division C of Article 5 of Chapter 1.

12 § 10A-9A-2.06. Certificate of existence or
13 authorization.

14 (a) The Secretary of State, upon request and payment
15 of the requisite fee, shall furnish to any person a
16 certificate of existence for a limited partnership if the
17 writings filed in the office of the Secretary of State show
18 that the limited partnership has been formed under the laws of
19 this state. A certificate of existence shall reflect only the
20 information on file with the Secretary of State. To the extent
21 writings have been delivered to the Secretary of State, the
22 certificate of existence must state:

23 (1) the limited partnership's name;

1 (2) that the limited partnership was formed under
2 the laws of this state, the date of formation, and the filing
3 office in which the certificate of formation was filed;

4 (3) whether a statement of dissolution of the
5 limited partnership has been delivered to the Secretary of
6 State for filing;

7 (4) whether the limited partnership has delivered to
8 the Secretary of State for filing a certificate of
9 reinstatement; and

10 (5) other facts of record in the office of the
11 Secretary of State which may be requested by the applicant.

12 (b) The Secretary of State, upon request and payment
13 of the requisite fee, shall furnish to any person a
14 certificate of authorization for a foreign limited partnership
15 if the writings filed in the Office of the Secretary of State
16 show that the Secretary of State has filed a certificate of
17 authority, has not revoked the certificate of authority, and
18 has not filed a notice of cancellation. A certificate of
19 authorization must state:

20 (1) the foreign limited partnership's name and any
21 alternate name for use in this state under Article 5 of
22 Chapter 1;

23 (2) that the foreign limited partnership is
24 authorized to conduct activities and affairs in this state;

1 (3) that the Secretary of State has not revoked the
2 foreign limited partnership's certificate of authority;

3 (4) that the foreign limited partnership has not
4 filed with the Secretary of State a certificate of withdrawal,
5 a notice of cancellation, or otherwise terminated its
6 certificate of authority; and

7 (5) other facts of record in the office of the
8 Secretary of State which may be requested by the applicant.

9 (c) Subject to any qualification stated in the
10 certificate, a certificate of existence or authorization
11 issued by the Secretary of State may be relied upon as
12 conclusive evidence that the limited partnership or foreign
13 limited partnership is in existence or is authorized to
14 transact activities and affairs in this state.

15 (d) The Secretary of State shall not be required to
16 issue a certificate of existence for a limited partnership if
17 its certificate of formation was filed prior to January 1,
18 2011; provided, however, that the Secretary of State shall
19 issue a certificate of existence upon the filing by the
20 limited partnership of a certificate of information with the
21 Secretary of State which must:

22 (1) state all information required in Section
23 10A-9A-2.01(a) (1), (a) (2), (a) (3), (a) (4), (a) (5) and (a) (6);
24 and

1 (2) list and attach certified copies of all writings
2 filed as to the limited partnership.

3 Article 3. Limited Partners.

4 § 10A-9A-3.01. Admission of limited partner.

5 (a) The initial limited partner or limited partners
6 of a limited partnership are admitted as a limited partner or
7 limited partners upon the formation of the limited
8 partnership.

9 (b) After formation, a person is admitted as a
10 limited partner of the limited partnership:

11 (1) as provided in the partnership agreement;

12 (2) as the result of a transaction effective under
13 Article 10 of this chapter or Article 8 of Chapter 1;

14 (3) with the consent of all the partners; or

15 (4) as provided in Section 10A-9A-8.01(d) or (e).

16 (c) A person may be admitted as a limited partner
17 without:

18 (1) acquiring a transferable interest; or

19 (2) making or being obligated to make a contribution
20 to the limited partnership.

21 § 10A-9A-3.02. No right or power as limited partner
22 to bind limited partnership.

23 A limited partner does not have the right or the
24 power as a limited partner to act for or bind the limited
25 partnership.

1 § 10A-9A-3.03. No Liability as Limited Partner for
2 Limited Partnership Obligation.

3 A debt, obligation, or other liability of a limited
4 partnership, whether arising in contract, tort, or otherwise,
5 is not the debt, obligation, or other liability of a limited
6 partner. A limited partner is not personally liable, directly
7 or indirectly, by way of contribution or otherwise, for a
8 debt, obligation, or other liability of the limited
9 partnership solely by reason of being a limited partner, even
10 if the limited partner participates in the management and
11 control of the limited partnership.

12 § 10A-9A-3.04. Right of limited partner and former
13 limited partner to information.

14 Notwithstanding the provisions of Sections
15 10A-1-3.32 and 10A-1-3.33:

16 (a) Subject to subsection (g), on 10 days' demand,
17 made in a writing received by the limited partnership, a
18 limited partner may inspect and copy required information
19 during regular business hours and at a reasonable location
20 specified by the limited partnership. The limited partner need
21 not have any particular purpose for seeking the information.

22 (b) Subject to subsection (g), during regular
23 business hours and at a reasonable location specified by the
24 limited partnership, a limited partner may obtain from the
25 limited partnership and inspect and copy true and full

1 information regarding the state of the activities and affairs
2 and financial condition of the limited partnership and other
3 information regarding the activities and affairs of the
4 limited partnership as is just and reasonable if:

5 (1) the limited partner seeks the information for a
6 purpose reasonably related to the partner's interest as a
7 limited partner;

8 (2) the limited partner makes a demand in a writing
9 received by the limited partnership, describing with
10 reasonable particularity the information sought and the
11 purpose for seeking the information; and

12 (3) the information sought is directly connected to
13 the limited partner's purpose.

14 (c) Within 10 days after receiving a demand pursuant
15 to subsection (b), the limited partnership in a writing shall
16 inform the limited partner that made the demand:

17 (1) what information the limited partnership will
18 provide in response to the demand;

19 (2) when and where the limited partnership will
20 provide the information;

21 (3) if the limited partnership declines to provide
22 any demanded information, the limited partnership's reasons
23 for declining; and

24 (4) what, if any, restrictions will be imposed
25 pursuant to the partnership agreement or subsection (g).

1 (d) Subject to subsections (f) and (g), a person
2 dissociated as a limited partner may inspect and copy required
3 information during regular business hours and at a reasonable
4 location specified by the limited partnership if:

5 (1) the required information pertains to the period
6 during which the person was a limited partner;

7 (2) the person seeks the required information in
8 good faith; and

9 (3) the person meets the requirements of subsection
10 (b).

11 (e) The limited partnership shall respond to a
12 demand made pursuant to subsection (d) in the same manner as
13 provided in subsection (c).

14 (f) If a limited partner dies, Section 10A-9A-7.04
15 applies.

16 (g) In addition to any restriction or condition
17 stated in its limited partnership agreement, a limited
18 partnership, as a matter within the ordinary course of its
19 activities and affairs, may:

20 (1) impose reasonable restrictions and conditions on
21 access to and use of information to be furnished under this
22 Section, including designating information confidential and
23 imposing nondisclosure and safeguarding obligations on the
24 recipient; and

1 (2) keep confidential from the partners and any
2 other person, for such period of time as the limited
3 partnership deems reasonable, any information that the limited
4 partnership reasonably believes to be in the nature of trade
5 secrets or other information that disclosure of which the
6 limited partnership in good faith believes is not in the best
7 interest of the limited partnership or could damage the
8 limited partnership or its activities and affairs, or that the
9 limited partnership is required by law or by agreement with a
10 third party to keep confidential.

11 In a dispute concerning the reasonableness of a
12 restriction under this subsection, the limited partnership has
13 the burden of proving reasonableness. Any general partner, or
14 any agent, officer or employee of a general partner or any
15 agent of a limited partnership, who, without reasonable cause,
16 refuses to allow any limited partner or the limited partner's
17 agent or attorney to inspect or copy any information of the
18 limited partnership to which such limited partner is entitled
19 under subsection (a) or (b) shall be personally liable to the
20 limited partner for a penalty in an amount not to exceed ten
21 percent of the fair market value of the limited partnership
22 interest of the limited partner in addition to any other
23 damages or remedy.

1 (h) A limited partnership may charge a person that
2 makes a demand under this section the reasonable costs of
3 copying, limited to the costs of labor and material.

4 (i) A limited partner or person dissociated as a
5 limited partner may exercise the rights under this section
6 through an attorney or other agent. Any restriction imposed
7 under subsection (g) or by the partnership agreement applies
8 both to the attorney or other agent and to the limited partner
9 or person dissociated as a limited partner.

10 (j) The rights stated in this section do not extend
11 to a person as transferee, but may be exercised by the legal
12 representative of an individual under legal disability who is
13 a limited partner or person dissociated as a limited partner.

14 § 10A-9A-3.05. Limited duties of limited partners.

15 (a) Except as otherwise provided in subsection (b),
16 a limited partner does not have any duty to the limited
17 partnership or to any other partner solely by reason of being
18 a limited partner.

19 (b) A limited partner shall discharge the duties to
20 the limited partnership and the other partners under the
21 partnership agreement and exercise any rights under this
22 chapter or the partnership agreement consistently with the
23 implied contractual covenant of good faith and fair dealing.

24 (c) A limited partner does not violate a duty or
25 obligation under this chapter or under the partnership

1 agreement merely because the limited partner's conduct
 2 furthers the limited partner's own interest.

3 § 10A-9A-3.06. Person erroneously believing self to
 4 be limited partner.

5 (a) Except as otherwise provided in subsection (b),
 6 a person that makes an investment in an organization and
 7 erroneously but in good faith believes that the person has
 8 become a limited partner in the organization is not liable for
 9 the organization's obligations by reason of making the
 10 investment, receiving distributions from the organization, or
 11 exercising any rights of or appropriate to a limited partner,
 12 if, on ascertaining the mistake, the person:

13 (1) causes an appropriate certificate of formation,
 14 amendment, or statement of correction to be signed and filed
 15 with the filing officer in accordance with Article 4 of
 16 Chapter 1; or

17 (2) withdraws from future participation as an owner
 18 in the organization by signing a statement of withdrawal and
 19 filing it with the Secretary of State.

20 (b) A person that makes an investment described in
 21 subsection (a) is liable to the same extent as a general
 22 partner to any third party that enters into a transaction with
 23 the organization, believing in good faith that the person is a
 24 general partner, before the statement of withdrawal,
 25 certificate of formation, amendment, or statement of

1 correction to show that the person is not a general partner is
2 filed with the filing officer in accordance with Article 4 of
3 Chapter 1.

4 (c) If a person makes a diligent effort in good
5 faith to comply with subsection (a) (1) and is unable to cause
6 the appropriate certificate of formation, amendment, or
7 statement of correction to be signed and filed with the filing
8 officer in accordance with Article 4 of Chapter 1, the person
9 has the right to withdraw from the organization pursuant to
10 subsection (a) (2) even if the withdrawal would otherwise
11 breach an agreement with others that are or have agreed to
12 become co-owners of the organization.

13 Article 4. General Partners.

14 § 10A-9A-4.01. Admission of general partner.

15 (a) Upon formation of a limited partnership, a
16 person is admitted as a general partner as agreed among the
17 persons that are to be the initial partners.

18 (b) After formation of a limited partnership, a
19 person is admitted as a general partner:

20 (1) as provided in the partnership agreement;

21 (2) as the result of a transaction effective under
22 Article 10 or Article 8 of Chapter 1;

23 (3) with the consent of all the partners; or

24 (4) as provided in Section 10A-9A-8.01(c) or (e).

1 (c) A person may be admitted as a general partner
2 without:

3 (1) acquiring a transferable interest; or

4 (2) making or being obligated to make a contribution
5 to the partnership.

6 § 10A-9A-4.02. General partner agent of limited
7 partnership.

8 (a) Each general partner is an agent of the limited
9 partnership for the purposes of its activities and affairs. An
10 act of a general partner, including the signing of a writing
11 in the partnership's name, for apparently carrying on in the
12 ordinary course the limited partnership's activities and
13 affairs or activities and affairs of the kind carried on by
14 the limited partnership binds the limited partnership, unless
15 the general partner did not have authority to act for the
16 limited partnership in the particular matter and the person
17 with which the general partner was dealing knew, had received
18 a notification, or had notice under Section 10A-9A-1.03(d)
19 that the general partner lacked authority.

20 (b) An act of a general partner which is not
21 apparently for carrying on in the ordinary course the limited
22 partnership's activities and affairs or activities and affairs
23 of the kind carried on by the limited partnership binds the
24 limited partnership only if the act was actually authorized by
25 all the other partners.

1 § 10A-9A-4.03. Limited partnership liable for
2 general partner's actionable conduct.

3 (a) A limited partnership is liable for loss or
4 injury caused to a person, or for a penalty incurred, as a
5 result of a wrongful act or omission, or other actionable
6 conduct, of a general partner acting in the ordinary course of
7 activities and affairs of the limited partnership or with
8 authority of the limited partnership.

9 (b) If, in the course of the limited partnership's
10 activities and affairs or while acting with authority of the
11 limited partnership, a general partner receives or causes the
12 limited partnership to receive money or property of a person
13 not a partner, and the money or property is misapplied by a
14 general partner, the limited partnership is liable for the
15 loss.

16 § 10A-9A-4.04. General partner's liability.

17 (a) Except as otherwise provided in subsections (b)
18 and (c), all general partners are liable jointly and severally
19 for all debts, obligations, and liabilities of the limited
20 partnership unless otherwise agreed by the claimant or
21 provided by law.

22 (b) A person that becomes a general partner of an
23 existing limited partnership is not personally liable for any
24 debt, obligation, or liability of a limited partnership
25 incurred before the person became a general partner.

1 (c) A debt, obligation, or liability of a limited
2 partnership incurred while the limited partnership is a
3 limited liability limited partnership, whether arising in
4 contract, tort, or otherwise, is solely the debt, obligation,
5 or liability of the limited partnership. A general partner of
6 a limited liability limited partnership is not personally
7 liable, directly or indirectly, by way of indemnification,
8 contribution, assessment or otherwise, for such a debt,
9 obligation, or liability solely by reason of being or acting,
10 or omitting to act, as a general partner. This subsection
11 applies despite anything inconsistent in the partnership
12 agreement that existed immediately before the consent required
13 to become a limited liability limited partnership under
14 Section 10A-9A-4.06(b) (2).

15 § 10A-9A-4.05. Actions by and against partnership
16 and partners.

17 (a) To the extent not inconsistent with Section
18 10A-9A-4.04, a general partner may be joined in an action
19 against the limited partnership or named in a separate action.

20 (b) A judgment against a limited partnership is not
21 by itself a judgment against a general partner. A judgment
22 against a limited partnership may not be satisfied from a
23 general partner's assets unless there is also a judgment
24 against the general partner.

1 (c) A judgment creditor of a general partner may not
2 levy execution against the assets of the general partner to
3 satisfy a judgment based on a claim against the limited
4 partnership, unless the partner is personally liable for the
5 claim under Section 10A-9A-4.04 and either:

6 (1) a judgment based on the same claim has been
7 obtained against the limited partnership and a writ of
8 execution on the judgment has been returned unsatisfied in
9 whole or in part;

10 (2) the limited partnership is a debtor in
11 bankruptcy;

12 (3) the general partner has agreed that the creditor
13 need not exhaust limited partnership assets;

14 (4) a court grants permission to the judgment
15 creditor to levy execution against the assets of a general
16 partner based on a finding that limited partnership assets
17 subject to execution are clearly insufficient to satisfy the
18 judgment, that exhaustion of limited partnership assets is
19 excessively burdensome, or that the grant of permission is an
20 appropriate exercise of the court's equitable powers; or

21 (5) liability is imposed on the general partner by
22 law or contract independent of the existence of the limited
23 partnership.

24 § 10A-9A-4.06. Management rights of general partner.

1 (a) Each general partner has equal rights in the
2 management and conduct of the limited partnership's activities
3 and affairs. Except as expressly provided in this chapter, any
4 matter relating to the activities and affairs of the limited
5 partnership is decided exclusively by the general partner or,
6 if there is more than one general partner, by a majority of
7 the general partners.

8 (b) The consent of all of the partners is necessary
9 to:

10 (1) amend the partnership agreement;

11 (2) amend the certificate of formation to add or
12 delete a statement that the limited partnership is a limited
13 liability limited partnership; and

14 (3) sell, lease, exchange, or otherwise dispose of
15 all, or substantially all, of the limited partnership's
16 property, with or without the good will, other than in the
17 usual and regular course of the limited partnership's
18 activities and affairs.

19 (c) A limited partnership shall reimburse a general
20 partner for payments made and indemnify a general partner for
21 liabilities incurred by the general partner in the ordinary
22 course of the activities and affairs of the limited
23 partnership or for the preservation of its activities and
24 affairs or its property.

1 (d) A limited partnership shall reimburse a general
2 partner for an advance to the limited partnership beyond the
3 amount of capital the general partner agreed to contribute.

4 (e) A payment or advance made by a general partner
5 which gives rise to an obligation of the limited partnership
6 under subsection (c) or (d) constitutes a loan to the limited
7 partnership which accrues interest from the date of the
8 payment or advance.

9 (f) A general partner is not entitled to
10 remuneration for services performed for the partnership.

11 (g) Notwithstanding the provisions of Article 6 of
12 Chapter 1, a limited partnership may indemnify and hold
13 harmless a partner or other person, pay in advance or
14 reimburse expenses incurred by a partner or other person, and
15 purchase and maintain insurance on behalf of a partner or
16 other person.

17 § 10A-9A-4.07. Right of general partner and former
18 general partner to information.

19 Notwithstanding Sections 10A-1-3.32 and 10A-1-3.33:

20 (a) Subject to subsection (f), a general partner,
21 without having any particular purpose for seeking the
22 information, may inspect and copy during regular business
23 hours at a reasonable location specified by the limited
24 partnership, required information and any other records

1 maintained by the limited partnership regarding the limited
2 partnership's activities and affairs and financial condition.

3 (b) Subject to subsection (f), each general partner
4 and the limited partnership shall furnish to a general
5 partner:

6 (1) without demand, any information concerning the
7 limited partnership's activities and affairs and activities
8 and affairs reasonably required for the proper exercise of the
9 general partner's rights and duties under the partnership
10 agreement or this chapter; and

11 (2) on demand, any other information concerning the
12 limited partnership's activities and affairs, except to the
13 extent the demand or the information demanded is unreasonable
14 or otherwise improper under the circumstances.

15 (c) Subject to subsections (e) and (f), on 10 days'
16 demand made in a writing received by the limited partnership,
17 a person dissociated as a general partner may have access to
18 the information and records described in subsection (a) at the
19 location specified in subsection (a) if:

20 (1) the information or writing pertains to the
21 period during which the person was a general partner;

22 (2) the person seeks the information or record in
23 good faith; and

24 (3) the person satisfies the requirements imposed on
25 a limited partner by Section 10A-9A-3.04(b).

1 (d) The limited partnership shall respond to a
2 demand made pursuant to subsection (c) in the same manner as
3 provided in Section 10A-9A-3.04(c).

4 (e) If a general partner dies, Section 10A-9A-7.04
5 applies.

6 (f) In addition to any restriction or condition
7 stated in its limited partnership agreement, a limited
8 partnership, as to a matter within the ordinary course of its
9 activities and affairs, may:

10 (1) impose reasonable restrictions and conditions on
11 access to and use of information to be furnished under this
12 Section, including designating information confidential and
13 imposing nondisclosure and safeguarding obligations on the
14 recipient; and

15 (2) keep confidential from the partners and any
16 other person, for such period of time as the limited
17 partnership deems reasonable, any information that the limited
18 partnership reasonably believes to be in the nature of trade
19 secrets or other information the disclosure of which the
20 limited partnership in good faith believes is not in the best
21 interest of the limited partnership or could damage the
22 limited partnership or its activities and affairs, or that the
23 limited partnership is required by law or by agreement with a
24 third party to keep confidential.

1 In any dispute concerning the reasonableness of a
2 restriction under this subsection, the limited partnership has
3 the burden of proving reasonableness.

4 (g) A limited partnership may charge a person that
5 makes a demand under this section reasonable costs of copying,
6 limited to the costs of labor and material.

7 (h) A general partner or person dissociated as a
8 general partner may exercise the rights under this section
9 through an attorney or other agent. Any restriction imposed
10 under subsection (f) or by the partnership agreement applies
11 both to the attorney or other agent and to the general partner
12 or person dissociated as a general partner.

13 (i) The rights under this section do not extend to a
14 person as transferee, but the rights under subsection (c) of a
15 person dissociated as a general partner may be exercised by
16 the legal representative of an individual who dissociated as a
17 general partner under Section 10A-9A-6.03(6).

18 (j) Any general partner who, without reasonable
19 cause, refuses to allow any general partner or person
20 dissociated as a general partner, or their agent or attorney
21 to inspect or copy any records of the limited partnership to
22 which such general partner or person disassociated as a
23 general partner is entitled under this section, shall be
24 personally liable to the general partner or person dissociated
25 as a general partner for a penalty in an amount not to exceed

1 10 percent of the fair market value of the partnership
2 interest of the general partner or person dissociated as a
3 general partner, in addition to any other damages or remedy.

4 § 10A-9A-4.08. General standards of general
5 partner's conduct.

6 (a) The duties that a general partner has to the
7 limited partnership and to the other partners include the duty
8 of loyalty and the duty of care as described in subsections
9 (b) and (c).

10 (b) A general partner's duty of loyalty to the
11 limited partnership and to the other partners includes each of
12 the following:

13 (1) to account to the limited partnership and to
14 hold as trustee for it any property, profit, or benefit
15 derived by the general partner in the conduct or winding up of
16 the limited partnership's activities and affairs or derived
17 from a use by the general partner of limited partnership
18 property, including the appropriation of a limited partnership
19 opportunity;

20 (2) to refrain from dealing with the limited
21 partnership in the conduct or winding up of the limited
22 partnership's activities and affairs as or on behalf of a
23 party having an interest adverse to the limited partnership;
24 and

1 (3) to refrain from competing with the limited
2 partnership in the conduct or winding up of the limited
3 partnership's activities and affairs.

4 (c) A general partner's duty of care to the limited
5 partnership and to the other partners in the conduct or
6 winding up of the limited partnership's activities and affairs
7 includes refraining from engaging in grossly negligent or
8 reckless conduct, intentional misconduct, or a knowing
9 violation of law.

10 (d) A general partner shall discharge the duties to
11 the limited partnership and to the other partners under this
12 chapter and under the partnership agreement and exercise any
13 rights consistently with the implied contractual covenant of
14 good faith and fair dealing.

15 (e) A general partner does not violate a duty or
16 obligation under this chapter or under the partnership
17 agreement merely because the general partner's conduct
18 furthers the general partner's own interest.

19 § 10A-9A-4.09 Reliance on reports and information.

20 A general partner of a limited partnership shall be
21 fully protected in relying in good faith upon the records of
22 the limited partnership and upon information, opinions,
23 reports, or statements presented by another general partner or
24 agent of the limited partnership, or by any other person as to
25 matters the general partner reasonably believes are within

1 that other person's professional or expert competence,
2 including information, opinions, reports, or statements as to
3 the value and amount of the assets, liabilities, profits, or
4 losses of the limited partnership, or the value and amount of
5 assets or reserves or contracts, agreements, or other
6 undertakings that would be sufficient to pay claims and
7 obligations of the limited partnership, or to make reasonable
8 provision to pay those claims and obligations, or any other
9 facts pertinent to the existence and amount of assets from
10 which distributions to partners or creditors might properly be
11 paid.

12 Article 5. Contributions and Distributions.

13 § 10A-9A-5.01. Form of contribution. A contribution
14 by a partner may be made to a limited partnership as agreed by
15 the partners.

16 § 10A-9A-5.02. Liability for contribution.

17 (a) A partner's obligation to make a contribution to
18 a limited partnership is not excused by the partner's death,
19 disability, or other inability to perform personally.

20 (b) If a partner does not make a contribution
21 required by an enforceable promise, the partner or the
22 partner's estate is obligated, at the election of the limited
23 partnership, to contribute money equal to the value of the
24 portion of the contribution that has not been made. The
25 foregoing election shall be in addition to, and not in lieu

1 of, any other rights, including the right to specific
2 performance, that the limited partnership may have under the
3 partnership agreement or applicable law.

4 (c) The obligation of a partner to make a
5 contribution to a limited partnership may be compromised only
6 by consent of all partners. A conditional obligation of a
7 partner to make a contribution to a limited partnership may
8 not be enforced unless the conditions of the obligation have
9 been satisfied or waived as to or by that partner. Conditional
10 obligations include contributions payable upon a discretionary
11 call of a limited partnership before the time the call occurs.

12 (d) A creditor of a limited partnership which
13 extends credit or otherwise acts in reliance on an obligation
14 described in subsection (a), without notice of any compromise
15 under this subsection, may enforce the original obligation.

16 (e) A promise by a partner to make a contribution to
17 a limited partnership is not enforceable unless set forth in a
18 writing signed by the partner.

19 § 10A-9A-5.03. Sharing of distributions before
20 dissolution.

21 All partners shall share equally in any
22 distributions made by a limited partnership before its
23 dissolution and winding up.

24 § 10A-9A-5.04. Interim distributions.

1 A partner has a right to a distribution before the
2 dissolution and winding up of a limited partnership as
3 provided in the partnership agreement. A decision to make a
4 distribution before the dissolution and winding up of the
5 limited partnership is a decision in the ordinary course of
6 the activities and affairs of the limited partnership.

7 § 10A-9A-5.05. No distribution on account of
8 dissociation.

9 A partner's dissociation does not entitle the
10 dissociated partner to a distribution.

11 § 10A-9A-5.06. Distribution in kind.

12 A partner does not have a right to demand and
13 receive a distribution from a limited partnership in any form
14 other than money. Except as otherwise provided in Section
15 10A-9A-8.09(c), a limited partnership may distribute an asset
16 in kind if each partner receives a percentage of the asset in
17 proportion to the partner's share of distributions.

18 § 10A-9A-5.07. Right to distribution.

19 If a partner becomes entitled to receive a
20 distribution, the partner has the status of, and is entitled
21 to all remedies available to, a creditor of the limited
22 partnership with respect to the distribution. However, the
23 limited partnership's obligation to make a distribution is
24 subject to offset for any amount owed to the limited

1 partnership by the partner or dissociated partner on whose
2 account the distribution is made.

3 § 10A-9A-5.08. Limitations on distribution and
4 liability for improper distributions.

5 (a) A limited partnership shall not make a
6 distribution to a partner to the extent that at the time of
7 the distribution, after giving effect to the distribution, all
8 liabilities of the limited partnership, other than liabilities
9 to partners on account of their transferable interests and
10 liabilities for which the recourse of creditors is limited to
11 specific property of the limited partnership, exceed the fair
12 value of the assets of the limited partnership, except that
13 the fair value of the property that is subject to a liability
14 for which recourse of creditors is limited shall be included
15 in the assets of the limited liability partnership only to the
16 extent that the fair value of the property exceeds that
17 liability.

18 (b) A general partner who consents to a distribution
19 in violation of subsection (a) or the partnership agreement,
20 and who knew at the time of the distribution that the
21 distribution violated subsection (a) or the partnership
22 agreement, shall be liable to the limited partnership for the
23 amount of that distribution.

24 (c) A limited partner who receives a distribution in
25 violation of subsection (a) or the partnership agreement, and

1 who knew at the time of the distribution that the distribution
2 violated subsection (a) or the partnership agreement, shall be
3 liable to the limited partnership for the amount of the
4 distribution received by that partner. A limited partner who
5 receives a distribution in violation of subsection (a) or the
6 partnership agreement, and who did not know at the time of the
7 distribution that the distribution violated subsection (a) or
8 the partnership agreement, shall not be liable for the amount
9 of the distribution received by that partner.

10 (d) Except as provided in subsection (e), this
11 section shall not affect any obligation or liability of a
12 partner under other applicable law for the amount of a
13 distribution.

14 (e) An action under this section or other applicable
15 law is barred if not commenced within two years after the
16 distribution.

17 (f) For purposes of subsection (a), "distribution"
18 does not include amounts constituting reasonable compensation
19 for present or past services or reasonable payments made in
20 the ordinary course of the limited partnership's activities
21 and affairs under a bona fide retirement plan or other
22 benefits program.

23 (g) This section shall not apply to distributions
24 made in accordance with Section 10A-9A-8.09.

25 Article 6. Dissociation.

1 § 10A-9A-6.01. Dissociation as limited partner.

2 (a) A person does not have a right to dissociate as
3 a limited partner before the dissolution and winding up of the
4 limited partnership.

5 (b) A person is dissociated from a limited
6 partnership as a limited partner upon the occurrence of any of
7 the following events:

8 (1) an event stated in the partnership agreement as
9 causing the person's dissociation as a limited partner;

10 (2) the person is expelled as a limited partner
11 pursuant to the partnership agreement;

12 (3) the person is expelled as a limited partner by
13 the unanimous consent of the other partners if:

14 (A) it is unlawful to carry on the limited
15 partnership's activities and affairs with the person as a
16 limited partner;

17 (B) there has been a transfer of all of the person's
18 transferable interest in the limited partnership, other than a
19 transfer for security purposes;

20 (C) the person is an organization and, within 90
21 days after the limited partnership notifies the person that it
22 will be expelled as a limited partner because it has filed a
23 statement of dissolution or the equivalent, or its right to
24 conduct activities and affairs has been suspended by its
25 jurisdiction of formation, the statement of dissolution or the

1 equivalent has not been revoked or its right to conduct
2 activities and affairs has not been reinstated; or

3 (D) the person is an organization and, within 90
4 days after the limited partnership notifies the person that it
5 will be expelled as a limited partner because the person has
6 been dissolved and its activities and affairs are being wound
7 up, the organization has not been reinstated or the
8 dissolution and winding up have not been revoked or cancelled;

9 (4) on application by the limited partnership, the
10 person is expelled as a limited partner by judicial order
11 because the person:

12 (A) has engaged, or is engaging, in wrongful conduct
13 that has adversely and materially affected, or will adversely
14 and materially affect, the limited partnership's activities
15 and affairs;

16 (B) has willfully or persistently committed, or is
17 willfully or persistently committing, a material breach of the
18 partnership agreement or the person's duty or obligation under
19 this chapter or other applicable law; or

20 (C) has engaged, or is engaging, in conduct relating
21 to the activities and affairs of the limited partnership that
22 makes it not reasonably practicable to carry on the activities
23 and affairs with the person as limited partner;

24 (5) in the case of a person who is an individual,
25 the person dies, there is appointed a guardian or general

1 conservator for the person or there is a judicial
2 determination that the person has otherwise become incapable
3 of performing the person's duties as a limited partner under
4 this chapter or the partnership agreement;

5 (6) the person becomes a debtor in bankruptcy,
6 executes an assignment for the benefit of creditors, or seeks,
7 consents, or acquiesces to the appointment of a trustee,
8 receiver, or liquidator of the person or of all or
9 substantially all of the person's property, but this
10 subsection (6) shall not apply to a person who is the sole
11 remaining limited partner of the limited partnership;

12 (7) in the case of a person that is a trust or is
13 acting as a limited partner by virtue of being a trustee of a
14 trust, the trust's entire transferable interest in the limited
15 partnership is distributed, but not solely by reason of the
16 substitution of a successor trustee;

17 (8) in the case of a person that is an estate or is
18 acting as a limited partner by virtue of being a personal
19 representative of an estate, the estate's entire transferable
20 interest in the limited partnership is distributed, but not
21 solely by reason of the substitution of a successor personal
22 representative;

23 (9) in the case of a person that is not an
24 individual, the legal existence of the person otherwise
25 terminates;

1 (10) the transfer of a limited partner's entire
2 remaining transferable interest to another partner;

3 (11) the transfer of a limited partner's entire
4 remaining transferable interest to a transferee upon the
5 transferee's becoming a partner; or

6 (12) the limited partnership's participation in a
7 conversion or merger under Article 10, or Article 8 of Chapter
8 1 of this title if the limited partnership:

9 (A) is not the converted or surviving entity; or

10 (B) is the converted or surviving entity but, as a
11 result of the conversion or merger, the person ceases to be a
12 limited partner.

13 § 10A-9A-6.02. Effect of dissociation as limited
14 partner.

15 (a) Upon a person's dissociation as a limited
16 partner:

17 (1) subject to Section 10A-9A-7.04, the person does
18 not have further rights as a limited partner;

19 (2) the person's implied contractual covenant of
20 good faith and fair dealing as a limited partner under Section
21 10A-9A-3.05(b) continues only as to matters arising and events
22 occurring before the dissociation; and

23 (3) subject to Section 10A-9A-7.04, and Article 10,
24 and Article 8 of Chapter 1 of this title, any transferable
25 interest owned by the person in the person's capacity as a

1 limited partner immediately before dissociation is owned by
2 the person immediately after dissociation as a mere
3 transferee.

4 (b) A person's dissociation as a limited partner
5 does not of itself discharge the person from any duty, debt,
6 obligation, or liability to the limited partnership or the
7 other partners that the person incurred while a limited
8 partner.

9 § 10A-9A-6.03. Dissociation as general partner.

10 A person is dissociated from a limited partnership
11 as a general partner when any of the following occurs:

12 (1) the limited partnership has notice of the
13 person's express will to dissociate as a general partner,
14 except that if the person specifies a dissociation date later
15 than the date the limited partnership had notice, then the
16 person is dissociated as a general partner on that later date;

17 (2) an event stated in the partnership agreement as
18 causing the person's dissociation as a general partner occurs;

19 (3) the person is expelled as a general partner
20 pursuant to the partnership agreement;

21 (4) the person is expelled as a general partner by
22 the unanimous consent of the other partners if:

23 (A) it is unlawful to carry on the limited
24 partnership's activities and affairs with the person as a
25 general partner;

1 (B) there has been a transfer of all of the person's
 2 transferable interest in the limited partnership, other than a
 3 transfer for security purposes;

4 (C) the person is an organization and, within 90
 5 days after the limited partnership notifies the person that it
 6 will be expelled as a general partner because it has filed a
 7 statement of dissolution or the equivalent, or its right to
 8 conduct activities and affairs has been suspended by its
 9 jurisdiction of formation, the statement of dissolution or the
 10 equivalent has not been revoked or its right to conduct
 11 activities and affairs has not been reinstated; or

12 (D) the person is a limited liability company or
 13 partnership that has been dissolved and whose activities and
 14 affairs are being wound up;

15 (5) on application by the limited partnership, or a
 16 partner in a direct action under Section 10A-9A-9.01, the
 17 person's expulsion as a general partner by judicial order
 18 because the person:

19 (A) has engaged, or is engaging, in wrongful conduct
 20 that adversely and materially affected, or will adversely and
 21 materially affect, the limited partnership's activities and
 22 affairs;

23 (B) has willfully or persistently committed, or is
 24 willfully or persistently committing, a material breach of the

1 partnership agreement or the person's duty or obligation under
2 this chapter or other applicable law; or

3 (C) has engaged, or is engaging, in conduct relating
4 to the limited partnership's activities and affairs which
5 makes it not reasonably practicable to carry on the activities
6 and affairs with the person as a general partner;

7 (6) in the case of a person who is an individual,
8 the person dies, there is appointed a guardian or general
9 conservator for the person or there is a judicial
10 determination that the person has otherwise become incapable
11 of performing the person's duties as a general partner under
12 this chapter or the partnership agreement;

13 (7) the person becomes a debtor in bankruptcy,
14 executes an assignment for the benefit of creditors, or seeks,
15 consents, or acquiesces to the appointment of a trustee,
16 receiver, or liquidator of the person or of all or
17 substantially all of the person's property;

18 (8) in the case of a person that is a trust or is
19 acting as a general partner by virtue of being a trustee of a
20 trust, the trust's entire transferable interest in the limited
21 partnership is distributed, but not merely by reason of the
22 substitution of a successor trustee;

23 (9) in the case of a person that is an estate or is
24 acting as a general partner by virtue of being a personal
25 representative of an estate, the estate's entire transferable

1 interest in the limited partnership is distributed, but not
2 merely by reason of the substitution of a successor personal
3 representative;

4 (10) in the case of a general partner that is not an
5 individual, the legal existence of the person otherwise
6 terminates;

7 (11) the transfer of a general partner's entire
8 remaining transferable interest to another partner;

9 (12) the transfer of a general partner's entire
10 remaining transferable interest to a transferee upon the
11 transferee's becoming a partner; or

12 (13) the limited partnership's participation in a
13 conversion or merger under Article 10 or Article 8 of Chapter
14 1 of this title, if the limited partnership:

15 (A) is not the converted or surviving entity; or

16 (B) is the converted or surviving entity but, as a
17 result of the conversion or merger, the person ceases to be a
18 general partner.

19 § 10A-9A-6.04. Person's power to dissociate as
20 general partner; wrongful dissociation.

21 (a) A person has the power to dissociate as a
22 general partner at any time, rightfully or wrongfully, by
23 express will pursuant to Section 10A-9A-6.03(1).

24 (b) A person's dissociation as a general partner is
25 wrongful only if:

1 (1) it is in breach of an express provision of the
2 limited partnership; or

3 (2) it occurs before the completion of the winding
4 up of the limited partnership, and:

5 (A) the person dissociates as a general partner by
6 express will;

7 (B) the person is expelled as a general partner by
8 judicial order under Section 10A-9A-6.03(5);

9 (C) the person is dissociated as a general partner
10 by becoming a debtor in bankruptcy; or

11 (D) in the case of a person that is not an
12 individual, trust other than a business trust, or estate, the
13 person is expelled or otherwise dissociated as a general
14 partner because it willfully dissolved or terminated.

15 (c) A person that wrongfully dissociates as a
16 general partner is liable to the limited partnership and,
17 subject to Section 10A-9A-9.01, to the other partners for
18 damages caused by the dissociation. The liability is in
19 addition to any other obligation of the general partner to the
20 limited partnership or to the other partners.

21 § 10A-9A-6.05. Effect of dissociation as general
22 partner.

23 (a) Upon a person's dissociation as a general
24 partner:

1 (1) the person's right to participate as a general
2 partner in the management and conduct of the partnership's
3 activities and affairs terminates;

4 (2) the person's duty to refrain from competing with
5 the limited partnership in the conduct or winding up of the
6 limited partnership's activities and affairs terminates;

7 (3) the person's following duties continue only with
8 regard to matters arising and events occurring before the
9 person's dissociation as a general partner:

10 (A) the duty to account to the limited partnership
11 and hold as trustee for it any property, profit, or benefit
12 derived by the general partner in the conduct and winding up
13 of the limited partnership's activities and affairs or derived
14 from a use by the general partner of limited partnership
15 property, including the appropriation of a limited partnership
16 opportunity;

17 (B) the duty to refrain from dealing with the
18 limited partnership in the conduct or winding up of the
19 limited partnership's activities and affairs as or on behalf
20 of a party having an interest adverse to the limited
21 partnership; and

22 (C) the duty of care under Section 10A-9A-4.08;

23 (4) the person may sign and deliver for filing in
24 accordance with Article 4 of Chapter 1, a statement of
25 dissociation pertaining to the person and, at the request of

1 the limited partnership, if the limited partnership has not
2 filed a statement of dissolution, shall sign an amendment to
3 the certificate of formation which states that the person has
4 dissociated; and

5 (5) subject to Section 10A-9A-7.04, Article 10, and
6 Article 8 of Chapter 1 of this title, any transferable
7 interest owned by the person immediately before dissociation
8 in the person's capacity as a general partner is owned
9 immediately after dissociation by the person as a mere
10 transferee.

11 (b) A person's dissociation as a general partner
12 does not of itself discharge the person from any duty, debt,
13 obligation, or liability to the limited partnership or the
14 other partners which the person incurred while a general
15 partner.

16 § 10A-9A-6.06. Power to bind and liability to
17 limited partnership before dissolution of partnership of
18 person dissociated as general partner.

19 (a) After a person is dissociated as a general
20 partner and before the limited partnership is dissolved,
21 converted under Article 10 or under Article 8 of Chapter 1 of
22 this title, or merged out of existence under Article 10 or
23 Article 8 of Chapter 1 of this title, the limited partnership
24 is bound by an act of the person only if:

1 (1) the act would have bound the limited partnership
2 under Section 10A-9A-4.02 before the dissociation; and

3 (2) at the time the other party enters into the
4 transaction the other party does not have notice of the
5 dissociation and reasonably believes that the person is a
6 general partner.

7 (b) If a limited partnership is bound under
8 subsection (a), the person dissociated as a general partner
9 which caused the limited partnership to be bound is liable:

10 (1) to the limited partnership for any damage caused
11 to the limited partnership arising from the obligation
12 incurred under subsection (a); and

13 (2) if a general partner or another person
14 dissociated as a general partner is liable for the obligation,
15 to the general partner or other person for any damage caused
16 to the general partner or other person arising from the
17 liability.

18 § 10A-9A-6.07. Liability to other persons of person
19 dissociated as general partner.

20 (a) A person's dissociation as a general partner
21 does not of itself discharge the person's liability as a
22 general partner for a debt, obligation, or liability of the
23 limited partnership incurred before dissociation. Except as
24 otherwise provided in subsections (b) and (c), the person is

1 not liable for a limited partnership's debts, obligations, or
2 liabilities incurred after dissociation.

3 (b) A person whose dissociation as a general partner
4 resulted in a dissolution and winding up of the limited
5 partnership's activities and affairs is liable to the same
6 extent as a general partner under Section 10A-9A-4.04 on an
7 obligation incurred by the limited partnership under Section
8 10A-9A-8.04.

9 (c) A person that has dissociated as a general
10 partner but whose dissociation did not result in a dissolution
11 and winding up of the limited partnership's activities and
12 affairs is liable on a transaction entered into by the limited
13 partnership after the dissociation only if:

14 (1) a general partner would be liable on the
15 transaction; and

16 (2) at the time the other party enters into the
17 transaction the other party does not have notice of the
18 dissociation and reasonably believes that the person is a
19 general partner.

20 (d) By agreement with a creditor of a limited
21 partnership and the limited partnership, a person dissociated
22 as a general partner may be released from liability for an
23 obligation of the limited partnership.

24 (e) A person dissociated as a general partner is
25 released from liability for a debt, obligation, or liability

1 of the limited partnership if the limited partnership's
2 creditor, with notice of the person's dissociation as a
3 general partner but without the person's consent, agrees to a
4 material alteration in the nature or time of payment of the
5 debt, obligation, or liability.

6 Article 7. Transferable Interests and Rights of
7 Transferees and Creditors.

8 § 10A-9A-7.01. Transferable interest. The only
9 interest of a partner which is transferable is the partner's
10 transferable interest. A transferable interest is personal
11 property.

12 § 10A-9A-7.02. Transfer of partner's transferable
13 interest.

14 (a) A transfer, in whole or in part, of a partner's
15 transferable interest:

16 (1) is permissible;

17 (2) does not by itself cause the partner's
18 dissociation;

19 (3) does not by itself cause a dissolution and
20 winding up of the limited partnership; and

21 (4) subject to Section 10A-9A-7.04, does not entitle
22 the transferee to:

23 (A) participate in the management or conduct of the
24 limited partnership's activities and affairs; or

1 (B) except as otherwise provided in subsection (d),
2 have access to required information, records, or other
3 information concerning the partnership's activities and
4 affairs.

5 (b) A transferee has the right to receive, in
6 accordance with the transfer, distributions to which the
7 transferor would otherwise be entitled.

8 (c) A transferable interest may be evidenced by a
9 certificate of transferable interest issued by the limited
10 partnership. A partnership agreement may provide for the
11 transfer of the transferable interest represented by the
12 certificate and make other provisions with respect to the
13 certificate. No certificate of transferable interest shall be
14 issued in bearer form.

15 (d) In a dissolution and winding up, a transferee is
16 entitled to an account of the limited partnership's
17 transactions only from the date of dissolution.

18 (e) Except as otherwise provided in Sections
19 10A-9A-6.01(b)(3), 10A-9A-6.01(b)(10), 10A-9A-6.01(b)(11),
20 10A-9A-6.03(4)(B), 10A-9A-6.03(11), and 10A-9A-6.03(12) when a
21 partner transfers a transferable interest, the transferor
22 retains the rights of a partner other than the right to
23 distributions transferred and retains all duties and
24 obligations of a partner.

1 (f) A limited partnership need not give effect to a
2 transferee's rights under this section until the limited
3 partnership has notice of the transfer.

4 (g) When a partner transfers a transferable interest
5 to a person that is admitted as a partner with respect to the
6 transferred interest, the transferee is liable for the
7 partner's obligations under Sections 10A-9A-5.02 and
8 10A-9A-5.08 to the extent that the obligations are known to
9 the transferee when the transferee voluntarily accepts
10 admission as a partner.

11 § 10A-9A-7.03. Rights of creditor of partner or
12 transferee.

13 (a) On application to a court of competent
14 jurisdiction by any judgment creditor of a partner or
15 transferee, the court may charge the transferable interest of
16 the judgment debtor with payment of the unsatisfied amount of
17 the judgment with interest. To the extent so charged and after
18 the limited partnership has been served with the charging
19 order, the judgment creditor has only the right to receive any
20 distribution or distributions to which the judgment debtor
21 would otherwise be entitled in respect of the transferable
22 interest.

23 (b) The limited partnership, after being served with
24 a charging order and its terms, shall be entitled to pay or
25 deposit any distribution or distributions to which the

1 judgment debtor would otherwise be entitled in respect of the
2 charged transferable interest into the hands of the clerk of
3 the court so issuing the charging order, and the payment or
4 deposit shall discharge the limited partnership and the
5 judgment debtor from liability for the amount so paid or
6 deposited and any interest that might accrue thereon. Upon
7 receipt of the payment or deposit, the clerk of the court
8 shall notify the judgment creditor of the receipt of the
9 payment or deposit. The judgment creditor shall, after any
10 payment or deposit into the court, petition the court for
11 payment of so much of the amount paid or deposited as is held
12 by the court as may be necessary to pay the judgment
13 creditor's judgment. To the extent the court has excess
14 amounts paid or deposited on hand after the payment to the
15 judgment creditor, the excess amounts paid or deposited shall
16 be distributed to the judgment debtor and the charging order
17 shall be extinguished. The court, may in its discretion, order
18 the clerk to deposit, pending the judgment creditor's
19 petition, any money paid or deposited with the clerk, in an
20 interest bearing account at a bank authorized to receive
21 deposits of public funds.

22 (c) A charging order constitutes a lien on the
23 judgment debtor's transferable interest.

24 (d) Subject to subsection (c):

1 (1) a judgment debtor that is a partner retains the
2 rights of a partner and remains subject to all duties and
3 obligations of a partner; and

4 (2) a judgment debtor that is a transferee retains
5 the rights of a transferee and remains subject to all duties
6 and obligations of a transferee.

7 (e) This chapter does not deprive any partner or
8 transferee of the benefit of any exemption laws applicable to
9 the partner's or transferee's transferable interest.

10 (f) This section provides the exclusive remedy by
11 which a judgment creditor of a partner or transferee may
12 satisfy a judgment out of the judgment debtor's transferable
13 interest and the judgment creditor shall have no right to
14 foreclose, under this chapter or any other law, upon the
15 charging order, the charging order lien, or the judgment
16 debtor's transferable interest. A judgment creditor of a
17 partner or transferee shall have no right to obtain possession
18 of, or otherwise exercise legal or equitable remedies with
19 respect to, the property of a limited partnership. Court
20 orders for actions or requests for accounts and inquiries that
21 the judgment debtor might have made, are not available to the
22 judgment creditor attempting to satisfy the judgment out of
23 the judgment debtor's transferable interest and may not be
24 ordered by a court.

1 § 10A-9A-7.04. Power of Personal Representative of
2 Deceased Partner. If a partner dies, the deceased partner's
3 personal representative or other legal representative may:

4 (a) for the period of time that the deceased
5 partner's personal representative or other legal
6 representative holds the deceased partner's transferable
7 interest:

8 (1) exercise the rights of a holder of transferable
9 interests under this chapter;

10 (2) exercise the rights of a transferee under
11 Section 10A-9A-7.02; and

12 (3) for purposes of settling the estate, exercise
13 the rights of a current limited partner under Section
14 10A-9A-3.04; and

15 (b) for the period of time that the deceased
16 partner's personal representative or other legal
17 representative does not hold the deceased partner's
18 transferable interest, for purposes of settling the estate,
19 exercise the rights of a person dissociated as a limited
20 partner under Section 10A-9A-3.04.

21 Article 8. Dissolution and Winding Up.

22 § 10A-9A-8.01. Events of Dissolution. A limited
23 partnership is dissolved and its activities and affairs shall
24 be wound up upon the occurrence of the first of the following
25 events:

1 (a) An event or circumstance that the partnership
2 agreement states causes dissolution.

3 (b) Consent of all partners to dissolve.

4 (c) When there is no remaining general partner, unless
5 either of the following applies:

6 (1) All of the limited partners agree in writing,
7 within 90 days after the dissociation of the last general
8 partner, to continue the activities and affairs of the limited
9 partnership and to admit one or more new general partners.

10 (2) The activities and affairs of the limited
11 partnership are continued and one or more new general partners
12 are admitted in the manner stated in the partnership
13 agreement.

14 (d) When there is no remaining limited partner,
15 unless either of the following applies:

16 (1) All of the general partners agree in writing,
17 within 90 days after the dissociation of the last limited
18 partner, to continue the activities and affairs of the limited
19 partnership and to admit one or more new limited partners.

20 (2) The activities and affairs of the limited
21 partnership are continued and one or more new limited partners
22 are admitted in the manner stated in the partnership
23 agreement.

24 (e) When there are no remaining partners, unless
25 either of the following applies:

1 (1) The holders of all of the transferable interests
2 in the limited partnership agree in writing, within 90 days
3 after the dissociation of the last general partner, to
4 continue the activities and affairs of the limited partnership
5 and to admit one or more new general partners and one or more
6 new limited partners.

7 (2) The activities and affairs of the limited
8 partnership are continued and one or more new general partners
9 and one or more new limited partners are admitted in the
10 manner stated in the partnership agreement.

11 (f) On application by a partner, the entry of an
12 order dissolving the limited partnership on the grounds that
13 it is not reasonably practicable to carry on the limited
14 partnership's activities and affairs in conformity with the
15 partnership agreement, which order is entered by the circuit
16 court for the county in which the limited partnership's
17 principal place of business within this state is located, and
18 if the limited partnership does not have a principal place of
19 business within this state then by the circuit court for the
20 county in which the limited partnership's most recent
21 registered office is located.

22 § 10A-9A-8.02. Effect of dissolution.

23 Notwithstanding Section 10A-1-9.12:

24 (a) A dissolved limited partnership continues its
25 existence as a limited partnership but may not carry on any

1 activities and affairs except as is appropriate to wind up and
2 liquidate its activities and affairs, including:

3 (1) collecting its assets;

4 (2) disposing of its properties that will not be
5 distributed in kind to persons owning transferable interests;

6 (3) discharging or making provisions for discharging
7 its liabilities;

8 (4) distributing its remaining property in
9 accordance with Section 10A-9A-8.09; and

10 (5) doing every other act necessary to wind up and
11 liquidate its activities and affairs.

12 (b) In winding up its activities and affairs, a
13 limited partnership may:

14 (1) deliver for filing a statement of dissolution to
15 the filing officer provided for in subsection (e) setting
16 forth:

17 (A) The name of the limited partnership;

18 (B) The date of filing its certificate of formation,
19 and all amendments and restatements thereof, and the office or
20 offices where filed;

21 (C) That the limited partnership has dissolved;

22 (D) The name and street mailing address of the
23 general partner who will be winding up the affairs of the
24 limited partnership pursuant to Section 10A-9A-8.03(a), and if
25 none, the name and street address of the person appointed

1 pursuant to Section 10A-9A-8.03(b) or (c) to wind up the
2 activities and affairs of the limited partnership; and

3 (E) Any other information the limited partnership
4 deems appropriate;

5 (2) preserve the limited partnership's activities
6 and affairs and property as a going concern for a reasonable
7 time;

8 (3) prosecute, defend, or settle actions or
9 proceedings whether civil, criminal or administrative;

10 (4) transfer the limited partnership's assets;

11 (5) resolve disputes by mediation or arbitration;

12 and

13 (6) merge or convert in accordance with Article 10
14 of this chapter or Article 8 of Chapter 1.

15 (c) The dissolution of a limited partnership does
16 not:

17 (1) transfer title to the limited partnership's
18 property;

19 (2) prevent the commencement of a proceeding by or
20 against the limited partnership in its limited partnership
21 name;

22 (3) terminate, abate, or suspend a proceeding
23 pending by or against the limited partnership on the effective
24 date of dissolution;

1 (4) terminate the authority of its registered agent;
2 or

3 (5) abate, suspend, or otherwise alter the
4 application of Sections 10A-9A-3.03 and 10A-9A-4.04(b) and
5 (c).

6 (d) A statement of dissolution shall be deemed to be
7 a filing instrument under Chapter 1.

8 (e) If a limited partnership is not an organization
9 described in Section 10A-1-4.02(c)(4), then that limited
10 partnership shall deliver the statement of dissolution for
11 filing to the judge of probate in whose office the original
12 certificate of formation is filed. If a limited partnership is
13 an organization described in Section 10A-1-4.02(c)(4), then
14 that limited partnership shall deliver the statement of
15 dissolution for filing to the Secretary of State.

16 § 10A-9A-8.03. Right to wind up activities and
17 affairs.

18 (a) If a dissolved limited partnership has a general
19 partner or general partners that have not dissociated, that
20 general partner or those general partners shall wind up the
21 activities and affairs of the limited partnership and shall
22 have the powers set forth in Section 10A-9A-8.04.

23 (b) If a dissolved limited partnership does not have
24 a general partner, a person or persons to wind up the
25 dissolved limited partnership's activities and affairs may be

1 appointed by the consent of a majority of the limited
2 partners.

3 (c) The circuit court for the county in which the
4 limited partnership's principal place of business within this
5 state is located, and if the limited partnership does not have
6 a principal place of business within this state then the
7 circuit court for the county in which the limited
8 partnership's most recent registered office is located, may
9 order judicial supervision of the winding up of a dissolved
10 limited partnership, including the appointment of a person to
11 wind up the limited partnership's activities and affairs:

12 (1) on application of a partner, if the applicant
13 establishes good cause;

14 (2) on application of a partner or transferee, if
15 the limited partnership does not have a general partner and
16 within a reasonable time following the dissolution no person
17 having the authority to wind up the activities and affairs of
18 the limited partnership has been appointed pursuant to
19 subsection (b);

20 (3) on application of a partner or transferee, if
21 the limited partnership does not have a general partner and
22 within a reasonable time following the dissolution the person
23 appointed pursuant to subsection (b) is not winding up the
24 activities and affairs of the limited partnership; or

1 (4) in connection with a proceeding under Section
2 10A-9A-8.01(f).

3 (d) A person appointed under subsection (b) or (c)
4 is not a general partner but:

5 (1) has the powers of a general partner under
6 Section 10A-9A-8.04 but is not liable for the debts,
7 liabilities, and other obligations of the limited partnership
8 solely by reason of having or exercising those powers or
9 otherwise acting to wind up the activities and affairs of the
10 dissolved limited partnership; and

11 (2) shall promptly deliver for filing a statement of
12 dissolution to the filing officer provided for in subsection
13 (e) setting forth the items listed in Section
14 10A-9A-8.02(b)(1) and the following:

15 (A) that the limited partnership does not have a
16 general partner;

17 (B) the name and street mailing address of each
18 person that has been appointed to wind up the activities and
19 affairs of the limited partnership;

20 (C) that each person has been appointed pursuant to
21 this subsection to wind up the activities and affairs of the
22 limited partnership; and

23 (D) pursuant to this Section, that each person has
24 the powers of a general partner under Section 10A-9A-8.04 but
25 is not liable for the debts, liabilities, and other

1 obligations of the limited partnership solely by reason of
2 having or exercising those powers or otherwise acting to wind
3 up the activities and affairs of the dissolved limited
4 partnership.

5 (e) If the limited partnership is not an
6 organization described in Section 10A-1-4.02(c)(4), then the
7 person or persons appointed pursuant to subsection (b) or (c)
8 shall deliver the statement of dissolution for filing to the
9 judge of probate in whose office the original certificate of
10 formation is filed. If the limited partnership is an
11 organization described in Section 10A-1-4.02(c)(4), then the
12 person or persons appointed pursuant to subsection (b) or (c)
13 shall deliver the statement of dissolution for filing to the
14 Secretary of State.

15 §10A-9A-8.04. Power of General Partner and Person
16 Dissociated as General Partner to Bind Partnership after
17 Dissolution.

18 (a) A limited partnership is bound by a general
19 partner's act after dissolution which:

20 (1) is appropriate for winding up the limited
21 partnership's activities and affairs; or

22 (2) would have bound the limited partnership under
23 Section 10A-9A-4.02 before dissolution, if, at the time the
24 other party enters into the transaction, the other party does
25 not have notice of the dissolution.

1 (b) A person dissociated as a general partner binds
2 a limited partnership through an act occurring after
3 dissolution only if:

4 (1) at the time the other party enters into the
5 transaction the other party does not have notice of the
6 dissociation and reasonably believes that the person is a
7 general partner; and

8 (2) the act:

9 (A) is appropriate for winding up the limited
10 partnership's activities and affairs; or

11 (B) would have bound the limited partnership under
12 Section 10A-9A-4.02 before dissolution and at the time the
13 other party enters into the transaction the other party does
14 not have notice of the dissolution.

15 §10A-9A-8.05. Liability after Dissolution of General
16 Partner and Person Dissociated as General Partner to Limited
17 Partnership, Other General Partners, and Persons Dissociated
18 as General Partner.

19 (a) If a general partner having knowledge of the
20 dissolution causes a limited partnership to incur an
21 obligation under Section 10A-9A-8.04(a) by an act that is not
22 appropriate for winding up the partnership's activities and
23 affairs, the general partner is liable:

24 (1) to the limited partnership for any damage caused
25 to the limited partnership arising from the obligation; and

1 (2) if another general partner or a person
 2 dissociated as a general partner is liable for the obligation,
 3 to that other general partner or person for any damage caused
 4 to that other general partner or person arising from the
 5 liability.

6 (b) If a person dissociated as a general partner
 7 causes a limited partnership to incur an obligation under
 8 Section 10A-9A-8.04(b), the person is liable:

9 (1) to the limited partnership for any damage caused
 10 to the limited partnership arising from the obligation; and

11 (2) if a general partner or another person
 12 dissociated as a general partner is liable for the obligation,
 13 to the general partner or other person for any damage caused
 14 to the general partner or other person arising from the
 15 liability.

16 § 10A-9A-8.06. Known claims against dissolved
 17 limited partnership.

18 Notwithstanding Sections 10A-1-9.01 and 10A-1-9.21:

19 (a) A dissolved limited partnership may dispose of
 20 any known claims against it by following the procedures
 21 described in subsection (b) at any time after the effective
 22 date of the dissolution of the limited partnership.

23 (b) A dissolved limited partnership may give notice
 24 of the dissolution in a record to the holder of any known
 25 claim. The notice must:

- 1 (1) identify the dissolved limited partnership;
- 2 (2) describe the information required to be included
3 in a claim;
- 4 (3) provide a mailing address to which the claim is
5 to be sent;
- 6 (4) state the deadline, which may not be fewer than
7 120 days from the effective date of the notice, by which the
8 dissolved partnership must receive the claim;
- 9 (5) state that if not sooner barred, the claim will
10 be barred if not received by the deadline; and
- 11 (6) unless the limited partnership has been
12 throughout its existence a limited liability limited
13 partnership, state that the barring of a claim against the
14 limited partnership will also bar any corresponding claim
15 against any general partner or person dissociated as a general
16 partner which is based on Section 10A-9A-4.04.
- 17 (c) Unless sooner barred by any other statute
18 limiting actions, a claim against a dissolved limited
19 partnership is barred:
- 20 (1) if a claimant who was given notice under
21 subsection (b) does not deliver the claim to the dissolved
22 limited partnership by the deadline; or
- 23 (2) if a claimant whose claim was rejected by the
24 dissolved limited partnership, does not commence a proceeding

1 to enforce the claim within 90 days from the effective date of
2 the rejection notice.

3 (d) For purposes of this section, "known claim" or
4 "claim" includes unliquidated claims, but does not include a
5 contingent liability that has not matured so that there is no
6 immediate right to bring suit or a claim based on an event
7 occurring after the effective date of dissolution.

8 (e) Nothing in this section shall be deemed to
9 extend any otherwise applicable statute of limitations.

10 § 10A-9A-8.07. Other claims against dissolved
11 limited partnership.

12 Notwithstanding Sections 10A-1-9.01 and 10A-1-9.22:

13 (a) A dissolved limited partnership may publish
14 notice of its dissolution and request that persons with claims
15 against the dissolved limited partnership present them in
16 accordance with the notice.

17 (b) The notice authorized by subsection (a) must:

18 (1) be published at least one time in a newspaper of
19 general circulation in the county in which the dissolved
20 limited partnership's principal place of business is located
21 or, if it has none in this state, in the county in which the
22 limited partnership's registered office is or was last
23 located;

1 (2) describe the information that must be included
2 in a claim and provide a mailing address to which the claim is
3 to be sent;

4 (3) state that if not sooner barred, a claim against
5 the dissolved limited partnership will be barred unless a
6 proceeding to enforce the claim is commenced within two years
7 after the publication of the notice; and

8 (4) unless the limited partnership has been
9 throughout its existence a limited liability limited
10 partnership, state that the barring of a claim against the
11 limited partnership will also bar any corresponding claim
12 against any general partner or person dissociated as a general
13 partner which is based on Section 10A-9A-4.04.

14 (c) If a dissolved limited partnership publishes a
15 newspaper notice in accordance with subsection (b), unless
16 sooner barred by any other statute limiting actions, the claim
17 of each of the following claimants is barred unless the
18 claimant commences a proceeding to enforce the claim against
19 the dissolved limited partnership within two years after the
20 publication date of the newspaper notice:

21 (1) a claimant who was not given notice under
22 Section 10A-9A-8.06;

23 (2) a claimant whose claim was timely sent to the
24 dissolved limited partnership but not acted on by the
25 dissolved limited partnership; and

1 (3) a claimant whose claim is contingent at the
2 effective date of the dissolution of the limited partnership,
3 or is based on an event occurring after the effective date of
4 the dissolution of the limited partnership.

5 (d) A claim that is not barred under this section,
6 any other statute limiting actions, or Section 10A-9A-8.06 may
7 be enforced:

8 (1) against a dissolved limited partnership, to the
9 extent of its undistributed assets;

10 (2) except as provided in subsection (h), if the
11 assets of a dissolved limited partnership have been
12 distributed after dissolution, against the person or persons
13 owning the transferable interests to the extent of that
14 person's proportionate share of the claim or of the assets
15 distributed to that person after dissolution, whichever is
16 less, but a person's total liability for all claims under
17 subsection (d) may not exceed the total amount of assets
18 distributed to that person after dissolution of the limited
19 partnership; or

20 (3) against any person liable on the claim under
21 Section 10A-9A-4.04 and 10A-9A-6.07.

22 (e) A dissolved limited partnership that published a
23 notice under this section may file an application with the
24 circuit court in the county in which the dissolved limited
25 partnership's principal place of business is located and if

1 the limited partnership does not have a principal place of
2 business within this state, in the county in which the
3 dissolved limited partnership's most recent registered office
4 is located, for a determination of the amount and form of
5 security to be provided for payment of claims that are
6 contingent or have not been made known to the dissolved
7 limited partnership or that are based on an event occurring
8 after the effective date of the dissolution of the limited
9 partnership but that, based on the facts known to the
10 dissolved limited partnership, are reasonably estimated to
11 arise after the effective date of the dissolution of the
12 limited partnership. Provision need not be made for any claim
13 that is or is reasonably anticipated to be barred under
14 subsection (c).

15 (f) Within ten days after the filing of the
16 application provided for in subsection (e), notice of the
17 proceeding shall be given by the dissolved limited partnership
18 to each potential claimant as described in subsection (e).

19 (g) The circuit court under subsection (e) may
20 appoint a guardian ad litem to represent all claimants whose
21 identities are unknown in any proceeding brought under this
22 section. The reasonable fees and expenses of the guardian,
23 including all reasonable expert witness fees, shall be paid by
24 the dissolved limited partnership.

1 (h) Provision by the dissolved limited partnership
2 for security in the amount and the form ordered by the circuit
3 court under subsection (e) shall satisfy the dissolved limited
4 partnership's obligation with respect to claims that are
5 contingent, have not been made known to the dissolved limited
6 partnership, or are based on an event occurring after the
7 effective date of the dissolution of the limited partnership,
8 and those claims may not be enforced against a person owning a
9 transferable interest to whom assets have been distributed by
10 the dissolved limited partnership after the effective date of
11 the dissolution of the limited partnership.

12 (i) Nothing in this section shall be deemed to
13 extend any otherwise applicable statute of limitations.

14 (j) If a claim has been satisfied, disposed of, or
15 barred under Section 10A-9A-8.06, this section, or other law,
16 the person or persons designated to wind up the affairs of a
17 limited partnership, and the owners of the transferable
18 interests receiving assets from the limited partnership, shall
19 not be liable for that claim.

20 § 10A-9A-8.08. Liability of General Partner and
21 Person Dissociated as General Partner When Claim against
22 Limited Partnership Barred. If a claim against a dissolved
23 limited partnership is barred under Section 10A-9A-8.06 or
24 10A-9A-8.07, any corresponding claim under Section 10A-9A-4.04
25 or 10A-9A-6.07 is also barred.

1 § 10A-9A-8.09. Disposition of Assets, When
2 Contributions Required. Notwithstanding Section 10A-1-9.12,
3 upon the winding up of a limited partnership, the assets of
4 the limited partnership, including any obligation under
5 Article 5 of this Chapter, and any contribution required by
6 this section, shall be applied as follows:

7 (a) Payment, or adequate provision for payment,
8 shall be made to creditors, including, to the extent permitted
9 by law, partners who are creditors, in satisfaction of
10 liabilities of the limited partnership.

11 (b) After a limited partnership complies with
12 subsection (a), any surplus must be distributed:

13 (1) first, to each person owning a transferable
14 interest that reflects contributions made on account of the
15 transferable interest and not previously returned, an amount
16 equal to the value of the person's unreturned contributions;
17 and

18 (2) then to each person owning a transferable
19 interest in the proportions in which the owners of
20 transferable interests share in distributions before
21 dissolution.

22 (c) If the limited partnership does not have
23 sufficient surplus to comply with subsection (b)(1), any
24 surplus must be distributed among the owners of transferable

1 interests in proportion to the value of their respective
2 unreturned contributions.

3 (d) If a limited partnership's assets are
4 insufficient to satisfy all of its obligations under
5 subsection (a), with respect to each unsatisfied obligation
6 incurred when the limited partnership was not a limited
7 liability limited partnership, the following rules apply:

8 (1) Each person that was a general partner when the
9 obligation was incurred and that has not been released from
10 the obligation under Section 10A-9A-6.07 shall contribute to
11 the limited partnership for the purpose of enabling the
12 limited partnership to satisfy the obligation. The
13 contribution due from each of those persons is in proportion
14 to the right to receive distributions in the capacity of
15 general partner in effect for each of those persons when the
16 obligation was incurred.

17 (2) If a person does not contribute the full amount
18 required under paragraph (1) with respect to an unsatisfied
19 obligation of the limited partnership, the other persons
20 required to contribute by paragraph (1) on account of the
21 obligation shall contribute the additional amount necessary to
22 discharge the obligation. The additional contribution due from
23 each of those other persons is in proportion to the right to
24 receive distributions in the capacity of general partner in

1 effect for each of those other persons when the obligation was
2 incurred.

3 (3) If a person does not make the additional
4 contribution required by paragraph (2), further additional
5 contributions are determined and due in the same manner as
6 provided in that paragraph.

7 (e) A person that makes an additional contribution
8 under subsection (d)(2) or (3) may recover from any person
9 whose failure to contribute under subsection (d)(1) or (2)
10 necessitated the additional contribution. A person may not
11 recover under this subsection more than the amount
12 additionally contributed. A person's liability under this
13 subsection may not exceed the amount the person failed to
14 contribute.

15 (f) The estate of a deceased individual is liable
16 for the person's obligations under this section.

17 (g) An assignee for the benefit of creditors of a
18 limited partnership or a partner, or a person appointed by a
19 court to represent creditors of a limited partnership or a
20 partner, may enforce a person's obligation to contribute under
21 subsection (d).

22 § 10A-9A-8.10. Reinstatement after dissolution.
23 Notwithstanding Sections 10A-1-9.31 and 10A-1-9.32, a limited
24 partnership that has been dissolved may be reinstated upon
25 compliance with the following conditions:

1 (a) the consent shall have been obtained from the
2 partners or other persons entitled to consent at the time that
3 is:

4 (1) required for reinstatement under the partnership
5 agreement; or

6 (2) if the partnership agreement does not state the
7 consent required for reinstatement, sufficient for dissolution
8 under the partnership agreement; or

9 (3) if the partnership agreement neither states the
10 consent required for reinstatement nor for dissolution,
11 sufficient for dissolution under this chapter;

12 (b) in the case of a written objection to
13 reinstatement having been delivered to the limited partnership
14 before or at the time of the consent required by subsection
15 (a) by the partners or other persons having authority under
16 the partnership agreement to bring about or prevent
17 dissolution of the limited partnership, those partners or
18 persons withdrawing that written objection effective at the
19 time of the consent required by subsection (a);

20 (c) in the case of a limited partnership dissolved
21 in a judicial proceeding initiated by one or more of the
22 partners, the consent of each of those partners shall have
23 been obtained and shall be included in the consent required by
24 subsection (a); and

1 (d) the filing of a certificate of reinstatement in
2 accordance with Section 10A-9A-8.11.

3 § 10A-9A-8.11. Certificate of reinstatement.

4 (a) In order to reinstate a limited partnership
5 under this article, a certificate of reinstatement shall be
6 delivered for filing to the filing officer provided for in
7 subsection (d) which certificate of reinstatement shall have
8 attached thereto a true and complete copy of the limited
9 partnership's certificate of formation. The certificate of
10 reinstatement shall state:

11 (1) the name of the limited partnership before
12 reinstatement;

13 (2) the name of the limited partnership following
14 reinstatement, which limited partnership name shall comply
15 with Section 10A-9A-8.12;

16 (3) the date of formation of the limited
17 partnership;

18 (4) the date of dissolution of the limited
19 partnership, if known;

20 (5) a statement that all applicable conditions of
21 Section 10A-9A-8.10 have been satisfied; and

22 (6) the address of the registered office and the
23 name of the registered agent at that address in compliance
24 with Article 5 of Chapter 1.

1 (b) A limited partnership shall not be required to
2 file a statement of dissolution in order to file a certificate
3 of reinstatement.

4 (c) A certificate of reinstatement shall be deemed
5 to be a filing instrument under Chapter 1.

6 (d) If a limited partnership is not an organization
7 described in Section 10A-1-4.02(c)(4), then that limited
8 partnership shall deliver the certificate of reinstatement for
9 filing to the judge of probate in whose office the original
10 certificate of formation is filed. If a limited partnership is
11 an organization described in Section 10A-1-4.02(c)(4), then
12 that limited partnership shall deliver the certificate of
13 reinstatement for filing to the Secretary of State.

14 § 10A-9A-8.12. Limited partnership name upon
15 reinstatement. The name of a limited partnership following
16 reinstatement shall be determined as follows:

17 (a) If the limited partnership remains in the
18 Secretary of State's records as a limited partnership which
19 has not been dissolved, then the name of the limited
20 partnership following reinstatement shall be that limited
21 partnership name at the time of reinstatement.

22 (b) If the limited partnership is listed in the
23 Secretary of State's records as a limited partnership that has
24 been dissolved, then the name of a limited partnership
25 following reinstatement shall be that limited partnership name

1 at the time of reinstatement if that limited partnership name
2 complies with Article 5 of Chapter 1 at the time of
3 reinstatement. If that limited partnership name does not
4 comply with Article 5 of Chapter 1, the name of the limited
5 partnership following reinstatement shall be that limited
6 partnership name followed by the word "reinstated."

7 (c) A limited partnership shall not be required to
8 file a statement of dissolution in order to retain or obtain
9 the name of the limited partnership.

10 § 10A-9A-8.13. Effect of reinstatement.

11 (a) Subject to subsection (b), upon reinstatement,
12 the limited partnership shall be deemed for all purposes to
13 have continued its activities and affairs as if dissolution
14 had never occurred; and each right inuring to, and each debt,
15 obligation, and liability incurred by, the limited partnership
16 after the dissolution shall be determined as if the
17 dissolution had never occurred.

18 (b) The rights of persons acting in reliance on the
19 dissolution before those persons had notice of the
20 reinstatement shall not be adversely affected by the
21 reinstatement.

22 Article 9. Actions by Partners.

23 § 10A-9A-9.01. Direct action by partner.

24 (a) Subject to subsection (b), a partner may
25 maintain a direct action against another partner or partners

1 or the limited partnership, with or without an accounting as
2 to the partnership's activities and affairs, to enforce the
3 partner's rights and otherwise protect the partner's
4 interests, including rights and interests under the
5 partnership agreement or this chapter or arising independently
6 of the partnership relationship.

7 (b) A partner maintaining a direct action under
8 subsection (a) must plead and prove an actual or threatened
9 injury that is not solely the result of an injury suffered or
10 threatened to be suffered by the limited partnership.

11 (c) A partner may maintain a direct action to
12 enforce a right of a limited partnership if all partners at
13 the time of suit are parties to the action.

14 (d) The accrual of, and any time limitation on, a
15 right of action for a remedy under this section is governed by
16 other law.

17 (e) A right to an accounting upon a dissolution and
18 winding up does not revive a claim barred by law.

19 § 10A-9A-9.02. Right of derivative action. A partner
20 may commence or maintain a derivative action in the right of a
21 limited partnership to enforce a right of the limited
22 partnership by complying with this article.

23 § 10A-9A-9.03. Standing. A partner may commence or
24 maintain a derivative action in the right of the limited
25 partnership only if the partner:

1 (1) fairly and adequately represents the interests
2 of the limited partnership in enforcing the right of the
3 limited partnership; and

4 (2) either:

5 (A) was a partner of the limited partnership at the
6 time of the act or omission of which the partner complains; or

7 (B) whose status as a partner devolved upon the
8 person by operation of law or pursuant to the terms of the
9 partnership agreement from a person who was a partner at the
10 time of the act or omission of which the partner complains.

11 § 10A-9A-9.04. Demand. A partner may commence a
12 derivative action in the right of the limited partnership, if:

13 (a) the partner first makes a written demand upon
14 general partners requesting that they cause the limited
15 partnership to bring an action to enforce the right and the
16 general partners do not bring the action within a reasonable
17 time; or

18 (b) a demand under subsection (a) would be futile.

19 § 10A-9A-9.05. Pleading. In a derivative action, the
20 complaint must state with particularity:

21 (a) the date and content of plaintiff's demand and
22 the general partner's response by the limited partnership to
23 the demand; or

24 (b) why the demand should be excused as futile.

1 § 10A-9A-9.06. Stay of proceedings. For the purpose
2 of allowing the general partners and the limited partnership
3 time to undertake an inquiry into the allegations made in the
4 demand or complaint commenced pursuant to this article, the
5 court may stay any derivative action for the period the court
6 deems appropriate.

7 § 10A-9A-9.07. Discontinuance or settlement. A
8 derivative action may not be dismissed or compromised without
9 the approval of the court, and notice of the proposed
10 dismissal or compromise shall be given to partners of the
11 limited partnership in such manner as the court directs.

12 § 10A-9A-9.08. Proceeds and expenses.

13 (a) Except as otherwise provided in subsection (b):

14 (1) any proceeds or other benefits of a derivative
15 action, whether by judgment, compromise, or settlement, belong
16 to the limited partnership and not to the derivative
17 plaintiff; and

18 (2) if the derivative plaintiff receives any
19 proceeds, the derivative plaintiff shall immediately remit
20 them to the limited partnership.

21 (b) If a derivative action is successful in whole or
22 in part, the court may award the plaintiff reasonable
23 expenses, including reasonable attorney's fees, from the
24 recovery of the limited partnership.

1 § 10A-9A-9.09. Applicability to foreign limited
2 partnerships. In any derivative action in the right of a
3 foreign limited partnership, the right of a person to commence
4 or maintain a derivative action in the right of a foreign
5 limited partnership, and any matters raised in the action
6 covered by Sections 10A-9A-9.02 through 10A-9A-9.08, shall be
7 governed by the law of the jurisdiction under which the
8 foreign limited partnership was formed; except that any
9 matters raised in the action covered by Sections 10A-9A-9.06,
10 10A-9A-9.07, and 10A-9A-9.08 shall be governed by the law of
11 this state.

12 Article 10. Conversions and Mergers.

13 § 10A-9A-10.01. Definitions. Notwithstanding Section
14 10A-1-1.03, as used in this article, unless the context
15 otherwise requires, the following terms mean:

16 (1) "Constituent Limited Partnership" means a
17 constituent organization that is a limited partnership.

18 (2) "Constituent Organization" means an organization
19 that is party to a merger under this article.

20 (3) "Converted Organization" means the organization
21 into which a converting organization converts pursuant to this
22 article.

23 (4) "Converting Limited Partnership" means a
24 converting organization that is a limited partnership.

1 (5) "Converting Organization" means an organization
2 that converts into another organization pursuant to this
3 article.

4 (6) "General Partner" means a general partner of a
5 limited partnership.

6 (7) "Governing Statute" of an organization means the
7 statute that governs the organization's internal affairs.

8 (8) "Organization" means a general partnership,
9 including a limited liability partnership; limited
10 partnership, including a limited liability limited
11 partnership; limited liability company; business trust;
12 corporation; nonprofit corporation; professional corporation;
13 or any other person having a governing statute. The term
14 includes domestic and foreign organizations whether or not
15 organized for profit.

16 (9) "Organizational Documents" means:

17 (A) for a general partnership or foreign general
18 partnership, its partnership agreement and if applicable, its
19 registration as a limited liability partnership or a foreign
20 limited liability partnership;

21 (B) for a limited partnership or foreign limited
22 partnership, its certificate of formation and partnership
23 agreement, or comparable writings as provided in its governing
24 statute;

1 (C) for a limited liability company or foreign
2 limited liability company, its certificate of formation and
3 limited liability company agreement, or comparable writings as
4 provided in its governing statute;

5 (D) for a business or statutory trust or foreign
6 business or statutory trust its agreement of trust and
7 declaration of trust, or comparable writings as provided in
8 its governing statute;

9 (E) for a corporation for profit or foreign
10 corporation for profit, its certificate of formation, bylaws,
11 and other agreements among its shareholders that are
12 authorized by its governing statute, or comparable writings as
13 provided in its governing statute;

14 (F) for a nonprofit corporation or foreign nonprofit
15 corporation, its certificate of formation, bylaws, and other
16 agreements that are authorized by its governing statute, or
17 comparable writings as provided in its governing statute;

18 (G) for a professional corporation or foreign
19 professional corporation, its certificate of formation,
20 bylaws, and other agreements among its shareholders that are
21 authorized by its governing statute, or comparable writings as
22 provided in its governing statute; and

23 (H) for any other organization, the basic writings
24 that create the organization and determine its internal

1 governance and the relations among the persons that own it,
2 have an interest in it, or are members of it.

3 (10) "Surviving Organization" means an organization
4 into which one or more other organizations are merged under
5 this article, whether the organization pre-existed the merger
6 or was created pursuant to the merger.

7 § 10A-9A-10.02. Conversion.

8 (a) An organization other than a limited partnership
9 may convert to a limited partnership, and a limited
10 partnership may convert to an organization other than a
11 limited partnership pursuant to this section, Sections
12 10A-9A-10.03 through 10A-9A-10.05, and a plan of conversion,
13 if:

14 (1) the governing statute of the organization that
15 is not a limited partnership authorizes the conversion;

16 (2) the law of the jurisdiction governing the
17 converting organization and the converted organization does
18 not prohibit the conversion; and

19 (3) the converting organization and the converted
20 organization each comply with the governing statute and
21 organizational documents applicable to that organization in
22 effecting the conversion.

23 (b) A plan of conversion must be in writing and must
24 include:

1 (1) the name, type of organization, and mailing
2 address of the principal office of the converting organization
3 before conversion;

4 (2) the name, type of organization, and mailing
5 address of the principal office of the converted organization
6 after conversion;

7 (3) the terms and conditions of the conversion,
8 including the manner and basis for converting interests in the
9 converting organization into any combination of money,
10 interests in the converted organization, and other
11 consideration allowed in Section 10A-9A-10.02(c); and

12 (4) the organizational documents of the converted
13 organization.

14 (c) In connection with a conversion, rights or
15 securities of or interests in the converting organization may
16 be exchanged for or converted into cash, property, or rights
17 or securities of or interests in the converted organization,
18 or, in addition to or in lieu thereof, may be exchanged for or
19 converted into cash, property, or rights or securities of or
20 interests in another organization or may be cancelled.

21 § 10A-9A-10.03. Action on plan of conversion by
22 converting limited partnership.

23 (a) Subject to Section 10A-9A-10.10, a plan of
24 conversion must be consented to by all the partners of a
25 converting limited partnership.

1 (b) Subject to Section 10A-9A-10.10 and any
2 contractual rights, after a conversion is approved, and at any
3 time before a filing is made under Section 10A-9A-10.4, a
4 converting limited partnership may amend the plan or abandon
5 the planned conversion:

6 (1) as provided in the plan; and

7 (2) except as prohibited by the plan, by the same
8 consent as was required to approve the plan.

9 § 10A-9A-10.04. Filings required for conversion;
10 effective date.

11 (a) After a plan of conversion is approved:

12 (1) if the converting organization is an
13 organization formed under the laws of this state, the
14 converting organization shall file a statement of conversion
15 in accordance with subsection (c), which statement of
16 conversion must be signed in accordance with Section
17 10A-9A-2.03(a) and which must include:

18 (A) the name of the converting organization;

19 (B) the date of the filing of the certificate of
20 formation of the converting organization, if any, and all
21 prior amendments and the filing office or offices, if any,
22 where such is filed;

23 (C) a statement that the converting organization has
24 been converted into the converted organization;

1 (D) the name and type of organization of the
2 converted organization and the jurisdiction of its governing
3 statute;

4 (E) the street and mailing address of the principal
5 office of the converted organization;

6 (F) the date the conversion is effective under the
7 governing statute of the converted organization;

8 (G) a statement that the conversion was approved as
9 required by this chapter;

10 (H) a statement that the conversion was approved as
11 required by the governing statute of the converted
12 organization; and

13 (I) if the converted organization is a foreign
14 organization not authorized to conduct activities and affairs
15 in this state, the street and mailing address of an office for
16 the purposes of Section 10A-9A-10.05(b); and

17 (2) if the converted organization is a limited
18 partnership, the converting organization shall file a
19 certificate of formation in accordance with subsection (d),
20 which certificate of formation must include, in addition to
21 the information required by Section 10A-9A-2.01(a):

22 (A) a statement that the limited partnership was
23 converted from the converting organization;

1 (B) the name and type of organization of the
2 converting organization and the jurisdiction of the converting
3 organization's governing statute; and

4 (C) a statement that the conversion was approved in
5 a manner that complied with the converting organization's
6 governing statute.

7 (b) A conversion becomes effective:

8 (1) if the converted organization is a limited
9 partnership, when the certificate of formation takes effect;
10 and

11 (2) if the converted organization is not a limited
12 partnership, as provided by the governing statute of the
13 converted organization.

14 (c) If the converting organization is an
15 organization formed under the laws of this state, then the
16 converting organization shall file the statement of conversion
17 required under subsection (a) (1) with the Secretary of State
18 in accordance with Section 10A-1-4.02(c) (1).

19 (d) If the converted organization is a limited
20 partnership, then, notwithstanding Section 10A-1-4.02(b), the
21 converting organization shall file the certificate of
22 formation required under subsection (a) (2) with the Secretary
23 of State in accordance with Section 10A-1-4.02(c) (5), along
24 with the fees specified in Section 10A-1-4.31 subject to
25 subsection (f) (3).

1 (e) If the converting organization is required to
2 file a statement of conversion and a certificate of formation
3 with the Secretary of State, then the converting organization
4 shall file the statement of conversion and the certificate of
5 formation with the Secretary of State simultaneously.

6 (f) In the case of a statement of conversion that is
7 to be filed with the Secretary of State pursuant to
8 subsections (c):

9 (1) if the converting organization has a certificate
10 of formation filed with the judge of probate, the Secretary of
11 State shall within 10 days transmit a certified copy of the
12 statement of conversion to the office of the judge of probate
13 in the county in which the certificate of formation for such
14 converting organization was filed along with the proper fee
15 for the judge of probate.

16 (2) if the converting organization did not file its
17 certificate of formation with the judge of probate, but rather
18 in accordance with this title filed its certificate of
19 formation with the Secretary of State, the Secretary of State
20 shall not transmit a certified copy of the statement of
21 conversion to the office of the judge of probate and shall not
22 collect any fee for the judge of probate.

23 (3) if the converting organization is, immediately
24 prior to the conversion becoming effective, an organization
25 described in Section 10A-1-4.02(c) (4), but is not required

1 under this title to file its organizational documents with the
2 judge of probate, the Secretary of State shall not transmit a
3 certified copy of the statement of the statement of conversion
4 to the office of the judge of probate and shall not collect
5 any fee for the judge of probate.

6 (g) In the case of a certificate of formation that
7 is to be filed with the Secretary of State pursuant to
8 subsection (d), the Secretary of State shall not transmit a
9 certified copy of the certificate of formation to the office
10 of the judge of probate and shall not collect any fee for the
11 judge of probate, but shall collect the fee provided for the
12 Secretary of State in Section 10A-1-4.31(a)(1).

13 (h) After a conversion becomes effective, if the
14 converted organization is a limited partnership, then all
15 filing instruments required to be filed under this title
16 regarding that converted organization shall be filed with the
17 Secretary of State.

18 (i) If:

19 (1) the converting organization is a filing entity
20 or a foreign filing entity registered to conduct activities
21 and affairs in this state;

22 (2) the converted organization will be a filing
23 entity or a foreign filing entity registered to conduct
24 activities and affairs in this state;

1 (3) the name of the converting organization and the
2 converted organization are to be the same, other than words,
3 phrases or abbreviations indicating the type of entity; and

4 (4) the name of the converted organization complies
5 with Division A of Article 5 of Chapter 1 or Section
6 10A-1-7.07, as the case may be; then notwithstanding Division
7 B of Article 5 of Chapter 1, no name reservation shall be
8 required and the converted organization shall for all purpose
9 of this title be entitled to utilize the name of the
10 converting organization without any further action by the
11 converting organization or the converted organization.

12 (j) A certified copy of any document required to be
13 filed under this section may be filed in the real estate
14 records in the office of the judge of probate in any county in
15 which the converting organization owned real property, without
16 payment and without collection by the judge of probate of any
17 deed or other transfer tax or fee. The judge of probate shall,
18 however, be entitled to collect a filing fee of five dollars
19 (\$5). Any such filing shall evidence chain of title, but lack
20 of filing shall not affect the converted organization's title
21 to such real property.

22 (k) A statement of conversion shall be a filing
23 instrument under Chapter 1.

1 (1) Except as set forth in subsection (f) (2), the
2 filing fees for a statement of conversion shall be the same
3 fee as provided in Section 10A-1-4.31(a) (5).

4 § 10A-9A-10.05. Effect of conversion.

5 (a) When a conversion takes effect:

6 (1) all property owned by the converting
7 organization remains vested in the converted organization
8 without reservation or impairment and the title to any
9 property vested by deed or otherwise in the converting
10 organization shall not revert or be in any way impaired by
11 reason of the conversion;

12 (2) all debts, obligations, or other liabilities of
13 the converting organization continue as debts, obligations, or
14 other liabilities of the converted organization and neither
15 the rights of creditors, nor the liens upon the property of
16 the converting organization shall be impaired by the
17 conversion;

18 (3) an action or proceeding pending by or against
19 the converting organization continues as if the conversion had
20 not occurred;

21 (4) except as prohibited by law other than this
22 chapter, all of the rights, privileges, immunities, powers,
23 and purposes of the converting organization remain vested in
24 the converted organization;

1 (5) except as otherwise provided in the plan of
2 conversion, the terms and conditions of the plan of conversion
3 take effect;

4 (6) except as otherwise agreed, for all purposes of
5 the laws of this state, the converting organization shall not
6 be required to wind up its affairs or pay its liabilities and
7 distribute its assets, and the conversion shall not be deemed
8 to constitute a dissolution of the converting organization;

9 (7) for all purposes of the laws of this state, the
10 rights, privileges, powers, interests in property, debts,
11 liabilities and duties of the converting organization, shall
12 be the rights, privileges, powers, interests in property,
13 debts, liabilities and duties of the converted organization,
14 and shall not be deemed as a consequence of the conversion, to
15 have been transferred to the converted organization;

16 (8) if the converted organization is a limited
17 partnership, for all purposes of the laws of this state, the
18 limited partnership shall be deemed to be the same
19 organization as the converting organization, and the
20 conversion shall constitute a continuation of the existence of
21 the converting organization in the form of a limited
22 partnership;

23 (9) if the converted organization is a limited
24 partnership, the existence of the limited partnership shall be
25 deemed to have commenced on the date the converting

1 organization commenced its existence in the jurisdiction in
2 which the converting organization was first created, formed,
3 organized, incorporated, or otherwise came into being;

4 (10) the conversion shall not affect the choice of
5 law applicable to matters arising prior to conversion; and

6 (11) if the Secretary of State has assigned a unique
7 identifying number or other designation to the converting
8 organization and (i) the converted organization is formed
9 pursuant to the laws of this state or (ii) the converted
10 organization is, within 30 days after the effective date of
11 the conversion, registered to transact business in this state,
12 then that unique identifying number or other designation shall
13 continue to be assigned to the converted organization.

14 (b) A converted organization that is a foreign
15 entity consents to the jurisdiction of the courts of this
16 state to enforce any debt, obligation or other liability for
17 which the converting limited partnership, or series thereof,
18 is liable if, before the conversion, the converting limited
19 partnership was subject to suit in this state on the debt,
20 obligation or other liability. If a converted organization
21 that is a foreign entity fails to designate or maintain a
22 registered agent, or the designated registered agent cannot
23 with reasonable diligence be served, then service of process
24 on that converted organization for the purposes of enforcing a
25 debt, obligation, or other liability under this subsection may

1 be made in the same manner and has the same consequences as
2 provided in Section 10A-1-5.35.

3 § 10A-9A-10.06. Merger.

4 (a) A limited partnership may merge with one or more
5 other constituent organizations pursuant to this section,
6 Sections 10A-9A-10.07 through 10A-9A-10.09, and a plan of
7 merger, if:

8 (1) the governing statute of each of the other
9 organizations authorizes the merger;

10 (2) the merger is not prohibited by the law of a
11 jurisdiction that enacted any of those governing statutes; and

12 (3) each of the other organizations complies with
13 its governing statute in effecting the merger.

14 (b) A plan of merger must be in writing and must
15 include:

16 (1) the name, type of organization, and mailing
17 address of the principal office of each constituent
18 organization;

19 (2) the name, type of organization, and mailing
20 address of the principal office of the surviving organization
21 and, if the surviving organization is to be created pursuant
22 to the merger, a statement to that effect;

23 (3) the terms and conditions of the merger,
24 including the manner and basis for converting the interests in
25 each constituent organization into any combination of money,

1 interests in the surviving organization, and other
2 consideration as allowed by subsection (c);

3 (4) if the surviving organization is to be created
4 pursuant to the merger, the surviving organization's
5 organizational documents; and

6 (5) if the surviving organization is not to be
7 created pursuant to the merger, any amendments to be made by
8 the merger to the surviving organization's organizational
9 documents.

10 (c) In connection with a merger, rights or
11 securities of or interests in a constituent organization may
12 be exchanged for or converted into cash, property, or rights
13 or securities of or interests in the surviving organization,
14 or, in addition to or in lieu thereof, may be exchanged for or
15 converted into cash, property, or rights or securities of or
16 interests in another organization or may be cancelled.

17 § 10A-9A-10.07. Action on plan of merger by
18 constituent limited partnership.

19 (a) Subject to Section 10A-9A-10.10, a plan of
20 merger must be consented to by all the partners of a
21 constituent limited partnership.

22 (b) Subject to Section 10A-9A-10.10 and any
23 contractual rights, after a merger is approved, and at any
24 time before a filing is made under Section 10A-9A-10.08, a

1 constituent limited partnership may amend the plan or abandon
2 the merger:

3 (1) as provided in the plan; and

4 (2) except as prohibited by the plan, with the same
5 consent as was required to approve the plan.

6 § 10A-9A-10.08. Filings required for merger;
7 effective date.

8 (a) After each constituent organization has approved
9 the plan of merger, a statement of merger must be signed on
10 behalf of:

11 (1) each constituent limited partnership, as
12 provided in Section 10A-9A-2.03(a); and

13 (2) each other constituent organization, as provided
14 by its governing statute.

15 (b) A statement of merger under this section must
16 include:

17 (1) the name, type of organization, and mailing
18 address of the principal office of each constituent
19 organization and the jurisdiction of its governing statute;

20 (2) the name, type of organization, and mailing
21 address of the principal office of the surviving organization,
22 the jurisdiction of its governing statute, and, if the
23 surviving organization is created pursuant to the merger, a
24 statement to that effect;

1 (3) the date of the filing of the certificate of
2 formation, if any, and all prior amendments and the filing
3 office or offices, if any, and where such is filed of each
4 constituent organization which was formed under the laws of
5 this state;

6 (4) the date the merger is effective under the
7 governing statute of the surviving organization;

8 (5) if the surviving organization is to be created
9 pursuant to the merger:

10 (A) if it will be a limited partnership, the limited
11 partnership's certificate of formation; or

12 (B) if it will be an organization other than a
13 limited partnership, any organizational document that creates
14 the organization that is required to be in a public writing;

15 (6) if the surviving organization exists before the
16 merger, any amendments provided for in the plan of merger for
17 the organizational document that created the organization that
18 are in a public writing;

19 (7) a statement as to each constituent organization
20 that the merger was approved as required by the organization's
21 governing statute;

22 (8) if the surviving organization is a foreign
23 organization not authorized to conduct activities and affairs
24 in this state, the street and mailing address of an office for
25 the purposes of Section 10A-9A-10.09(b); and

1 (9) any additional information required by the
2 governing statute of any constituent organization.

3 (c) The statement of merger shall be delivered for
4 filing to the Secretary of State in accordance with Section
5 10A-1-4.02(c)(1), along with the fees specified in Section
6 10A-1-4.31, subject to the last sentence of this subsection
7 (c). For each constituent organization which is formed under
8 the laws of this state and which is not, immediately prior to
9 the merger becoming effective, an organization described in
10 Section 10A-1-4.02(c)(4), the Secretary of State shall within
11 10 days transmit a certified copy of the statement of merger
12 to the office of the judge of probate in the county in which
13 the certificate of formation for each such constituent
14 organization was filed along with the proper fee for the judge
15 of probate. For each constituent organization which is formed
16 under the laws of this state and which is, immediately prior
17 to the merger becoming effective, an organization described in
18 Section 10A-1-4.02(c)(4), but which has a certificate of
19 formation filed with the judge of probate, the Secretary of
20 State shall transmit a certified copy of the statement of
21 merger to the office of the judge of probate in the county in
22 which the certificate of formation for each such constituent
23 organization was filed along with the proper fee for the judge
24 of probate. For each constituent organization which (1) is
25 formed under the laws of this state, (2) is, immediately prior

1 to the merger becoming effective, an organization described in
2 Section 10A-1-4.02(c)(4), and (3) did not file its certificate
3 of formation with the judge of probate, but rather in
4 accordance with this title filed its certificate of formation
5 with the Secretary of State, the Secretary of State shall not
6 transmit a certified copy of the statement of merger to the
7 office of the judge of probate and shall not collect any fee
8 for the judge of probate.

9 (d) A merger becomes effective under this article:

10 (1) if the surviving organization is a limited
11 partnership, upon the later of:

12 (A) the filing of the statement of merger with the
13 Secretary of State; or

14 (B) as specified in the statement of merger; or

15 (2) if the surviving organization is not a limited
16 partnership, as provided by the governing statute of the
17 surviving organization.

18 (e) After a merger becomes effective, if the
19 surviving organization is a limited partnership, then all
20 filing instruments required to be filed under this title
21 regarding that surviving organization shall be filed with the
22 Secretary of State.

23 (f) A certified copy of the statement of merger
24 required to be filed under this section may be filed in the
25 real estate records in the office of the judge of probate in

1 any county in which any constituent organization owned real
2 property, without payment and without collection by the judge
3 of probate of any deed or other transfer tax or fee. The judge
4 of probate, however, shall be entitled to collect the filing
5 fee of five dollars (\$5). Any such filing shall evidence chain
6 of title, but lack of filing shall not affect the surviving
7 organization's title to such real property.

8 (g) A statement of merger shall be a filing
9 instrument under Chapter 1.

10 (h) Except as provided in the last sentence of
11 subsection (c), the filing fees for a statement of merger
12 shall be the same fees as provided in Section
13 10A-1-4.31(a) (5).

14 § 10A-9A-10.09. Effect of merger.

15 (a) When a merger becomes effective:

16 (1) the surviving organization continues or, in the
17 case of a surviving organization created pursuant to the
18 merger, comes into existence;

19 (2) each constituent organization that merges into
20 the surviving organization ceases to exist as a separate
21 entity;

22 (3) all property owned by each constituent
23 organization that ceases to exist vests in the surviving
24 organization without reservation or impairment and the title
25 to any property vested by deed or otherwise in the surviving

1 organization shall not revert or be in any way impaired by
2 reason of the merger;

3 (4) all debts, obligations or other liabilities of
4 each constituent organization that ceases to exist continue as
5 debts, obligations or other liabilities of the surviving
6 organization and neither the rights of creditors, nor any
7 liens upon the property of any constituent organization, shall
8 be impaired by the merger;

9 (5) an action or proceeding pending by or against
10 any constituent organization continues as if the merger had
11 not occurred;

12 (6) except as prohibited by law other than this
13 chapter, all of the rights, privileges, immunities, powers,
14 and purposes of each constituent organization vest in the
15 surviving organization;

16 (7) except as otherwise provided in the plan of
17 merger, the terms and conditions of the plan of merger take
18 effect;

19 (8) except as otherwise agreed, if a constituent
20 limited partnership ceases to exist, the merger does not
21 dissolve the limited partnership;

22 (9) if the surviving organization is created
23 pursuant to the merger:

24 (A) if it is a limited partnership, the certificate
25 of formation becomes effective; or

1 (B) if it is an organization other than a limited
2 partnership, the organizational document that creates the
3 organization becomes effective; and

4 (10) if the surviving organization existed before
5 the merger, any amendments provided for in the statement of
6 merger for the organizational document that created the
7 organization become effective.

8 (b) A surviving organization that is a foreign
9 entity consents to the jurisdiction of this state to enforce
10 any debt, obligation, or other liability owed by a constituent
11 organization, if before the merger the constituent
12 organization was subject to suit in this state on the debt,
13 obligation, or other liability. If a surviving organization
14 that is a foreign entity fails to designate or maintain a
15 registered agent, or the designated registered agent cannot
16 with reasonable diligence be served, then the service of
17 process on that surviving organization for the purposes of
18 enforcing a debt, obligation, or other liability under this
19 subsection may be made in the same manner and has the same
20 consequences as provided in Section 10A-1-5.35.

21 § 10A-9A-10.10. Restrictions on approval of mergers,
22 conversions and on relinquishing LLLP status.

23 (a) If a partner of a converting or constituent
24 limited partnership will have personal liability with respect
25 to a converted or surviving organization, approval and

1 amendment of a plan of conversion or plan of merger are
2 ineffective without that partner's consent to the plan.

3 (b) An amendment to a certificate of formation which
4 deletes a statement that the limited partnership is a limited
5 liability limited partnership is ineffective without each
6 general partner's written consent to such amendment.

7 (c) A partner does not give the consent required by
8 subsection (a) or (b) merely by consenting to a provision of
9 the partnership agreement that permits the partnership
10 agreement to be amended with the consent of fewer than all the
11 partners.

12 § 10A-9A-10.11. Liability of general partner after
13 conversion or merger.

14 (a) A conversion or merger under this article does
15 not discharge any liability under Sections 10A-9A-4.04 and
16 10A-9A-6.07 of a person that was a general partner in or
17 dissociated as a general partner from a converting or
18 constituent limited partnership, but:

19 (1) the provisions of this chapter pertaining to the
20 collection or discharge of the liability continue to apply to
21 the liability;

22 (2) for the purposes of applying those provisions,
23 the converted or surviving organization is deemed to be the
24 converting or constituent limited partnership; and

1 (3) if a person is required to pay any amount under
2 this subsection:

3 (A) the person has a right of contribution from each
4 other person that was liable as a general partner under
5 Section 10A-9A-4.04 when the obligation was incurred and has
6 not been released from the obligation under Section
7 10A-9A-6.07; and

8 (B) the contribution due from each of those persons
9 is in proportion to the right to receive distributions in the
10 capacity of general partner in effect for each of those
11 persons when the obligation was incurred.

12 (b) In addition to any other liability provided by
13 law:

14 (1) a person that immediately before a conversion or
15 merger became effective was a general partner in a converting
16 or constituent limited partnership that was not a limited
17 liability limited partnership is personally liable for each
18 obligation of the converted or surviving organization arising
19 from a transaction with a third party after the conversion or
20 merger becomes effective, if, at the time the third party
21 enters into the transaction, the third party:

22 (A) does not have notice of the conversion or
23 merger; and

24 (B) reasonably believes that:

1 (i) the converted or surviving business is the
2 converting or constituent limited partnership;

3 (ii) the converting or constituent limited
4 partnership is not a limited liability limited partnership;
5 and

6 (iii) the person is a general partner in the
7 converting or constituent limited partnership; and

8 (2) a person that was dissociated as a general
9 partner from a converting or constituent limited partnership
10 before the conversion or merger became effective is personally
11 liable for each obligation of the converted or surviving
12 organization arising from a transaction with a third party
13 after the conversion or merger becomes effective, if:

14 (A) immediately before the conversion or merger
15 became effective the converting or surviving limited
16 partnership was not a limited liability limited partnership;
17 and

18 (B) at the time the third party enters into the
19 transaction the third party:

20 (i) does not have notice of the dissociation;

21 (ii) does not have notice of the conversion or
22 merger; and

23 (iii) reasonably believes that the converted or
24 surviving organization is the converting or constituent
25 limited partnership, the converting or constituent limited

1 partnership is not a limited liability limited partnership,
2 and the person is a general partner in the converting or
3 constituent limited partnership.

4 § 10A-9A-10.12. Power of general partners and
5 persons dissociated as general partners to bind organization
6 after conversion or merger.

7 (a) An act of a person that immediately before a
8 conversion or merger became effective was a general partner in
9 a converting or constituent limited partnership binds the
10 converted or surviving organization after the conversion or
11 merger becomes effective, if:

12 (1) before the conversion or merger became
13 effective, the act would have bound the converting or
14 constituent limited partnership under Section 10A-9A-4.02; and

15 (2) at the time the third party enters into the
16 transaction, the third party:

17 (A) does not have notice of the conversion or
18 merger; and

19 (B) reasonably believes that the converted or
20 surviving business is the converting or constituent limited
21 partnership and that the person is a general partner in the
22 converting or constituent limited partnership.

23 (b) An act of a person that before a conversion or
24 merger became effective was dissociated as a general partner
25 from a converting or constituent limited partnership binds the

1 converted or surviving organization after the conversion or
2 merger becomes effective, if:

3 (1) before the conversion or merger became
4 effective, the act would have bound the converting or
5 constituent limited partnership under Section 10A-9A-4.02 if
6 the person had been a general partner; and

7 (2) at the time the third party enters into the
8 transaction, the third party:

9 (A) does not have notice of the dissociation;

10 (B) does not have notice of the conversion or
11 merger; and

12 (C) reasonably believes that the converted or
13 surviving organization is the converting or constituent
14 limited partnership and that the person is a general partner
15 in the converting or constituent limited partnership.

16 (c) If a person having knowledge of the conversion
17 or merger causes a converted or surviving organization to
18 incur an obligation under subsection (a) or (b), the person is
19 liable:

20 (1) to the converted or surviving organization for
21 any damage caused to the organization arising from the
22 obligation; and

23 (2) if another person is liable for the obligation,
24 to that other person for any damage caused to that other
25 person arising from the liability.

1 § 10A-9A-10.13. Article not exclusive. This article
2 is not exclusive. This article does not preclude an entity
3 from being converted or merged under law other than this
4 chapter.

5 Article 11. Miscellaneous Provisions.

6 § 10A-9A-11.01. Application to Existing
7 Relationships.

8 (a) Beginning January 1, 2017, this chapter governs
9 all limited partnerships and all foreign limited partnerships.

10 (b) With respect to a limited partnership formed
11 before January 1, 2010, the following rules apply except as
12 the partners otherwise elect in the manner provided in the
13 partnership agreement or by law for amending the partnership
14 agreement:

15 (1) Section 10A-1-3.03 does not apply and the
16 limited partnership has whatever duration it had under the law
17 applicable immediately before January 1, 2010.

18 (2) The limited partnership is not required to amend
19 its certificate of formation to comply with Section
20 10A-9A-2.01(a) (5); but once amended or restated, the
21 certificate of formation must comply with Section
22 10A-9A-2.01(a) (5).

23 (3) Sections 10A-9A-6.01 and 10A-9A-6.02 do not
24 apply and a limited partner has the same right and power to

1 dissociate from the limited partnership, with the same
 2 consequences, as existed immediately before January 1, 2010.

3 (4) Section 10A-9A-6.03(4) does not apply.

4 (5) Section 10A-9A-6.03(5) does not apply and a
 5 court has the same power to expel a general partner as the
 6 court had immediately before January 1, 2010.

7 (6) Section 10A-9A-8.01(c) does not apply and the
 8 connection between a person's dissociation as a general
 9 partner and the dissolution of the limited partnership is the
 10 same as existed immediately before January 1, 2010.

11 (c) With respect to limited partnerships formed
 12 before January 1, 2017:

13 (1) the limited partnership's formation document,
 14 whether a certificate of limited partnership or a certificate
 15 of formation is deemed to be the limited partnership's
 16 certificate of formation; and

17 (2) the limited partnership's partnership agreement
 18 is deemed the limited partnership's partnership agreement.

19 (d) With respect to a limited partnership formed
 20 before October 1, 1998, the term "partnership agreement" as
 21 defined in Section 10A-9A-1.02(10), includes the certificate
 22 of partnership.

23 § 10A-9A-11.02. Severability Clause. If any
 24 provision of this chapter or its application to any person or
 25 circumstance is held invalid, the invalidity does not affect

1 other provisions or applications of this chapter which can be
2 given effect without the invalid provision or application, and
3 to this end the provisions of this chapter are severable.

4 § 10A-9A-11.03. Relation to Electronic Signatures In
5 Global And National Commerce Act. This chapter modifies,
6 limits, or supersedes the federal Electronic Signatures in
7 Global and National Commerce Act, 15 U.S.C. Section 7001 et
8 seq., but this chapter does not modify, limit, or supersede
9 Section 101(c) of that act or authorize electronic delivery of
10 any of the notices described in Section 103(b) of that act.

11 § 10A-9A-11.04. Effective Date. This chapter takes
12 effect January 1, 2017.

13 § 10A-9A-11.05. Repeals. Effective January 1, 2017,
14 the following parts of the Code of Alabama 1975 are repealed:
15 Sections 10A-9-1.01 to 10A-9-12.08, inclusive, as amended and
16 in effect immediately before the effective date of this act.

17 § 10A-9A-11.06. Savings Clause. This chapter does
18 not affect an action commenced, proceeding brought, or right
19 accrued before this chapter takes effect.

20 § 10A-9A-11.07. Classification. For purposes of
21 income taxation, other than under Chapter 14A of Title 40, a
22 domestic or foreign limited partnership or limited liability
23 limited partnership shall be treated as a partnership unless
24 it is classified otherwise for federal income tax purposes, in

1 which case it shall be classified in the same manner as it is
2 for federal income tax purposes.

3 Section 2. Sections 10A-1-1.03, 10A-1-1.06,
4 10A-1-1.08, and 10A-1-4.26, Code of Alabama 1975, are amended
5 to read as follows:

6 "§10A-1-1.03.

7 "(1) AFFILIATE. A person who controls, is controlled
8 by, or is under common control with another person. An
9 affiliate of an individual includes the spouse, or a parent or
10 sibling thereof, of the individual, or a child, grandchild,
11 sibling, parent, or spouse of any thereof, of the individual,
12 or an individual having the same home as the individual, or a
13 trust or estate of which an individual specified in this
14 sentence is a substantial beneficiary; a trust, estate,
15 incompetent, conservatee, protected person, or minor of which
16 the individual is a fiduciary; or an entity of which the
17 individual is director, general partner, agent, employee or
18 the governing authority or member of the governing authority.

19 "(2) ASSOCIATE. When used to indicate a relationship
20 with:

21 "(A) a domestic or foreign entity or organization
22 for which the person is:

23 "(i) an officer or governing person; or

1 "(ii) a beneficial owner of 10 percent or more of a
2 class of voting ownership interests or similar securities of
3 the entity or organization;

4 "(B) a trust or estate in which the person has a
5 substantial beneficial interest or for which the person serves
6 as trustee or in a similar fiduciary capacity;

7 "(C) the person's spouse or a relative of the person
8 related by consanguinity or affinity within the fifth degree
9 who resides with the person; or

10 "(D) a governing person or an affiliate or officer
11 of the person.

12 "(3) ASSOCIATION. Includes, but is not limited to,
13 an unincorporated nonprofit association as defined in Section
14 10A-17-1.02(2) and an unincorporated professional association
15 as defined in Section 10A-30-1.01(2).

16 "(4) BUSINESS CORPORATION. A corporation within the
17 meaning of Section 10A-2-1.40(3) or Section 10A-2-1.40(9).

18 "(5) BUSINESS TRUST. A business trust within the
19 meaning of Section 10A-16-1.01.

20 "(6) CERTIFICATE OF FORMATION.

21 "(A) the document required to be filed publicly
22 under Article 3 to form a filing entity; and

23 "(B) if appropriate, a restated certificate of
24 formation and all amendments of an original or restated
25 certificate of formation.

1 "(7) CERTIFICATE OF OWNERSHIP. An instrument
2 evidencing an ownership interest or membership interest in an
3 entity.

4 "(8) CERTIFICATE OF TERMINATION. Any document, such
5 as articles of dissolution in the case of a corporation, or
6 certificate of cancellation, in the case of a limited
7 partnership, required by law to be filed publicly with respect
8 to an entity's dissolution and the winding up of its affairs
9 or the end of its existence. In the case of an entity whose
10 separate existence ceases as a result of a merger, the
11 articles of merger shall constitute the certificate of
12 termination.

13 "(9) CERTIFICATED OWNERSHIP INTEREST. An ownership
14 interest of a domestic entity represented by a certificate
15 issued in bearer or registered form.

16 "(10) CERTIFICATION. Duly authenticated by the
17 proper officer of the state or county under the laws of which
18 a domestic or foreign entity is formed.

19 "(11) CONTRIBUTION. A tangible or intangible benefit
20 that a person transfers to an entity in consideration for an
21 ownership interest in the entity or otherwise in the person's
22 capacity as an owner or a member. In the case of an entity to
23 which Section 234 of the Constitution of Alabama of 1901, now
24 appearing as Section 234 of the Official Recompilation of the
25 Constitution of Alabama of 1901, as amended, applies, the

1 benefit that may constitute a contribution transferred in
2 exchange for an ownership interest or transferred in the
3 transferor's capacity as an owner or member shall be limited
4 to money, work or labor done, or property actually received.
5 For entities to which Section 234 does not apply, the benefit
6 that may constitute a contribution transferred in exchange for
7 an ownership interest or transferred in the transferor's
8 capacity as an owner or member may include cash, property,
9 services rendered, a contract for services to be performed, a
10 promissory note or other obligation of a person to pay cash or
11 transfer property to the entity, or securities or other
12 interests in or obligations of an entity. In either case, the
13 benefit does not include cash or property received by the
14 entity:

15 "(A) with respect to a promissory note or other
16 obligation to the extent that the agreed value of the note or
17 obligation has previously been included as a contribution; or

18 "(B) that the person intends to be a loan to the
19 entity.

20 "(12) CONVERSION.

21 "(A) the continuance of a domestic entity as a
22 foreign entity of any type;

23 "(B) the continuance of a foreign entity as a
24 domestic entity of any type; or

1 "(C) the continuance of a domestic entity of one
2 type as a domestic entity of another type.

3 "(13) CONVERTED ENTITY. An entity resulting from a
4 conversion. The term converted entity is synonymous with the
5 term resulting entity.

6 "(14) CONVERTING ENTITY. An entity as the entity
7 existed before the entity's conversion.

8 "(15) COOPERATIVE. Includes an employee cooperative
9 within the meaning of Section 10A-11-1.02(2).

10 "(16) CORPORATION. Includes a business corporation
11 within the meaning of Section 10A-2-1.40(3) or Section
12 10A-2-1.40(9), a nonprofit corporation within the meaning of
13 Section 10A-3-1.02(7) or Section 10A-3-1.02(4), a professional
14 corporation within the meaning of Section 10A-4-1.03(3) or
15 Section 10A-4-1.03(4), and those entities specified in Chapter
16 20 as corporate.

17 "(17) COURT. Every court and judge having
18 jurisdiction in a case.

19 "(18) DAY. When used in the computation of time
20 excludes the first day and includes the last day of the period
21 so computed, unless the last day is a Saturday, Sunday, or
22 legal holiday, in which event the period runs until the end of
23 the next day that is not a Saturday, a Sunday, or a legal
24 holiday. When the period of time to be computed is less than 7

1 days, intermediate Saturdays, Sundays, and legal holidays
2 shall be excluded.

3 "(19) DEBTOR IN BANKRUPTCY. A person who is the
4 subject of:

5 "(A) an order for relief under the United States
6 bankruptcy laws, Title 11, United States Code, or comparable
7 order under a successor statute of general application; or

8 "(B) a comparable order under federal, state, or
9 foreign law governing insolvency.

10 "(20) DIRECTOR. An individual who serves on the
11 board of directors, by whatever name known, of a foreign or
12 domestic corporation.

13 "(21) DISTRIBUTION. A transfer of property,
14 including cash, from an entity to an owner or member of the
15 entity in the owner's or member's capacity as an owner or
16 member. The term includes a dividend, a redemption or purchase
17 of an ownership interest, or a liquidating distribution.

18 "(22) DOMESTIC. With respect to an entity, that the
19 entity is formed and exists under this title.

20 "(23) DOMESTIC ENTITY. An organization formed and
21 existing under this title.

22 "(24) EFFECTIVE DATE OF THIS TITLE. January 1, 2011.

23 "(25) ELECTRONIC SIGNATURE. An electronic signature
24 as that term is defined in the Alabama Electronic Transactions
25 Act, Chapter 1A of Title 8, or any successor statute.

1 "(26) ENTITY. A domestic entity or foreign entity.

2 "(27) FILING ENTITY. A domestic entity that is a
3 corporation, limited partnership, limited liability company,
4 professional association, employee cooperative corporation, or
5 real estate investment trust.

6 "(28) FILING INSTRUMENT. An instrument, document, or
7 statement that is required or authorized by this title to be
8 filed by or for an entity with the filing officer in
9 accordance with Article 4.

10 "(29) FILING OFFICER. The officer with whom a filing
11 instrument is required or permitted to be filed under Article
12 4 or under any other provision of this title.

13 "(30) FOREIGN. With respect to an entity, that the
14 entity is formed and existing under the laws of a jurisdiction
15 other than this state.

16 "(31) FOREIGN ENTITY. An organization formed and
17 existing under the laws of a jurisdiction other than this
18 state.

19 "(32) FOREIGN FILING ENTITY. A foreign entity that
20 registers or is required to register as a foreign entity under
21 Section 10A-1-7.01(a) (1).

22 "(33) FOREIGN GOVERNMENTAL AUTHORITY. A governmental
23 official, agency, or instrumentality of a jurisdiction other
24 than this state.

1 "(34) FOREIGN LIMITED PARTNERSHIP. A limited
2 partnership within the meaning of Section ~~10A-9-1.02(7)~~
3 10A-9A-1.02(4).

4 "(35) FOREIGN NONFILING ENTITY. A foreign entity
5 that is not a foreign filing entity.

6 "(36) FUNDAMENTAL BUSINESS TRANSACTION. A merger,
7 interest exchange, conversion, or sale of all or substantially
8 all of an entity's assets.

9 "(37) GENERAL PARTNER.

10 "(A) each partner in a general partnership; or

11 "(B) a person who is admitted to a limited
12 partnership as a general partner in accordance with the
13 governing documents of the limited partnership.

14 "(38) GENERAL PARTNERSHIP. A partnership within the
15 meaning of Section 10A-8-1.02(3). The term includes a
16 registered limited liability partnership within the meaning of
17 Section 10A-8-1.02(7).

18 "(39) GOVERNING AUTHORITY. A person or group of
19 persons who are entitled to manage and direct the affairs of
20 an entity under this title and the governing documents of the
21 entity, except that if the governing documents of the entity
22 or this title divide the authority to manage and direct the
23 affairs of the entity among different persons or groups of
24 persons according to different matters, governing authority
25 means the person or group of persons entitled to manage and

1 direct the affairs of the entity with respect to a matter
2 under the governing documents of the entity or this title. The
3 term includes the board of directors of a corporation, by
4 whatever name known, or other persons authorized to perform
5 the functions of the board of directors of a corporation, the
6 general partners of a general partnership or limited
7 partnership, the managers of a limited liability company that
8 is managed by managers, the members of a limited liability
9 company that is managed by members who are entitled to manage
10 the company, and the trust managers of a real estate
11 investment trust. The term does not include an officer who is
12 acting in the capacity of an officer.

13 "(40) GOVERNING DOCUMENTS.

14 "(A) in the case of a domestic entity:

15 "(i) the certificate of formation for a domestic
16 filing entity or the document or agreement under which a
17 domestic nonfiling entity is formed; and

18 "(ii) the other documents or agreements, including
19 bylaws, partnership agreements of limited partnerships,
20 operating agreements of limited liability companies, or
21 similar documents, adopted by the entity under this title to
22 govern the formation or the internal affairs of the entity; or

23 "(B) in the case of a foreign entity, the
24 instruments, documents, or agreements adopted under the law of

1 its jurisdiction of formation to govern the formation or the
2 internal affairs of the entity.

3 "(41) GOVERNING PERSON. A person serving as part of
4 the governing authority of an entity.

5 "(42) INDIVIDUAL. A natural person and the estate of
6 an incompetent or deceased natural person.

7 "(43) INSOLVENCY. The inability of a person to pay
8 the person's debts as they become due in the usual course of
9 business or affairs.

10 "(44) INSOLVENT. A person who is unable to pay the
11 person's debts as they become due in the usual course of
12 business or affairs.

13 "(45) JUDGE OF PROBATE. The judge of probate of the
14 county in which a domestic entity's certificate of formation
15 is filed, or, with respect to partnership statements provided
16 for in Section 10A-8-1.06, the judge of probate of the county
17 in which a statement is filed.

18 "(46) JURISDICTION OF FORMATION.

19 "(A) in the case of a domestic filing entity, this
20 state;

21 "(B) in the case of a foreign filing entity, the
22 jurisdiction in which the entity's certificate of formation or
23 similar organizational instrument is filed; or

24 "(C) in the case of a foreign or domestic nonfiling
25 entity:

1 "(i) the jurisdiction the laws of which are chosen
2 in the entity's governing documents to govern its internal
3 affairs if that jurisdiction bears a reasonable relation to
4 the owners or members or to the domestic or foreign nonfiling
5 entity's business and affairs under the principles of this
6 state that otherwise would apply to a contract among the
7 owners or members; or

8 "(ii) if subparagraph (i) does not apply, the
9 jurisdiction in which the entity has its principal place of
10 business.

11 "(47) LAW. Unless the context requires otherwise,
12 both statutory and common law.

13 "(48) LICENSE. A license, certificate of
14 registration, or other legal authorization.

15 "(49) LICENSING AUTHORITY. The state court, state
16 regulatory licensing board, or other like agency which has the
17 power to issue a license or other legal authorization to
18 render professional services.

19 "(50) LIMITED LIABILITY COMPANY. A limited liability
20 company within the meaning of ~~Chapter 5~~ or Chapter 5A, ~~as~~
21 ~~applicable.~~

22 "(51) LIMITED PARTNER. A person who has been
23 admitted to a limited partnership as a limited partner as
24 provided by:

1 "(A) in the case of a domestic limited partnership,
2 Section 10A-9-3.01; or Section 10A-9A-3.01, as applicable; or

3 "(B) in the case of a foreign limited partnership,
4 the laws of its jurisdiction of formation.

5 "(52) LIMITED PARTNERSHIP. A limited partnership
6 within the meaning of Section 10A-9-1.02(11) ~~or Section~~
7 ~~10A-9-1.02(7)~~ or 10A-9A-1.02(8), as applicable.

8 "(53) MANAGERIAL OFFICIAL. An officer or a governing
9 person.

10 "(54) MEMBER.

11 "(A) a person defined as a member under ~~Chapter 5 or~~
12 ~~Chapter 5A, as applicable;~~

13 "(B) in the case of a nonprofit corporation governed
14 by Article 3, a person having membership rights in a
15 corporation in accordance with its governing documents as
16 provided in Section 10A-3-1.02(5);

17 "(C) in the case of an employee cooperative
18 corporation governed by Chapter 11, a natural person who, as
19 provided in Section 10A-11-1.02(5), has been accepted for
20 membership in and owns a membership share in an employee
21 cooperative~~;~~

22 "(D) in the case of a nonprofit association, a
23 person who, as provided in Section 10A-17-1.02(1), may
24 participate in the selection of persons authorized to manage

1 the affairs of the nonprofit association or in the development
2 of its policy.

3 "(55) MERGER.

4 "(A) the division of a domestic entity into two or
5 more new domestic entities or other organizations or into a
6 surviving domestic entity and one or more new domestic or
7 foreign entities or non-code organizations; or

8 "(B) the combination of one or more domestic
9 entities with one or more domestic entities or non-code
10 organizations resulting in:

11 "(i) one or more surviving domestic entities or
12 non-code organizations;

13 "(ii) the creation of one or more new domestic
14 entities or non-code organizations, or one or more surviving
15 domestic entities or non-code organizations; or

16 "(iii) one or more surviving domestic entities or
17 non-code organizations and the creation of one or more new
18 domestic entities or non-code organizations.

19 "(56) NON-CODE ORGANIZATION. An organization other
20 than a domestic entity.

21 "(57) NONFILING ENTITY. A domestic entity that is
22 not a filing entity. The term includes a domestic general
23 partnership, a registered limited liability partnership, and a
24 nonprofit association.

1 "(58) NONPROFIT ASSOCIATION. An unincorporated
2 nonprofit association within the meaning of Section
3 10A-17-1.02(2).

4 "(59) NONPROFIT CORPORATION. A nonprofit corporation
5 within the meaning of Section 10A-3-1.02(7) or Section
6 10A-3-1.02(4).

7 "(60) NONPROFIT ENTITY. An entity that is a
8 nonprofit corporation, nonprofit association, or other entity
9 that is organized solely for one or more ~~of the nonprofit~~
10 purposes ~~specified by the chapter or article of this title~~
11 ~~applicable to that form of nonprofit entity and no part of the~~
12 ~~income or profit of which is distributable to its members,~~
13 ~~owners, directors, officers, or other governing persons.~~

14 "(61) OFFICER. An individual elected, appointed, or
15 designated as an officer of an entity by the entity's
16 governing authority or under the entity's governing documents.

17 "(62) ORGANIZATION. A corporation, limited or
18 general partnership, limited liability company, business
19 trust, real estate investment trust, joint venture, joint
20 stock company, cooperative, association, bank, insurance
21 company, credit union, savings and loan association, or other
22 organization, regardless of whether the organization is for
23 profit, nonprofit, domestic, or foreign.

24 "(63) ORGANIZER. A person, who need not be an owner
25 or member of the entity, who, having the capacity to contract,

1 is authorized to execute documents in connection with the
 2 formation of the entity.

3 "(64) OWNER.

4 "(A) with respect to a foreign or domestic business
 5 corporation or real estate investment trust, a shareholder;

6 "(B) with respect to a foreign or domestic
 7 partnership, a partner;

8 "(C) with respect to a foreign or domestic limited
 9 liability company or association, a member; and

10 "(D) with respect to another foreign or domestic
 11 entity, an owner of an equity interest in that entity.

12 "(65) OWNERSHIP INTEREST. An owner's interest in an
 13 entity. The term includes the owner's share of profits and
 14 losses or similar items and the right to receive
 15 distributions. The term does not include an owner's right to
 16 participate in management or participate in the direction or
 17 oversight of the entity. An ownership interest is personal
 18 property.

19 "(66) PARENT ENTITY or PARENT ORGANIZATION. An
 20 entity or organization that:

21 "(A) owns at least 50 percent of the ownership or
 22 membership interest of a subsidiary; or

23 "(B) possesses at least 50 percent of the voting
 24 power of the owners or members of a subsidiary.

25 "(67) PARTNER. A limited partner or general partner.

1 "(68) PARTNERSHIP. Includes a general partnership
2 ~~within the meaning of Section 10A-8-1.02(3), including,~~ a
3 registered limited liability partnership ~~within the meaning of~~
4 ~~Section 10A-8-1.02(7) and,~~ a foreign registered limited
5 liability partnership ~~within the meaning of Section~~
6 ~~10A-8-1.02(2) and also includes,~~ a limited partnership ~~within~~
7 ~~the meaning of Section 10A-9-1.02(7) or Section~~
8 ~~10A-9-1.02(11),~~ a foreign limited partnership, a limited
9 liability limited partnership within the meaning of Section
10 10A-9-1.02(9) and Section 10A-9A-1.02(6), and a foreign
11 limited liability limited partnership within the meaning of
12 Section 10A-9-1.02(6) and Section 10A-9A-1.02(3).

13 "(69) PARTNERSHIP AGREEMENT. ~~The agreement, written~~
14 ~~or oral, among the partners concerning the affairs of the~~
15 ~~general or limited partnership, as the case may be, and the~~
16 ~~conduct of its business.~~ Any agreement (whether referred to as
17 a partnership agreement or otherwise), written, oral or
18 implied, of the partners as to the activities and affairs of a
19 general partnership or a limited partnership. The partnership
20 agreement includes any amendments to the partnership
21 agreement. In the case of limited partnerships formed prior to
22 October 1, ~~1988~~ 1998, partnership agreement includes the
23 certificate of partnership.

1 "(70) PARTNERSHIP INTEREST. In the case of a general
2 partnership, ~~and in the case of a limited partnership,~~ the
3 meaning set forth in Section 10A-8-1.02(5).

4 "(71) PARTY TO THE MERGER. A domestic entity or
5 non-code organization that under a plan of merger is divided
6 or combined by a merger. The term does not include a domestic
7 entity or non-code organization that is not to be divided or
8 combined into or with one or more domestic entities or
9 non-code organizations, regardless of whether ownership
10 interests of the entity are to be issued under the plan of
11 merger.

12 "(72) PERSON. An individual or an organization,
13 whether created by the laws of this state or another state or
14 foreign country, including, without limitation, a general
15 partnership, registered limited liability partnership, limited
16 partnership, limited liability company, corporation,
17 professional corporation, professional association, trustee,
18 personal representative, fiduciary, as defined in Section
19 19-3-150 or person performing in any similar capacity,
20 business trust, estate, trust, association, joint venture,
21 government, governmental subdivision, agency, or
22 instrumentality, or any other legal or commercial entity.

23 "(73) PRESIDENT.

24 "(A) the individual designated as president of an
25 entity under the entity's governing documents; or

1 "(B) the officer or committee of persons authorized
2 to perform the functions of the principal executive officer of
3 an entity without regard to the designated name of the officer
4 or committee.

5 "(74) PROFESSIONAL ASSOCIATION. A professional
6 association within the meaning of Section 10A-30-1.01.

7 "(75) PROFESSIONAL CORPORATION. A professional
8 corporation within the meaning of Section 10A-4-1.03(2) or
9 Section 10A-4-1.03(3).

10 "(76) PROFESSIONAL ENTITY. A professional
11 association or a professional corporation.

12 "(77) PROFESSIONAL SERVICE. Any type of service that
13 may lawfully be performed only pursuant to a license issued by
14 a state court, state regulatory licensing board, or other like
15 agency pursuant to state laws.

16 "(78) PROPERTY. Includes tangible and intangible
17 property and an interest in that property.

18 "(79) REAL ESTATE INVESTMENT TRUST. An
19 unincorporated trust, association, or other entity within the
20 meaning of Section 10A-10-1.02(1).

21 "(80) REGISTERED LIMITED LIABILITY PARTNERSHIP. A
22 registered limited liability partnership within the meaning of
23 Section ~~10A-8-1.01(7)~~ 10A-8-1.02(7).

24 "(81) SECRETARY.

1 "(A) the individual designated as secretary of an
2 entity under the entity's governing documents; or

3 "(B) the officer or committee of persons authorized
4 to perform the functions of secretary of an entity without
5 regard to the designated name of the officer or committee.

6 "(82) SECRETARY OF STATE. The Secretary of State of
7 the State of Alabama.

8 "(83) SIGNATURE. Any symbol executed or adopted by a
9 person with present intention to authenticate a writing.
10 Unless the context requires otherwise, the term includes an
11 electronic signature and a facsimile of a signature.

12 "(84) STATE. Includes, when referring to a part of
13 the United States, a state or commonwealth, and its agencies
14 and governmental subdivisions, and a territory or possession,
15 and its agencies and governmental subdivisions, of the United
16 States.

17 "(85) SUBSCRIBER. A person who agrees with or makes
18 an offer to an entity to purchase by subscription an ownership
19 interest in the entity.

20 "(86) SUBSCRIPTION. An agreement between a
21 subscriber and an entity, or a written offer made by a
22 subscriber to an entity before or after the entity's
23 formation, in which the subscriber agrees or offers to
24 purchase a specified ownership interest in the entity.

1 "(87) SUBSIDIARY. An entity or organization at least
2 50 percent of:

3 "(A) the ownership or membership interest of which
4 is owned by a parent entity or parent organization; or

5 "(B) the voting power of which is possessed by a
6 parent entity or parent organization.

7 "(88) TREASURER.

8 "(A) the individual designated as treasurer of an
9 entity under the entity's governing documents; or

10 "(B) the officer or committee of persons authorized
11 to perform the functions of treasurer of an entity without
12 regard to the designated name of the officer or committee.

13 "(89) TRUSTEE. A person who serves as a trustee of a
14 trust, including a real estate investment trust.

15 "(90) UNCERTIFICATED OWNERSHIP INTEREST. An
16 ownership interest in a domestic entity that is not
17 represented by a certificate in bearer or registered form.

18 "(91) VICE PRESIDENT.

19 "(A) the individual designated as vice president of
20 an entity under the governing documents of the entity; or

21 "(B) the officer or committee of persons authorized
22 to perform the functions of the president of the entity on the
23 death, absence, or resignation of the president or on the
24 inability of the president to perform the functions of office

1 without regard to the designated name of the officer or
2 committee.

3 "(92) WRITING or WRITTEN. Information that is
4 inscribed on a tangible medium or that is stored in an
5 electronic or other medium and is retrievable in perceivable
6 form.

7 "§10A-1-1.06.

8 "To the extent not inconsistent with the
9 Constitution of Alabama of 1901, and other statutes of this
10 state wherein the terms may be found, and as the context
11 requires, in this title or any other statute of this state:

12 "(1) a reference to certificate of formation
13 includes, in the case of a corporation, articles of
14 incorporation, certificate of incorporation, and charter; in
15 the case of limited partnership, a certificate of limited
16 partnership and a certificate of formation; in the case of a
17 limited liability company, certificate of formation and
18 articles of organization; and in the case of a business trust
19 or a real estate investment trust, declaration of trust and,
20 similarly, a reference to articles of incorporation,
21 certificate of incorporation, charter, certificate of limited
22 partnership, or articles of organization includes a
23 certificate of formation;

24 "(2) a reference to certificate of termination
25 includes, in the case of a corporation or a limited liability

1 company, articles of dissolution and statement of dissolution,
2 and in the case of a limited partnership, a certificate of
3 cancellation and a statement of dissolution; similarly, a
4 reference to articles of dissolution, statement of
5 dissolution, or certificate of cancellation includes
6 certificate of termination and certificate of dissolution and,
7 similarly, a reference to certificate of termination includes
8 articles of dissolution, statement of dissolution, and
9 certificate of dissolution, and similarly, a reference to a
10 statement of dissolution includes articles of dissolution,
11 certificate of termination, and certificate of dissolution;

12 "(3) a reference to certificate of merger includes
13 articles of merger and statement of merger and similarly, a
14 reference to articles of merger includes certificate of merger
15 and statement of merger, and similarly, a reference to
16 statement of merger includes certificate of merger and
17 articles of merger;

18 "(4) a reference to authorized capital stock
19 includes authorized shares;

20 "(5) a reference to capital stock includes
21 authorized and issued shares, issued shares, and stated
22 capital;

23 "(6) a reference to a certificate of registration,
24 certificate of authority, and permit to do business includes
25 registration;

1 "(7) a reference to stock and shares of stock
2 includes shares;

3 "(8) a reference to stockholder includes
4 shareholder; and

5 "(9) a reference to no par stock includes shares
6 without par value.

7 "§10A-1-1.08.

8 "(a) The provisions of this title as described by
9 this section may be cited as provided by this section.

10 "(b) Chapter 2 and the provisions of Chapter 1 to
11 the extent applicable to business corporations may be cited as
12 the Alabama Business Corporation Law.

13 "(c) Chapter 3 and the provisions of Chapter 1 to
14 the extent applicable to nonprofit corporations may be cited
15 as the Alabama Nonprofit Corporation Law.

16 "(d) Chapter 4 and the provisions of Chapter 1 to
17 the extent applicable to professional corporations may be
18 cited as the Alabama Professional Corporation Law.

19 "~~Chapter 5 and the provisions of Chapter 1 to~~
20 ~~the extent applicable to limited liability companies may be~~
21 ~~cited as the Alabama Limited Liability Company Law.~~ Chapter 5A
22 and the provisions of Chapter 1 to the extent applicable to
23 limited liability companies may be cited as the Alabama
24 Limited Liability Company Law of 2014.

1 "(f) Chapter 8 and the provisions of Chapter 1 to
2 the extent applicable to general partnerships may be cited as
3 the Alabama Uniform Partnership Law.

4 "(g) Chapter 9 and the provisions of Chapter 1 to
5 the extent applicable to limited partnerships may be cited as
6 the Alabama Uniform Limited Partnership Law ~~of 2010~~. Chapter
7 9A and the provisions of Chapter 1 to the extent applicable to
8 limited partnerships may be cited as the Alabama Limited
9 Partnership Law.

10 "(h) Chapter 10 and the provisions of Chapter 1 to
11 the extent applicable to real estate investment trusts may be
12 cited as the Alabama Real Estate Investment Trust Law.

13 "(i) Chapter 11 and the provisions of Chapter 1 and
14 Chapter 2 to the extent applicable to employee cooperative
15 corporations may be cited as the Alabama Employee Cooperative
16 Corporations Law.

17 "(j) Chapter 17 may be cited as the Alabama
18 Unincorporated Nonprofit Association Law.

19 "§10A-1-4.26.

20 "A filing instrument that an entity files with the
21 Secretary of State or the judge of probate, as the case may
22 be, may be amended or supplemented ~~to the extent permitted by~~
23 in accordance with the provisions of ~~this title~~ the chapter
24 that apply to that entity or in accordance with that entity's
25 governing documents. If neither the chapter that applies to

1 that entity nor the governing documents of that entity
2 provides or prohibits a process for the approval and filing of
3 an amendment or supplement to that filing instrument for that
4 entity, then that filing instrument may be amended or
5 supplemented and filed utilizing the same process for approval
6 and filing as was used to approve and file that filing
7 instrument."

8 Section 3. Section 10A-1-5.05 is added to the Code
9 of Alabama 1975, as follows:

10 § 10A-1-5.05. Name of Limited Partnership.

11 (a) The name of a limited partnership may contain
12 the name of any partner.

13 (b) The name of a limited partnership that is not a
14 limited liability limited partnership must contain the phrase
15 "limited partnership" or "Limited," or the abbreviation
16 "L.P.," "LP," or "Ltd." and must not contain the phrase
17 "limited liability limited partnership" or the abbreviation
18 "LLLP" or "L.L.L.P."

19 (c) The name of a limited liability limited
20 partnership must contain the phrase "limited liability limited
21 partnership" or the abbreviation "LLLP" or "L.L.L.P." and must
22 not contain the abbreviation "L.P.," "LP," or "Ltd."

23 (d) Subject to Section 10A-1-7.07, this section
24 applies to any foreign limited partnership transacting
25 business in this state, having a certificate of authority to

1 transact business in this state, or applying for a certificate
 2 of authority.

3 (e) The name of a limited partnership may not
 4 contain the following words: "bank," "banking," "banker,"
 5 "trust," "insurance," "insurer," "corporation,"
 6 "incorporated," or any abbreviation of such words.

7 Section 4. Sections 10A-1-6.02, 10A-1-6.13,
 8 10A-1-6.25, 10A-1-7.07, 10A-5A-1.10, 10A-5A-4.01, 10A-5A-5.04,
 9 10A-5A-7.01, 10A-5A-7.02, 10A-5A-10.03, 10A-5A-10.04,
 10 10A-5A-10.07, and 10A-5A-10.08, Code of Alabama 1975, are
 11 amended to read as follows:

12 "§10A-1-6.02.

13 "(a) Except as provided by subsection (b), this
 14 article does not apply to a:

15 "(1) general partnership;

16 "(2) limited liability company; ~~or~~

17 "(3) limited partnership; and

18 "~~(3)~~ (4) nonprofit corporation.

19 "(b) The governing documents of a general
 20 partnership or limited liability company, limited partnership,
 21 or nonprofit corporation may adopt provisions of this article
 22 or may contain enforceable provisions relating to:

23 "(1) indemnification;

24 "(2) advancement or reimbursement of expenses; ~~or~~

25 "(3) insurance; or

1 "(4) another arrangement to indemnify or hold
2 ~~harmless a governing person~~ other arrangements.

3 "§10A-1-6.13.

4 "~~(a)~~ The certificate of formation of an enterprise
5 may restrict the circumstances under which the enterprise must
6 or may indemnify a person under this division.

7 "~~(b) The written partnership agreement of a limited~~
8 ~~partnership may restrict the circumstances in the same manner~~
9 ~~as the certificate of formation under subsection (a).~~

10 "§10A-1-6.25.

11 "(a) Notwithstanding any other provision of this
12 chapter but subject to subsection (d) and to the extent
13 consistent with other law, an enterprise may indemnify and
14 advance expenses to a person who is not a governing person,
15 including an officer, employee, agent, or delegate, as
16 provided by:

17 "(1) the enterprise's governing documents;

18 "(2) general or specific action of the enterprise's
19 governing authority;

20 "(3) resolution of the enterprise's owners or
21 members;

22 "(4) contract; or

23 "(5) common law.

24 "(b) An enterprise shall indemnify and advance
25 expenses to an officer to the same extent that indemnification

1 or advancement of expenses is required under this chapter for
2 a governing person.

3 "(c) A person described by subsection (a) may seek
4 indemnification or advancement of expenses from an enterprise
5 to the same extent that a governing person may seek
6 indemnification or advancement of expenses under this chapter.

7 "(d) The certificate of formation of an enterprise
8 may restrict the circumstances under which the enterprise must
9 or may indemnify a person under this section. ~~The written
10 partnership agreement of a limited partnership may restrict
11 the circumstances in the same manner as the certificate of
12 formation of the limited partnership.~~

13 "§10A-1-7.07.

14 "If the name of a foreign entity does not satisfy
15 the requirements of Article 5, the entity, for use in this
16 state, may:

17 "(1) if a corporation, add to its corporate name the
18 word "corporation" or "incorporated" or an abbreviation of one
19 of the words;

20 "(2) if a banking corporation, add to its corporate
21 name the words "bank," "banking," or "bankers";

22 "(3) if a limited partnership that is not a limited
23 liability limited partnership, add to its partnership name the
24 word "limited" or the abbreviation "Ltd." or the phrase
25 "limited partnership" or the abbreviation "L.P." or "LP" but

1 its name must not contain the phrase "limited liability
2 limited partnership" or the abbreviation "LLLP" or "L.L.L.P.";

3 "(4) if a limited partnership that is a limited
4 liability limited partnership, add to its partnership name the
5 phrase "limited liability limited partnership" or the
6 abbreviation "LLLP" or "L.L.L.P." and must not contain the
7 abbreviation "Ltd.," "L.P.," or "LP."

8 "(4)(5) if a limited liability company, add to its
9 company name the phrase "limited liability company" or the
10 abbreviation "L.L.C." or "LLC";

11 "(5)(6) if a professional corporation, add to its
12 corporate name the phrase "professional corporation" or the
13 abbreviation "P.C." or "PC";

14 "(6)(7) if a registered limited liability
15 partnership, add to its partnership name the phrase
16 "registered limited liability partnership" or the abbreviation
17 "L.L.P." or "LLP"; and

18 "(7)(8) use a fictitious name available for use in
19 this state that satisfies the requirements of Article 5, if it
20 delivers to the Secretary of State for filing a copy of the
21 resolution of its governing authority, certified by its
22 secretary, adopting the fictitious name.

23 "§10A-5A-1.10.

24 "(a) If a limited liability company agreement
25 provides for the manner in which it may be amended, including

1 by requiring the approval of a person who is not a party to
2 the limited liability company agreement or the satisfaction of
3 conditions, it may be amended only in that manner or as
4 otherwise permitted by law, except that the approval of any
5 person may be waived by that person and any conditions may be
6 waived by all persons for whose benefit those conditions were
7 intended.

8 "(b) A limited liability company agreement may
9 provide rights to any person, including a person who is not a
10 party to the limited liability company agreement, to the
11 extent set forth in the limited liability company agreement.

12 "(c) The obligations of a limited liability company
13 and its members to a person in the person's capacity as a
14 transferee or dissociated member are governed by the limited
15 liability company agreement. A transferee and a dissociated
16 member are bound by the limited liability company agreement.

17 "(d) If a writing that has been delivered by a
18 limited liability company for filing in accordance with
19 ~~Article 3 of~~ Chapter 1 and has become effective conflicts with
20 a provision of the limited liability company agreement:

21 "(1) The limited liability company agreement
22 prevails as to members, dissociated members, and transferees;
23 and

24 "(2) The writing prevails as to other persons to the
25 extent they reasonably rely on the writing.

1 "§10A-5A-4.01.

2 "(a) The initial member or members of a limited
3 liability company are admitted as a member or members upon the
4 formation of the limited liability company.

5 "(b) After formation of a limited liability company,
6 a person is admitted as a member of the limited liability
7 company:

8 "(1) as provided in the limited liability company
9 agreement;

10 "(2) as the result of a transaction effective under
11 Article 10;

12 "(3) with the consent of all the members; or

13 "~~(4) if, within 90 consecutive days after the~~
14 ~~occurrence of the dissociation of the last remaining member:~~
15 as provided in Section 10A-5A-7.01(c) (1) or (c) (2)

16 "~~(A) all holders of the transferable interest last~~
17 ~~transferred by the last person to have been a member consent~~
18 ~~to the designation of a person to be admitted as a member; and~~

19 "~~(B) the designated person consents to be admitted~~
20 ~~as a member effective as of the date the last person to have~~
21 ~~been a member ceased to be a member.~~

22 "(c) A person may be admitted as a member without
23 acquiring a transferable interest and without making or being
24 obligated to make a contribution to the limited liability
25 company. A person may be admitted as the sole member without

1 acquiring a transferable interest and without making or being
2 obligated to make a contribution to the limited liability
3 company.

4 "§10A-5A-5.04.

5 "If a member dies, the deceased member's personal
6 representative or other legal representative, ~~for purposes of~~
7 ~~settling the estate,~~ may ~~exercise the rights of a current~~
8 ~~member under Section 10A-5A-4.09.:~~

9 "(a) for the period of time that the deceased
10 member's personal representative or other legal representative
11 holds the deceased member's transferable interest:

12 "(1) exercise the rights of a holder of transferable
13 interests under this chapter;

14 "(2) exercise the rights of a transferee under
15 Section 10A-9A-5.02; and

16 "(3) for purposes of settling the estate, exercise
17 the rights of a current member under Section 10A-5A-4.09; and

18 "(b) for the period of time that the deceased
19 member's personal representative or other legal representative
20 does not hold the deceased member's transferable interest, for
21 purposes of settling the estate, exercise the rights of a
22 dissociated member under Section 10A-9A-4.09.

23 "§10A-5A-7.01.

1 "A limited liability company is dissolved and its
2 affairs shall be wound up upon the occurrence of the first of
3 the following events:

4 "(a) An event or circumstance that the limited
5 liability company agreement states causes dissolution.

6 "(b) Consent of all members to dissolve.

7 "(c) When there is no remaining member, unless
8 either of the following applies:

9 "(1) The holders of all the transferable interests
10 in the limited liability company agree in writing, within 90
11 days after the dissociation of the last member, to continue
12 the ~~legal existence and~~ activities and affairs of the limited
13 liability company and to appoint one or more new members.

14 "(2) The ~~legal existence and~~ activities and affairs
15 of the limited liability company are continued and one or more
16 new members are appointed in the manner stated in the limited
17 liability company agreement.

18 "(d) On application by a member, the entry of an
19 order dissolving the limited liability company on the grounds
20 that it is not reasonably practicable to carry on the limited
21 liability company's activities and affairs in conformity with
22 the limited liability company agreement, which order is
23 entered by the circuit court for the county in which the
24 limited liability company's principal place of business within
25 this state is located, and if the limited liability company

1 does not have a principal place of business within this state
2 then by the circuit court for the county in which the limited
3 liability company's most recent registered office is located.

4 "§10A-5A-7.02.

5 "Notwithstanding Section 10A-1-9.12:

6 "(a) A dissolved limited liability company continues
7 its existence as a limited liability company but may not carry
8 on any activities and affairs except as is appropriate to wind
9 up and liquidate its activities and affairs, including:

10 "(1) collecting its assets;

11 "(2) disposing of its properties that will not be
12 distributed in kind to persons owning transferable interests;

13 "(3) discharging or making provisions for
14 discharging its liabilities;

15 "(4) distributing its remaining property in
16 accordance with Section 10A-5A-7.06; and

17 "(5) doing every other act necessary to wind up and
18 liquidate its activities and affairs.

19 "(b) In winding up its activities and affairs, a
20 limited liability company may:

21 "(1) deliver for filing a statement of dissolution
22 to the filing officer provided for in subsection (e) setting
23 forth:

24 "(A) The name of the limited liability company.

1 "(B) The date of filing its certificate of
2 formation, and all amendments and restatements thereof, and
3 the office or offices where filed.

4 "(C) That the limited liability company has
5 dissolved.

6 "~~(D) The effective date of the statement of~~
7 ~~dissolution, which shall be a date certain, if it is not to be~~
8 ~~effective immediately.~~

9 "~~(E) (D)~~ Any other information the limited liability
10 company deems appropriate.

11 "(2) preserve the limited liability company's
12 activities and affairs and property as a going concern for a
13 reasonable time;

14 "(3) prosecute, defend, or settle actions or
15 proceedings whether civil, criminal, or administrative;

16 "(4) transfer the limited liability company's
17 assets;

18 "(5) resolve disputes by mediation or arbitration;
19 and

20 "(6) merge or convert in accordance with Article 10.

21 "(c) The dissolution of a limited liability company
22 does not:

23 "(1) transfer title to the limited liability
24 company's property;

1 "(2) prevent the commencement of a proceeding by or
2 against the limited liability company in its limited liability
3 company name;

4 "(3) terminate, abate, or suspend a proceeding
5 pending by or against the limited liability company on the
6 effective date of dissolution;

7 "(4) terminate the authority of its registered
8 agent; or

9 "(5) abate, suspend, or otherwise alter the
10 application of Section 10A-5A-3.01.

11 "(d) A statement of dissolution shall be deemed to
12 be a filing instrument under Chapter 1.

13 "(e) If a limited liability company is not an
14 organization described in Section 10A-1-4.02(c)(4), then that
15 limited liability company shall deliver the statement of
16 dissolution for filing to the judge of probate in whose office
17 the original certificate of formation is filed. If a limited
18 liability company is an organization described in
19 Section 10A-1-4.02(c)(4), then that limited liability company
20 shall deliver the statement of dissolution for filing to the
21 Secretary of State.

22 "§10A-5A-10.03.

23 "(a) After a plan of conversion is approved:

24 "(1) if the converting organization is an
25 organization formed under the laws of this state, the

1 converting organization shall file a statement of conversion
2 in accordance with subsection (c), which statement of
3 conversion must be signed in accordance with Section
4 10A-5A-2.04(a) and which must include:

5 "(A) the name of the converting organization;

6 "(B) the date of the filing of the certificate of
7 formation of the converting organization, if any, and all
8 prior amendments and the filing office or offices, if any,
9 where such is filed;

10 "(C) a statement that the converting organization
11 has been converted into the converted organization;

12 "(D) the name and type of organization of the
13 converted organization and the jurisdiction of its governing
14 statute;

15 "(E) the street and mailing address of the principal
16 office of the converted organization;

17 "(F) the date the conversion is effective under the
18 governing statute of the converted organization;

19 "(G) a statement that the conversion was approved as
20 required by this chapter;

21 "(H) a statement that the conversion was approved as
22 required by the governing statute of the converted
23 organization; and

24 "(I) if the converted organization is a foreign
25 organization not authorized to conduct activities and affairs

1 in this state, the street and mailing address of an office for
2 the purposes of Section 10A-5A-10.04(b); and

3 "(2) if the converted organization is a limited
4 liability company, the converting organization shall file a
5 certificate of formation in accordance with subsection (d),
6 which certificate of formation must include, in addition to
7 the information required by Section 10A-5A-2.01(a):

8 "(A) a statement that the limited liability company
9 was converted from the converting organization;

10 "(B) the name and type of organization of the
11 converting organization and the jurisdiction of the converting
12 organization's governing statute; and

13 "(C) a statement that the conversion was approved in
14 a manner that complied with the converting organization's
15 governing statute.

16 "(b) A conversion becomes effective:

17 "(1) if the converted organization is a limited
18 liability company, when the certificate of formation takes
19 effect; and

20 "(2) if the converted organization is not a limited
21 liability company, as provided by the governing statute of the
22 converted organization.

23 "(c) If the converting organization is an
24 organization formed under the laws of this state ~~and the~~
25 ~~converting organization is not an organization described in~~

1 ~~Section 10A-1-4.02(c)(4), then the converting organization~~
2 ~~shall file the statement of conversion required under~~
3 ~~subsection (a)(1) in the office of the judge of probate in the~~
4 ~~county required by this title for the filing of its~~
5 ~~organizational documents, if any, and if the organizational~~
6 ~~documents were not required by this title to be filed in the~~
7 ~~office of the judge of probate, then the converting~~
8 ~~organization shall file the statement of conversion required~~
9 ~~under subsection (a)(1) with the Secretary of State. If the~~
10 ~~converting organization is an organization formed under the~~
11 ~~laws of this state and the converting organization is an~~
12 ~~organization described in accordance with~~
13 ~~Section 10A-1-4.02(c)(4) 10A-1-4.02(c)(1), then the converting~~
14 ~~organization shall file the statement of conversion required~~
15 ~~under subsection (a)(1) with the Secretary of State.~~

16 " (d) If the converted organization is a limited
17 liability company, ~~the converting organization is an~~
18 ~~organization formed under the laws of this state, and the~~
19 ~~converting organization is not an organization described in~~
20 ~~then notwithstanding Section 10A-1-4.02(c)(4) 10A-1-4.02(b),~~
21 ~~then~~ the converting organization shall file the certificate of
22 formation required under subsection (a)(2) with the ~~judge of~~
23 ~~probate of the county in which a certificate of formation of a~~
24 ~~limited liability company is filed under this chapter. If the~~
25 ~~converted organization is a limited liability company, the~~

1 ~~converting organization is an organization formed under the~~
2 ~~laws of this state, and the converting organization is an~~
3 ~~organization described in Section 10A-1-4.02(c)(4), then the~~
4 ~~converting organization shall file the certificate of~~
5 ~~formation required under subsection (a)(2) with the Secretary~~
6 ~~of State in accordance with Section 10A-1-4.02(c)(5), along~~
7 ~~with the fees specified in Section 10A-1-4.31 subject to~~
8 ~~subsection (f)(3). If the converted organization is a limited~~
9 ~~liability company and the converting organization is not an~~
10 ~~organization formed under the laws of this state, then the~~
11 ~~converting organization shall file the certificate of~~
12 ~~formation required under subsection (a)(2) with the judge of~~
13 ~~probate of the county in which a certificate of formation of a~~
14 ~~limited liability company is filed under this chapter.~~

15 " (e) ~~In the case of a statement of conversion or a~~
16 ~~certificate of formation that is to be filed with the judge of~~
17 ~~probate pursuant to subsections (c) and (d), the judge of~~
18 ~~probate shall within 10 days transmit a certified copy of the~~
19 ~~statement of conversion or certificate of formation to the~~
20 ~~Secretary of State, along with the proper fee. If the~~
21 ~~converting organization is required to file a statement of~~
22 ~~conversion and a certificate of formation with the Secretary~~
23 ~~of State, then the converting organization shall file the~~
24 ~~statement of conversion and the certificate of formation with~~
25 ~~the Secretary of State simultaneously.~~

1 "(f) In the case of a statement of conversion that
2 is to be filed with the Secretary of State pursuant to
3 subsection (c):

4 "(1) if the converting organization ~~is, immediately~~
5 ~~prior to the conversion becoming effective, an organization~~
6 ~~described in Section 10A-1-4.02(c)(4), but which~~ has a
7 certificate of formation filed with the judge of probate, the
8 Secretary of State shall within 10 days transmit a certified
9 copy of the statement of conversion to the office of the judge
10 of probate in the county in which the certificate of formation
11 for such converting organization was filed along with the
12 proper fee for the ~~probate judge~~ judge of probate.

13 "(2) if the converting organization ~~is, immediately~~
14 ~~prior to the conversion becoming effective, an organization~~
15 ~~described in Section 10A-1-4.02(c)(4), and did not file its~~
16 certificate of formation with the ~~probate judge~~ judge of
17 probate, but rather in accordance with
18 ~~Section 10A-1-4.02(c)(4)~~ this title filed its certificate of
19 formation with the Secretary of State, the Secretary of State
20 shall not transmit a certified copy of the statement of
21 conversion to the office of the judge of probate and shall not
22 collect any fee for the judge of probate.

23 "(3) if the converting organization, immediately
24 prior to the conversion becoming effective, is an organization
25 described in Section 10A-1-4.02(c)(4), but is not required

1 under this title to file its organizational documents with the
2 judge of probate, the Secretary of State shall not transmit a
3 certified copy of the statement of the statement of conversion
4 to the office of the judge of probate and shall not collect
5 any fee for the judge of probate.

6 "(g) In the case of a certificate of formation that
7 is to be filed with the Secretary of State pursuant to
8 subsection (d), the Secretary of State shall not transmit a
9 certified copy of the ~~statement of conversion~~ certificate of
10 formation to the office of the judge of probate and shall not
11 collect any fee for the judge of probate, but shall collect
12 the fee provided for the Secretary of State in Section
13 10A-1-4.31(a)(1).

14 "(h) After a conversion becomes effective, if the
15 converted organization is a limited liability company, then
16 all filing instruments required to be filed under this title
17 regarding that converted organization shall be filed with the
18 Secretary of State.

19 "(i) If:

20 "(1) the converting organization is a filing entity
21 or a foreign filing entity registered to conduct activities
22 and affairs in this state;

23 "(2) the converted organization will be a filing
24 entity or a foreign filing entity registered to conduct
25 activities and affairs in this state;

1 "(3) the name of the converting organization and the
2 converted organization are to be the same, other than words,
3 phrases, or abbreviations indicating the type of entity; and

4 "(4) the name of the converted organization complies
5 with Division A of Article 5 of Chapter 1 or
6 Section 10A-1-7.07, as the case may be; then notwithstanding
7 Division B of Article 5 of Chapter 1, no name reservation
8 shall be required and the converted organization shall for all
9 purpose of this title be entitled to utilize the name of the
10 converting organization without any further action by the
11 converting organization or the converted organization.

12 "(j) A certified copy of any document required to be
13 filed under this section may be filed in the real estate
14 records in the office of the judge of probate in any county in
15 which the converting organization owned real property, without
16 payment and without collection by the judge of probate of any
17 deed or other transfer tax or fee. The judge of probate shall,
18 however, be entitled to collect a filing fee of five dollars
19 (\$5). Any such filing shall evidence chain of title, but lack
20 of filing shall not affect the converted organization's title
21 to such real property.

22 "(k) A statement of conversion shall be a filing
23 instrument under Chapter 1.

1 "(1) Except as set forth in subsection (f) (2), the
2 filing fees for a statement of conversion shall be the same
3 fee as provided in Section 10A-1-4.31(a) (5).

4 "§10A-5A-10.04.

5 "(a) When a conversion takes effect:

6 "(1) all property owned by the converting
7 organization, or series thereof, remains vested in the
8 converted organization without reservation or impairment and
9 the title to any property vested by deed or otherwise in the
10 converting organization shall not revert or be in any way
11 impaired by reason of the conversion;

12 "(2) all debts, obligations, or other liabilities of
13 the converting organization, or series thereof, continue as
14 debts, obligations, or other liabilities of the converted
15 organization and neither the rights of creditors, nor the
16 liens upon the property of the converting organization shall
17 be impaired by the conversion;

18 "(3) an action or proceeding pending by or against
19 the converting organization, or series thereof, continues as
20 if the conversion had not occurred;

21 "(4) except as prohibited by law other than this
22 chapter, all of the rights, privileges, immunities, powers,
23 and purposes of the converting organization, or series
24 thereof, remain vested in the converted organization;

1 "(5) except as otherwise provided in the plan of
2 conversion, the terms and conditions of the plan of conversion
3 take effect;

4 "(6) except as otherwise agreed, for all purposes of
5 the laws of this state, the converting organization, and any
6 series thereof, shall not be required to wind up its affairs
7 or pay its liabilities and distribute its assets, and the
8 conversion shall not be deemed to constitute a dissolution of
9 the converting organization, or series thereof;

10 "(7) for all purposes of the laws of this state, the
11 rights, privileges, powers, interests in property, debts,
12 liabilities, and duties of the converting organization, and
13 all series thereof, shall be the rights, privileges, powers,
14 interests in property, debts, liabilities, and duties of the
15 converted organization, and shall not be deemed as a
16 consequence of the conversion, to have been transferred to the
17 converted organization;

18 "(8) if the converted organization is a limited
19 liability company, for all purposes of the laws of this state,
20 the limited liability company shall be deemed to be the same
21 organization as the converting organization, and the
22 conversion shall constitute a continuation of the existence of
23 the converting organization in the form of a limited liability
24 company;

1 "(9) if the converted organization is a limited
2 liability company, the existence of the limited liability
3 company shall be deemed to have commenced on the date the
4 converting organization commenced its existence in the
5 jurisdiction in which the converting organization was first
6 created, formed, organized, incorporated, or otherwise came
7 into being; ~~and~~

8 "(10) the conversion shall not affect the choice of
9 law applicable to matters arising prior to conversion; ~~and~~

10 "(11) If the Secretary of State has assigned a
11 unique identifying number or other designation to the
12 converting organization and (i) the converted organization is
13 formed pursuant to the laws of this state or (ii) the
14 converted organization is, within 30 days after the effective
15 date of the conversion, registered to transact business in
16 this state, then that unique identifying number or other
17 designation shall continue to be assigned to the converted
18 organization.

19 "(b) A converted organization that is a foreign
20 entity consents to the jurisdiction of the courts of this
21 state to enforce any debt, obligation, or other liability for
22 which the converting limited liability company, or series
23 thereof, is liable if, before the conversion, the converting
24 limited liability company was subject to suit in this state on
25 the debt, obligation, or other liability. If a converted

1 organization that is a foreign entity fails to designate or
2 maintain a registered agent, or the designated registered
3 agent cannot with reasonable diligence be served, then service
4 of process on that converted organization for the purposes of
5 enforcing a debt, obligation, or other liability under this
6 subsection may be made in the same manner and has the same
7 consequences as provided in Section 10A-1-5.35.

8 "§10A-5A-10.07.

9 "(a) After each constituent organization has
10 approved the plan of merger, a statement of merger must be
11 signed on behalf of:

12 "(1) each constituent limited liability company, as
13 provided in Section 10A-5A-2.04(a); and

14 "(2) each other constituent organization, as
15 provided by its governing statute.

16 "(b) A statement of merger under this section must
17 include:

18 "(1) the name, type of organization, and mailing
19 address of the principal office of each constituent
20 organization and the jurisdiction of its governing statute;

21 "(2) the name, type of organization, and mailing
22 address of the principal office of the surviving organization,
23 the jurisdiction of its governing statute, and, if the
24 surviving organization is created pursuant to the merger, a
25 statement to that effect;

1 "(3) the date of the filing of the certificate of
2 formation, if any, and all prior amendments and the filing
3 office or offices, if any, and where such is filed of each
4 constituent organization which was formed under the laws of
5 this state;

6 "(4) the date the merger is effective under the
7 governing statute of the surviving organization;

8 "(5) if the surviving organization is to be created
9 pursuant to the merger:

10 "(A) if it will be a limited liability company, the
11 limited liability company's certificate of formation; or

12 "(B) if it will be an organization other than a
13 limited liability company, any organizational document that
14 creates the organization that is required to be in a public
15 writing;

16 "(6) if the surviving organization exists before the
17 merger, any amendments provided for in the plan of merger for
18 the organizational document that created the organization that
19 are in a public writing;

20 "(7) a statement as to each constituent organization
21 that the merger was approved as required by the organization's
22 governing statute;

23 "(8) if the surviving organization is a foreign
24 organization not authorized to conduct activities and affairs

1 in this state, the street and mailing address of an office for
2 the purposes of Section 10A-5A-10.08(b); and

3 "(9) any additional information required by the
4 governing statute of any constituent organization.

5 "(c) ~~Each constituent organization which is formed~~
6 ~~under the laws of this state shall file the~~ The statement of
7 merger ~~with~~ shall be delivered for filing to the Secretary of
8 State in accordance with Section 10A-1-4.02(c)(1), along with
9 the fees specified in Section 10A-1-4.31, subject to the last
10 sentence of this subsection (c). For each constituent
11 organization which is formed under the laws of this state and
12 which is not, immediately prior to the merger becoming
13 effective, an organization described in
14 Section 10A-1-4.02(c)(4), the Secretary of State shall within
15 10 days transmit a certified copy of the statement of merger
16 to the office of the judge of probate in the county in which
17 the certificate of formation for each such constituent
18 organization was filed along with the proper fee for the
19 ~~probate judge~~ judge of probate. For each constituent
20 organization which is formed under the laws of this state and
21 which is, immediately prior to the merger becoming effective,
22 an organization described in Section 10A-1-4.02(c)(4), but
23 which has a certificate of formation filed with the judge of
24 probate, the Secretary of State shall transmit a certified
25 copy of the statement of merger to the office of the judge of

1 probate in the county in which the certificate of formation
2 for each such constituent organization was filed along with
3 the proper fee for the judge of probate. For each constituent
4 organization which (1) is formed under the laws of this state,
5 (2) is, immediately prior to the merger becoming effective, an
6 organization described in Section 10A-1-4.02(c)(4), and (3)
7 did not file its certificate of formation with the ~~probate~~
8 ~~judge~~ judge of probate, but rather in accordance with
9 ~~Section 10A-1-4.02(c)(4)~~ this title filed its certificate of
10 formation with the Secretary of State, the Secretary of State
11 shall not transmit a certified copy of the statement of merger
12 to the office of the judge of probate and shall not collect
13 any fee for the judge of probate.

14 "(d) A merger becomes effective under this article:

15 "(1) if the surviving organization is a limited
16 liability company, upon the later of:

17 "(A) the filing of the statement of merger with the
18 Secretary of State; or

19 "(B) as specified in the statement of merger; or

20 "(2) if the surviving organization is not a limited
21 liability company, as provided by the governing statute of the
22 surviving organization.

23 "(e) After a merger becomes effective, if the
24 surviving organization is a limited liability company, then
25 all filing instruments required to be filed under this title

1 regarding that surviving organization shall be filed with the
2 Secretary of State.

3 "(f) A certified copy of the statement of merger
4 required to be filed under this section may be filed in the
5 real estate records in the office of the judge of probate in
6 any county in which any constituent organization owned real
7 property, without payment and without collection by the judge
8 of probate of any deed or other transfer tax or fee. The judge
9 of probate, however, shall be entitled to collect the filing
10 fee of five dollars (\$5). Any such filing shall evidence chain
11 of title, but lack of filing shall not affect the surviving
12 organization's title to such real property.

13 "(g) A statement of merger shall be a filing
14 instrument under Chapter 1.

15 "(h) Except as provided in the last sentence of
16 subsection (c), the filing fees for a statement of merger
17 shall be the same fees as provided in
18 Section 10A-1-4.31(a) (5).

19 "§10A-5A-10.08.

20 "(a) When a merger becomes effective:

21 "(1) the surviving organization continues or, in the
22 case of a surviving organization created pursuant to the
23 merger, comes into existence;

1 "(2) each constituent organization that merges into
2 the surviving organization ceases to exist as a separate
3 entity;

4 "(3) all property owned by each constituent
5 organization, or series thereof, that ceases to exist vests in
6 the surviving organization without reservation or impairment
7 and the title to any property vested by deed or otherwise in
8 the surviving organization shall not revert or be in any way
9 impaired by reason of the merger;

10 "(4) all debts, obligations, or other liabilities of
11 each constituent organization, or series thereof, that ceases
12 to exist continue as debts, obligations or other liabilities
13 of the surviving organization and neither the rights of
14 creditors, nor any liens upon the property of any constituent
15 organization, shall be impaired by the merger;

16 "(5) an action or proceeding pending by or against
17 any constituent organization, or series thereof, continues as
18 if the merger had not occurred;

19 "(6) except as prohibited by law other than this
20 chapter, all of the rights, privileges, immunities, powers,
21 and purposes of each constituent organization, or series
22 thereof, vest in the surviving organization;

23 "(7) except as otherwise provided in the plan of
24 merger, the terms and conditions of the plan of merger take
25 effect;

1 "(8) except as otherwise agreed, if a constituent
2 limited liability company ceases to exist, the merger does not
3 dissolve the limited liability company ~~for the purposes of~~
4 ~~Article 7~~ and does not dissolve a series ~~for purposes of~~
5 ~~Article 11~~thereof;

6 "(9) if the surviving organization is created
7 pursuant to the merger:

8 "(A) if it is a limited liability company, the
9 certificate of formation becomes effective; or

10 "(B) if it is an organization other than a limited
11 liability company, the organizational document that creates
12 the organization becomes effective; and

13 "(10) if the surviving organization existed before
14 the merger, any amendments provided for in the statement of
15 merger for the organizational document that created the
16 organization become effective.

17 "(b) A surviving organization that is a foreign
18 entity consents to the jurisdiction of this state to enforce
19 any debt, obligation, or other liability owed by a constituent
20 organization, if before the merger the constituent
21 organization was subject to suit in this state on the debt,
22 obligation, or other liability. If a surviving organization
23 that is a foreign entity fails to designate or maintain a
24 registered agent, or the designated registered agent cannot
25 with reasonable diligence be served, then the service of

1 process on that surviving organization for the purposes of
2 enforcing a debt, obligation, or other liability under this
3 subsection may be made in the same manner and has the same
4 consequences as provided in Section 10A-1-5.35."

5 Section 5. Sections 10A-9-1.01 to 10A-9-12.08,
6 inclusive, Code of Alabama 1975, are repealed.

7 Section 6. This act shall become effective on
8 January 1, 2017, following its passage and approval by the
9 Governor, or its otherwise becoming law.

