

1 HB72  
2 188769-3  
3 By Representatives Poole and Daniels  
4 RFD: Judiciary  
5 First Read: 09-JAN-18  
6 PFD: 01/04/2018

1 ENGROSSED

2  
3  
4 A BILL  
5 TO BE ENTITLED  
6 AN ACT  
7

8 Relating to business entities; to amend Sections  
9 10A-1-1.02, 10A-1-1.03, 10A-1-1.06, 10A-1-1.08, 10A-1-1.12,  
10 10A-1-2.02, 10A-1-2.11, 10A-1-3.04, 10A-1-3.05, 10A-1-3.06,  
11 10A-1-3.17, 10A-1-3.32, 10A-1-3.33, 10A-1-3.41, 10A-1-3.42,  
12 10A-1-4.01, 10A-1-4.02, 10A-1-4.12, 10A-1-4.25, 10A-1-4.31,  
13 10A-1-5.01, 10A-1-5.02, 10A-1-5.03, 10A-1-5.04, 10A-1-5.05,  
14 10A-1-5.06, 10A-1-5.07, and 10A-1-5.08; to add Section  
15 10A-1-5.10; to amend Sections 10A-1-5.11, 10A-1-5.12,  
16 10A-1-5.31, 10A-1-5.32, 10A-1-5.33, 10A-1-6.02, 10A-1-7.01,  
17 10A-1-7.02, 10A-1-7.03, 10A-1-7.04, 10A-1-7.05, and  
18 10A-1-7.06, 10A-1-7.07, 10A-1-7.11, 10A-1-7.12, 10A-1-7.13,  
19 10A-1-7.14, 10A-1-7.22, 10A-1-7.23, 10A-1-7.24, 10A-1-7.31,  
20 10A-1-7.32, 10A-1-7.34, 10A-1-7.36, 10A-1-7.37, 10A-1-8.01,  
21 10A-1-8.02, and 10A-1-8.03, to amend and renumber Section  
22 10A-1-9.01 as 10A-1-9.02, to add a new Section 10A-1-9.01, and  
23 to amend Sections 10A-1-9.21, 10A-1-9.22, 10A-5A-1.02,  
24 10A-5A-1.06, 10A-5A-4.09, 10A-5A-7.02, 10A-5A-10.08,  
25 10A-9A-1.07, 10A-9A-10.09, and 10A-17-1.02 of the Code of  
26 Alabama 1975, to revise and replace the Alabama Partnership  
27 Act; and to provide that the procedures for formation, powers,

1 governance, and dissolution are applicable to limited  
2 liability limited partnerships, limited liability  
3 partnerships, foreign limited liability partnerships, and  
4 foreign limited liability limited partnerships that function  
5 in the state; to repeal Section 10A-1-7.33 and Chapter 8 of  
6 Title 10A, comprised of Sections 10A-8-1.01 to 10A-8-11.04,  
7 inclusive, Code of Alabama 1975; and to add Chapter 8A to  
8 Title 10A of the Code of Alabama 1975.

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

10 Section 1. Sections 10A-1-1.02, 10A-1-1.03,  
11 10A-1-1.06, 10A-1-1.08, 10A-1-1.12, 10A-1-2.02, 10A-1-2.11,  
12 10A-1-3.04, 10A-1-3.05, 10A-1-3.06, 10A-1-3.17, 10A-1-3.32,  
13 10A-1-3.33, 10A-1-3.41, 10A-1-3.42, 10A-1-4.01, 10A-1-4.02,  
14 10A-1-4.12, 10A-1-4.25, 10A-1-4.31, 10A-1-5.01, 10A-1-5.02,  
15 10A-1-5.03, 10A-1-5.04, 10A-1-5.05, 10A-1-5.06, 10A-1-5.07,  
16 and 10A-1-5.08 of the Code of Alabama 1975, are amended to  
17 read as follows:

18 "§10A-1-1.02.

19 "(a) All provisions of this chapter shall apply to  
20 all entities formed under or governed by Chapters 2 to 11,  
21 inclusive, except to the extent, if any, that any provision of  
22 this chapter is inconsistent with or as otherwise provided by  
23 the provisions of this title or other statutory or  
24 constitutional provisions specifically applicable to the  
25 entity.

26 "(b) The provisions of this chapter shall apply to  
27 entities formed under or governed by Chapter 16, Chapter 17,

1 Chapter 20, and Chapter 30 only as provided therein or  
2 expressly provided in this chapter.

3 "(c) If a provision of this chapter conflicts with a  
4 provision in another chapter of this title, the provision of  
5 the other chapter, to the extent of the conflict, supersedes  
6 the provision of this chapter.

7 ~~"(d) Any section of any act enacted at the 2009 and  
8 2010 Regular Sessions in substantive conflict with any  
9 provision of Act 2009-513 shall prevail over Act 2009-513  
10 whether enacted before or after Act 2009-513.~~

11 ~~"(e) When codifying Act 2009-513 and acts of the  
12 2009 and 2010 Regular Sessions or any special session  
13 occurring before the 2011 Regular Session, the Code  
14 Commissioner shall place the provisions of other acts relating  
15 to the subject of Act 2009-513 within the structure of Title  
16 10A as specified by Act 2009-513. Actions taken by the Code  
17 Commissioner in complying with this requirement shall include,  
18 but not be limited to, placing a section that is amended and  
19 renumbered by Act 2009-513 into the code in the substantive  
20 form as amended by the other act but assigning it the code  
21 section number contained in Act 2009-513 and assigning a  
22 section number based on the numbering system contained in Act  
23 2009-513 for any section amended by another act that is  
24 repealed by Act 2009-513.~~

25 "§10A-1-1.03.

26 "As used in this title, unless the context otherwise  
27 requires, the following terms mean:

1           "(1) AFFILIATE. A person who controls, is controlled  
2 by, or is under common control with another person. An  
3 affiliate of an individual includes the spouse, or a parent or  
4 sibling thereof, of the individual, or a child, grandchild,  
5 sibling, parent, or spouse of any thereof, of the individual,  
6 or an individual having the same home as the individual, or a  
7 trust or estate of which an individual specified in this  
8 sentence is a substantial beneficiary; a trust, estate,  
9 incompetent, conservatee, protected person, or minor of which  
10 the individual is a fiduciary; or an entity of which the  
11 individual is director, general partner, agent, employee or  
12 the governing authority or member of the governing authority.

13           "(2) ASSOCIATE. When used to indicate a relationship  
14 with:

15           "(A) a domestic or foreign entity or organization  
16 for which the person is:

17           "(i) an officer or governing person; or

18           "(ii) a beneficial owner of 10 percent or more of a  
19 class of voting ownership interests or similar securities of  
20 the entity or organization;

21           "(B) a trust or estate in which the person has a  
22 substantial beneficial interest or for which the person serves  
23 as trustee or in a similar fiduciary capacity;

24           "(C) the person's spouse or a relative of the person  
25 related by consanguinity or affinity within the fifth degree  
26 who resides with the person; or

1           "(D) a governing person or an affiliate or officer  
2 of the person.

3           "(3) ASSOCIATION. Includes, but is not limited to,  
4 an unincorporated nonprofit association as defined in ~~Section~~  
5 ~~10A-17-1.02(2)~~ Chapter 17 and an unincorporated professional  
6 association as defined in ~~Section 10A-30-1.01(2)~~ Article 1 of  
7 Chapter 30.

8           "(4) BUSINESS CORPORATION. A corporation or foreign  
9 corporation within the meaning of Section 10A-2-1.40(3) or  
10 Section 10A-2-1.40(9) as defined in Chapter 2.

11           "(5) BUSINESS TRUST. A business trust ~~within the~~  
12 ~~meaning of Section 10A-16-1.01~~ as defined in Chapter 16.

13           "(6) CERTIFICATE OF DISSOLUTION. Any document such  
14 as a certificate of dissolution, statement of dissolution, or  
15 articles of dissolution, required or permitted to be filed  
16 publicly with respect to an entity's dissolution and winding  
17 up of its business, activity, activities, not for profit  
18 activity, or affairs.

19           "~~(6)~~ (7) CERTIFICATE OF FORMATION.

20           "(A) the document required to be filed publicly  
21 under Article 3, Chapter 5A or Chapter 9A to form a filing  
22 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)~~(8) 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 or filing officer of~~  
19           ~~the jurisdiction the laws of which govern the internal affairs~~  
20           ~~of an entity.~~

21           "(11) CONTRIBUTION. A tangible or intangible benefit  
22           that a person transfers to an entity in consideration for an  
23           ownership interest in the entity or otherwise in the person's  
24           capacity as an owner or a member. ~~In the case of an entity to~~  
25           ~~which Section 234 of the Constitution of Alabama of 1901, now~~  
26           ~~appearing as Section 234 of the Official Recompilation of the~~  
27           ~~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 A~~  
6 benefit that may constitute a contribution transferred in  
7 exchange for an ownership interest or transferred in the  
8 transferor's capacity as an owner or member may include cash,  
9 property, services rendered, a contract for services to be  
10 performed, a promissory note or other obligation of a person  
11 to pay cash or transfer property to the entity, or securities  
12 or other interests in or obligations of an entity. In either  
13 case, the benefit does not include cash or property received  
14 by the 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

25 "(C) the continuance of a domestic entity of one  
26 type as a domestic entity of another type.



1           "(13) CONVERTED ENTITY. An entity resulting from a  
2 conversion. ~~The term converted entity is synonymous with the~~  
3 ~~term resulting entity.~~

4           "(14) CONVERTING ENTITY. An entity as the entity  
5 existed before the entity's conversion.

6           "(15) COOPERATIVE. Includes an employee cooperative  
7 ~~within the meaning of Section 10A-11-1.02(2)~~ as defined in  
8 Chapter 11.

9           "(16) CORPORATION. Includes a domestic or foreign  
10 business corporation ~~within the meaning of Section~~  
11 ~~10A-2-1.40(3) or Section 10A-2-1.40(9), a~~ as defined in  
12 Chapter 2, a domestic or foreign nonprofit corporation within  
13 ~~the meaning of Section 10A-3-1.02(7) or Section 10A-3-1.02(4),~~  
14 ~~a~~ as defined in Chapter 3, a domestic or foreign professional  
15 corporation ~~within the meaning of Section 10A-4-1.03(3) or~~  
16 ~~Section 10A-4-1.03(4)~~ as defined in Chapter 4, and those  
17 entities specified in Chapter 20 as corporate.

18           "(17) COURT. Every court and judge having  
19 jurisdiction in a case.

20           "(18) DAY. When used in the computation of time  
21 excludes the first day and includes the last day of the period  
22 so computed, unless the last day is a Saturday, Sunday, or  
23 legal holiday, in which event the period runs until the end of  
24 the next day that is not a Saturday, a Sunday, or a legal  
25 holiday. When the period of time to be computed is less than 7  
26 days, intermediate Saturdays, Sundays, and legal holidays  
27 shall be excluded.

1           "(19) DEBTOR IN BANKRUPTCY. A person who is the  
2 subject of:

3           "(A) an order for relief under the United States  
4 bankruptcy laws, Title 11, United States Code, or comparable  
5 order under a successor statute of general application; or

6           "(B) a comparable order under federal, state, or  
7 foreign law governing insolvency.

8           "(20) DIRECTOR. An individual who serves on the  
9 board of directors, by whatever name known, of a foreign or  
10 domestic corporation.

11           "(21) DISTRIBUTION. A transfer of property,  
12 including cash, from an entity to an owner or member of the  
13 entity in the owner's or member's capacity as an owner or  
14 member. The term includes a dividend, a redemption or purchase  
15 of an ownership interest, or a liquidating distribution.

16           "(22) DOMESTIC. With respect to an entity, that the  
17 entity is formed and exists under this title.

18           "(23) DOMESTIC ENTITY. An organization formed and  
19 existing under this title.

20           "(24) EFFECTIVE DATE OF THIS TITLE. January 1, 2011.

21           "(25) ELECTRONIC. Relating to technology having  
22 electrical, digital, magnetic, wireless, optical,  
23 electromagnetic, or similar capabilities.

24           "~~(25)~~ (26) ELECTRONIC SIGNATURE. An electronic  
25 signature as that term is defined in the Alabama Electronic  
26 Transactions Act, Chapter 1A of Title 8, or any successor  
27 statute.

1                   "(27) ELECTRONIC TRANSMISSION or ELECTRONICALLY  
2 TRANSMITTED. Any form or process of communication not directly  
3 involving the physical transfer of paper or another tangible  
4 medium, which (i) is suitable for the retention, retrieval,  
5 and reproduction of information by the recipient, and (ii) is  
6 retrievable in paper form by the recipient through an  
7 automated process used in conventional commercial practice.

8                   "(28) ELECTRONIC WRITING. Information that is stored  
9 in an electronic or other nontangible medium and is  
10 retrievable in paper form through an automated process used in  
11 conventional commercial practice.

12                   "~~(26)~~ (29) ENTITY. A domestic entity or foreign  
13 entity.

14                   "~~(27)~~ (30) FILING ENTITY. A domestic entity that is a  
15 corporation, limited partnership, including a limited  
16 liability partnership, limited liability company, professional  
17 association, employee cooperative corporation, or real estate  
18 investment trust.

19                   "~~(28)~~ (31) FILING INSTRUMENT. An instrument,  
20 document, or statement that is required or authorized by this  
21 title to be filed by or for an entity with the filing officer  
22 in accordance with Article 4.

23                   "~~(29)~~ (32) FILING OFFICER. The officer with whom a  
24 filing instrument is required or permitted to be filed under  
25 Article 4 or under any other provision of this title.

1           "~~(30)~~(33) FOREIGN. With respect to an entity, that  
2 the entity is formed and existing under the laws of a  
3 jurisdiction other than this state.

4           "~~(31)~~(34) FOREIGN ENTITY. An organization formed and  
5 existing under the laws of a jurisdiction other than this  
6 state.

7           "~~(32)~~(35) FOREIGN FILING ENTITY. A foreign entity  
8 that registers or is required to register as a foreign entity  
9 under ~~Section 10A-1-7.01(a)(1)~~ Article 7.

10           "~~(33)~~(36) FOREIGN GOVERNMENTAL AUTHORITY. A  
11 governmental official, agency, or instrumentality of a  
12 jurisdiction other than this state.

13           "(37) FOREIGN LIMITED LIABILITY LIMITED PARTNERSHIP.  
14 A foreign limited liability limited partnership as defined in  
15 Chapter 9A.

16           "(38) FOREIGN LIMITED LIABILITY PARTNERSHIP. A  
17 foreign limited liability partnership as defined in Chapter  
18 8A.

19           "~~(34)~~(39) FOREIGN LIMITED PARTNERSHIP. A foreign  
20 limited partnership ~~within the meaning of Section~~  
21 ~~10A-9A-1.02(4)~~ as defined in Chapter 9A.

22           "~~(35)~~(40) FOREIGN NONFILING ENTITY. A foreign entity  
23 that is not a foreign filing entity.

24           "~~(36)~~(41) FUNDAMENTAL BUSINESS TRANSACTION. A  
25 merger, interest exchange, conversion, or sale of all or  
26 substantially all of an entity's assets.

27           "~~(37)~~(42) GENERAL PARTNER.

1           "(A) each partner in a general partnership; or

2           "(B) a person who is admitted to a limited  
3 partnership as a general partner in accordance with the  
4 governing documents of the limited partnership.

5           "~~(38)~~ (43) GENERAL PARTNERSHIP. A partnership ~~within~~  
6 ~~the meaning of Section 10A-8-1.02(3)~~ as defined in Chapter 8A.  
7 The term includes a registered limited liability partnership  
8 ~~within the meaning of Section 10A-8-1.02(7)~~ as defined in  
9 Chapter 8A.

10           "~~(39)~~ (44) GOVERNING AUTHORITY. A person or group of  
11 persons who are entitled to manage and direct the affairs of  
12 an entity under this title and the governing documents of the  
13 entity, except that if the governing documents of the entity  
14 or this title divide the authority to manage and direct the  
15 affairs of the entity among different persons or groups of  
16 persons according to different matters, governing authority  
17 means the person or group of persons entitled to manage and  
18 direct the affairs of the entity with respect to a matter  
19 under the governing documents of the entity or this title. The  
20 term includes the board of directors of a corporation, by  
21 whatever name known, or other persons authorized to perform  
22 the functions of the board of directors of a corporation, the  
23 general partners of a general partnership or limited  
24 partnership, ~~the managers of a limited liability company that~~  
25 ~~is managed by managers, the members~~ the persons who have  
26 direction and oversight of a limited liability company, ~~that~~  
27 ~~is managed by members who are entitled to manage the company,~~

1 and the trust managers of a real estate investment trust. The  
2 term does not include an officer who is acting in the capacity  
3 of an officer.

4 ~~"(40)~~ (45) GOVERNING DOCUMENTS.

5 "(A) in the case of a domestic entity:

6 "(i) the certificate of formation for a domestic  
7 filing entity or the document or agreement under which a  
8 domestic nonfiling entity is formed; and

9 "(ii) the other documents or agreements, including  
10 bylaws, partnership agreements of ~~limited~~ partnerships,  
11 ~~operating~~ limited liability company agreements of limited  
12 liability companies, or similar documents, adopted by the  
13 entity under this title to govern the formation or the  
14 internal affairs of the entity; or

15 "(B) in the case of a foreign entity, the  
16 instruments, documents, or agreements adopted under the law of  
17 its jurisdiction of formation to govern the formation or the  
18 internal affairs of the entity.

19 ~~"(41)~~ (46) GOVERNING PERSON. A person serving as part  
20 of the governing authority of an entity.

21 ~~"(42)~~ (47) INDIVIDUAL. A natural person and the  
22 estate of an incompetent or deceased natural person.

23 ~~"(43)~~ (48) INSOLVENCY. The inability of a person to  
24 pay the person's debts as they become due in the usual course  
25 of business or affairs.

1           "~~(44)~~(49) INSOLVENT. A person who is unable to pay  
2 the person's debts as they become due in the usual course of  
3 business or affairs.

4           "~~(45)~~(50) JUDGE OF PROBATE. The judge of probate of  
5 the county in which a domestic entity's certificate of  
6 formation is filed, or, with respect to ~~partnership statements~~  
7 ~~provided for in Section 10A-8-1.06~~ a statement of authority  
8 under Chapter 8A, which is to be filed in the real property  
9 records of a particular county, the judge of probate of the  
10 county in which ~~a~~ that statement is filed.

11           "~~(46)~~(51) JURISDICTION OF FORMATION.

12           "(A) in the case of a domestic filing entity, this  
13 state;

14           "(B) in the case of a foreign ~~filing~~ entity, the  
15 jurisdiction in which the entity's certificate of formation or  
16 similar organizational instrument is filed; ~~or~~ , or if no  
17 certificate of formation or similar organizational instrument  
18 is filed, then the laws of the jurisdiction which govern the  
19 initial affairs of the foreign entity;

20           "(C) in the case of a general partnership which has  
21 filed a statement of partnership, a statement of not for  
22 profit partnership, or a statement of limited liability  
23 partnership in accordance with Chapter 8A, in this state;

24           "(D) in the case of a foreign limited liability  
25 partnership, the laws of the jurisdiction which govern the  
26 filing of the foreign limited liability partnership's

1 statement of limited liability partnership or such filing in  
2 that jurisdiction; and

3 "(E) in the case of a foreign or domestic nonfiling  
4 entity other than those entities described in subsection (C)  
5 or (D):

6 ~~"(C) in the case of a foreign or domestic nonfiling~~  
7 ~~entity:~~

8 "(i) the jurisdiction the laws of which are chosen  
9 in the entity's governing documents to govern its internal  
10 affairs if that jurisdiction bears a reasonable relation to  
11 the owners or members or to the domestic or foreign nonfiling  
12 entity's business and affairs under the principles of this  
13 state that otherwise would apply to a contract among the  
14 owners or members; or

15 "(ii) if subparagraph (i) does not apply, the  
16 jurisdiction in which the entity has its principal place of  
17 business.

18 ~~"(47) (52)~~ LAW. Unless the context requires  
19 otherwise, both statutory and common law.

20 ~~"(48) (53)~~ LICENSE. A license, certificate of  
21 registration, or other legal authorization.

22 ~~"(49) (54)~~ LICENSING AUTHORITY. The state court,  
23 state regulatory licensing board, or other like agency which  
24 has the power to issue a license or other legal authorization  
25 to render professional services.



1           "~~(50)~~ (55) LIMITED LIABILITY COMPANY. A limited  
2 liability company ~~within the meaning of~~ as defined in Chapter  
3 5A.

4           "(56) LIMITED LIABILITY LIMITED PARTNERSHIP. A  
5 limited liability limited partnership as defined in Chapter  
6 9A.

7           "(57) LIMITED LIABILITY PARTNERSHIP. A limited  
8 liability partnership as defined in Chapter 8A.

9           "~~(51)~~ (58) LIMITED PARTNER. A person who has been  
10 admitted to a limited partnership as a limited partner as  
11 provided by:

12           "(A) in the case of a domestic limited partnership,  
13 ~~Section 10A-9-3.01 or Section 10A-9A-3.01, as applicable~~  
14 Chapter 9A; or

15           "(B) in the case of a foreign limited partnership,  
16 the laws of its jurisdiction of formation.

17           "~~(52)~~ (59) LIMITED PARTNERSHIP. A limited partnership  
18 ~~within the meaning of Section 10A-9-1.02(11) or~~  
19 ~~10A-9A-1.02(8), as applicable~~ as defined in Chapter 9A. The  
20 term includes a limited liability limited partnership as  
21 defined in Chapter 9A.

22           "~~(53)~~ (60) MANAGERIAL OFFICIAL. An officer or a  
23 governing person.

24           "~~(54)~~ (61) MEMBER.

25           "(A) a person defined as a member under Chapter 5A;

26           "(B) in the case of a nonprofit corporation governed  
27 by ~~Article~~ Chapter 3, a person having membership rights in a

1 corporation in accordance with its governing documents as  
2 provided in ~~Section 10A-3-1.02(5)~~ Chapter 3;

3 "(C) in the case of an employee cooperative  
4 corporation governed by Chapter 11, a natural person who, as  
5 provided in ~~Section 10A-11-1.02(5)~~ Chapter 11, has been  
6 accepted for membership in and owns a membership share in an  
7 employee cooperative;

8 "(D) in the case of a nonprofit association, a  
9 person who, as provided in ~~Section 10A-17-1.02(1)~~ Chapter 17,  
10 may participate in the selection of persons authorized to  
11 manage the affairs of the nonprofit association or in the  
12 development of its policy.

13 ~~"(55) (62)~~ MERGER.

14 ~~"(A) the division of a domestic entity into two or  
15 more new domestic entities or other organizations or into a  
16 surviving domestic entity and one or more new domestic or  
17 foreign entities or non-code organizations; or~~

18 ~~"(B) the The combination of one or more domestic  
19 entities with one or more domestic entities or non-code  
20 organizations resulting in:~~

21 ~~"(i) (A) one or more surviving domestic entities or  
22 non-code organizations;~~

23 ~~"(ii) (B) the creation of one or more new domestic  
24 entities or non-code organizations, or one or more surviving  
25 domestic entities or non-code organizations; or~~

1           "~~(iii)~~(C) one or more surviving domestic entities or  
2 non-code organizations and the creation of one or more new  
3 domestic entities or non-code organizations.

4           "~~(56)~~(63) NON-CODE ORGANIZATION. An organization  
5 other than a domestic entity.

6           "~~(57)~~(64) NONFILING ENTITY. A domestic entity that  
7 is not a filing entity. The term includes a domestic general  
8 partnership, a ~~registered~~ limited liability partnership, and a  
9 nonprofit association.

10           "~~(58)~~(65) NONPROFIT ASSOCIATION. An unincorporated  
11 nonprofit association ~~within the meaning of Section~~  
12 ~~10A-17-1.02(2)~~ as defined in Chapter 17. The term does not  
13 include a general partnership which has filed a statement of  
14 not for profit partnership in accordance with Chapter 8A, a  
15 limited partnership which is carrying on a not for profit  
16 purpose, or a limited liability company which is carrying on a  
17 not for profit purpose.

18           "~~(59)~~(66) NONPROFIT CORPORATION. A domestic or  
19 foreign nonprofit corporation ~~within the meaning of Section~~  
20 ~~10A-3-1.02(7) or Section 10A-3-1.02(4)~~ as defined in Chapter  
21 3.

22           "~~(60)~~(67) NONPROFIT ENTITY. An entity that is a  
23 nonprofit corporation, nonprofit association, or other entity  
24 that is organized solely for one or more nonprofit purposes.

25           "~~(61)~~(68) OFFICER. An individual elected, appointed,  
26 or designated as an officer of an entity by the entity's  
27 governing authority or under the entity's governing documents.

1           "~~(62)~~(69) ORGANIZATION. A corporation, limited  
2 partnership, or general partnership, limited liability  
3 company, business trust, real estate investment trust, joint  
4 venture, joint stock company, cooperative, association, bank,  
5 insurance company, credit union, savings and loan association,  
6 or other organization, regardless of whether the organization  
7 is for profit, not for profit, nonprofit, domestic, or  
8 foreign.

9           "~~(63)~~(70) ORGANIZER. A person, who need not be an  
10 owner or member of the entity, who, having the capacity to  
11 contract, is authorized to execute documents in connection  
12 with the formation of the entity. The term includes an  
13 incorporator.

14           "~~(64)~~(71) OWNER.

15           "(A) with respect to a foreign or domestic business  
16 corporation or real estate investment trust, a shareholder;

17           "(B) with respect to a foreign or domestic  
18 partnership, a partner;

19           "(C) with respect to a foreign or domestic limited  
20 liability company or association, a member; and

21           "(D) with respect to another foreign or domestic  
22 entity, an owner of an equity interest in that entity.

23           "~~(65)~~(72) OWNERSHIP INTEREST. An owner's interest in  
24 an entity. The term includes the owner's share of profits and  
25 losses or similar items and the right to receive  
26 distributions. The term does not include an owner's right to  
27 participate in management or participate in the direction or

1 oversight of the entity. An ownership interest is personal  
2 property.

3 ~~"(66) (73)~~ PARENT ENTITY or PARENT ORGANIZATION. An  
4 entity or organization that:

5 "(A) owns at least 50 percent of the ownership or  
6 membership interest of a subsidiary; or

7 "(B) possesses at least 50 percent of the voting  
8 power of the owners or members of a subsidiary.

9 ~~"(67) (74)~~ PARTNER. A limited partner or general  
10 partner.

11 ~~"(68) (75)~~ PARTNERSHIP. Includes a general  
12 partnership, a ~~registered~~ limited liability partnership, a  
13 foreign ~~registered~~ limited liability partnership, a limited  
14 partnership, a foreign limited partnership, a limited  
15 liability limited partnership ~~within the meaning of Section~~  
16 ~~10A-9-1.02(9) and Section 10A-9A-1.02(6)~~, and a foreign  
17 limited liability limited partnership ~~within the meaning of~~  
18 ~~Section 10A-9-1.02(6) and Section 10A-9A-1.02(3)~~.

19 ~~"(69) (76)~~ PARTNERSHIP AGREEMENT. Any agreement  
20 (whether referred to as a partnership agreement or otherwise),  
21 written, oral or implied, of the partners as to the activities  
22 and affairs of a general partnership or a limited partnership.  
23 The partnership agreement includes any amendments to the  
24 partnership agreement. In the case of limited partnerships  
25 formed prior to October 1, 1998, partnership agreement  
26 includes the certificate of partnership.

1           "~~(70)~~ PARTNERSHIP INTEREST. In the case of a general  
2 ~~partnership the meaning set forth in Section 10A-8-1.02(5).~~

3           "~~(71)~~ (77) PARTY TO THE MERGER. A domestic entity or  
4 non-code organization that under a plan of merger is ~~divided~~  
5 ~~or~~ combined by a merger. The term does not include a domestic  
6 entity or non-code organization that is not to be ~~divided or~~  
7 combined into or with one or more domestic entities or  
8 non-code organizations, regardless of whether ownership  
9 interests of the entity are to be issued under the plan of  
10 merger.

11           "~~(72)~~ (78) PERSON. An individual ~~or,~~ including the  
12 estate of an incompetent or deceased individual, or an  
13 organization, whether created by the laws of this state or  
14 another state or foreign country, including, without  
15 limitation, a general partnership, ~~registered~~ limited  
16 liability partnership, limited partnership, limited liability  
17 limited partnership, limited liability company, corporation,  
18 professional corporation, professional association, trustee,  
19 personal representative, fiduciary, as defined in Section  
20 19-3-150 or person performing in any similar capacity,  
21 business trust, estate, trust, association, joint venture,  
22 government, governmental subdivision, agency, or  
23 instrumentality, or any other legal or commercial entity.

24           "~~(73)~~ (79) PRESIDENT.

25           "(A) the individual designated as president of an  
26 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)~~ (80) PROFESSIONAL ASSOCIATION. A professional  
6 association ~~within the meaning of Section 10A-30-1.01~~ as  
7 defined in Chapter 30.

8           "~~(75)~~ (81) PROFESSIONAL CORPORATION. A domestic or  
9 foreign professional corporation ~~within the meaning of Section~~  
10 ~~10A-4-1.03(2) or Section 10A-4-1.03(3)~~ as defined in Chapter  
11 4.

12           "~~(76)~~ (82) PROFESSIONAL ENTITY. A professional  
13 association ~~or~~ and a professional corporation.

14           "~~(77)~~ (83) PROFESSIONAL SERVICE. Any type of service  
15 that may lawfully be performed only pursuant to a license  
16 issued by a state court, state regulatory licensing board, or  
17 other like agency pursuant to state laws.

18           "~~(78)~~ (84) PROPERTY. Includes all property, whether  
19 real, personal, or mixed, or tangible and or intangible  
20 ~~property and an~~ , or any right or interest in that property  
21 therein.

22           "~~(79)~~ (85) REAL ESTATE INVESTMENT TRUST. An  
23 unincorporated trust, association, or other entity ~~within the~~  
24 ~~meaning of Section 10A-10-1.02(1)~~ as defined in Chapter 10.

25           "~~(80)~~ ~~REGISTERED LIMITED LIABILITY PARTNERSHIP. A~~  
26 ~~registered limited liability partnership within the meaning of~~  
27 ~~Section 10A-8-1.02(7).~~

1           "~~(81)~~ (86) SECRETARY.

2           "(A) the individual designated as secretary of an  
3 entity under the entity's governing documents; or

4           "(B) the officer or committee of persons authorized  
5 to perform the functions of secretary of an entity without  
6 regard to the designated name of the officer or committee.

7           "~~(82)~~ (87) SECRETARY OF STATE. The Secretary of State  
8 of the State of Alabama.

9           "~~(83)~~ SIGNATURE. ~~Any symbol executed or adopted by a~~  
10 ~~person with present intention to authenticate a writing.~~  
11 ~~Unless the context requires otherwise, the term includes an~~  
12 ~~electronic signature and a facsimile of a signature.~~

13           "(88) SIGN or SIGNATURE. With the present intent to  
14 authenticate or adopt a writing:

15           "(A) to execute or adopt a tangible symbol to a  
16 writing, and includes any manual, facsimile, or conformed  
17 signature; or

18           "(B) to attach to or logically associate with an  
19 electronic transmission an electronic sound, symbol, or  
20 process, and includes an electronic signature in an electronic  
21 transmission.

22           "~~(84)~~ (89) STATE. Includes, when referring to a part  
23 of the United States, a state or commonwealth, and its  
24 agencies and governmental subdivisions, and a territory or  
25 possession, and its agencies and governmental subdivisions, of  
26 the United States.



1           "~~(85)~~ (90) SUBSCRIBER. A person who agrees with or  
2 makes an offer to an entity to purchase by subscription an  
3 ownership interest in the entity.

4           "~~(86)~~ (91) SUBSCRIPTION. An agreement between a  
5 subscriber and an entity, or a written offer made by a  
6 subscriber to an entity before or after the entity's  
7 formation, in which the subscriber agrees or offers to  
8 purchase a specified ownership interest in the entity.

9           "~~(87)~~ (92) SUBSIDIARY. An entity or organization at  
10 least 50 percent of:

11           "(A) the ownership or membership interest of which  
12 is owned by a parent entity or parent organization; or

13           "(B) the voting power of which is possessed by a  
14 parent entity or parent organization.

15           "~~(88)~~ (93) TREASURER.

16           "(A) the individual designated as treasurer of an  
17 entity under the entity's governing documents; or

18           "(B) the officer or committee of persons authorized  
19 to perform the functions of treasurer of an entity without  
20 regard to the designated name of the officer or committee.

21           "~~(89)~~ (94) TRUSTEE. A person who serves as a trustee  
22 of a trust, including a real estate investment trust.

23           "~~(90)~~ (95) UNCERTIFICATED OWNERSHIP INTEREST. An  
24 ownership interest in a domestic entity that is not  
25 represented by a certificate ~~in bearer or registered form.~~

26           "~~(91)~~ (96) VICE PRESIDENT.

1           "(A) the individual designated as vice president of  
2 an entity under the governing documents of the entity; or

3           "(B) the officer or committee of persons authorized  
4 to perform the functions of the president of the entity on the  
5 death, absence, or resignation of the president or on the  
6 inability of the president to perform the functions of office  
7 without regard to the designated name of the officer or  
8 committee.

9           "~~(92)~~ (97) WRITING or WRITTEN. Information that is  
10 inscribed on a tangible medium or that is stored in an  
11 electronic or other medium and is retrievable in perceivable  
12 form.

13           "§10A-1-1.06.

14           "To the extent not inconsistent with the  
15 Constitution of Alabama of 1901, and other statutes of this  
16 state wherein the terms may be found, and as the context  
17 requires, in this title or any other statute of this state:

18           "(1) a reference to certificate of formation  
19 includes, in the case of a corporation, articles of  
20 incorporation, certificate of incorporation, and charter; in  
21 the case of limited partnership, a certificate of limited  
22 partnership and a certificate of formation; in the case of a  
23 limited liability company, certificate of formation and  
24 articles of organization; and in the case of a business trust  
25 or a real estate investment trust, declaration of trust and,  
26 similarly, a reference to articles of incorporation,  
27 certificate of incorporation, charter, certificate of limited

1 partnership, or articles of organization includes a  
2 certificate of formation;

3 "(2) ~~a reference to certificate of termination~~  
4 ~~includes, in the case of a corporation or a limited liability~~  
5 ~~company, articles of dissolution and statement of dissolution,~~  
6 ~~and in the case of a limited partnership, a certificate of~~  
7 ~~cancellation and a statement of dissolution; similarly, a~~  
8 reference to articles of dissolution, includes statement of  
9 dissolution, ~~or certificate of cancellation includes~~  
10 ~~certificate of termination and certificate of dissolution,~~  
11 and, similarly, a reference to ~~certificate of termination~~  
12 statement of dissolution includes articles of dissolution,  
13 ~~statement of dissolution,~~ and certificate of dissolution, and  
14 similarly, a reference to ~~a statement~~ certificate of  
15 dissolution includes articles of dissolution, ~~certificate of~~  
16 ~~termination, and certificate~~ and statement of dissolution;

17 "(3) a reference to certificate of merger includes  
18 articles of merger and statement of merger and similarly, a  
19 reference to articles of merger includes certificate of merger  
20 and statement of merger, and similarly, a reference to  
21 statement of merger includes certificate of merger and  
22 articles of merger;

23 "(4) a reference to authorized capital stock  
24 includes authorized shares;

25 "(5) a reference to capital stock includes  
26 authorized and issued shares, issued shares, and stated  
27 capital;

1           "(6) a reference to a certificate of registration,  
2 certificate of authority, statement of foreign limited  
3 liability partnership, and permit to ~~do~~ transact business  
4 includes registration;

5           "(7) a reference to stock and shares of stock  
6 includes shares;

7           "(8) a reference to stockholder includes  
8 shareholder; and

9           "(9) a reference to no par stock includes shares  
10 without par value.

11           "§10A-1-1.08.

12           "(a) The provisions of this title as described by  
13 this section may be cited as provided by this section.

14           "(b) Chapter 2 and the provisions of Chapter 1 to  
15 the extent applicable to business corporations may be cited as  
16 the Alabama Business Corporation Law.

17           "(c) Chapter 3 and the provisions of Chapter 1 to  
18 the extent applicable to nonprofit corporations may be cited  
19 as the Alabama Nonprofit Corporation Law.

20           "(d) Chapter 4 and the provisions of Chapter 1 to  
21 the extent applicable to professional corporations may be  
22 cited as the Alabama Professional Corporation Law.

23           "(e) Chapter 5A and the provisions of Chapter 1 to  
24 the extent applicable to limited liability companies may be  
25 cited as the Alabama Limited Liability Company Law ~~of 2014~~.

1           "(f) Chapter ~~8~~ 8A 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.~~ Chapter 9A and  
7 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-1-1.12.

20           "~~If~~ For entities other than general partnerships, if  
21 the formation of an entity does not occur when a certificate  
22 of formation or similar instrument filed with the Secretary of  
23 State or the judge of probate, as the case may be, or with a  
24 foreign governmental authority takes effect, the law governing  
25 the entity's formation and internal affairs is the law of the  
26 entity's jurisdiction of formation.

27           "§10A-1-2.02.

1            "A domestic entity may not engage in a business, ~~or~~  
2 activity, not for profit activity, or any other activity,  
3 whether or not for profit, that:

4            "(A) is expressly unlawful or prohibited by a law of  
5 this state;

6            "(B) cannot lawfully be engaged in by that entity  
7 under a law of this state; or

8            "(C) may not be engaged in by an entity without  
9 first obtaining a license under the laws of this state to  
10 engage in that business, ~~or~~ activity, not for profit activity,  
11 or any other activity, whether or not for profit, and a  
12 license cannot lawfully be granted to the entity.

13            "§10A-1-2.11.

14            "Except as otherwise provided by this title, and  
15 whether or not expressly stated in its governing documents, a  
16 domestic entity has the same powers as an individual to take  
17 action necessary or convenient to carry out its business and  
18 affairs. Except as otherwise provided by this title or the  
19 governing documents of the entity, the powers of a domestic  
20 entity include the power to:

21            "(1) sue, be sued, complain, and defend suit in its  
22 entity name;

23            "(2) have and alter a seal and use the seal or a  
24 facsimile of it by impressing, affixing, or reproducing it;

25            "(3) purchase, lease, or otherwise acquire, receive,  
26 own, hold, improve, use, and deal in and with property or an  
27 interest in property;

1           "(4) sell, convey, mortgage, pledge, lease,  
2 exchange, and otherwise dispose of property;

3           "(5) make contracts and guaranties;

4           "(6) incur liabilities, borrow money, issue notes,  
5 bonds, and other obligations which may be convertible into or  
6 include the option to purchase other securities or ownership  
7 interests in the entity, and secure any obligations, or the  
8 obligations of others for whom it can make guarantees, whether  
9 or not a guarantee is made, by mortgaging or pledging its  
10 property, franchises, or income;

11           "(7) lend money, invest its funds, and receive and  
12 hold property as security for repayment;

13           "(8) acquire its own bonds, debentures, or other  
14 evidences of indebtedness or obligations;

15           "(9) acquire its own ownership interests, regardless  
16 of whether redeemable, and hold the ownership interests as  
17 treasury ownership interests or cancel or dispose of the  
18 ownership interests;

19           "(10) be a promoter, organizer, owner, partner,  
20 member, associate, or manager of an organization;

21           "(11) acquire, receive, own, hold, vote, use,  
22 pledge, and dispose of ownership interests in or securities  
23 issued by another person;

24           "(12) conduct its business, locate its offices, and  
25 exercise the powers granted by this title to further its  
26 purposes, in or out of this state;

1           "(13) lend money to, and otherwise assist, its  
2 managerial officials, owners, members, or employees as  
3 necessary or appropriate, provided, however, a nonprofit  
4 entity shall not have the power to lend money to its officers  
5 or directors;

6           "(14) elect or appoint governing persons, officers,  
7 and agents of the entity, establish the length of their terms,  
8 define their duties, and fix their compensation;

9           "(15) pay pensions and establish pension plans,  
10 pension trusts, profit sharing plans, share bonus plans, and  
11 incentive plans for managerial officials, owners, members, or  
12 employees or former managerial officials, owners, members, or  
13 employees;

14           "(16) indemnify and maintain liability insurance for  
15 managerial officials, owners, members, employees, and agents  
16 of the entity or the entity's affiliate;

17           "(17) adopt and amend governing documents for  
18 managing the affairs of the entity subject to applicable law;

19           "(18) make donations for the public welfare or for  
20 charitable, scientific, or educational purposes;

21           "(19) voluntarily wind up its business and  
22 activities and terminate its existence;

23           "(20) transact business or take action that will aid  
24 governmental policy; and

25           "(21) take other action necessary or appropriate to  
26 further the purposes of the entity.

27           "§10A-1-3.04.



1           ~~One~~ Unless provided otherwise in a chapter of this  
2 title governing a filing entity, one or more organizers of a  
3 filing entity must sign the certificate of formation of the  
4 filing entity, ~~except that each general partner must sign the~~  
5 ~~certificate of formation of a domestic limited partnership.~~

6           "§10A-1-3.05.

7           "Unless provided otherwise in a chapter of this  
8 title governing a filing entity:

9           "(a) The certificate of formation must state:

10          "(1) the name of the filing entity being formed;

11          "(2) the type of filing entity being formed;

12          "(3) for filing entities other than limited  
13 partnerships, the purpose or purposes for which the filing  
14 entity is formed, which may be stated to be or include any  
15 lawful purpose for that type of entity;

16          "(4) the period of duration, if the entity is not  
17 formed to exist perpetually;

18          "(5) the street address and, if different, the  
19 mailing address of the initial registered office of the filing  
20 entity and the name of the initial registered agent of the  
21 filing entity at the office;

22          "(6) the name and address of each:

23          "(A) organizer for the filing entity, unless the  
24 entity is formed under a plan of conversion or merger; or

25          "(B) general partner, if the filing entity is a  
26 limited partnership;

1           "(7) if the filing entity is formed under a plan of  
2 conversion or merger, a statement to that effect and, if  
3 formed under a plan of conversion, the name, address, date of  
4 formation, prior form of organization, and jurisdiction of  
5 formation of the converting entity; and

6           "(8) any other information required by this title  
7 including, without limitation, any information required by the  
8 specific chapter of this title governing the filing entity or  
9 by Article 8 to be included in the certificate of formation  
10 for the filing entity.

11           "(b) The certificate of formation may contain other  
12 provisions not inconsistent with law relating to the  
13 organization, ownership, governance, business, or affairs of  
14 the filing entity.

15           "(c) Except as provided by Section 10A-1-3.04,  
16 Article 4 governs the signing and filing of a certificate of  
17 formation for a domestic entity.

18           "§10A-1-3.06.

19           "The formation and existence of a domestic ~~filing~~  
20 entity that is a converted entity in a conversion or that is  
21 to be created under a plan of merger takes effect and  
22 commences on the effectiveness of the conversion or merger, as  
23 appropriate.

24           "§10A-1-3.17.

25           "(a) A restated certificate of formation must  
26 accurately state the text of the previous certificate of  
27 formation, regardless of whether the certificate of formation

1 is an original, corrected, or restated certificate, and  
2 include:

3 "(1) each previous amendment to the certificate  
4 being restated that is carried forward; and

5 "(2) each new amendment to the certificate being  
6 restated.

7 "(b) A restated certificate of formation may omit:

8 "(1) the name and address of each organizer other  
9 than the name and address of each general partner of a limited  
10 partnership; and

11 "(2) any other information that may be omitted under  
12 the provisions of this title applicable to the filing entity.

13 "(c) A restated certificate of formation that does  
14 not make new amendments requiring owner approval to the  
15 certificate of formation being restated must be accompanied  
16 by:

17 "(1) a statement that (i) the restated certificate  
18 of formation accurately states the text of the certificate of  
19 formation being restated, as amended, restated, and corrected,  
20 except for information omitted under subsection (b) ~~and that~~ ,  
21 (ii) the restated certificate does not make new amendments  
22 requiring owner approval, ~~and, if it does not, that~~ (iii) the  
23 governing persons have adopted the restatement in the manner  
24 required by this title and the governing documents of the  
25 entity; and

26 "(2) any other information required by other  
27 provisions of this title applicable to the filing entity.

1           "(d) A restated certificate of formation that makes  
2 new amendments requiring owner approval to the certificate of  
3 formation being restated must:

4           "(1) be accompanied by a statement that each new  
5 amendment has been made in accordance with this title;

6           "(2) identify by reference or description each  
7 added, altered, or deleted provision;

8           "(3) be accompanied by a statement that each  
9 amendment has been approved in the manner required by this  
10 title and the governing documents of the entity, including any  
11 information required by this article to be set forth in an  
12 amendment to the certificate of formation as to the owner  
13 approval of the amendment;

14           "(4) be accompanied by a statement that the restated  
15 certificate of formation:

16           "(A) accurately states the text of the certificate  
17 of formation being restated and each amendment to the  
18 certificate of formation being restated that is in effect, as  
19 further amended by the restated certificate of formation; and

20           "(B) does not contain any other change in the  
21 certificate of formation being restated except for information  
22 omitted under subsection (b); and

23           "(5) include any other information required by the  
24 chapter of this title applicable to the entity.

25           "§10A-1-3.32.

26           "(a) This section applies to entities other than (i)  
27 corporations formed under Chapter 2 ~~and~~, professional

1 corporations formed under Chapter 4, and real estate  
2 investment trusts governed by Chapter 10, each of which is  
3 governed by the separate recordkeeping requirements and record  
4 inspections provisions of Chapter 2, and (ii) limited  
5 liability companies formed under Chapter 5A, partnerships  
6 governed by Chapter 8A, and limited partnerships formed under  
7 Chapter 9A, each of which are governed by the separate  
8 recordkeeping requirements and record inspection provisions ~~of~~  
9 ~~Chapter 2 rather than by this section~~ set forth in each  
10 entity's respective chapter governing that entity.

11 "(b) With respect to an entity covered by this  
12 section, the books and records maintained under the chapter of  
13 this title applicable to the entity and any other books and  
14 records of the entity, wherever situated, are subject to  
15 inspection and copying at the reasonable request, and at the  
16 expense of, any owner or member or the owner's or member's  
17 agent or attorney during regular business hours. The right of  
18 access extends to the legal representative of a deceased owner  
19 or member or owner or member under legal disability. The  
20 entity shall also provide former owners and members with  
21 access to its books and records pertaining to the period  
22 during which they were owners or members.

23 "(c) The governing documents of the entity may not  
24 unreasonably restrict an owner's or member's right to  
25 information or access to books and records.

26 "(d) Any agent or governing person of an entity who,  
27 without reasonable cause, refuses to allow any owner or member

1 or the owner's or member's agent or legal counsel to inspect  
2 any books or records of the entity shall be personally liable  
3 to the agent or member for a penalty in an amount not to  
4 exceed 10 percent of the fair market value of the ownership  
5 interest of the owner or member, in addition to any other  
6 damages or remedy.

7 "§10A-1-3.33.

8 "(a) An entity covered by Section 10A-1-3.32 shall  
9 provide governing persons and their agents and attorneys  
10 access to its books and records, including the books and  
11 records required to be maintained under the chapter of this  
12 title applicable to the entity and other books and records of  
13 the entity for any purpose reasonably related to the governing  
14 person's service as a governing person. The right of access  
15 shall include the right to inspect and copy books and records  
16 during ordinary business hours. An entity may impose a  
17 reasonable charge covering the costs of labor and material for  
18 copies of documents furnished.

19 "(b) An entity covered by Section 10A-1-3.32 shall  
20 furnish to a governing person:

21 "(1) Without demand, any information concerning the  
22 entity's business and affairs reasonably required for the  
23 proper exercise of the governing person's rights and duties  
24 under the entity's governing documents or this title; and

25 "(2) On demand, any other information concerning the  
26 entity's business and affairs, except to the extent the demand

1 or the information demanded is unreasonable or otherwise  
2 improper under the circumstances.

3 "(c) A court may require an entity covered by  
4 Section 10A-1-3.32 to open the books and records of the  
5 entity, including the books and records required to be  
6 maintained by the entity under the chapter of this title  
7 applicable to the entity, to permit a governing person to  
8 inspect, make copies of, or take extracts from the books and  
9 records or may require an entity to furnish the governing  
10 person with information concerning the entity's business and  
11 affairs on a showing by the governing person that:

12 "(1) the person is a governing person of the entity;

13 "(2) the person's purpose for inspecting the  
14 entity's books and records under subsection (a) or in  
15 obtaining information as to the entity's business and affairs  
16 under subsection (b) (1) is reasonably related to the person's  
17 service as a governing person or, in the case of information  
18 as to the entity's business and affairs demanded under  
19 subsection (b) (2), that neither the demand nor the information  
20 demanded is unreasonable or otherwise improper under the  
21 circumstances;

22 "(3) in the case of information as to the entity's  
23 business and affairs described in subsection (b) (2), the  
24 person has made demand for the information; and

25 "(4) the entity refused the person's access to the  
26 books and records or to furnish information as to the entity's  
27 business and affairs.

1           "(d) A court may award a governing person attorney  
2 fees and any other proper relief in a suit under subsection  
3 (c) to require an entity to open its books and records.

4           "§10A-1-3.41.

5           "(a) Ownership interests in a domestic entity may be  
6 certificated or uncertificated.

7           "(b) The ownership interests in a business  
8 corporation, real estate investment trust, or professional  
9 corporation must be certificated unless the governing  
10 documents of the entity or a resolution adopted by the  
11 governing authority of the entity states that the ownership  
12 interests are uncertificated. If a domestic entity changes the  
13 form of its ownership interests from certificated to  
14 uncertificated, a certificated ownership interest subject to  
15 the change becomes an uncertificated ownership interest only  
16 after the certificate is surrendered to the domestic entity.

17           "(c) Ownership interests in a domestic entity, other  
18 than a domestic entity described in subsection (b), are  
19 uncertificated unless this title or the governing documents of  
20 the domestic entity state that the interests are certificated.

21           "(d) Unless an entity's chapter specifically  
22 provides otherwise, no certificate of a certificated ownership  
23 interest shall be issued in bearer form.

24           "§10A-1-3.42.

25           "(a) A certificated ownership interest in a domestic  
26 entity may contain an impression of the seal of the entity, if



1 any. A facsimile of the entity's seal may be printed or  
2 lithographed on the certificate.

3 "(b) If a domestic entity is authorized to issue  
4 ownership interests of more than one class or series, each  
5 certificate representing ownership interests that is issued by  
6 the entity must conspicuously state on the front or back of  
7 the certificate:

8 "(1) the designations, preferences, limitations, and  
9 relative rights of the ownership interests of each class or  
10 series to the extent they have been determined and the  
11 authority of the governing authority to make those  
12 determinations as to subsequent classes or series; or

13 "(2) that the information required by subsection (1)  
14 is stated in the domestic entity's governing documents and  
15 that the domestic entity, on written request to the entity's  
16 principal place of business or registered office, will provide  
17 a free copy of that information to the record holder of the  
18 certificate.

19 "(c) A certificate representing ownership interests  
20 must state on the front of the certificate:

21 "(1) that the domestic entity is organized under the  
22 laws of this state;

23 "(2) the name of the person to whom the certificate  
24 is issued;

25 "(3) the number and class of ownership interests and  
26 the designation of the series, if any, represented by the  
27 certificate; and

1           "(4) if the ownership interests are shares, the par  
2 value of each share represented by the certificate, or a  
3 statement that the shares are without par value.

4           "(d) A certificate representing ownership interests  
5 that is subject to a restriction, placed by or agreed to by  
6 the domestic entity under this title on the transfer or  
7 registration of the transfer of the ownership interests must  
8 conspicuously note the existence of the restriction on the  
9 front or back of the certificate. Even if not so noted, a  
10 restriction is enforceable against a person with actual  
11 knowledge of the restriction.

12           "(e) Abbreviations may be used in the inscribing of  
13 certificates representing ownership interests. Without  
14 limiting the use of other abbreviations, however, the  
15 following or substantially similar abbreviations may be used  
16 in the inscribing of such certificates, and shall be construed  
17 as though they were written out in full and shall be accorded  
18 the meaning ascribed herein.

19           "Abbreviation:\_\_\_\_\_ Meaning:

20           TEN COM\_\_\_\_\_ As tenants in common.

21           "JTWROS\_\_\_\_\_ As joint

22           tenants with rights of

23           survivorship and not as tenants

24           in common.

25           "JT TEN\_\_\_\_\_ As joint

26           "tenants with rights of survivorship and not as  
27 tenants in common.

1                   "CUSTODIAN FOR, UTMA                   As custodian for  
2                                     (name of minor) under  
3                   the Uniform Transfers to Minor  
4                   Act.

5                   "§10A-1-4.01.

6                   "(a) A filing instrument must be:

7                   "(1) signed by the person or persons required by  
8 this title or the applicable chapter to execute, and to  
9 verify, if required by the applicable chapter, the filing  
10 instrument; and

11                   "(2) delivered, together with one exact or conformed  
12 copy and the additional exact or conformed copies as required  
13 by Section 10A-1-4.02(b) or (e) or other provision of this  
14 title, to the judge of probate or Secretary of State, as the  
15 case may be under the provisions of Section 10A-1-4.02, in  
16 person or by mail or courier, or, if permitted by the  
17 respective filing officer, by facsimile or electronic  
18 transmission or any other comparable form of delivery.

19                   "(b) A person authorized by this title to sign a  
20 filing instrument for an entity is not required to show  
21 evidence of the person's authority as a requirement for  
22 filing.

23                   "(c) The execution of a filing instrument  
24 constitutes an affirmation by each person executing the  
25 instrument that the facts therein are true, under penalties  
26 for perjury prescribed by Section 13A-10-103 or its successor.

1           "(d) If a person required by this title to execute  
2 any filing instrument fails or refuses to do so, any person  
3 who is adversely affected by the failure or refusal may  
4 petition the circuit court for the judicial circuit in which  
5 the county is located where under this title the filing  
6 instrument would be filed, or if it would be filed with the  
7 Secretary of State, in the circuit court in the county in  
8 which the registered agent is located, and if no registered  
9 agent is required, in the circuit court in the county in which  
10 the entity has its principal place of business in this state,  
11 and if the entity does not have a place of business in this  
12 state, in the Circuit Court of Montgomery County, to direct  
13 the execution of the filing instrument. If the court finds  
14 that it is proper for the filing instrument to be executed and  
15 that any person so designated has failed or refused to execute  
16 the filing instrument, it shall order the judge of probate of  
17 the county or the Secretary of State, as the case may be, to  
18 record an appropriate filing instrument.

19           "§10A-1-4.02.

20           "(a) The following filing instruments shall be  
21 delivered to the judge of probate for filing, except as the  
22 chapter applicable to an entity or other provision of this  
23 title provides for filing by the Secretary of State or another  
24 filing officer:

25           "(1) certificates of formation ~~on~~ or any amendments  
26 or restatements thereof;

1           "(2) certificates of ~~termination~~ dissolution, other  
2 than a statement of dissolution of a general partnership or a  
3 statement of cancellation by a limited liability partnership;

4           "(3) certificates of revocation ~~of termination~~;

5           "(4) certificates of correction to any filing  
6 instrument required to be delivered to the office of the judge  
7 of probate for filing; and

8           "(5) any other filing instrument required or  
9 permitted under this title to be delivered to the judge of  
10 probate for filing.

11           "(b) Any of the following filing instruments  
12 delivered to the office of the judge of probate for filing  
13 shall be accompanied by an additional exact or conformed copy  
14 to permit the judge of probate to transmit to the Secretary of  
15 State a certified copy thereof as required by subsection (g):

16           "(1) certificates of formation;

17           "(2) amendments to certificates of formation that  
18 alter the name of any entity;

19           "(3) restated certificates of formation;

20           "(4) certificates of ~~termination~~ dissolution;

21           "(5) certificates of revocation ~~of termination~~; and

22           "(6) certificates of correction correcting any of  
23 the foregoing filing instruments.

24           "(c) The following filing instruments shall be  
25 delivered to the Secretary of State for filing:

1           "(1) certificates, ~~or~~ articles, or statements of  
2 merger, statements of conversion, and articles of share  
3 exchange;

4           "(2) ~~registration~~ statements or registrations of a  
5 foreign entity for authority to transact business in this  
6 state and any statements, notices, or certificates of  
7 withdrawal or termination or statements, notices, or  
8 certificates evidencing the same or required or authorized  
9 under Article 7 of this chapter;

10           "(3) the annual report of a business corporation,  
11 which may be made as provided in Section 10A-2-16.22 by filing  
12 with the Department of Revenue the public record information  
13 required by Chapter 14A of Title 40, together with the  
14 prescribed fee for the annual report;

15           "(4) for corporations created by an act of the  
16 Legislature prior to the adoption of the Constitution of  
17 Alabama of 1901, or for entities which have resulted from a  
18 merger, share exchange, or conversion, all filing instruments  
19 required by this title to be delivered to the judge of probate  
20 for filing shall be delivered to the Secretary of State for  
21 filing;

22           "(5) any other filing instrument required or  
23 permitted under this title to be delivered to the Secretary of  
24 State for filing;

25           "(6) articles of correction of any filing instrument  
26 required or permitted to be delivered to the Secretary of  
27 State for filing; ~~and~~

1           "~~(7)~~ (8) statements and any other document required or  
2           permitted to be delivered to the Secretary of State for filing  
3           under Chapter 8A; and

4           "~~(7)~~ (8) any other filing instrument required or  
5           permitted to be filed under this title and not expressly  
6           required or permitted to be delivered to the Secretary of  
7           State or judge of probate or other designated filing office  
8           for filing.

9           "~~(d)~~ ~~The filing of partnership statements shall be~~  
10          ~~as provided in Section 10A-8-1.06.~~

11          "~~(e)~~ (d) Certificates ~~of merger~~, articles, or  
12          statements of merger or articles of share exchange, and  
13          statements of conversion delivered to the Secretary of State  
14          for filing shall be accompanied by the additional number of  
15          exact or conformed copies of articles as may be required for  
16          purposes of subsection ~~(g)~~ (f) hereof.

17          "~~(f)~~ (e) If the judge of probate or Secretary of  
18          State, as the case may be, finds that a filing instrument  
19          delivered under this section and Section 10A-1-4.01  
20          substantially conforms to the provisions of this title that  
21          apply to the entity and that all required fees have been paid,  
22          and if, in the case of a certificate of formation or an  
23          amendment to a certificate of formation that would change the  
24          name of the entity, the judge of probate finds that the name  
25          of the entity has been reserved under ~~Section 10A-1-5.11~~  
26          Article 5 of this chapter, the judge of probate or Secretary

1 of State, as the case may be, shall file it immediately upon  
2 delivery by:

3 "(1) endorsing "filed," together with his or her  
4 name and official title and the date and time of receipt on  
5 the instrument and all copies required hereunder and on the  
6 receipt for the filing fee;

7 "(2) accepting it into the filing system adopted by  
8 the judge of probate or Secretary of State and assigning the  
9 instrument a date of filing; and

10 "(3) delivering a copy thereof, endorsed as provided  
11 in subdivision (1), with the filing fee receipt, or  
12 acknowledgment of receipt of the instrument if no filing fee  
13 is required, to the entity or its representative.

14 "~~(g)~~ (f) In the case of any of the filing  
15 instruments described in subsection (b), the judge of probate  
16 shall within 10 days transmit a certified copy of the filing  
17 instrument to the Secretary of State. In the case of  
18 certificates, or articles, or statements of merger, statements  
19 of conversion, or articles of share exchange, the Secretary of  
20 State shall promptly transmit a certified copy thereof to the  
21 office of the judge of probate of the county in which each  
22 domestic entity's certificate of formation, if any, is filed.

23 "~~(h)~~ (g) If the judge of probate or Secretary of  
24 State, as the case may be, refuses to file a filing  
25 instrument, he or she shall return it to the domestic or  
26 foreign entity or its representative within seven days after



1 the filing instrument was delivered, together with a brief,  
2 written explanation of the reason for his or her refusal.

3 ~~"(i)~~ (h) The judge of probate's or Secretary of  
4 State's duty to file filing instruments under this title is  
5 ministerial. His or her filing or refusing to file a filing  
6 instrument does not:

7 "(1) affect the validity or invalidity of the filing  
8 instrument in whole or in part;

9 "(2) relate to the correctness or incorrectness of  
10 information contained in the filing instrument; or

11 "(3) create a presumption that the filing instrument  
12 is valid or invalid or that information contained in the  
13 filing instrument is correct or incorrect.

14 ~~"(j)~~ (i) The Secretary of State shall keep an  
15 alphabetical list of domestic and foreign entities, the  
16 certificates of formation, the statements under Chapter 8A, or  
17 statements or registrations for authority to transact business  
18 in this state, for which are filed in his or her office,  
19 together with the data contained in the filing instruments.

20 "§10A-1-4.12.

21 "(a) Except as otherwise provided by Section  
22 10A-1-4.14, a filing instrument may take effect at a specified  
23 date and time after the time the instrument would otherwise  
24 take effect as provided by this title for the entity filing  
25 the instrument.

26 "(b) If a filing instrument is to take effect on a  
27 specific date and time other than that provided by this title:

1           "(1) the date may not be later than the 90th day  
2 after the date the instrument is delivered to the filing  
3 officer for filing; signed and

4           "(2) the specific time at which the instrument is to  
5 take effect may not be specified as "12:00 a.m." or "12:00  
6 p.m."; and

7           "(3) if a delayed effective date is specified, but  
8 no time is specified, at 12:01 a.m. on the date specified,  
9 which may not be more than 90 days after the date the  
10 instrument is delivered to the filing officer for filing.

11           "(c) If a filing instrument does not specify the  
12 time zone or the place at which a date or time, or both, is to  
13 be determined, the date or time, or both, at which it becomes  
14 effective shall be those prevailing at the place of filing in  
15 this state.

16           "(d) If a filing instrument is required to, or may  
17 be, delivered to two or more filing officers, the date that  
18 the filing instrument is delivered to the first filing officer  
19 shall be deemed to be the date the instrument was delivered to  
20 the filing officer for filing for the purpose of determining  
21 the 90 days in subsection (b) of this section.

22           "§10A-1-4.25.

23           "(a) After the Secretary of State or the judge of  
24 probate, as the case may be, files the certificate of  
25 correction, the filing instrument is considered to have been  
26 corrected on the date the filing instrument was originally  
27 filed, except as otherwise provided by subsection (b).

1           "(b) As to a person who acted in reliance on the  
2 filing instrument prior to its correction and who is adversely  
3 affected by ~~the~~ that correction, the filing instrument is  
4 considered to have been corrected on the date the certificate  
5 of correction is filed.

6           "(c) An acknowledgment of filing or a similar  
7 instrument issued by the Secretary of State or judge of  
8 probate, as the case may be, before a filing instrument is  
9 corrected, with respect to the effect of filing the original  
10 filing instrument, applies to the corrected filing instrument  
11 as of the date the corrected filing instrument is considered  
12 to have been filed under this section.

13           "§10A-1-4.31.

14           "(a) The judge of probate or the Secretary of State,  
15 as the case may be, shall collect the following fees when the  
16 filing instruments described in this title are delivered to  
17 him or her for filing:

	FEE FOR STATE OF	FEE FOR THE JUDGE
"FILING INSTRUMENT	ALABAMA	OF PROBATE
"(1) Certificate of for- mation and restated cer- tificate of formation	\$100	\$50
"(2) Amendment to cer- tificate of formation	\$50	\$25
"(3) Name reservations		

1	"A. less than 24 hours	\$25	No fee
2	"B. 24 hours or more	\$10	No fee
3	"(4) Certificate of <del>ter-</del>		
4	<del>mination</del> <u>dissolution</u>		
5	<u>(other than a statement</u>		
6	<u>of dissolution or can-</u>		
7	<u>cellation under Chapter</u>		
8	<u>8A)</u>	\$100	\$50
9	"(5) Certificate, <u>arti-</u>		
10	<u>cles, or statement</u> of		
11	merger; <u>statement of</u>		
12	<u>conversion,</u> articles of		
13	consolidation or share		
14	exchange	\$100	\$50
15	"(6) Foreign entity reg-		
16	istration including		
17	<del>registration</del> <u>a statement</u>		
18	of foreign limited lia-		
19	bility partnership	\$150	No fee
20	"(7) Certificate of ex-		
21	istence		
22	"A. Less than 24 hours	\$25	No fee
23	"B. 24 hours or more	\$10	No fee
24	" <del>(8) Registered limited</del>		
25	<del>liability partnership</del>	\$100	\$50

1	registration		
2	<del>"(9) Registered limited</del>		
3	<del>liability partnership</del>		
4	<del>annual report</del> <u>(8) State-</u>		
5	<u>ments and any document</u>		
6	<u>required or permitted to</u>		
7	<u>be filed with the Secre-</u>		
8	<u>tary of State under</u>		
9	<u>Chapter 8A</u>	\$100	No fee
10	<del>"(10) Partnership state-</del>		
11	<del>ment (filing or certi-</del>		
12	<del>fying)</del> <u>(9) Certified</u>		
13	<u>statements and any docu-</u>		
14	<u>ment required or permit-</u>		
15	<u>ted to be filed with the</u>		
16	<u>judge of probate under</u>		
17	<u>Chapter 8A</u>	\$25	<del>\$25</del> <u>\$100</u>
18	<del>"(11)</del> <u>(10)</u> Any other		
19	filing instrument re-		
20	quired or permitted to		
21	be filed under this ti-		
22	tle	\$25	\$25

23                   "(b) When appropriate, two checks shall accompany a  
24 filing instrument delivered to the judge of probate or the  
25 Secretary of State for filing, one payable to the judge of

1 probate for all charges for the judge of probate, and one  
2 payable to the State of Alabama covering all charges for the  
3 Secretary of State. In the case of any filing instrument  
4 delivered for filing to the judge of probate accompanied by a  
5 check for the charges for the Secretary of State, the check  
6 for the Secretary of State shall be forwarded by the judge of  
7 probate to the Secretary of State. In the case of any filing  
8 instrument delivered for filing to the Secretary of State  
9 accompanied by a check for the judge of probate, the check for  
10 the judge of probate shall be forwarded by the Secretary of  
11 State to the judge of probate.

12 "(c) There is hereby established in the State  
13 Treasury a fund to be known and designated as the Secretary of  
14 State Entity Fund. All funds, fees, charges, costs, and  
15 collections accruing to or collected by the Secretary of State  
16 under the foregoing provisions of this section or any other  
17 fees collected by the Secretary of State relating to entities  
18 shall be deposited into the State Treasury to the credit of  
19 the Secretary of State Entity Fund except as so provided in  
20 subsection (e).

21 "(d) All funds now or hereafter deposited in the  
22 State Treasury to the credit of the Secretary of State Entity  
23 Fund shall not be expended for any purpose whatsoever unless  
24 the same shall have been allotted and budgeted in accordance  
25 with the provisions of Article 4 of Chapter 4 of Title 41, and  
26 only in the amounts and for the purposes provided by the  
27 Legislature in the general appropriation bill or this section.

1           "(e) Seventy percent of funds collected by the  
2 Secretary of State in relation to entities during the fiscal  
3 year shall be deposited to the credit of the State General  
4 Fund.

5           "(f) The fees herein imposed for the office of the  
6 judge of probate shall be charged and paid into the  
7 appropriate county treasury or to the judge of probate as may  
8 be authorized or required by law.

9           "(g) The Secretary of State shall collect the  
10 following fees for copying and certifying the copy of any  
11 filing instrument relating to a domestic or foreign entity:

12           "(1) ~~One dollar fifty cents (\$1.50)~~ Two dollars (\$2)  
13 a page for copying; and

14           "(2) ~~Five dollars (\$5)~~ Ten dollars (\$10) for the  
15 certificate.

16           "(h) The judge of probate shall collect the  
17 following fees for copying and certifying the copy of any  
18 filing instrument relating to an entity:

19           "(1) ~~One dollar fifty cents (\$1.50)~~ Two dollars (\$2)  
20 a page for copying; and

21           "(2) ~~Five dollars (\$5)~~ Ten dollars (\$10) for the  
22 certificate.

23           "(i) For requests of immediate expedition of  
24 documents to be obtained in less than 24 hours, other than  
25 name reservations and certificates of existence, by the  
26 Secretary of State regarding document filings, certifications,

1 and certificates in addition to required fees, a one hundred  
2 dollar (\$100) surcharge shall be imposed.

3 "§10A-1-5.01.

4 "The filing of a certificate of formation by a  
5 filing entity under this title, an application for  
6 registration or statement of foreign limited liability  
7 partnership by a foreign filing entity under this title, or an  
8 application for reservation or registration of a name under  
9 this article does not authorize the use of a name in this  
10 state in violation of a right of another under:

11 "(1) the Trademark Act of 1946, as amended, 15  
12 U.S.C. Section 1051 et seq.; or

13 "(2) Chapter 12 of Title 8; or

14 "(3) Common law.

15 "§10A-1-5.02.

16 "A ~~filing~~ domestic entity, ~~and or~~ a foreign filing  
17 entity ~~registered to transact business in this state with~~  
18 registration under Article 7, may not have a name that  
19 contains any word phrase that indicates or implies that the  
20 entity is engaged in a business that the entity is not  
21 authorized by law to pursue.

22 "§10A-1-5.03.

23 "(a) A ~~filing~~ domestic entity may not have a name  
24 and a foreign filing entity may not register to transact  
25 business in this state under a name that is the same as or not  
26 distinguishable on the records of the Secretary of State from:



1           "(1) the name of another existing filing entity or  
2 ~~registered~~ a general partnership that has an effective  
3 statement of partnership, statement of not for profit  
4 partnership, or limited liability partnership with an  
5 ~~effective current registration~~ under Chapter 8A;

6           "(2) the name of a foreign filing entity that ~~is~~  
7 ~~registered~~ has a registration under Article 7;

8           "(3) a name that is reserved under Division B.

9           "(b) Subsection (a) does not apply if the other  
10 entity or the person for whom the name is reserved consents in  
11 writing to the use of a name not distinguishable on the  
12 records of the Secretary of State, and submits an undertaking  
13 in form satisfactory to the Secretary of State to change its  
14 name to a name that is distinguishable on the records of the  
15 Secretary of State from the name for which application was  
16 made.

17           "(c) In determining whether a name is the same as or  
18 not distinguishable on the records of the Secretary of State  
19 from the name of another entity, words, phrases, or  
20 abbreviations indicating the type of entity, such as  
21 "corporation," "corp.," "general partnership," "GP," "G.P.,"  
22 "not for profit general partnership," "NGP," "N.G.P.,"  
23 "incorporated," "Inc.," "limited liability company," "LLC,"  
24 "L.L.C.," "limited partnership," "LP," "L.P.," "Ltd.,"  
25 "limited liability limited partnership," "LLLLP," "L.L.L.P.,"  
26 "limited liability partnership," "LLP," or "L.L.P."  
27 ~~"registered limited liability partnership," "RLLP," "limited~~

1 ~~liability company," or "LLC"~~ shall not be taken into account  
2 unless waived in writing by the incumbent holder of the name.

3 "§10A-1-5.04.

4 "(a) The name of a corporation or foreign  
5 corporation registered to transact business in this state must  
6 contain:

7 "(1) the word "corporation" or "incorporated"; or

8 "(2) an abbreviation of one of those words.

9 "(b) Subsection (a) does not apply to a nonprofit  
10 corporation or foreign nonprofit corporation, or to banks,  
11 trust companies, savings and loan associations, or insurance  
12 companies.

13 "(c) In lieu of a word or abbreviation required by  
14 subsection (a), the name of a professional corporation must  
15 comply with the requirements of Section 10A-1-5.08.

16 "(d) The requirements of subsection (a) do not apply  
17 to any corporation organized before January 1, 1981.

18 "§10A-1-5.05.

19 "(a) The name of a limited partnership or a foreign  
20 limited partnership registered to transact business in this  
21 state may contain the name of any partner.

22 "(b) The name of a limited partnership that is not a  
23 limited liability limited partnership must contain the phrase  
24 "limited partnership" or "Limited," or the abbreviation  
25 "L.P.," "LP," or "Ltd." and must not contain the phrase  
26 "limited liability limited partnership" or the abbreviation  
27 "LLLP" or "L.L.L.P."

1           "(c) The name of a limited liability limited  
2 partnership must contain the phrase "limited liability limited  
3 partnership" or the abbreviation "LLLP" or "L.L.L.P." and must  
4 not contain the abbreviation "L.P.," "LP," or "Ltd."

5           "(d) Subject to Section 10A-1-7.07, this section  
6 applies to any foreign limited partnership transacting  
7 business in this state, having a certificate of authority to  
8 transact business in this state, or applying for a certificate  
9 of authority.

10           "(e) The name of a limited partnership may not  
11 contain the following words: "bank," "banking," "banker,"  
12 "trust," "insurance," "insurer," "corporation,"  
13 "incorporated," or any abbreviation of such words.

14           "§10A-1-5.06.

15           "The name of a limited liability company or a  
16 foreign limited liability company ~~doing~~ registered to transact  
17 business in this state must contain the words "Limited  
18 Liability Company" or the abbreviation "L.L.C." or "LLC".

19           "§10A-1-5.07.

20           "~~(a)~~ The name of a ~~registered~~ limited liability  
21 partnership or a foreign limited liability partnership  
22 registered to transact business in this state shall contain  
23 the words "~~Registered~~ Limited Liability Partnership" or the  
24 abbreviation "L.L.P." or "LLP".

25           "~~(b) If a person purports to enter into a contract~~  
26 ~~or other undertaking on behalf of a partnership that is a~~  
27 ~~registered limited liability partnership and does not disclose~~

1 ~~to the other party that part of the registered limited~~  
2 ~~liability partnership's name that complies with subsection~~  
3 ~~(a), then that person is personally liable on the contract or~~  
4 ~~undertaking, unless that person can show that in making the~~  
5 ~~contract or accepting the undertaking the other party did not~~  
6 ~~rely on the partnership being a partnership without registered~~  
7 ~~limited liability partnership status. Any partner of a~~  
8 ~~registered limited liability partnership who consents to a~~  
9 ~~person not making the disclosure described in this subsection~~  
10 ~~is also personally liable on the contract or undertaking,~~  
11 ~~unless that partner can make the showing described in this~~  
12 ~~subsection."~~

13           "§10A-1-5.08.

14           "The name of a domestic professional corporation or  
15 of a foreign professional corporation registered to transact  
16 business in ~~Alabama~~ this state must contain the words  
17 "professional corporation" or the abbreviation "P.C." or "PC"  
18 and shall otherwise conform to any rule promulgated by a  
19 licensing authority having jurisdiction of a professional  
20 service described in the certificate of formation of the  
21 corporation."

22           Section 2. Section 10A-1-5.10 is added to the Code  
23 of Alabama 1975, to read as follows:

24           (a) The name of a general partnership that has filed  
25 a statement of partnership in accordance with Section  
26 10A-8A-2.02 must include the words "general partnership" or  
27 the abbreviation "G.P." or "GP."

1 (b) The name of a general partnership that has filed  
2 a statement of not for profit partnership in accordance with  
3 Section 10A-8A-2.02 must include the words "not for profit  
4 general partnership" or the abbreviation "N.G.P." or "NGP."

5 Section 3. Sections 10A-1-5.11, 10A-1-5.12,  
6 10A-1-5.31, 10A-1-5.32, 10A-1-5.33, 10A-1-6.02, 10A-1-7.01,  
7 10A-1-7.02, 10A-1-7.03, 10A-1-7.04, 10A-1-7.05, and  
8 10A-1-7.06, 10A-1-7.07, 10A-1-7.11, 10A-1-7.12, 10A-1-7.13,  
9 10A-1-7.14, 10A-1-7.22, 10A-1-7.23, 10A-1-7.24, 10A-1-7.31,  
10 10A-1-7.32, 10A-1-7.34, 10A-1-7.36, 10A-1-7.37, 10A-1-8.01,  
11 10A-1-8.02, 10A-1-8.03, 10A-1-9.01, and 10A-1-9.02, of the  
12 Code of Alabama 1975, are amended to read as follows:

13 "§10A-1-5.11.

14 "(a) ~~A person shall~~ To reserve the exclusive use of  
15 an entity name, including a fictitious name for a foreign  
16 entity whose name is not available, ~~by delivering a person~~  
17 must deliver an application to the Secretary of State for  
18 filing. Any person may file an application with the Secretary  
19 of State to reserve the exclusive use of a name under this  
20 article.

21 "(b) The application must set forth the name and  
22 address of the applicant and the name proposed to be reserved  
23 and must be:

24 "(1) accompanied by any required filing fee; and

25 "(2) signed by the applicant or by the agent or  
26 attorney of the applicant.

1           "(c) The name may also be reserved by electronic  
2 means, subject to the requirements as the Secretary of State  
3 may establish for reservation of names by any means, including  
4 requirements for payment of the fee for name reservation.

5           "§10A-1-5.12.

6           "(a) The Secretary of State may not reserve a name  
7 that is the same as, or not distinguishable on the records of  
8 the Secretary of State from:

9           "(1) the name of an existing filing entity ~~or~~  
10 ~~registered~~; the name of a general partnership that has an  
11 effective statement of partnership, statement of not for  
12 profit partnership, or statement of limited liability  
13 partnership with an effective registration on file with the  
14 Secretary of State under Chapter 8A;

15           "(2) the name of a foreign filing entity that ~~is~~  
16 ~~registered~~ has a registration under Article 7; or

17           "(3) a name that is reserved under this division.

18           "(b) Subsection (a) does not apply if the other  
19 entity or the person for whom the name is reserved consents in  
20 writing to the subsequent reservation of a name not  
21 distinguishable on the records of the Secretary of State, and  
22 submits an undertaking in form satisfactory to the Secretary  
23 of State to change its name to a name that is distinguishable  
24 on the records of the Secretary of State from the name applied  
25 for or, if the conflict is with a reserved or registered name,  
26 transfers its reservation to the applicant pursuant to Section  
27 10A-1-5.16.

1           "§10A-1-5.31.

2           "(a) Each filing entity, and each foreign filing  
3 entity, ~~each foreign registered limited liability partnership~~  
4 ~~registered pursuant to Article 7, and any registered with a~~  
5 registration under Article 7, and each general partnership  
6 that has an effective statement of partnership, statement of  
7 not for profit partnership, or statement of limited liability  
8 partnership that does not maintain a place of business in this  
9 state on file with the Secretary of State in accordance with  
10 Chapter 8A, shall designate and continuously maintain in this  
11 state:

12           "(1) a registered agent; and

13           "(2) a registered office.

14           "(b) A registered agent:

15           "(1) is an agent of the entity on which may be  
16 served any process, notice, or demand required or permitted by  
17 law to be served on the entity;

18           "(2) may be:

19           "(A) an individual who is a resident of this state;  
20 or

21           "(B) a domestic entity or a foreign entity that is  
22 registered to ~~do~~ transact business in this state; and

23           "(3) must maintain a business office at the same  
24 address as the entity's registered office.

25           "(c) The registered office:

1           "(1) must be located at a street address where  
2 process may be personally served on the entity's registered  
3 agent;

4           "(2) is not required to be a place of business of  
5 the filing entity or foreign filing entity; and

6           "(3) may not be solely a mailbox service or a  
7 telephone answering service.

8           "§10A-1-5.32.

9           "(a) ~~A filing~~ An entity, ~~registered limited~~  
10 ~~liability partnership~~ required to maintain a registered office  
11 and registered agent under Section 10A-1-5.31(a), ~~or foreign~~  
12 ~~filing entity or other foreign entity required to register in~~  
13 ~~this state pursuant to Section 10A-1-7.01,~~ may change its  
14 registered office, its registered agent, or both, by  
15 delivering to the Secretary of State for filing a statement of  
16 the change in accordance with the procedures in Article 4.

17           "(b) The statement must contain:

18           "(1) the name of the entity;

19           "(2) the name of the entity's registered agent;

20           "(3) the street address of the entity's registered  
21 agent;

22           "(4) if the change relates to the registered agent,  
23 the name of the entity's new registered agent and the new  
24 registered agent's written consent to the appointment, either  
25 on the statement or attached to it;

26           "(5) if the change relates to the registered office,  
27 the street address of the entity's new registered office;



1           "(6) a recitation that the change specified in the  
2 statement is authorized by the entity; and

3           "(7) a recitation that the street address of the  
4 registered office and the street address of the registered  
5 agent's business are the same.

6           "(c) On acceptance of the statement by the Secretary  
7 of State, the statement is:

8           "(1) in the case of a domestic filing entity,  
9 effective to change the designation of the entity's registered  
10 agent or registered office, or both, without the necessity of  
11 amending the entity's certificate of formation;

12           "(2) in the case of a ~~domestic registered~~ general  
13 partnership with an effective statement of partnership,  
14 statement of not for profit partnership, or statement of  
15 limited liability partnership on file with the Secretary of  
16 State under Chapter 8A, effective to change its registered  
17 agent or registered office, or both, without the necessity of  
18 amending its ~~registration as a~~ statement of partnership,  
19 statement of not for profit partnership, or statement of  
20 limited liability partnership filed under Section 10A-8-10.01  
21 Chapter 8A;

22           "(3) in the case of a foreign filing entity other  
23 than a foreign limited liability partnership, effective to  
24 change the designation of the entity's registered agent or  
25 registered office, or both, and effective as an amendment of  
26 its application for registration as a foreign entity under  
27 Article 7; or

1           "(4) in the case of a foreign ~~registered~~ limited  
2 liability partnership, effective to change the designation of  
3 its registered agent or registered office, or both, without  
4 the necessity of amending its ~~registration as a~~ statement of  
5 foreign limited liability partnership ~~filed under Section~~  
6 ~~10A-8-10.01, and effective as an amendment to its application~~  
7 ~~for registration as a foreign entity~~ under Article 7.

8           "§10A-1-5.33.

9           "(a) The registered agent of any entity required by  
10 Section 10A-1-5.31 to designate and maintain a registered  
11 agent or registered office may change its name, its address as  
12 the address of the entity's registered office, or both, by  
13 delivering to the Secretary of State for filing a statement of  
14 the change in accordance with the procedures in Article 4.

15           "(b) The statement must be signed by the registered  
16 agent, or a person authorized to sign the statement on behalf  
17 of the registered agent, and must contain:

18           "(1) the name of the entity represented by the  
19 registered agent;

20           "(2) the name of the entity's registered agent and  
21 the address at which the registered agent maintained the  
22 entity's registered office;

23           "(3) if the change relates to the name of the  
24 registered agent, the new name of that agent;

25           "(4) if the change relates to the address of the  
26 registered office, the new address of that office; and

1           "(5) a recitation that written notice of the change  
2 was given to the entity at least 10 days before the date the  
3 statement is filed.

4           "(c) On acceptance of the statement by the Secretary  
5 of State, the statement is:

6           "(1) in the case of a domestic filing entity,  
7 effective to make the change set forth in the statement  
8 without the necessity of amending the entity's certificate of  
9 formation;

10           "(2) in the case of a ~~domestic registered~~ general  
11 partnership with an effective statement of partnership,  
12 statement of not for profit partnership, or statement of  
13 limited liability partnership on file with the Secretary of  
14 State, effective to ~~make the change set forth in the statement~~  
15 ~~its registered agent or registered office, or both,~~ without  
16 the necessity of amending its ~~registration as a~~ statement of  
17 ~~partnership, statement of not for profit partnership, or~~  
18 ~~statement of limited liability partnership filed under Section~~  
19 ~~10A-8-10.01~~ Chapter 8A;

20           "(3) in the case of a foreign filing entity,  
21 effective to make the change set forth in the statement, and  
22 effective as an amendment of its application for registration  
23 as a foreign entity under Article 7; or

24           "(4) in the case of a foreign ~~registered~~ limited  
25 liability partnership, effective to make the change set forth  
26 in the statement, and effective as an amendment to its

1 ~~application for registration as a~~ statement of foreign entity  
2 limited liability partnership under Article 7.

3 "(d) A registered agent may file a statement under  
4 this section that applies to more than one entity.

5 "§10A-1-6.02.

6 "(a) Except as provided by subsection (b), this  
7 article does not apply to a:

8 "(1) general partnership;

9 "(2) limited liability company;

10 "(3) limited partnership; ~~and~~

11 "(4) nonprofit corporation; ~~and~~

12 "(5) business corporation.

13 "(b) The governing documents of a general  
14 partnership, ~~or~~ limited liability company, limited  
15 partnership, ~~or~~ nonprofit corporation, or business corporation  
16 may adopt provisions of this article or may contain  
17 enforceable provisions relating to:

18 "(1) indemnification;

19 "(2) advancement or reimbursement of expenses;

20 "(3) insurance; or

21 "(4) other arrangements.

22 "§10A-1-7.01.

23 "(a) (1) For purposes of this Article 7, the terms  
24 register, registering, and registered include (i) a foreign  
25 entity other than a foreign limited liability partnership  
26 delivering to the Secretary of State for filing an application  
27 for registration and the Secretary of State filing the

1 application for registration, and (ii) a foreign limited  
2 liability partnership delivering to the Secretary of State for  
3 filing a statement of foreign limited liability partnership  
4 and the Secretary of State filing the statement of foreign  
5 limited liability partnership.

6 "(2) For purposes of this Article 7, the term  
7 registration includes (i) a filed application for registration  
8 and (ii) a filed statement of foreign limited liability  
9 partnership.

10 "(b) For purposes of this Article 7, the terms  
11 transact business and transacting business shall include  
12 conducting a business, activity, not for profit activity, and  
13 any other activity, whether or not for profit.

14 ~~"(a)~~ (c) To transact business in this state, a  
15 foreign entity must register under this chapter if the foreign  
16 entity:

17 "(1) is a foreign entity, the formation of which, if  
18 formed in this state, would require the filing under Article 3  
19 of a certificate of formation; or

20 "(2) is a foreign limited liability partnership; or

21 ~~"(2)~~ (3) affords limited liability under the law of  
22 its jurisdiction of formation for any owner or member.

23 ~~"(b)~~ (d) A foreign entity described by subsection  
24 ~~(a)~~ (b) must maintain the entity's registration while  
25 transacting business in this state.

26 "§10A-1-7.02.

1           "(a) A foreign entity not described by Section  
2 10A-1-7.01~~(a)~~ (c) may transact business in this state without  
3 registering under this chapter.

4           "(b) Subsection (a) does not relieve a foreign  
5 entity from the duty to comply with applicable requirements  
6 under other law to file or register.

7           "(c) A foreign entity is not required to register  
8 under this chapter if other law of this state or of federal  
9 law authorizes the foreign entity to transact the particular  
10 business authorized by law in this state.

11           "(d) A foreign unincorporated nonprofit association  
12 is not required to register under this chapter.

13           "(e) A foreign entity which is exempt from the  
14 requirements of Chapter 46 of Title 16, is not required to  
15 register under this chapter.

16           "§10A-1-7.03.

17           "A foreign entity that is eligible under other law  
18 of this state to register to transact business in this state,  
19 but that is not registered under that law, may register under  
20 this chapter unless that ~~registration~~ registering is  
21 prohibited by the other law. ~~The~~ A registration under this  
22 chapter confers only the authority provided by this chapter.

23           "§10A-1-7.04.

24           "~~(a) A foreign filing entity registers by filing an~~  
25 ~~application for registration as provided by Article 4. (1) A~~  
26 foreign entity described in Section 10A-1-7.01(b), other than  
27 a foreign limited liability partnership, registers by

1 delivering to the Secretary of State for filing an application  
2 for registration in accordance with the procedures in Article  
3 4.

4 "(2) A foreign limited liability partnership  
5 registers by delivering to the Secretary of State for filing a  
6 statement of foreign limited liability partnership in  
7 accordance with the procedures in Article 4.

8 "(b) The application for registration of a foreign  
9 entity described in Section 10A-1-7.01(b) other than a foreign  
10 limited liability partnership must state:

11 "(1) the foreign entity's name or, if that name is  
12 not available for use in this state or otherwise would not  
13 comply with Article 5, a name that satisfies the requirements  
14 of Section 10A-1-7.07 under which the entity will transact  
15 business in this state;

16 "(2) the foreign entity's type;

17 "(3) the foreign entity's jurisdiction of formation;

18 "(4) the date of the foreign entity's formation;

19 "(5) that the foreign entity exists as a valid  
20 foreign ~~filing~~ entity of the stated type under the laws of the  
21 foreign entity's jurisdiction of formation;

22 "(6) the date the foreign entity began or will begin  
23 to transact business in this state;

24 "(7) the street address and mailing address, if  
25 different, of the principal office of the foreign ~~filing~~  
26 entity and;

1           "(8) the street address and mailing address, if  
2 different, of the initial registered office and the name of  
3 the initial registered agent for service of process which  
4 Article 5 requires to be maintained at that office.

5           "~~(c) A foreign filing entity may register regardless  
6 of any differences between the law of the entity's  
7 jurisdiction and of this state applicable to the governing of  
8 the internal affairs or to the liability of an owner, member,  
9 or managerial official. Notwithstanding the foregoing, no  
10 foreign filing entity may carry on in this state any business  
11 of a character that may not lawfully be carried on by a  
12 domestic filing entity of the same type.~~

13           "~~(d) In the case of a foreign corporation filing an  
14 application pursuant to this section, the foreign corporation  
15 shall also, to the extent required by the Constitution of  
16 Alabama of 1901, file a copy of its articles or certificate of  
17 incorporation or association or other certificate of formation  
18 and all amendments thereto duly certified by the Secretary of  
19 State or other official having custody of corporate records in  
20 the state or other jurisdiction under whose law it is  
21 incorporated.~~

22           "(c) The statement of foreign limited liability  
23 partnership must state:

24           "(1) the foreign limited partnership's name or, if  
25 that name is not available for use in this state or otherwise  
26 would not comply with Article 5, a name that satisfies the



1 requirements of Section 10A-1-7.07 under which the foreign  
2 entity will transact business in this state;

3 "(2) the jurisdiction which governs the foreign  
4 limited liability partnership's partnership agreement and  
5 under which it is a limited liability partnership;

6 "(3) the date of the foreign limited liability  
7 partnership's formation;

8 "(4) that the foreign limited liability partnership  
9 exists as a valid foreign limited liability partnership under  
10 the laws of the jurisdiction which governs the foreign limited  
11 liability partnership's partnership agreement and under which  
12 it is a limited liability partnership;

13 "(5) the date the foreign limited liability  
14 partnership will begin to transact business in this state;

15 "(6) the street address and mailing address, if  
16 different, of the principal office of the foreign limited  
17 liability partnership;

18 "(7) the street address and mailing address, if  
19 different, of the initial registered office and the name of  
20 the initial registered agent for service of process which  
21 Article 5 requires to be maintained at that office;

22 "(d) The application for registration of a foreign  
23 entity described in Section 10A-1-7.01(b) other than a foreign  
24 limited liability partnership shall be executed by one or more  
25 persons authorized to execute an application for registration.  
26 The statement of foreign limited liability partnership shall

1 be executed by one or more partners authorized to execute a  
2 statement of foreign limited liability partnership.

3 "(e) The status of the foreign entity after  
4 registration and the liability of its owners, managers,  
5 members, or managerial officials shall not be adversely  
6 affected by error or subsequent changes in the information  
7 stated in the application for registration or statement of  
8 foreign limited liability partnership, as applicable.

9 "(f) The fact that an application for registration  
10 or a statement of foreign limited liability partnership, as  
11 applicable, is on file with the Secretary of State is notice  
12 that the foreign entity is authorized to transact business in  
13 this state and as notice of all facts required to be set forth  
14 in the application for registration or the statement of  
15 foreign limited liability partnership, as applicable.

16 "(g) A foreign entity may register regardless of any  
17 differences between the law of the foreign entity's  
18 jurisdiction and of this state applicable to the governing of  
19 the internal affairs or to the liability of an owner, member,  
20 or managerial official. Notwithstanding the foregoing, no  
21 foreign entity may carry on in this state any business of a  
22 character that may not lawfully be carried on by a domestic  
23 entity of the same type.

24 "(h) A statement of foreign limited liability  
25 partnership is a filing instrument.

26 "§10A-1-7.05.

1           "(a) The application for registration of a foreign  
2 entity and the statement of foreign limited liability  
3 partnership takes effect in accordance with Article 4 of this  
4 chapter. The registration of a foreign entity ~~is effective~~  
5 ~~when the application filed under Article 4 takes effect.~~ The  
6 ~~registration~~ remains in effect until the registration  
7 terminates, is withdrawn, or is revoked.

8           "(b) Except in a proceeding to revoke the  
9 registration of a foreign entity or as otherwise provided by  
10 the law of Alabama, the Secretary of State's issuance of an  
11 acknowledgment that the foreign entity has filed an  
12 application for registration or a statement of foreign limited  
13 liability partnership, as applicable, is conclusive evidence  
14 of the authority of the foreign ~~filing~~ entity to transact  
15 business in this state under the foreign entity's name or  
16 under another name stated in the application, for registration  
17 in accordance with Section 10A-1-7.04(b)(1) or stated in the  
18 statement of foreign limited liability partnership in  
19 accordance with Section 10A-1-7.04(c)(1), as applicable.

20           "§10A-1-7.06.

21           "(a) If any statement in ~~the~~ an application for  
22 registration ~~of a~~ or a statement of foreign ~~entity~~ limited  
23 liability partnership was false when made or any arrangements  
24 or other facts described have changed, making the application  
25 for registration or statement of foreign limited liability  
26 partnership, as applicable, inaccurate in any respect, the  
27 foreign entity shall file with the Secretary of State an

1 amendment correcting the false or inaccurate statement. A  
2 foreign ~~filing~~ entity must amend its registration to change  
3 its name if the name has changed. If the ~~entity's~~ name of a  
4 foreign entity as changed is not available in this state or  
5 otherwise does not satisfy the requirements of Article 5, the  
6 foreign entity, pursuant to the requirements of Section  
7 10A-1-7.07, must adopt a name that complies with Article 5  
8 under which it will transact business in this state.

9 "(b) A foreign ~~filing~~ entity may amend its  
10 application for registration or statement of foreign limited  
11 liability partnership by filing an application for amendment  
12 of registration as provided by Article 4.

13 "(c) The application for amendment must be filed  
14 promptly on the discovery that any statement in the  
15 application for registration or statement of foreign limited  
16 liability partnership, as applicable, was false when made, but  
17 not later than 60 days after the discovery. The application  
18 for amendment must be filed promptly after any arrangements  
19 other facts described in the application have changed, making  
20 the application inaccurate in any respect, but not later than  
21 90 days after the change.

22 "§10A-1-7.07.

23 "If the name of a foreign entity does not satisfy  
24 the requirements of Article 5, the foreign entity, for use in  
25 this state, may:

1           "(1) if a corporation, add to its corporate name the  
2 word "corporation" or "incorporated" or an abbreviation of one  
3 of the words;

4           "(2) if a banking corporation, add to its corporate  
5 name the words "bank," "banking," or "bankers";

6           "(3) if a limited partnership that is not a limited  
7 liability limited partnership, add to its partnership name the  
8 word "limited" or the abbreviation "Ltd." or the phrase  
9 "limited partnership" or the abbreviation "L.P." or "LP" but  
10 its name must not contain the phrase "limited liability  
11 limited partnership" or the abbreviation "LLLP" or "L.L.L.P.";

12           "(4) if a limited partnership that is a limited  
13 liability limited partnership, add to its partnership name the  
14 phrase "limited liability limited partnership" or the  
15 abbreviation "LLLP" or "L.L.L.P." and must not contain the  
16 abbreviation "Ltd.," "L.P.," or "LP."

17           "(5) if a limited liability company, add to its  
18 company name the phrase "limited liability company" or the  
19 abbreviation "L.L.C." or "LLC";

20           "(6) if a professional corporation, add to its  
21 corporate name the phrase "professional corporation" or the  
22 abbreviation "P.C." or "PC";

23           "(7) if a ~~registered~~ limited liability partnership,  
24 add to its partnership name the phrase "~~registered~~ limited  
25 liability partnership" or the abbreviation "L.L.P." or "LLP";  
26 and

1           "(8) if a general partnership that is authorized by  
2 the laws of the jurisdiction that govern its partnership  
3 agreement to file the equivalent of a statement of partnership  
4 as provided under Chapter 8A, add to its name the phrase  
5 "general partnership" or the abbreviation "G.P." or "GP";

6           "(9) if a general partnership that is authorized by  
7 the laws of the jurisdiction that govern its partnership  
8 agreement to file the equivalent of a statement of not for  
9 profit partnership as provided under Chapter 8A, add to its  
10 name the phrase "not for profit general partnership" or the  
11 abbreviation "N.G.P." or "NGP"; and

12           ~~"(8)~~ (10) use a fictitious name available for use in  
13 this state that satisfies the requirements of Article 5, if it  
14 delivers to the Secretary of State for filing a copy of the  
15 resolution of its governing authority, certified by its  
16 secretary, adopting the fictitious name.

17           "§10A-1-7.11.

18           "(a) A foreign ~~filing~~ entity registered in this  
19 state may withdraw the foreign entity's registration at any  
20 time by filing a certificate of withdrawal as provided in  
21 Article 4.

22           "(b) A certificate of withdrawal for a foreign  
23 entity described must state:

24           "(1) the name of the foreign ~~filing~~ entity as  
25 ~~registered in this state~~ set forth on its registration;

26           "(2) the type of entity and the entity's  
27 jurisdiction of formation and, in the case of a foreign

1 limited liability partnership, the jurisdiction which laws  
2 govern the foreign limited liability partnership and its  
3 partnership agreement;

4 "(3) the street address and mailing address, if  
5 different, of the principal office of the foreign ~~filing~~  
6 entity;

7 "(4) that the foreign ~~filing~~ entity no longer is  
8 transacting business in this state;

9 "(5) that the foreign ~~filing~~ entity:

10 "(A) revokes the authority of the foreign entity's  
11 registered agent in this state to accept service of process;  
12 and

13 "(B) consents that service of process in any action,  
14 suit, or proceeding stating a cause of action arising in this  
15 state during the time the foreign ~~filing~~ entity was authorized  
16 to transact business in this state may be made on the foreign  
17 ~~filing~~ entity in accordance with the Alabama Rules of Civil  
18 Procedure and any other notice or demand required or permitted  
19 by law to be served on the foreign entity may be served in a  
20 manner similar to the procedure provided for the service of  
21 process by the Alabama Rules of Civil Procedure;

22 "(6) (A) a mailing address to which process may be  
23 mailed pursuant to the applicable service of process  
24 procedures of the Alabama Rules of Civil Procedure and to  
25 which any notice or demand required or permitted by law to be  
26 served on the foreign entity may be mailed; and

1           "(B) a commitment by the foreign entity that if the  
2 mailing address stated in the certificate of withdrawal under  
3 paragraph (A) changes, the foreign entity will promptly amend  
4 the certificate of withdrawal to update the address; and

5           "(7) that any money due or accrued to the state has  
6 been paid or describes the provisions that have been made for  
7 the payment of that money.

8           "(c) A certificate from the Alabama Department of  
9 Revenue that all applicable taxes and fees have been paid must  
10 be filed with the certificate of withdrawal.

11           "(d) If the existence or separate existence of a  
12 foreign ~~filing~~ entity registered in this state terminates  
13 ~~because of dissolution, termination, merger, conversion, or~~  
14 ~~other circumstances~~, a certificate by an authorized  
15 governmental official of the entity's jurisdiction of  
16 formation that evidences the termination shall be filed with  
17 the Secretary of State.

18           "(e) The registration of the foreign ~~filing~~ entity  
19 ~~in this state~~ terminates when a certificate of withdrawal  
20 under this section or a certificate evidencing termination  
21 under subsection (d) is filed.

22           "§10A-1-7.12.

23           "The Secretary of State may commence a proceeding  
24 under Section 10A-1-7.13 to revoke the registration of a  
25 foreign entity authorized to transact business in this state  
26 if:



1           "(1) the foreign entity does not deliver its annual  
2 report, if required by law, to the Secretary of State within  
3 180 days after it is due;

4           "(2) the foreign entity does not pay within 180 days  
5 after they are due any applicable privilege or corporation  
6 share tax, qualification fee or admission tax, or interest or  
7 penalties imposed by this title or other law;

8           "(3) the foreign entity is without a registered  
9 agent or registered office in this state for 60 days or more;

10           "(4) the foreign entity does not file a statement of  
11 change of registered agent or registered office with the  
12 Secretary of State under Section 10A-1-5.32 within 60 days of  
13 the change or its registered agent does not file a change of  
14 name or change of address of the registered office with the  
15 Secretary of State under Section 10A-1-5.33 within 60 days of  
16 the change;

17           "(5) an organizer, governing person, or agent of the  
18 foreign entity signed a document he or she knew was false in  
19 any material respect with intent that the document be  
20 delivered to the Secretary of State for filing; or

21           "(6) the Secretary of State receives a duly  
22 authenticated certificate from the Secretary of State or other  
23 official having custody of entity records in the state or  
24 country under whose laws the foreign entity is formed or is  
25 governed stating that ~~it~~ the foreign entity has been ~~dissolved~~  
26 ~~or disappeared as the result of a merger~~ terminated.

27           "§10A-1-7.13.

1           "(a) If the Secretary of State determines that one  
2 or more grounds exist under Section 10A-1-7.12 for revocation  
3 of a registration, ~~he or she~~ the Secretary of State shall  
4 serve the foreign entity with written notice of ~~his or her~~ the  
5 determination of the Secretary of State by serving ~~its~~ the  
6 foreign entity's registered agent, which service may be by  
7 registered mail, or, if the foreign entity has no registered  
8 agent or its registered agent cannot with reasonable diligence  
9 be served, by serving the foreign entity by any method  
10 permitted under Sections 10A-1-5.35 and 10A-1-5.36.

11           "(b) If the foreign entity does not correct each  
12 ground for revocation or demonstrate to the reasonable  
13 satisfaction of the Secretary of State that each ground  
14 determined by the Secretary of State does not exist within 60  
15 days after service of the notice is perfected under subsection  
16 (a), the Secretary of State may revoke the foreign entity's  
17 registration by signing a certificate of revocation that  
18 recites the ground or grounds for revocation and its effective  
19 date. The Secretary of State shall file the original of the  
20 certificate and serve a copy on the foreign entity by serving  
21 its registered agent, which service may be by registered mail,  
22 or, if the foreign entity has no registered agent or its  
23 registered agent cannot with reasonable diligence be served,  
24 by serving the foreign entity by any method permitted under  
25 Sections 10A-1-5.35 and 10A-1-5.36.

26           "(c) The authority of a foreign entity to transact  
27 business in this state ceases on the date shown on the

1 certificate revoking its ~~certificate of authority~~  
2 registration.

3 "(d) Revocation of a foreign entity's registration  
4 does not terminate the authority of the registered agent of  
5 the foreign entity. Service of process in any action, suit, or  
6 proceeding stating a cause of action arising in this state  
7 during the time the foreign entity was authorized to transact  
8 business in this state may be made on the foreign entity whose  
9 registration has been suspended by service on the registered  
10 agent or by serving the entity by any method permitted under  
11 Sections 10A-1-5.35 and 10A-1-5.36.

12 "§10A-1-7.14.

13 "(a) A foreign entity may appeal the Secretary of  
14 State's revocation of its registration to the Circuit Court of  
15 Montgomery County within 30 days after service of the  
16 certificate of revocation is perfected under Section  
17 10A-1-7.13. The foreign entity appeals by petitioning the  
18 court to set aside the revocation and attaching to the  
19 petition copies of the Secretary of State's acknowledgment of  
20 its application for registration, ~~if any,~~ or statement of  
21 foreign limited liability partnership, as applicable, and the  
22 Secretary of State's certificate of revocation.

23 "(b) The court may summarily order the Secretary of  
24 State to reinstate the ~~certificate of authority~~ registration,  
25 may order a trial de novo, or may take any other action the  
26 court considers appropriate.

1           "(c) The court's final decision may be appealed as  
2 in other civil proceedings.

3           "§10A-1-7.22.

4           "(a) The failure of a foreign filing entity to  
5 register to transact business in this state or to appoint and  
6 maintain a registered agent in this state shall not impair the  
7 validity of any contract or act of the foreign entity and  
8 shall not prevent the foreign entity from defending any action  
9 or proceeding in any court of this state, but the foreign  
10 entity shall not maintain any action or proceeding in any  
11 court of this state until it has delivered to the Secretary of  
12 State for filing an application for registration or a  
13 statement of foreign limited liability partnership, as  
14 applicable, in accordance with Section 10A-1-7.04. A foreign  
15 filing entity, by transacting business in this state without  
16 filing an application for registration or a statement of  
17 foreign limited liability partnership, as applicable, appoints  
18 the Secretary of State as its agent for service of process  
19 with respect to causes of action arising out of the  
20 transaction of business or activities in this state. The  
21 liability of the owners, members, and managerial officials of  
22 a foreign filing entity is governed by the laws of the  
23 jurisdiction under whose laws it was formed or under which it  
24 is governed, and any limitations on that liability are not  
25 waived solely by reason of having transacted business in this  
26 state without filing an application for registration or a

1 statement of foreign limited liability partnership, as  
2 applicable.

3 "(b) The Attorney General may bring an action to  
4 restrain a foreign entity from transacting business in this  
5 state in violation of this title.

6 "§10A-1-7.23.

7 "The Secretary of State may collect from a foreign  
8 filing entity a late filing fee equal to the application for  
9 registration fee for the or the statement of foreign limited  
10 liability partnership fee, as applicable, for the foreign  
11 filing entity for each year of delinquency if the foreign  
12 filing entity has transacted business in this state for more  
13 than 90 days. The Secretary of State may condition the  
14 effectiveness of a registration on the payment of the late  
15 filing fee.

16 "§10A-1-7.24.

17 "This article does not excuse a foreign filing  
18 entity from complying with duties imposed under other law,  
19 including other chapters of this title, relating to filing or  
20 ~~registration~~ registering requirements.

21 "§10A-1-7.31.

22 "A foreign entity may not conduct in this state a  
23 business, or activity, not for profit activity, or any other  
24 activity, whether or not for profit, that is not permitted by  
25 this title to be transacted by the domestic entity to which it  
26 most closely corresponds, unless other law of this state  
27 authorizes the entity to conduct the business, or activity,

1 not for profit activity, or any other activity, whether or not  
2 for profit.

3 "§10A-1-7.32.

4 "A foreign ~~nonfiling entity or a foreign filing~~  
5 ~~entity registered~~ entity with a registration under this  
6 article enjoys the same but no greater rights and privileges  
7 as the domestic entity to which it most closely corresponds.

8 "§10A-1-7.34.

9 "A vote cast or consent provided by a foreign ~~filing~~  
10 entity with respect to its ownership or membership interest in  
11 a domestic entity of which the foreign ~~filing~~ entity is a  
12 lawful owner or member, and the foreign ~~filing~~ entity's  
13 participation in the management and control of the business  
14 and affairs of the domestic entity to the extent of the  
15 participation of other owners or members, are not invalidated  
16 if the foreign ~~filing~~ entity does not register to transact  
17 business in this state, subject to all law governing a  
18 domestic entity, including the antitrust law of this state.

19 "§10A-1-7.36.

20 "Foreign entities that have complied with the  
21 constitution and laws of this state as to ~~doing~~ transacting  
22 business ~~herein~~ in this state shall have the same right of  
23 eminent domain and the same remedies for enforcing the rights  
24 as domestic entities of like kind and character possess.

25 "§10A-1-7.37.

26 "Any foreign entity which has complied with the  
27 constitution and laws of this state for ~~doing~~ transacting

1 business ~~herein~~ in this state and which is engaged in  
2 constructing or operating a streetcar, electric light,  
3 telegraph, telephone or power lines, pipelines, or works in an  
4 adjoining state may extend its lines, tracks, ways, pipelines,  
5 or works into this state and connect with other lines,  
6 pipelines, ways or works of similar or like character and, for  
7 that purpose, may have and exercise the same rights,  
8 privileges, immunities and remedies as to right of eminent  
9 domain and condemnation proceedings as are had and exercised  
10 by domestic entities engaged in like or similar business.

11 "§10A-1-8.01.

12 "(a) A conversion of an entity may be accomplished  
13 as provided in this section:

14 "(1) CORPORATIONS.

15 "a. The terms and conditions of a conversion of a  
16 corporation other than a nonprofit corporation must be  
17 approved by all of the corporation's shareholders ~~except or~~ as  
18 otherwise provided in the corporation's governing documents;  
19 but in no case may the vote required for shareholder approval  
20 be set at less than a majority of the votes entitled to be  
21 cast by each voting group entitled by law to vote separately  
22 on the conversion. If the governing documents provide for  
23 approval of a conversion by less than all of a corporation's  
24 shareholders, approval of the conversion shall constitute  
25 corporate action subject to dissenter's rights pursuant to  
26 Article 13 of Chapter 2 of the Alabama Business Corporation  
27 Law. No conversion of a corporation to a general or limited

1 partnership may be effected without the consent in writing of  
2 each shareholder who will have personal liability with respect  
3 to the converted entity, notwithstanding any provision in the  
4 governing documents of the converting corporation providing  
5 for less than unanimous shareholder approval for the  
6 conversion.

7 "b. The terms and conditions of a conversion of a  
8 nonprofit corporation must be approved by all the  
9 corporation's members entitled to vote thereon, if it is a  
10 nonprofit corporation with members with voting rights, ~~except~~  
11 or as otherwise provided in the corporation's governing  
12 documents; but in no case may the governing documents provide  
13 for approval by less than a majority of the members entitled  
14 to vote thereon. If the converting nonprofit corporation has  
15 no members, or no members entitled to vote thereon, the terms  
16 and conditions of the conversion must be approved by a  
17 unanimous vote of the board of directors of the converting  
18 nonprofit corporation, ~~except~~ or as otherwise provided in the  
19 governing documents; but in no case may the governing  
20 documents provide for approval by less than a majority of the  
21 board of directors.

22 "(2) LIMITED PARTNERSHIPS. The terms and conditions  
23 of a conversion of a limited partnership must be approved by  
24 all of the partners or as otherwise provided in the  
25 partnership agreement. No conversion of a limited partnership  
26 to a general partnership may be effected without the consent  
27 in writing of each limited partner who will have personal



1 liability with respect to the converted entity,  
2 notwithstanding any provision in the limited partnership  
3 agreement of the converting limited partnership providing for  
4 approval of the conversion by less than all partners.

5 "(3) LIMITED LIABILITY COMPANIES. The terms and  
6 conditions of a conversion of a limited liability company must  
7 be approved by all of the limited liability company's members  
8 or as otherwise provided in the limited liability company's  
9 governing documents. No conversion of a limited liability  
10 company to a general or limited partnership may be effected  
11 without the consent in writing of each member who will have  
12 personal liability with respect to the converted entity,  
13 notwithstanding any provision in the governing documents of  
14 the converting limited liability company providing for less  
15 than unanimous member approval for the conversion.

16 "(4) GENERAL PARTNERSHIPS, INCLUDING REGISTERED  
17 LIMITED LIABILITY PARTNERSHIPS. The terms and conditions of a  
18 conversion of a general partnership must be approved by all of  
19 the partners or as otherwise provided in the partnership  
20 agreement. No conversion of a ~~registered~~ limited liability  
21 partnership to a general or limited partnership may be  
22 effected without the consent in writing of each partner who  
23 will have personal liability with respect to the converted  
24 entity, notwithstanding any provision in the partnership  
25 agreement of the converting ~~registered~~ limited liability  
26 partnership providing for less than unanimous partner approval  
27 for the conversion.

1           "(5) REAL ESTATE INVESTMENT TRUST. The terms and  
2 conditions of a conversion of a real estate investment trust  
3 must be approved by all of the trust's shareholders ~~except~~ or  
4 as otherwise provided in the trust's declaration of trust; but  
5 in no case may the vote required for shareholder approval be  
6 set at less than a majority of all the votes entitled to be  
7 cast. No conversion of a real estate investment trust to a  
8 general or limited partnership may be effected without the  
9 consent in writing of each shareholder who will have personal  
10 liability with respect to the converted entity,  
11 notwithstanding any provision in the declaration of trust of  
12 the converting real estate investment trust providing for less  
13 than unanimous shareholder approval for the conversion.

14           "(6) OTHER ENTITY. The terms and conditions of a  
15 conversion of any entity not specified above must be approved  
16 by all owners of the converting entity. No conversion of any  
17 entity shall be effected without the consent in writing of any  
18 owner of the converting entity who has limited liability and  
19 who shall become an owner without limited liability protection  
20 of the converted entity.

21           "(7) ENTITY WITHOUT OWNERS. If the converting entity  
22 does not have owners, the terms and conditions of the  
23 conversion must be unanimously approved by the governing  
24 authority of the converting entity.

25           "(b) After the conversion is approved pursuant to  
26 subsection (a), the following documentation and filing  
27 requirements apply:

1           "(1) If the conversion is to a corporation, limited  
2 liability company, limited partnership, real estate investment  
3 trust, or other entity required to file a certificate of  
4 formation, the statement of conversion, when filed in  
5 accordance with Section 10A-1-4.02(c)(1), shall be deemed to:

6           "a. constitute a certificate of formation or amended  
7 and restated certificate of formation, as the case may be, for  
8 the converted entity; and

9           "b. shall satisfy the requirements of Section  
10 10A-1-4.02(a).

11           "(2) In addition to any information or statements  
12 otherwise required by law to be included in a certificate of  
13 formation for a filing entity, a statement of conversion shall  
14 include the following:

15           "a. The name and type of entity of the converted  
16 entity and the jurisdiction of its governing statute and its  
17 unique identifying number or other designation as assigned by  
18 the Secretary of State, if any.

19           "b. The former name of the converting entity.

20           "c. A statement that the converting entity has been  
21 converted into the converted entity.

22           "d. The public office where the certificate of  
23 formation, if any, of the converting entity is filed and the  
24 date of the filing thereof.

25           "e. If the converted entity is one in which one or  
26 more owners lack limited liability protection, a statement  
27 that each owner of the converting entity who is to become an

1 owner without limited liability protection of the ~~resulting~~  
2 converted entity has consented in writing to the conversion as  
3 required by this section.

4 "f. A statement that the conversion was approved  
5 pursuant to this section and, if either the converting entity  
6 or the converted entity is a foreign entity, that the  
7 conversion was approved as required by the governing statute  
8 of such foreign entity.

9 "(3) After the conversion has become effective in  
10 accordance with subsection (c), then, as provided in Section  
11 10A-1-4.02(c) (4), all filing instruments with respect to the  
12 converted entity that would otherwise be required by this  
13 title to be delivered to the judge of probate for filing shall  
14 instead be delivered to the Secretary of State for filing.

15 "(c) A conversion takes effect as follows:

16 "(1) Upon the filing of the statement of conversion  
17 in accordance with Section 10A-1-4.02(c) (1), except as  
18 otherwise provided in subdivision (2).

19 "(2) Upon any delayed effective date if, but only  
20 if, each of the following requirements is satisfied:

21 "a. A delayed effective date is specified in the  
22 statement of conversion; and

23 "b. If either the converted entity or the converting  
24 entity is a foreign entity, then any filing required under the  
25 governing statute of such foreign entity to effectuate the  
26 conversion is filed before the effective date specified in the  
27 statement of conversion.

1           "(3) If a delayed effective date is specified, and  
2 the conditions of subdivision (2) are met, the conversion is  
3 effective at the close of business, unless a different hour is  
4 specified, on that date.

5           "(d) Conversion has the following effects:

6           "(1)a. Any ~~other~~ entity that has been converted  
7 pursuant to this article is for all purposes the same entity  
8 that existed before the conversion and the conversion shall  
9 constitute a continuation of the existence of the converting  
10 entity in the form of the converted entity. The conversion  
11 shall not be deemed to constitute a dissolution or termination  
12 of the converting entity.

13           "b. If the Secretary of State has assigned a unique  
14 identifying number or other designation to the converting  
15 entity, that number or designation shall continue to be  
16 assigned to the converted entity.

17           "(2)a. All property, real, personal, and mixed owned  
18 by the converting entity; all rights, immunities, and  
19 franchises of the converting entity, of a public as well as a  
20 private nature; and all debts or obligations due the  
21 converting entity, shall remain owned and held by, vested in,  
22 and due to, the converted entity, shall not be deemed to have  
23 been transferred to the converted entity as a consequence of  
24 the conversion, and shall not revert or be in any way impaired  
25 by reason of the conversion.

26           "b. A certified copy of the statement of conversion  
27 may be filed in the office of the judge of probate in any

1 county in which the converting entity owned real property, to  
2 be recorded without payment and without collection by the  
3 judge of probate of any deed or other transfer tax or fee. The  
4 judge of probate shall, however, be entitled to collect the  
5 filing fees prescribed by Section 12-19-90. Any filing shall  
6 evidence chain of title, but lack of filing shall not affect  
7 the converted entity's title to the real property.

8 "(3) All debts, obligations, and other liabilities  
9 of the converting entity shall continue as the debts,  
10 obligations, and liabilities of the converted entity and the  
11 converted entity shall continue to be responsible and liable  
12 for all the liabilities and obligations of the converting  
13 entity. Neither the rights of creditors, nor any liens upon  
14 the property of the converting entity, shall be impaired by  
15 the conversion, and an owner of the converted entity shall  
16 continue to be liable for all obligations of the converting  
17 entity for which the owner was personally liable before the  
18 conversion.

19 "(4) Any claim existing or any action or proceeding  
20 of any kind pending by or against the converting entity shall  
21 be prosecuted or continued as if the conversion had not  
22 occurred.

23 "(5) a. An owner with limited liability protection  
24 remains liable, if at all, for an obligation incurred by the  
25 converting entity before the conversion takes effect only to  
26 the extent, if any, the owner would have been liable if the  
27 conversion had not occurred.

1            "b. An owner with limited liability protection who  
2 becomes an owner without limited liability protection is  
3 liable for an obligation of the converted entity incurred  
4 after conversion to the extent provided for by the laws  
5 applicable to the converted entity.

6            "(6) An owner without limited liability protection  
7 who as a result of a conversion becomes an owner of a  
8 converted entity with limited liability protection remains  
9 liable for an obligation incurred by the converting entity  
10 before the conversion takes effect only to the extent, if any,  
11 the owner would have been liable if the conversion had not  
12 occurred.

13            "§10A-1-8.02.

14            "(a) Pursuant to an approved plan of merger, a  
15 corporation, limited partnership, limited liability company,  
16 general partnership, real estate investment trust, or any  
17 other entity may merge with any other entity or entities,  
18 whether the other entity or entities are the same or another  
19 form of entity, as provided in this section.

20            "(b) A plan of merger shall include the following:

21            "(1) The name of each entity that is a party to the  
22 merger.

23            "(2) The name of the surviving entity into which the  
24 other entity or entities will merge.

25            "(3) The form of the surviving entity and the status  
26 in the surviving entity of each owner of an entity that is a  
27 party to the merger.

1           "(4) The terms and conditions of the merger.

2           "(5) The manner and basis of converting the  
3 interests of each party to the merger into interests or  
4 obligations of the surviving entity, or into money or other  
5 property in whole or part.

6           "(c) A plan of merger may set forth:

7           "(1) Amendments to the certificate of formation of  
8 the surviving entity.

9           "(2) Other provisions relating to the merger.

10          "(d) A plan of merger shall be approved as follows:

11          "(1) CORPORATIONS.

12           a. In the case of a corporation, other than a  
13 nonprofit corporation, that is a party to a merger, the plan  
14 of merger must be approved in accordance with the procedures  
15 and by the shareholder vote required by Section 10A-2-11.03 or  
16 Section 10A-2-11.04. If the governing documents of the  
17 corporation provide for approval of a merger by less than all  
18 of the corporation's shareholders, approval of the merger  
19 shall constitute corporate action subject to dissenter's  
20 rights pursuant to Article 13 of Chapter 2. No merger of a  
21 corporation into a general or limited partnership may be  
22 effected without the consent in writing of each shareholder  
23 who will have personal liability with respect to the resulting  
24 or surviving entity, notwithstanding any provision in the  
25 governing documents of the corporation that is a party to the  
26 merger providing for less than unanimous shareholder approval  
27 for the conversion.



1            "b. In the case of a nonprofit corporation, the plan  
2 of merger must be approved by all the corporation's members  
3 entitled to vote thereon, if it is a nonprofit corporation  
4 with members with voting rights, ~~except~~ or as otherwise  
5 provided in the corporation's governing documents; but in no  
6 case may the governing documents provide for approval by less  
7 than a majority of the members entitled to vote thereon. If  
8 the nonprofit corporation has no members, or no members  
9 entitled to vote thereon, the plan of merger must be approved  
10 by a unanimous vote of the board of directors of the nonprofit  
11 corporation, except as otherwise provided in the governing  
12 documents; but in no case may the governing documents provide  
13 for approval by less than a majority of the board of  
14 directors.

15            "(2) LIMITED PARTNERSHIPS. In the case of a limited  
16 partnership that is a party to the merger, the plan of merger  
17 must be approved in writing by all of the partners or as  
18 otherwise provided in the partnership agreement. No merger of  
19 a limited partnership with a general partnership in which the  
20 general partnership is the surviving or resulting entity may  
21 be effected without the consent in writing of each limited  
22 partner who will have personal liability with respect to the  
23 surviving or resulting entity, notwithstanding any provision  
24 in the limited partnership agreement of the merging limited  
25 partnership providing for approval of the merger by less than  
26 all partners.

1           "(3) LIMITED LIABILITY COMPANIES. In the case of a  
2           limited liability company that is a party to the merger, the  
3           plan of merger must be approved in writing by all of the  
4           limited liability company's members or as otherwise provided  
5           in the limited liability company's governing documents. No  
6           merger of a limited liability company with a general or  
7           limited partnership that is the surviving or resulting entity  
8           may be effected without the consent in writing of each member  
9           who will have personal liability with respect to the surviving  
10          or resulting entity, notwithstanding any provision in the  
11          governing documents of the merging limited liability company  
12          providing for less than unanimous shareholder approval for a  
13          merger.

14           "(4) GENERAL PARTNERSHIPS, INCLUDING ~~REGISTERED~~  
15          LIMITED LIABILITY PARTNERSHIPS. In the case of a general  
16          partnership that is a party to the merger, the plan of merger  
17          must be approved in writing by all of the partners or as  
18          otherwise provided in the partnership agreement. No merger of  
19          a ~~registered~~ limited liability partnership into a general or  
20          limited partnership may be effected without the consent in  
21          writing of each partner who will have personal liability with  
22          respect to the surviving or resulting entity, notwithstanding  
23          any provision in the partnership agreement of the ~~registered~~  
24          limited liability partnership providing for less than  
25          unanimous partner approval for a merger.

26           "(5) REAL ESTATE INVESTMENT TRUST. In the case of a  
27          real estate investment trust that is a party to the merger,

1 the plan of merger must be approved in writing by all of the  
2 trust's shareholders ~~except~~ or as otherwise provided in the  
3 trust's declaration of trust, but in no case may the vote  
4 required for shareholder approval be set at less than a  
5 majority of all the votes entitled to be cast. No merger of a  
6 real estate investment trust with a general or limited  
7 partnership that is to be the surviving or resulting entity  
8 may be effected without the consent in writing of each  
9 shareholder who will have personal liability with respect to  
10 the surviving or resulting business entity.

11 "(6) OTHER ENTITY. In the case of an entity other  
12 than a corporation, limited partnership, limited liability  
13 company, general partnership, or real estate investment trust  
14 that is a party to the merger, by approval in writing of all  
15 owners of the entity. No merger of any entity shall be  
16 effected without the consent in writing of any owner who has  
17 limited liability as an owner of an entity party to the  
18 merger, and who will have personal liability with respect to  
19 the surviving or resulting entity.

20 "(e) After a plan of merger is approved and before  
21 the merger takes effect, the plan may be amended or abandoned  
22 as provided in the plan, or if the plan does not provide for  
23 amendment or abandonment, in the same manner as required for  
24 the approval of the plan of merger originally.

25 "(f) The merger takes effect as follows:

1           "(1) Upon the filing of the statement of merger in  
2 accordance with Section 10A-1-4.02(c)(1), except as otherwise  
3 provided in subdivision (2).

4           "(2) Upon any delayed effective date if, but only  
5 if, each of the following requirements is satisfied:

6           "a. A delayed effective date is specified in the  
7 statement of merger.

8           "b. If either the converted entity or the merging  
9 entity is a foreign entity, then any filing required under the  
10 governing statute of such foreign entity to effectuate the  
11 merger is filed before the effective date specified in the  
12 statement of merger.

13           "(3) If a delayed effective date is specified and  
14 the conditions of subdivision (2) are met, the merger is  
15 effective at the close of business, unless a different hour is  
16 specified, on that date in accordance with and subject to  
17 Section 10A-1-4.12.

18           "(g) The certificate of merger shall include the  
19 following:

20           "(1) The names of each of the entities which are to  
21 merge and their respective unique identifying numbers or other  
22 designations as assigned by the Secretary of State, if any.

23           "(2) The public office where the certificate of  
24 formation, if any, of each of the parties to the merger is  
25 filed.

1           "(3) A statement that a plan of merger has been  
2 approved by each of the entities which are to merge in the  
3 manner set forth in this article.

4           "(4) If the surviving or resulting entity is one in  
5 which one or more owners lack limited liability protection, a  
6 statement that each owner of an entity party to the merger who  
7 is to be an owner of the surviving or resulting entity without  
8 limited liability protection has consented in writing to the  
9 merger as required by this article.

10           "(5) The name of the surviving or resulting entity.

11           "(6) The date, or date and time, on which the merger  
12 becomes effective if it is not to be effective upon the filing  
13 of the certificate of merger.

14           "(7) That the plan of merger is on file at a place  
15 of business of the surviving or resulting entity, and shall  
16 state the address thereof.

17           "(8) That a copy of the plan of merger will be  
18 furnished by the surviving or resulting entity, on request and  
19 without cost, to any owner of any entity which is a party to  
20 the merger.

21           "(9) If the plan of merger includes any amendments  
22 to the certificate of formation of the surviving or resulting  
23 entity, a statement of all such amendments.

24           "(h) The certificate of merger shall be filed with  
25 the Secretary of State in accordance with Section 10A-1-4.02.

26           "(i) The merger shall have the following effects:

1           "(1) Every other entity party to the merger merges  
2 into the surviving entity which shall be deemed to be the  
3 resulting entity of the merger and the separate existence of  
4 every entity, other than the surviving or resulting entity,  
5 ceases.

6           "(2) All property, real, personal, and mixed owned  
7 by each of the merged entities; all rights, immunities, and  
8 franchises of the merged entities, of a public as well as a  
9 private nature; and all debts and obligations due the merged  
10 entities, are taken and deemed to be transferred and vested in  
11 the surviving or resulting entity without the necessity of any  
12 deed or other instrument of conveyance to the surviving or  
13 resulting entity and without payment and without collection by  
14 any filing officer of any deed or other transfer tax or fee. A  
15 certified copy of the certificate of merger may be filed in  
16 the real estate records in the office of the judge of probate  
17 in any county in which any entity a party to the merger owned  
18 real property, to be recorded without payment and without  
19 collection by the judge of probate of any deed or other  
20 transfer tax or fee. The judge of probate shall, however, be  
21 entitled to collect the filing fees prescribed by Section  
22 12-19-90. Any filing shall evidence chain of title, but lack  
23 of filing does not affect the resulting entity's title to any  
24 real property.

25           "(3) The surviving or resulting entity shall be  
26 responsible and liable for all the liabilities and obligations  
27 of the entities that are parties to the merger; however,

1       neither the rights of creditors nor any liens upon the  
2       property of the entities that are parties to the merger shall  
3       be impaired by the merger.

4               "(4) Any claim existing or action or proceeding, of  
5       any kind, pending by or against an entity that is a party to  
6       the merger may be prosecuted or continued as if the merger had  
7       not occurred, or the surviving or resulting entity may be  
8       substituted as a party to the action or proceeding.

9               "(5) Service of process in an action or proceeding  
10       against a surviving or resulting foreign entity to enforce an  
11       obligation of a domestic entity that is a party to a merger  
12       may be made by registered mail addressed to the surviving  
13       entity at the address set forth in the certificate of merger  
14       or by any method provided by the Alabama Rules of Civil  
15       Procedure. Any notice or demand required or permitted by law  
16       to be served on a domestic entity may be served on the  
17       surviving or resulting foreign entity by registered mail  
18       addressed to the surviving entity at the address set forth in  
19       the certificate of merger or in any other manner similar to  
20       the procedure provided by the Alabama Rules of Civil Procedure  
21       for the service of process.

22               "(6) a. An owner of an entity with limited liability  
23       protection remains liable, if at all, for an obligation  
24       incurred prior to the merger by an entity that ceases to exist  
25       as a result of the merger only to the extent, if any, that the  
26       owner would have been liable under the laws applicable to

1 owners of the form of entity that ceased to exist if the  
2 merger had not occurred.

3 "b. An owner with limited liability protection who,  
4 as a result of the merger, becomes an owner without limited  
5 liability protection of the surviving or resulting entity is  
6 liable for an obligation of the surviving or resulting entity  
7 incurred after merger to the extent provided for by the laws  
8 applicable to the surviving or resulting entity.

9 "(7) An owner without limited liability protection  
10 of an entity that ceases to exist as a result of a merger and  
11 who as a result of the merger becomes an owner of a surviving  
12 or resulting entity with limited liability protection remains  
13 liable for an obligation of the entity that ceases to exist  
14 incurred before the merger takes effect only to the extent, if  
15 any, that the owner would have been liable if the merger had  
16 not occurred.

17 "§10A-1-8.03.

18 "This article is not exclusive ~~but is cumulative to~~  
19 ~~other laws and provisions of this title relating to mergers~~  
20 ~~and conversion. Entities, including corporations, limited~~  
21 ~~partnerships, limited liability companies, general~~  
22 ~~partnerships, and real estate investment trusts, may be~~  
23 ~~converted or merged in any other manner provided by law,~~  
24 ~~including other provisions of this title. This article does~~  
25 ~~not preclude any entity from being converted or merged under~~  
26 ~~law other than this chapter.~~"



1           Section 4. Section 10A-1-9.01 of the Code of Alabama  
2 1975, is amended and renumbered to read as follows:

3           "~~§10A-1-9.01.~~ §10A-1-9.02.

4           "In this article, the following terms have the  
5 following meanings:

6           "(1) CLAIM. A right to payment, damages, or  
7 property, whether liquidated or unliquidated, accrued or  
8 contingent, matured or unmatured.

9           "(2) WINDING UP. The process of winding up the  
10 business and affairs of a domestic entity as a result of the  
11 occurrence of an event requiring winding up."

12           Section 5. Section 10A-1-9.01 is added to the Code  
13 of Alabama 1975, as follows:

14           §10A-1-9.01.

15           This article does not apply to limited liability  
16 companies, general partnerships, and limited partnerships.

17           Section 6. Sections 10A-1-9.21, 10A-1-9.22,  
18 10A-5A-1.02, 10A-5A-1.06, 10A-9A-1.07, and 10A-17-1.02 of the  
19 Code of Alabama 1975, are amended to read as follows:

20           "§10A-1-9.21.

21           "(a) A dissolved domestic entity, ~~except as~~  
22 ~~otherwise provided in subsection (e),~~ may dispose of the known  
23 claims against it by following the procedure described in ~~this~~  
24 ~~section~~ subsection (b) at any time after the effective date of  
25 the dissolution of that dissolved domestic entity.

26           "(b) ~~The~~ A dissolved domestic entity ~~shall notify~~  
27 ~~its known claimants in writing may~~ shall give notice of the

1 dissolution ~~at any time after its effective date. The written~~  
2 in writing to the holder of any known claim. The notice must:

3 "(1) Identify the dissolved domestic entity;

4 ~~"(1) (2) Describe the information that must~~ required  
5 to be included in a claim;

6 ~~"(2) (3) Provide a mailing address where a~~ to which  
7 the claim may is to be sent;

8 ~~"(3) (4) State the deadline, which may not be fewer~~  
9 ~~than 120 days from the effective date of the written notice,~~  
10 ~~by which the terminated dissolved domestic entity must receive~~  
11 ~~the claim; and~~

12 ~~"(4) (5) State that if not sooner barred,~~ the claim  
13 will be barred if not received by the deadline.

14 "(c) Unless sooner barred by any other statute  
15 limiting actions, a ~~A~~ claim against a dissolved domestic  
16 entity is barred:

17 "(1) If a claimant who was given ~~written~~ notice  
18 under subsection (b) does not deliver the claim to the  
19 dissolved domestic entity by the deadline;

20 "(2) If a claimant whose claim was rejected by the  
21 dissolved domestic entity does not commence a proceeding to  
22 enforce the claim within 90 days from the effective date of  
23 the rejection notice.

24 "(d) For purposes of this section, "known claim" or  
25 "claim" includes unliquidated claims but does not include a  
26 contingent liability that has not matured so that there is no

1 immediate right to bring suit, or a claim based on an event  
2 occurring after the effective date of dissolution.

3 "~~(e) The procedures of~~ Nothing in this section do  
4 ~~not apply to the disposition of claims against a general or~~  
5 ~~limited partnership shall be deemed to extend any otherwise~~  
6 applicable statute of limitations.

7 "§10A-1-9.22.

8 "(a) A dissolved domestic entity, ~~except as~~  
9 ~~otherwise provided in subsection (f),~~ may also publish notice  
10 of its dissolution and request that persons with claims  
11 against the dissolved domestic entity present them in  
12 accordance with the notice.

13 "(b) The notice authorized by subsection (a) must:

14 "(1) Be published at least one time in a newspaper  
15 of general circulation in the county ~~where~~ in which the  
16 dissolved domestic entity's principal office is located, or,  
17 if it has none in this state, ~~its~~ in the county in which the  
18 dissolved domestic entity's registered office, is or was last  
19 located;

20 "(2) Describe the information that must be included  
21 in a claim and provide a mailing address ~~where~~ to which the  
22 claim ~~may~~ is to be sent; and

23 "(3) State that if not sooner barred, a claim  
24 against the dissolved domestic entity will be barred unless a  
25 proceeding to enforce the claim is commenced within two years  
26 after the publication of the notice.

1           "(c) If ~~the~~ a dissolved domestic entity publishes a  
2 newspaper notice in accordance with subsection (b), unless  
3 sooner barred by any other statute limiting actions, the claim  
4 of each of the following claimants is barred unless the  
5 claimant commences a proceeding to enforce the claim against  
6 the dissolved domestic entity within two years after the  
7 publication date of the newspaper notice:

8           "(1) A claimant who ~~did not receive written~~ was not  
9 given notice under Section 10A-1-9.21;

10           "(2) A claimant whose claim was timely sent to the  
11 dissolved domestic entity but not acted on; by the dissolved  
12 domestic entity; and

13           "(3) A claimant whose claim is contingent ~~or based~~  
14 ~~on an event occurring after the effective date of dissolution~~  
15 at the effective date of the dissolution of the dissolved  
16 domestic entity, or is based on an event occurring after the  
17 effective date of the dissolution of the dissolved domestic  
18 entity.

19           "(d) A claim ~~may be enforced under this section that~~  
20 is not barred under this section, any other statute limiting  
21 actions, or Section 10A-1-9.21 may be enforced:

22           "(1) Against ~~the~~ a dissolved domestic entity, to the  
23 extent of its undistributed assets; ~~or~~ and

24           "(2) ~~If the assets have been distributed in~~  
25 ~~liquidation,~~ against an owner of the dissolved domestic entity  
26 ~~to the extent of his or her pro rata share of the claim or the~~  
27 ~~entity assets distributed to him or her in liquidation,~~

1 ~~whichever is less, but an owner's total liability for all~~  
2 ~~claims under this section may not exceed the total amount of~~  
3 ~~assets distributed to him or her in liquidation Except as~~  
4 ~~provided in subsection (h), if If the assets of a dissolved~~  
5 ~~domestic entity have been distributed after dissolution,~~  
6 ~~against the person or persons owning ownership interests in~~  
7 ~~the dissolved domestic entity to the extent of that person's~~  
8 ~~proportionate share of the claim or of the assets of the~~  
9 ~~dissolved domestic entity distributed to that person after~~  
10 ~~dissolution, whichever is less, but a person's total liability~~  
11 ~~for all claims under subsection (d) may not exceed the total~~  
12 ~~amount of assets distributed to that person after dissolution~~  
13 ~~of the dissolved domestic entity.~~

14 ~~"(e) A dissolved domestic entity that published a~~  
15 ~~notice under this section may file an application with the~~  
16 ~~circuit court in the county in which the dissolved domestic~~  
17 ~~entity's principal place of business is located and if the~~  
18 ~~dissolved domestic entity does not have a principal place of~~  
19 ~~business within this state, in the county in which the~~  
20 ~~dissolved domestic entity's most recent registered office is~~  
21 ~~located, for a determination of the amount and form of~~  
22 ~~security to be provided for payment of claims that are~~  
23 ~~contingent or have not been made known to the dissolved~~  
24 ~~domestic entity or that are based on an event occurring after~~  
25 ~~the effective date of the dissolution of the dissolved~~  
26 ~~domestic entity but that, based on the facts known to the~~  
27 ~~dissolved domestic entity, are reasonably estimated to arise~~

1 after the effective date of the dissolution of the dissolved  
2 domestic entity. Provision need not be made for any claim that  
3 is or is reasonably anticipated to be barred under subsection  
4 (c).

5 "~~(f) Within ten days after the filing of the~~  
6 ~~application provided for in subsection (e), notice of the~~  
7 ~~proceeding shall be given by the dissolved domestic entity to~~  
8 ~~each potential claimant as described in subsection (e).~~

9 "~~(g) The circuit court under subsection (e) may~~  
10 ~~appoint a guardian ad litem to represent all claimants whose~~  
11 ~~identities are unknown in any proceeding brought under this~~  
12 ~~section. The reasonable fees and expenses of the guardian,~~  
13 ~~including all reasonable expert witness fees, shall be paid by~~  
14 ~~the dissolved domestic entity.~~

15 "~~(h) Provision by the dissolved domestic entity for~~  
16 ~~security in the amount and the form ordered by the circuit~~  
17 ~~court under subsection (e) shall satisfy the dissolved~~  
18 ~~domestic entity's obligation with respect to claims that are~~  
19 ~~contingent, have not been made known to the dissolved domestic~~  
20 ~~entity, or are based on an event occurring after the effective~~  
21 ~~date of the dissolution of the dissolved domestic entity, and~~  
22 ~~those claims may not be enforced against a person owning an~~  
23 ~~ownership interest to whom assets have been distributed by the~~  
24 ~~dissolved domestic entity after the effective date of the~~  
25 ~~dissolution of the dissolved domestic entity.~~

26 "~~(e) (i)~~ (e) Nothing in this section shall be deemed  
27 to extend any otherwise applicable statute of limitations.

1           ~~"(f) The procedures of this section do not apply to~~  
2 ~~the disposition of claims against a general or limited~~  
3 ~~partnership.~~

4           "~~(j)~~ (f) If a claim has been satisfied, disposed of,  
5 or barred under Section 10A-1-9.21, this section, or other  
6 law, the person or persons designated to wind up the affairs  
7 of a dissolved domestic entity, and the owners of the  
8 ownership interests receiving assets from the dissolved  
9 domestic entity, shall not be liable for that claim.

10           "§10A-5A-1.02.

11           "Notwithstanding Section 10A-1-1.03, as used in this  
12 chapter, unless the context otherwise requires, the following  
13 terms mean:

14           "(a) "Certificate of formation," with respect to a  
15 limited liability company, means the certificate provided for  
16 by Section 10A-5A-2.01, and the certificate as amended or  
17 restated.

18           "(b) "Constituent limited liability company" means a  
19 constituent organization that is a limited liability company.

20           "(c) "Constituent organization" means an  
21 organization that is party to a merger under Article 10.

22           "(d) "Converted organization" means the organization  
23 into which a converting organization converts pursuant to  
24 Article 10.

25           "(e) "Converting limited liability company" means a  
26 converting organization that is a limited liability company.

1           "(f) "Converting organization" means an organization  
2 that converts into another organization pursuant to Article  
3 10.

4           "(g) "Disqualified person" means any person who is  
5 not a qualified person.

6           "(h) "Distribution" except as otherwise provided in  
7 Section 10A-5A-4.06(e), means a transfer of money or other  
8 property from a limited liability company, or series thereof,  
9 to another person on account of a transferable interest.

10           "(i) "Foreign limited liability company" means a  
11 limited liability company governed by the laws of a  
12 jurisdiction other than this state which would be a limited  
13 liability company if governed by the laws of this state.

14           "~~(i)~~ (j) "Governing statute" means the statute that  
15 governs an organization's internal affairs.

16           "~~(j)~~ (k) "Limited liability company," except in the  
17 phrase "foreign limited liability company," means an entity  
18 formed or existing under this chapter.

19           "~~(k)~~ (l) "Limited liability company agreement" means  
20 any agreement (whether referred to as a limited liability  
21 company agreement, operating agreement or otherwise), written,  
22 oral or implied, of the member or members as to the activities  
23 and affairs of a limited liability company or series thereof.  
24 The limited liability company agreement of a limited liability  
25 company having only one member shall not be unenforceable by  
26 reason of there being only one person who is a party to the  
27 limited liability company agreement. The limited liability



1 company agreement includes any amendments to the limited  
2 liability company agreement.

3 ~~"(l)~~ (m) "Member" means a person admitted under  
4 Section 10A-5A-4.01 and not dissociated under Section  
5 10A-5A-6.02.

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

14 ~~"(n)~~ (o) "Organizational documents" means:

15 "(1) for a general partnership or foreign general  
16 partnership, its partnership agreement and if applicable, its  
17 registration as a limited liability partnership or a foreign  
18 limited liability partnership;

19 "(2) for a limited partnership or foreign limited  
20 partnership, its certificate of formation and partnership  
21 agreement, or comparable writings as provided in its governing  
22 statute;

23 "(3) for a limited liability company or foreign  
24 limited liability company, its certificate of formation and  
25 limited liability company agreement, or comparable writings as  
26 provided in its governing statute;

1           "(4) for a business or statutory trust or foreign  
2 business or statutory trust its agreement of trust and  
3 declaration of trust, or comparable writings as provided in  
4 its governing statute;

5           "(5) for a corporation for profit or foreign  
6 corporation for profit, its certificate of formation, bylaws,  
7 and other agreements among its shareholders that are  
8 authorized by its governing statute, or comparable writings as  
9 provided in its governing statute;

10           "(6) for a nonprofit corporation or foreign  
11 nonprofit corporation, its certificate of formation, bylaws,  
12 and other agreements that are authorized by its governing  
13 statute, or comparable writings as provided in its governing  
14 statute;

15           "(7) for a professional corporation or foreign  
16 professional corporation, its certificate of formation,  
17 bylaws, and other agreements among its shareholders that are  
18 authorized by its governing statute, or comparable writings as  
19 provided in its governing statute; and

20           "(8) for any other organization, the basic writings  
21 that create the organization and determine its internal  
22 governance and the relations among the persons that own it,  
23 have an interest in it, or are members of it.

24           "~~(o)~~ (p) "Qualified person," with respect to a  
25 limited liability company rendering professional services in  
26 this state, means a person authorized by this state or a

1 regulatory authority of this state to own a ~~transferrable~~  
2 transferable interest in that limited liability company.

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

7 "~~(q)~~ (r) "Transfer" means an assignment, conveyance,  
8 deed, bill of sale, lease, mortgage, security interest,  
9 encumbrance, gift, or transfer by operation of law.

10 "~~(r)~~ (s) "Transferee" means a person to which all or  
11 part of a transferable interest has been transferred, whether  
12 or not the transferor is a member.

13 "~~(s)~~ (t) "~~Transferrable~~ Transferable interest" means  
14 a member's right to receive distributions from a limited  
15 liability company or a series thereof.

16 "§10A-5A-1.06.

17 "(a) It is the policy of this chapter and this state  
18 to give maximum effect to the principles of freedom of  
19 contract and to the enforceability of limited liability  
20 company agreements.

21 "(b) Unless displaced by particular provisions of  
22 this chapter, the principles of law and equity supplement this  
23 chapter.

24 "(c) The rule that statutes in derogation of the  
25 common law are to be strictly construed shall have no  
26 application to this chapter.

1           "(d) The use of any gender shall be applicable to  
2 all genders. The captions contained in this chapter are for  
3 purposes of convenience only and shall not control or affect  
4 the construction of this chapter.

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

17           "(f) Division E of Article 3 of Chapter 1 of this  
18 title shall have no application to this chapter.

19           "~~Sections 10A-1-1.03 (73), (81), (88), and (91)~~  
20 The terms president, vice president, secretary, and treasurer  
21 as defined in Chapter 1 shall have no application to this  
22 chapter.

23           "(h) Section 10A-1-2.13(c) shall have no application  
24 to this chapter.

25           "§10A-5A-4.09.

26           "Notwithstanding Sections 10A-1-3.32 and 10A-1-3.33:

1           "(a) Each limited liability company shall maintain  
2 the following records:

3           "(1) A current list of the full name and last known  
4 business or residence street address of each member.

5           "(2) A copy of the filed certificate of formation  
6 and all amendments thereto, together with executed copies of  
7 any powers of attorney pursuant to which any documents have  
8 been executed.

9           "(3) Copies of the limited liability company's  
10 federal, state, and local income tax returns and reports, if  
11 any, for the three most recent years.

12           "(4) Copies of the then effective limited liability  
13 company agreement including any amendments thereto.

14           "(5) Copies of any financial statements of the  
15 limited liability company for the three most recent years.

16           "(b) Subject to subsection (g), on 10 days' notice  
17 made in a writing received by the limited liability company,  
18 the records set forth in subsection (a) above, and any other  
19 books and records of the limited liability company, wherever  
20 situated, are subject to inspection and copying for any proper  
21 purpose by any member or the member's agent or attorney during  
22 regular business hours. Subject to subsection (g), any person  
23 with the authority to bind the limited liability company under  
24 Section 10A-5A-3.02 and any person with the authority to  
25 direct and oversee the activities and affairs of a limited  
26 liability company who, without reasonable cause, refuses to  
27 allow any member or the member's agent or attorney to inspect

1 or copy any books or records of the limited liability company  
2 for any proper purpose shall be personally liable to the  
3 member for a penalty in an amount not to exceed 10 percent of  
4 the fair market value of the transferable interest of the  
5 member, in addition to any other damages or remedy.

6 "(c) Subject to subsection (g), on 30 days' notice  
7 made in a writing received by a limited liability company, a  
8 dissociated member may inspect and copy, during regular  
9 business hours, at a reasonable location specified by the  
10 limited liability company, any record maintained by the  
11 limited liability company, to the extent the information  
12 pertains to the period during which the person was a member,  
13 was material to the person's rights and duties under the  
14 limited liability company agreement or this chapter when the  
15 person was a member, and the person seeks the information in  
16 good faith and for a proper purpose.

17 "(d) A limited liability company may charge a person  
18 that makes a demand under this section the reasonable costs of  
19 labor and material for copying.

20 "(e) A member or dissociated member may exercise  
21 rights under this section through an agent or attorney, or in  
22 the case of an individual under legal disability, a legal  
23 representative. Any restriction or condition imposed by the  
24 limited liability company agreement or under subsection (g)  
25 applies both to the agent, attorney, or legal representative  
26 and to the member or dissociated member.

1           "(f) The rights under this section do not extend to  
2 a transferee.

3           "(g) (1) In addition to any restriction or condition  
4 stated in its limited liability company agreement, a limited  
5 liability company, as a matter within the ordinary course of  
6 its activities and affairs, may:

7           "a. impose reasonable restrictions and conditions on  
8 access to and use of information to be furnished under this  
9 section, including designating information confidential and  
10 imposing nondisclosure and safeguarding obligations on the  
11 recipient; and

12           "b. keep confidential from the members and any other  
13 persons, for such period of time as the limited liability  
14 company deems reasonable, any information that the limited  
15 liability company reasonably believes to be in the nature of  
16 trade secrets or other information the disclosure of which the  
17 limited liability company in good faith believes is not in the  
18 best interest of the limited liability company or could damage  
19 the limited liability company or its activities and affairs,  
20 or that the limited liability company is required by law or by  
21 agreement with a third party to keep confidential.

22           "(2) In any dispute concerning the reasonableness of  
23 a restriction under this subsection, the limited liability  
24 company has the burden of proving reasonableness.

25           "§10A-5A-7.02.

26           "Notwithstanding Section 10A-1-9.12:

1           "(a) A dissolved limited liability company continues  
2 its existence as a limited liability company but may not carry  
3 on any activities and affairs except as is appropriate to wind  
4 up and liquidate its activities and affairs, including:

5           "(1) collecting its assets;

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

8           "(3) discharging or making provisions for  
9 discharging its liabilities;

10           "(4) distributing its remaining property in  
11 accordance with Section 10A-5A-7.06; and

12           "(5) doing every other act necessary to wind up and  
13 liquidate its activities and affairs.

14           "(b) In winding up its activities and affairs, a  
15 limited liability company may:

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

19           "(A) The name of the limited liability company.

20           "(B) The date of filing its certificate of  
21 formation, and all amendments and restatements thereof, and  
22 the office or offices where filed.

23           "(C) That the limited liability company has  
24 dissolved.

25           "(D) Any other information the limited liability  
26 company deems appropriate.



1           "(2) preserve the limited liability company's  
2 activities and affairs and property as a going concern for a  
3 reasonable time;

4           "(3) prosecute, defend, or settle actions or  
5 proceedings whether civil, criminal, or administrative;

6           "(4) transfer the limited liability company's  
7 assets;

8           "(5) resolve disputes by mediation or arbitration;  
9 and

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

12           "(c) The dissolution of a limited liability company  
13 does not:

14           "(1) transfer title to the limited liability  
15 company's property;

16           "(2) prevent the commencement of a proceeding by or  
17 against the limited liability company in its limited liability  
18 company name;

19           "(3) terminate, abate, or suspend a proceeding  
20 pending by or against the limited liability company on the  
21 effective date of dissolution;

22           "(4) terminate the authority of its registered  
23 agent; or

24           "(5) abate, suspend, or otherwise alter the  
25 application of Section 10A-5A-3.01.

26           "(d) A statement of dissolution shall be deemed to  
27 be a filing instrument under Chapter 1.

1           "(e) If a limited liability company is not an  
2 organization described in Section 10A-1-4.02(c) (4), then that  
3 limited liability company shall deliver the statement of  
4 dissolution for filing to the judge of probate in whose office  
5 the original certificate of formation is filed. If a limited  
6 liability company is an organization described in  
7 Section 10A-1-4.02(c) (4), then that limited liability company  
8 shall deliver the statement of dissolution for filing to the  
9 Secretary of State.

10           "§10A-5A-10.08.

11           "(a) When a merger becomes effective:

12           "(1) the surviving organization continues or, in the  
13 case of a surviving organization created pursuant to the  
14 merger, comes into existence;

15           "(2) each constituent organization that merges into  
16 the surviving organization ceases to exist as a separate  
17 entity;

18           "(3) all property owned by, and every contract right  
19 possessed by, each constituent organization, or series  
20 thereof, that ceases to exist vests in the surviving  
21 organization without ~~reservation~~ transfer, reversion, or  
22 impairment and the title to any property and contract rights  
23 vested by deed or otherwise in the surviving organization  
24 shall not revert, ~~or~~ be in any way impaired, or be deemed to  
25 be a transfer by reason of the merger;

26           "(4) all debts, obligations, ~~or~~ and other  
27 liabilities of each constituent organization, or series

1       thereof, ~~that ceases to exist~~ continue as other than the  
2       surviving organization, are debts, obligations, ~~or~~ and other  
3       liabilities of the surviving organization, and neither the  
4       rights of creditors, nor any liens upon the property of any  
5       constituent organization, shall be impaired by the merger;

6               "(5) an action or proceeding pending by or against  
7       any constituent organization, or series thereof, continues as  
8       if the merger had not occurred and the name of the surviving  
9       organization may be, but need not be, substituted in any  
10       pending proceeding for the name of any constituent  
11       organization whose separate existence ceased in the merger;

12               "(6) except as prohibited by law other than this  
13       chapter, or the terms of the merger, all of the rights,  
14       privileges, franchise, immunities, powers, and purposes of  
15       each constituent organization, or series thereof, other than  
16       the surviving organization, vest in the surviving  
17       organization;

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

21               "(8) except as otherwise agreed, if a constituent  
22       limited liability company ceases to exist, the merger does not  
23       dissolve the limited liability company and does not dissolve a  
24       series thereof;

25               "(9) if the surviving organization is created  
26       pursuant to the merger:

1           "(A) if it is a limited liability company, the  
2 certificate of formation becomes effective; or

3           "(B) if it is an organization other than a limited  
4 liability company, the organizational ~~document~~ documents that  
5 ~~creates~~ create the organization ~~becomes~~ become effective; and

6           "(10) if the surviving organization existed before  
7 the merger, any amendments provided for in the statement of  
8 merger for the organizational ~~document~~ documents that created  
9 the organization become effective.

10           "(11) the transferable interests of each limited  
11 liability company that is a constituent organization to the  
12 merger, and the ownership interests of each organization that  
13 is not a limited liability company, but is a constituent  
14 organization to the merger, that are to be converted in  
15 accordance with the terms of the merger into transferable  
16 interests, ownership interests, other securities, obligations,  
17 rights to acquire transferable interests, ownership interests,  
18 or other securities, cash, other property, or any combination  
19 of the foregoing, are converted, and the former holder of such  
20 transferable interests or ownership interests is entitled only  
21 to the rights provided to that former holder by those terms or  
22 the statute governing that former holder's constituent  
23 organization; and

24           "(12) if the surviving organization exists before  
25 the merger:

1           "(i) all property and contract rights of the  
2 surviving organization remain its property and contract rights  
3 without transfer, reversion, or impairment;

4           "(ii) the surviving organization remains subject to  
5 all its debts, obligations, and other liabilities; and

6           "(iii) except as provided by law other than this  
7 chapter, or the plan of merger, the surviving organization  
8 continues to hold all of its rights, privileges, franchises,  
9 immunities, powers, and purposes.

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

23           "§10A-9A-1.07.

24           "(a) It is the policy of this chapter and this state  
25 to give maximum effect to the principles of freedom of  
26 contract and to the enforceability of partnership agreements.

1           "(b) Unless displaced by particular provisions of  
2 this chapter, the principles of law and equity supplement this  
3 chapter.

4           "(c) If an obligation to pay interest arises under  
5 this chapter and the rate is not specified, the rate is the  
6 applicable federal rate as determined from time to time by the  
7 United States Treasury pursuant to 26 U.S.C. §1274(d) or any  
8 successor law.

9           "(d) The rule that statutes in derogation of the  
10 common law are to be strictly construed shall have no  
11 application to this chapter.

12           "(e) The use of any gender shall be applicable to  
13 all genders. The captions contained in this chapter are for  
14 purposes of convenience only and shall not control or affect  
15 the construction of this chapter.

16           "(f) Sections 7-9A-406 and 7-9A-408 of the Uniform  
17 Commercial Code, and all successor statutes thereto, do not  
18 apply to any interest in a limited partnership, including all  
19 rights, powers, and interests arising under a partnership  
20 agreement or this chapter. This provision prevails over  
21 Sections 7-9A-406 and 7-9A-408 of the Uniform Commercial Code,  
22 and all successor statutes thereto, and is expressly intended  
23 to permit the enforcement of the provisions of a partnership  
24 agreement that would otherwise be ineffective under Sections  
25 7-9A-406 and 7-9A-408 of the Uniform Commercial Code, and all  
26 successor statutes thereto.

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

3           "~~(h) Sections 10A-1-1.03(73), (81), (88), and (91)~~  
4 The terms president, vice president, secretary, and treasurer  
5 as defined in Chapter 1 shall have no application to this  
6 chapter.

7           "(i) Section 10A-1-2.13(c) shall have no application  
8 to this chapter.

9           "§10A-9A-10.09.

10          "(a) When a merger becomes effective:

11          "(1) the surviving organization continues or, in the  
12 case of a surviving organization created pursuant to the  
13 merger, comes into existence;

14          "(2) each constituent organization that merges into  
15 the surviving organization ceases to exist as a separate  
16 entity;

17          "(3) all property owned by, and every contract right  
18 possessed by, each constituent organization that ceases to  
19 exist vests in the surviving organization without ~~reservation~~  
20 transfer, reversion, or impairment and the title to any  
21 property and contract rights vested by deed or otherwise in  
22 the surviving organization shall not revert, ~~or~~ be in any way  
23 impaired, or be deemed to be a transfer by reason of the  
24 merger;

25          "(4) all debts, obligations, ~~or~~ and other  
26 liabilities of each constituent organization ~~that ceases to~~  
27 ~~exist continue as~~ other than the surviving organization are

1 debts, obligations, ~~or~~ and other liabilities of the surviving  
2 organization and neither the rights of creditors, nor any  
3 liens upon the property of any constituent organization, shall  
4 be impaired by the merger;

5 "(5) an action or proceeding pending by or against  
6 any constituent organization, or series thereof, continues as  
7 if the merger had not occurred and the name of the surviving  
8 organization may be, but need not be, substituted in any  
9 pending proceeding for the name of any constituent  
10 organization whose separate existence ceased in the merger;

11 "(6) except as prohibited by law other than this  
12 chapter, or the terms of the merger, all of the rights,  
13 privileges, franchise, immunities, powers, and purposes of  
14 each constituent organization, other than the surviving  
15 organization, vest in the 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~~ documents that  
3 ~~creates~~ create the organization ~~becomes~~ become 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~~ documents that created  
7 the organization become effective;

8           "(11) the transferable interests of each limited  
9 partnership that is a constituent organization to the merger,  
10 and the ownership interests of each organization that is not a  
11 limited partnership, but is a constituent organization to the  
12 merger, that are to be converted in accordance with the terms  
13 of the merger into transferable interest, ownership interests,  
14 other securities, obligations, rights to acquire transferable  
15 interest, ownership interests, or other securities, cash,  
16 other property, or any combination of the foregoing, are  
17 converted, and the former holder of such transferable  
18 interests or ownership interests is entitled only to the  
19 rights provided to that former holder by those terms or the  
20 statute governing that former holder's constituent  
21 organization; and

22           "(12) if the surviving organization exists before  
23 the merger:

24           "(i) all the property and contract rights of the  
25 surviving organization remain its property and contract rights  
26 without transfer, reversion, or impairment;

1           "(ii) the surviving organization remains subject to  
2 all its debts, obligations, and other liabilities; and

3           "(iii) except as provided by law other than this  
4 chapter, or the plan of merger, the surviving organization  
5 continues to hold all of its rights, privileges, franchises,  
6 immunities, powers, and purposes.

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

20           "§10A-17-1.02.

21           "In this chapter:

22           "(1) "Member" means a person who, under the rules or  
23 practices of a nonprofit association, may participate in the  
24 selection of persons authorized to manage the affairs of the  
25 nonprofit association or in the development of policy of the  
26 nonprofit association.

1           "(2) "Nonprofit association" means an unincorporated  
2 organization consisting of two or more members joined by  
3 mutual consent as an association for a stated common,  
4 nonprofit purpose, but does not include a limited liability  
5 company, general partnership, or limited partnership. In  
6 addition, ~~However,~~ joint tenancy, tenancy in common, or  
7 tenancy by the entirety does not by itself establish a  
8 nonprofit association, even if the co-owners share use of the  
9 property for a nonprofit purpose.

10           "(3) "Nonprofit purpose" shall be any purpose for  
11 which a nonprofit corporation could be organized under the  
12 Alabama Nonprofit Corporation Act, as amended, and where no  
13 part of income or profit is distributable to its members,  
14 directors and officers."

15           Section 7. Chapter 8A, comprised of Articles 1 to  
16 11, inclusive, is added to Title 10A of the Code of Alabama  
17 1975, as follows:

18           Article 1. General Provisions.

19           §10A-8A-1.01. Short title. This chapter and the  
20 provisions of Chapter 1 to the extent applicable to  
21 partnerships, shall be known and may be cited as the Alabama  
22 Partnership Law.

23           §10A-8A-1.02. Definitions.

24           Notwithstanding Section 10A-1-1.03, as used in this  
25 chapter, unless the context otherwise requires, the following  
26 terms mean:

1           (1) "Business" includes every trade, occupation, and  
2 profession for profit.

3           (2) "Disqualified person" means any person who is  
4 not a qualified person.

5           (3) "Distribution" except as otherwise provided in  
6 Section 10A-8A-4.09(f), means a transfer of money or other  
7 property from a partnership to another person on account of a  
8 transferable interest.

9           (4) "Foreign limited liability partnership" means a  
10 foreign partnership whose partners have limited liability for  
11 the debts, obligations, or other liabilities of the foreign  
12 partnership under a provision similar to Section  
13 10A-8A-3.06(c).

14           (5) "Foreign partnership" means a partnership  
15 governed by the laws of a jurisdiction other than this state  
16 which would be a partnership if governed by the laws of this  
17 state. The term includes a foreign limited liability  
18 partnership.

19           (6) "Limited liability partnership", except in the  
20 phrase "foreign limited liability partnership", means a  
21 partnership that has filed a statement of limited liability  
22 partnership under Section 10A-8A-10.01, and does not have a  
23 similar statement in effect in any other jurisdiction.

24           (7) "Not for profit activity" includes every  
25 undertaking not for profit.

26           (8) "Partner" means a person that:

1 (A) has become a partner in a partnership under  
2 Section 10A-8A-4.02 or was a partner in a partnership when the  
3 partnership became subject to this chapter; and

4 (B) has not dissociated as a partner under Section  
5 10A-8A-6.01.

6 (9) "Partnership" means an association of two or  
7 more persons formed under Section 10A-8A-2.01, predecessor  
8 statute, or comparable law of another jurisdiction or becomes  
9 subject to the laws of this state pursuant to Section  
10 10A-8A-1.06, to carry on any business or not for profit  
11 activity, and includes, for all purposes of the laws of this  
12 state, a limited liability partnership.

13 (10) "Partnership agreement" means any agreement  
14 (whether referred to as a partnership agreement or otherwise),  
15 written, oral or implied, of the partners as to the business  
16 or not for profit activity of a partnership. The partnership  
17 agreement includes any amendments to the partnership  
18 agreement.

19 (11) "Partnership at will" means a partnership in  
20 which the partners have not agreed to remain partners until  
21 the expiration of a definite term or the completion of a  
22 particular undertaking.

23 (12) "Person dissociated as a partner" means a  
24 person dissociated as a partner of a partnership.

25 (13) "Qualified person," with respect to a  
26 partnership rendering professional services in this state,  
27 means a person authorized by this state or a regulatory

1 authority of this state to own a transferable interest in that  
2 partnership.

3 (14) "Required information" means the information  
4 that a partnership is required to maintain under Section  
5 10A-8A-1.11.

6 (15) "Statement" means a statement of partnership  
7 under Section 10A-8A-2.02, a statement of not for profit  
8 partnership under Section 10A-8A-2.02, a statement of  
9 authority under Section 10A-8A-3.03, a statement of denial  
10 under Section 10A-8A-3.04, a statement of dissociation under  
11 Section 10A-8A-7.04, a statement of dissolution under Section  
12 10A-8A-8.02 or under Section 10A-8A-8.03, a certificate of  
13 reinstatement under Section 10A-8A-8.11, a statement of  
14 limited liability partnership under Section 10A-8A-10.01, a  
15 statement of cancellation under Section 10A-8A-10.01, or any  
16 other document required or permitted to be delivered to the  
17 Secretary of State for filing under this chapter, or an  
18 amendment or cancellation of any of the foregoing.

19 (16) "Transfer" means an assignment, conveyance,  
20 deed, bill of sale, lease, mortgage, security interest,  
21 encumbrance, gift, or transfer by operation of law.

22 (17) "Transferable interest" means a partner's right  
23 to receive distributions from a partnership.

24 (18) "Transferee" means a person to which all or  
25 part of a transferable interest has been transferred, whether  
26 or not the transferor is a partner.

27 §10A-8A-1.03. Knowledge and notice.

1 (a) A person knows a fact when the person:  
2 (1) has actual knowledge of it; or  
3 (2) is deemed to know it under law other than this  
4 chapter.

5 (b) A person has notice of a fact when the person:  
6 (1) knows of it;  
7 (2) receives notice of it;  
8 (3) has reason to know the fact from all of the  
9 facts known to the person at the time in question; or  
10 (4) is deemed to have notice of the fact under  
11 subsection (d).

12 (c) A person notifies or gives notice to another  
13 person by taking steps reasonably required to inform the other  
14 person in ordinary course, whether or not the other person  
15 knows the fact.

16 (d) A person is deemed to have notice of a  
17 partnership's:

18 (1) statement of partnership, 90 days after a  
19 statement of partnership under Section 10A-8A-2.02 becomes  
20 effective;

21 (2) statement of not for profit partnership, 90 days  
22 after a statement of not for profit partnership under Section  
23 10A-8A-2.02 becomes effective;

24 (3) statement of authority, with respect to  
25 (i) authority not involving property and  
26 (ii) property other than real property, 90 days  
27 after a statement of authority under Section 10A-8A-3.03

1 becomes effective; and with respect to real property in  
2 accordance with Section 10A-8A-3.03(g);

3 (4) statement of denial, with respect to property  
4 other than real property, 90 days after a statement of denial  
5 under Section 10A-8A-3.04 becomes effective;

6 (5) dissociation, 90 days after a statement of  
7 dissociation under Section 10A-9A-7.04 becomes effective;

8 (6) dissolution, 90 days after a statement of  
9 dissolution under Section 10A-9A-8.02 or Section 10A-9A-8.03  
10 becomes effective;

11 (7) reinstatement, 90 days after a certificate of  
12 reinstatement under Section 10A-9A-8.11 becomes effective;

13 (8) merger or conversion under Article 9 or under  
14 Article 8 of Chapter 1, 90 days after the statement of merger  
15 or conversion becomes effective;

16 (9) statement of limited liability partnership, 90  
17 days after a statement of limited liability partnership under  
18 Section 10A-8A-10.01 becomes effective; or

19 (10) statement of cancellation, 90 days after a  
20 statement of cancellation under Section 10A-8A-10.01 becomes  
21 effective.

22 (e) A partner's knowledge, notice, or receipt of  
23 notice of a fact relating to the partnership is effective  
24 immediately as knowledge of, notice to, or receipt of notice  
25 by the partnership, except in the case of a fraud on the  
26 partnership committed by or with the consent of that partner.

27 §10A-8A-1.04. Nature and purpose.



1 (a) A partnership is a separate legal entity. A  
2 partnership's status for tax purposes shall not affect its  
3 status as a separate legal entity formed under this chapter. A  
4 partnership is the same entity regardless of whether the  
5 partnership has a statement of limited liability partnership  
6 under Section 10A-8A-10.01 stating that the partnership is a  
7 limited liability partnership. A partner has no interest in  
8 any specific property of a partnership.

9 (b) A partnership may carry on any lawful business  
10 and may carry on any lawful not for profit activity if it  
11 complies with Section 10A-8A-2.02(b).

12 §10A-8A-1.05. Powers; indemnification.

13 (a) A partnership shall possess and may exercise all  
14 the powers and privileges granted and enumerated by Chapter 1  
15 or by any other law or by its partnership agreement, together  
16 with any powers incidental thereto, including those powers and  
17 privileges necessary or convenient to the conduct, promotion,  
18 or attainment of the business or not for profit activity of  
19 the partnership and including the power to sue, be sued, and  
20 defend in its own name and to maintain an action against a  
21 partner for harm caused to the partnership by a breach of the  
22 partnership agreement or violation of a duty to the  
23 partnership.

24 (b) A partnership may indemnify and hold harmless a  
25 partner or other person, pay in advance or reimburse expenses  
26 incurred by a partner or other person, and purchase and  
27 maintain insurance on behalf of a partner or other person.

1 §10A-8A-1.06. Governing law.

2 (a) Except as otherwise provided in subsections (b),  
3 (c), and (d) of this section, the law of the jurisdiction in  
4 which the partnership has its principal office governs the  
5 partnership agreement and the relations among the partners and  
6 between the partners and the partnership.

7 (b) The law of this state governs the (i) internal  
8 affairs of a limited liability partnership, including the  
9 relations among the partners and between the partners and the  
10 partnership, (ii) the liability of a partner as a partner for  
11 the debts, obligations, or other liabilities of a limited  
12 liability partnership, and (iii) the authority of the partners  
13 of a limited liability partnership.

14 (c) The law of the jurisdiction in which a foreign  
15 limited liability partnership has filed its statement of  
16 limited liability partnership or similar writing governs the  
17 (i) internal affairs of that foreign limited liability  
18 partnership, including the relations among the partners and  
19 between the partners and the partnership, (ii) the liability  
20 of a partner as a partner for the debts, obligations, or other  
21 liabilities of a foreign limited liability partnership, and  
22 (iii) the authority of the partners of a foreign limited  
23 liability partnership.

24 (d) If (i) a partnership agreement provides for the  
25 application of the laws of this state, and (ii) the  
26 partnership delivers to the Secretary of State for filing a  
27 statement of partnership in accordance with Section

1 10A-8A-2.02(a), a statement of not for profit partnership in  
2 accordance with Section 10A-8A-2.02(b), or a statement of  
3 limited liability partnership in accordance with Section  
4 10A-8A-10.01, then the partnership agreement shall be governed  
5 by and construed under the laws of this state.

6 §10A-8A-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.

26 (f) Sections 7-9A-406 and 7-9A-408 of the Uniform  
27 Commercial Code, and all successor statutes thereto, do not

1 apply to any interest in a partnership, including all rights,  
2 powers, and interests arising under a partnership agreement or  
3 this chapter. This provision prevails over Sections 7-9A-406  
4 and 7-9A-408 of the Uniform Commercial Code, and all successor  
5 statutes thereto, and is expressly intended to permit the  
6 enforcement of the provisions of a partnership agreement that  
7 would otherwise be ineffective under Sections 7-9A-406 and  
8 7-9A-408 of the Uniform Commercial Code, and all successor  
9 statutes thereto.

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

12 (h) The terms president, vice-president, secretary,  
13 and treasurer as defined in Chapter 1 shall have no  
14 application to this chapter.

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

17 §10A-8A-1.08. Effect of partnership agreement;  
18 nonwaivable provisions.

19 (a) Except as otherwise provided in subsections (b)  
20 and (c):

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

24 (2) to the extent the partnership agreement does not  
25 otherwise provide for a matter described in subsection (a)(1),  
26 this chapter governs the matter.

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

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

18           (3) A partner or other person shall not be liable to  
19 a partnership or to another partner or to another person that  
20 is a party to or is otherwise bound by a partnership agreement  
21 for breach of fiduciary duty for the partner's or other  
22 person's good faith reliance on the partnership agreement.

23           (4) A partnership agreement may provide that:

24           (A) a partner or transferee who fails to perform in  
25 accordance with, or to comply with the terms and conditions  
26 of, the partnership agreement shall be subject to specified  
27 penalties or specified consequences; and

1 (B) at the time or upon the happening of events  
2 specified in the partnership agreement, a partner or  
3 transferee may be subject to specified penalties or specified  
4 consequences.

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

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

23 (c) A partnership agreement may not:

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

26 (2) vary a partnership's power under Section  
27 10A-8A-1.05 to sue, be sued, and defend in its own name;

1           (3) vary the law applicable to a limited liability  
2 partnership under Section 10A-8A-1.06;

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

5           (5) vary the requirements of Section 10A-8A-2.03;

6           (6) unreasonably restrict the right of access to  
7 books and records under Section 10A-8A-4.10, but the  
8 partnership agreement may impose reasonable restrictions on  
9 the availability and use of information obtained under those  
10 sections and may define appropriate remedies, including  
11 liquidated damages, for a breach of any reasonable restriction  
12 on use;

13           (7) eliminate the implied contractual covenant of  
14 good faith and fair dealing as provided under Section  
15 10A-8A-1.08 (b) (1);

16           (8) eliminate or limit the liability of a partner or  
17 other person for any act or omission that constitutes a bad  
18 faith violation of the implied contractual covenant of good  
19 faith and fair dealing as provided under Section  
20 10A-8A-1.08 (b) (2);

21           (9) waive the requirements of Section  
22 10A-8A-4.04 (e);

23           (10) reduce the limitations period specified under  
24 Section 10A-8A-4.09 (e) for an action commenced under other  
25 applicable law;

1           (11) waive the prohibition on issuance of a  
2 certificate of a transferable interest in bearer form under  
3 Section 10A-8A-5.02(c);

4           (12) vary the power of a person to dissociate as a  
5 partner under Section 10A-8A-6.02(a) except that the  
6 partnership agreement may require that the notice under  
7 Section 10A-8A-6.01(1) be in a writing or in a specific form  
8 thereof;

9           (13) vary the right of a court to expel a partner in  
10 the events specified in Section 10A-8A-6.01(5);

11           (14) vary the power of a court to decree dissolution  
12 in the circumstances specified in Section 10A-8A-8.01(4) or  
13 (5);

14           (15) vary the requirement to wind up the  
15 partnership's business or not for profit activity as specified  
16 in Section 10A-8A-8.01(4), (5), (6), or (7);

17           (16) vary the right of a partner to approve or  
18 consent to the cancellation of a statement of limited  
19 liability partnership as specified in Section 10A-8A-10.01(m);  
20 or

21           (17) vary the rights of a partner under Section  
22 10A-8A-9.10.

23           §10A-8A-1.09. Partnership agreement; effect on  
24 partnership and persons admitted as partners.

25           (a) A partnership is bound by and may enforce the  
26 partnership agreement, whether or not the partnership has  
27 itself manifested assent to the partnership agreement.



1 (b) A person that is admitted as a partner of a  
2 partnership becomes a party to and assents to the partnership  
3 agreement except as provided in Section 10A-8A-5.02(g).

4 (c) Two or more persons intending to be the initial  
5 partners of a partnership may make an agreement providing that  
6 upon the formation of the partnership, the agreement will  
7 become the partnership agreement.

8 §10A-8A-1.10. Partnership agreement; effect on third  
9 parties and relationship to writings effective on behalf of  
10 partnership.

11 (a) If a partnership agreement provides for the  
12 manner in which it may be amended, including by requiring the  
13 approval of a person who is not a party to the partnership  
14 agreement or the satisfaction of conditions, it may be amended  
15 only in that manner or as otherwise permitted by law, except  
16 that the approval of any person may be waived by that person  
17 and any conditions may be waived by all persons for whose  
18 benefit those conditions were intended.

19 (b) A partnership agreement may provide rights to  
20 any person, including a person who is not a party to the  
21 partnership agreement, to the extent set forth in the  
22 partnership agreement.

23 (c) The obligations of a partnership and its  
24 partners to a person in the person's capacity as a transferee  
25 or dissociated partner are governed by the partnership  
26 agreement. A transferee and a dissociated partner are bound by  
27 the partnership agreement.

1 (d) If a writing that has been delivered by a  
2 partnership for filing in accordance with Chapter 1 and has  
3 become effective conflicts with a provision of the partnership  
4 agreement:

5 (1) the partnership agreement prevails as to  
6 partners, dissociated partners, and transferees; and

7 (2) the writing prevails as to other persons to the  
8 extent they reasonably rely on the writing.

9 §10A-8A-1.11. Required information.

10 A partnership shall maintain the following  
11 information:

12 (1) A current list of the full name and last known  
13 street and mailing address of each partner, in alphabetical  
14 order.

15 (2) Copies of any filed statement.

16 (3) Copies of the partnership's federal, state, and  
17 local income tax returns and reports, if any, for the three  
18 most recent years.

19 (4) Copies of the then effective partnership  
20 agreement and any amendment thereto, in each case to the  
21 extent made in a writing.

22 (5) Copies of any financial statement of the  
23 partnership for the three most recent years.

24 (6) Unless contained in a partnership agreement made  
25 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; and

7 (C) any events upon the happening of which the  
8 partnership is to be dissolved and its business or not for  
9 profit activity wound up.

10 §10A-8A-1.12. Transactions of partner with  
11 partnership.

12 A partner may lend money to and transact other  
13 business or not for profit activity with the partnership and  
14 has the same rights and obligations with respect to the loan  
15 or other transaction as a person that is not a partner.

16 §10A-8A-1.13. Consent and proxies of partners.  
17 Action requiring the consent of partners under this chapter  
18 may be taken without a meeting, and a partner may appoint a  
19 proxy to consent or otherwise act for the partner by signing a  
20 writing of appointment, either personally or by the partner's  
21 attorney in fact.

22 Article 2. Formation of Partnership; Property.

23 §10A-8A-2.01. Formation of partnership.

24 (a) Except as otherwise provided in subsection (b),  
25 the association of two or more persons:

1           (i) to carry on as co-owners a business for profit  
2 forms a partnership, whether or not the persons intend to form  
3 a partnership; or

4           (ii) to carry on any not for profit activity, forms  
5 a partnership when (A) the persons intend to form a  
6 partnership and (B) the persons deliver to the Secretary of  
7 State for filing a statement of not for profit partnership in  
8 accordance with Section 10A-8A-2.02(b) setting forth their  
9 intention to form a partnership to carry on a not for profit  
10 activity.

11           (b) An association formed under a statute other than  
12 this chapter, a predecessor statute, or a comparable statute  
13 of another jurisdiction is not a partnership under this  
14 chapter.

15           (c) In determining whether a partnership is formed  
16 under Section 10A-8A-2.01(a)(i), the following rules apply:

17           (1) Joint tenancy, tenancy in common, tenancy by the  
18 entirety, joint property, common property, or part ownership  
19 does not by itself establish a partnership, even if the  
20 co-owners share profits made by the use of the property.

21           (2) The sharing of gross returns does not by itself  
22 establish a partnership, even if the persons sharing them have  
23 a joint or common right or interest in property from which the  
24 returns are derived.

25           (3) A person who receives a share of the profits of  
26 a business is presumed to be a partner in the business, unless  
27 the profits were received in payment:

- 1 (i) of a debt by installments or otherwise;
- 2 (ii) for services as an independent contractor or of  
3 wages or other compensation to an employee;
- 4 (iii) of rent;
- 5 (iv) of an annuity or other retirement or health  
6 benefit to a beneficiary, representative, or designee of a  
7 deceased or retired partner;
- 8 (v) of interest or other charge on a loan, even if  
9 the amount of payment varies with the profits of the business,  
10 including a direct or indirect present or future ownership of  
11 the collateral, or rights to income, proceeds, or increase in  
12 value derived from the collateral; or
- 13 (vi) for the sale of the goodwill of a business or  
14 other property by installments or otherwise.

15 §10A-8A-2.02. Statement of partnership; statement of  
16 not for profit partnership.

17 (a) A partnership other than a partnership that has  
18 an effective statement of not for profit partnership or an  
19 effective statement of limited liability partnership on file  
20 with the Secretary of State may deliver to the Secretary of  
21 State for filing a statement of partnership for the purpose of  
22 having its partnership agreement governed by the laws of this  
23 state in accordance with Section 10A-8A-1.06(d) and providing  
24 notice of its existence in accordance with Section  
25 10A-8A-1.03(d) (1). A statement of partnership must contain all  
26 of the following:

1           (1) the name of the partnership which name must  
2 comply with Article 5 of Chapter 1;

3           (2) the date that the partnership was formed  
4 pursuant to, or became governed by, the laws of this state;

5           (3) the street and mailing address of its principal  
6 office;

7           (4) the street and mailing address of a registered  
8 office and the name of the registered agent at that office for  
9 service of process in this state which the partnership shall  
10 be required to maintain;

11           (5) a statement that the partnership was formed for  
12 the purpose of carrying out a for profit business;

13           (6) a statement that the partnership has two or more  
14 partners; and

15           (7) a statement that the partnership agreement is  
16 governed by the laws of this state, and if the partnership  
17 agreement is a written partnership agreement, a declaration  
18 that the written partnership agreement has a provision stating  
19 that the partnership agreement is governed by the laws of this  
20 state.

21           (b) A partnership other than a partnership that has  
22 an effective statement of partnership or an effective  
23 statement of limited liability partnership on file with the  
24 Secretary of State may deliver to the Secretary of State for  
25 filing a statement of not for profit partnership for the  
26 purpose of setting forth the partners' intention to form a  
27 partnership to carry on a not for profit activity in

1 accordance with Section 10A-8A-2.01(a)(ii), having its  
2 partnership agreement governed by the laws of this state in  
3 accordance with Section 10A-8A-1.06(d), and providing notice  
4 of its existence in accordance with Section 10A-8A-1.03(d)(2).  
5 A statement of not for profit partnership must contain all of  
6 the following:

7 (1) the name of the partnership which name must  
8 comply with Article 5 of Chapter 1;

9 (2) the date that the partnership was formed  
10 pursuant to, or became governed by, the laws of this state;

11 (3) the street and mailing address of its principal  
12 office;

13 (4) the street and mailing address of a registered  
14 office and the name of the registered agent at that office for  
15 service of process in this state which the partnership shall  
16 be required to maintain;

17 (5) a statement that the partnership was formed for  
18 the purpose of carrying out a not for profit activity in  
19 accordance with Section 10A-8A-2.01(a)(ii);

20 (6) a statement that the partnership has two or more  
21 partners; and

22 (7) a statement that the partnership agreement is  
23 governed by the laws of this state, and if the partnership  
24 agreement is a written partnership agreement, a declaration  
25 that the written partnership agreement has a provision stating  
26 that the partnership agreement is governed by the laws of this  
27 state.

1 (c) A statement of partnership and a statement of  
2 not for profit partnership may be amended or restated from  
3 time to time in accordance with Section 10A-1-4.26.

4 (d) A statement of partnership and a statement of  
5 not for profit partnership shall be executed by two or more  
6 partners authorized to execute the statement of partnership or  
7 statement of not for profit partnership.

8 (e) A statement of partnership and a statement of  
9 not for profit partnership shall be accompanied by a fee for  
10 the Secretary of State in the amount prescribed by Section  
11 10A-1-4.31.

12 (f) If a partnership complies with this section, the  
13 Secretary of State shall file the statement of partnership or  
14 the statement of not for profit partnership, as applicable.

15 (g) A statement of partnership or a statement of not  
16 for profit partnership, as applicable, takes effect as  
17 determined under Article 4 of Chapter 1.

18 (h) A partnership that has filed a statement of  
19 partnership is for all purposes the same entity that existed  
20 before the statement of partnership was filed and continues to  
21 be a partnership under the laws of this state.

22 (i) A statement of partnership and a statement of  
23 not for profit partnership are filing instruments for the  
24 purposes of Chapter 1.

25 §10A-8A-2.03. Execution, filing, and recording of  
26 statements.



1           (a) A statement may be delivered to the Secretary of  
2 State for filing. A certified copy of a statement of authority  
3 that was filed by the Secretary of State may be delivered to a  
4 judge of probate for filing in accordance with Section  
5 10A-8A-3.03(f) and (g). A certified copy of a statement that  
6 is filed in an office in another jurisdiction may be delivered  
7 to the Secretary of State for filing, and once filed by the  
8 Secretary of State, in the case of a statement of authority  
9 which is intended to have a similar effect to that of a  
10 statement of authority under Section 10A-8A-3.03(f) or (g),  
11 may be delivered to the judge of probate for filing in  
12 accordance with Section 10A-8A-3.03(f) or (g). Either filing  
13 has the effect provided in this chapter with respect to  
14 partnership property located in or transactions that occur in  
15 this state.

16           (b) A certified copy of statement of authority filed  
17 in the office of the Secretary of State and delivered to the  
18 judge of probate for filing in the county or counties in which  
19 the partnership has real property, without more, shall have  
20 the effect of a recorded statement under this chapter with  
21 respect to real property located in that county or those  
22 counties. Any statement of authority recorded under the  
23 preceding sentence that is not a certified copy of a statement  
24 of authority filed in the office of the Secretary of State  
25 does not have the effect provided for recorded statements of  
26 authority in this chapter.

1           (c) Except as specifically provided otherwise in  
2 this chapter, a statement filed by a partnership must be  
3 executed by at least two partners. Other statements must be  
4 executed by a partner or other person authorized by this  
5 chapter. An individual who executes a statement as, or on  
6 behalf of, a partner or other person named as a partner in a  
7 statement shall personally declare under penalty of perjury  
8 that the contents of the statement are accurate.

9           (d) Except as specifically provided otherwise in  
10 this chapter, a person authorized by this chapter to file a  
11 statement may amend or cancel the statement by filing an  
12 amendment or cancellation that names the partnership,  
13 identifies the statement, and states the substance of the  
14 amendment or cancellation.

15           (e) A person who files a statement pursuant to this  
16 section shall promptly send a copy of the statement to every  
17 partner and to any other person named in the statement.  
18 Failure to send a copy of a statement to a partner or other  
19 person does not limit the effectiveness of the statement as to  
20 a person not a partner.

21           (f) The Secretary of State may collect a fee for  
22 filing or providing a certified copy of a statement in the  
23 amount prescribed in Section 10A-1-4.31. The office of the  
24 judge of probate may collect a fee for recording a certified  
25 copy of statement in the amount prescribed in Section  
26 10A-1-4.31.

1 (g) Each statement permitted or required under this  
2 chapter to be delivered for filing to the Secretary of State  
3 or judge of probate is a filing instrument.

4 §10A-8A-2.04. Partnership property. Property  
5 acquired by a partnership is property of the partnership and  
6 not of the partners individually.

7 §10A-8A-2.05. When property is partnership property.

8 (a) Property is partnership property if acquired in  
9 the name of:

10 (1) the partnership; or

11 (2) one or more partners with an indication in the  
12 instrument transferring title to the property of the person's  
13 capacity as a partner or of the existence of a partnership but  
14 without an indication of the name of the partnership.

15 (b) Property is acquired in the name of the  
16 partnership by a transfer to:

17 (1) the partnership in its name; or

18 (2) one or more partners in their capacity as  
19 partners in the partnership, if the name of the partnership is  
20 indicated in the instrument transferring title to the  
21 property.

22 (c) Property is presumed to be partnership property  
23 if purchased with partnership assets, even if not acquired in  
24 the name of the partnership or of one or more partners with an  
25 indication in the instrument transferring title to the  
26 property of the person's capacity as a partner or of the  
27 existence of a partnership.

1 (d) Property acquired in the name of one or more of  
2 the partners, without an indication in the instrument  
3 transferring title to the property of the person's capacity as  
4 a partner or of the existence of a partnership and without use  
5 of partnership assets, is presumed to be separate property,  
6 even if used for partnership purposes.

7 Article 3. Relations of Partners to Persons Dealing  
8 with Partnership.

9 §10A-8A-3.01. Partner agent of partnership.

10 Subject to the effect of a statement of authority  
11 under Section 10A-8A-3.03:

12 (1) Each partner is an agent of the partnership for  
13 the purpose of its business or not for profit activity. An act  
14 of a partner, including the execution of an instrument in the  
15 partnership name, for apparently carrying on in the ordinary  
16 course the partnership business or not for profit activity, or  
17 business or not for profit activity of the kind carried on by  
18 the partnership, binds the partnership, unless the partner had  
19 no authority to act for the partnership in the particular  
20 matter and the person with whom the partner was dealing knew  
21 or had notice that the partner lacked authority.

22 (2) An act of a partner which is not apparently for  
23 carrying on in the ordinary course the partnership business or  
24 not for profit activity, or business or not for profit  
25 activity of the kind carried on by the partnership, binds the  
26 partnership only if the act was authorized by the other  
27 partners.

1 §10A-8A-3.02. Transfer of partnership property.

2 (a) Partnership property may be transferred as  
3 follows:

4 (1) Subject to the effect of a statement of  
5 authority under Section 10A-8A-3.03, partnership property held  
6 in the name of the partnership may be transferred by an  
7 instrument of transfer executed by a partner in the  
8 partnership name.

9 (2) Partnership property held in the name of one or  
10 more partners with an indication in the instrument  
11 transferring the property to them of their capacity as  
12 partners or of the existence of a partnership, but without an  
13 indication of the name of the partnership, may be transferred  
14 by an instrument of transfer executed by the persons in whose  
15 name the property is held.

16 (3) Partnership property held in the name of one or  
17 more persons other than the partnership, without an indication  
18 in the instrument transferring the property to them of their  
19 capacity as partners or of the existence of a partnership, may  
20 be transferred by an instrument of transfer executed by the  
21 persons in whose name the property is held.

22 (b) A partnership may recover partnership property  
23 from a transferee only if it proves that execution of the  
24 instrument of initial transfer did not bind the partnership  
25 under Section 10A-8A-3.01 and:

26 (1) as to a subsequent transferee who gave value for  
27 property transferred under subsections (a)(1) and (2), proves

1 that the subsequent transferee knew or had received notice  
2 that the person who executed the instrument of initial  
3 transfer lacked authority to bind the partnership; or

4 (2) as to a transferee who gave value for property  
5 transferred under subsection (a) (3), proves that the  
6 transferee knew or had notice that the property was  
7 partnership property and that the person who executed the  
8 instrument of initial transfer lacked authority to bind the  
9 partnership.

10 (c) A partnership may not recover partnership  
11 property from a subsequent transferee if the partnership would  
12 not have been entitled to recover the property, under  
13 subsection (b), from any earlier transferee of the property.

14 §10A-8A-3.03. Statement of Authority.

15 (a) A partnership may deliver to the Secretary of  
16 State for filing a statement of authority, which:

17 (1) must include the name of the partnership and:

18 (A) if the partnership has not filed a statement of  
19 partnership, a statement of not for profit partnership, or a  
20 statement of limited liability partnership, (i) the street and  
21 mailing addresses of its principal office and (ii) if the  
22 Secretary of State has assigned a unique identifying number or  
23 other designation to the partnership, that number or  
24 designation; or

25 (B) if the partnership has filed a statement of  
26 partnership, a statement of not for profit partnership, or a  
27 statement of limited liability partnership, (i) the street

1 address and mailing address of its principal office, (ii) the  
2 name, street address, and mailing address of its registered  
3 agent, and (iii) the unique identifying number or other  
4 designation assigned to the partnership by the Secretary of  
5 State.

6 (2) with respect to any position that exists in or  
7 with respect to the partnership, may state the authority, or  
8 limitations on the authority, of all persons holding the  
9 position to:

10 (A) sign an instrument transferring real property  
11 held in the name of the partnership; or

12 (B) enter into other transactions on behalf of, or  
13 otherwise act for or bind, the partnership; and

14 (3) may state the authority, or limitations on the  
15 authority, of a specific person to:

16 (A) sign an instrument transferring real property  
17 held in the name of the partnership; or

18 (B) enter into other transactions on behalf of, or  
19 otherwise act for or bind, the partnership.

20 (b) To amend or cancel a statement of authority  
21 filed by the Secretary of State, a partnership must deliver to  
22 the Secretary of State for filing an amendment or cancellation  
23 stating:

24 (1) the name of the partnership;

25 (2) if the partnership has not filed a statement of  
26 partnership, a statement of not for profit partnership, or a

1 statement of limited liability partnership, the street and  
2 mailing addresses of the partnership's principal office;

3 (3) if the partnership has filed a statement of  
4 partnership, a statement of not for profit partnership, or a  
5 statement of limited liability partnership, the name and  
6 street and mailing addresses of its registered agent;

7 (4) the date the statement of authority being  
8 affected became effective; and

9 (5) the contents of the amendment or a declaration  
10 that the statement of authority is canceled.

11 (c) A statement of authority affects only the power  
12 of a person to bind a partnership to persons that are not  
13 partners.

14 (d) Subject to subsection (c) and Section  
15 10A-8A-1.03(d) (3) and except as otherwise provided in  
16 subsections (f), (g), and (h), a limitation on the authority  
17 of a person or a position contained in an effective statement  
18 of authority is not by itself evidence of any person's  
19 knowledge or notice of the limitation.

20 (e) Subject to subsection (c), a grant of authority  
21 not pertaining to transfers of real property and contained in  
22 an effective statement of authority is conclusive in favor of  
23 a person that gives value in reliance on the grant, except to  
24 the extent that when the person gives value:

25 (1) the person has knowledge to the contrary;

26 (2) the statement of authority has been canceled or  
27 restrictively amended under subsection (b); or



1           (3) a limitation on the grant is contained in  
2 another statement of authority that became effective after the  
3 statement of authority containing the grant became effective.

4           (f) Subject to subsection (c), an effective  
5 statement of authority that grants authority to transfer real  
6 property held in the name of the partnership, a certified copy  
7 of which statement of authority is recorded in the office of  
8 the judge of probate in the county in which the real property  
9 is located, is conclusive in favor of a person that gives  
10 value in reliance on the grant without knowledge to the  
11 contrary, except to the extent that when the person gives  
12 value:

13           (1) the statement of authority has been canceled or  
14 restrictively amended under subsection (b), and a certified  
15 copy of the cancellation or restrictive amendment has been  
16 recorded in the office of the judge of probate in the county  
17 in which the real property is located; or

18           (2) a limitation on the grant is contained in  
19 another statement of authority that became effective after the  
20 statement of authority containing the grant became effective,  
21 and a certified copy of the later-effective statement is  
22 recorded in the office of the judge of probate in the county  
23 in which the real property is located.

24           (g) Subject to subsection (c), if a certified copy  
25 of an effective statement of authority containing a limitation  
26 on the authority to transfer real property held in the name of  
27 a partnership is recorded in the office of the judge of

1 probate in the county in which the real property is located,  
2 all persons are deemed to know of the limitation with respect  
3 to the real property located in that county.

4 (h) Subject to subsection (i), an effective  
5 statement of dissolution is a cancellation of any filed  
6 statement of authority for the purposes of subsection (f) and  
7 is a limitation on authority for purposes of subsection (g).

8 (i) After a statement of dissolution becomes  
9 effective, a partnership may deliver to the Secretary of State  
10 for filing and, if appropriate, may record a statement of  
11 authority that is designated as a post-dissolution statement  
12 of authority. The statement operates as provided in  
13 subsections (f) and (g).

14 (j) Unless canceled earlier, an effective statement  
15 of authority is canceled by operation of law five years after  
16 the date on which the statement, or its most recent amendment,  
17 becomes effective. The cancellation is effective without  
18 recording under subsection (f) or (g).

19 (k) An effective statement of denial operates as a  
20 restrictive amendment under this section and may be recorded  
21 by certified copy for purposes of subsection (f)(1).

22 §10A-8A-3.04. Statement of denial.

23 A person named in a filed statement of authority  
24 granting that person authority may deliver to the Secretary of  
25 State for filing a statement of denial that:

1           (1) provides the name of the partnership and the  
2 caption of the statement of authority to which the statement  
3 of denial pertains; and

4           (2) denies the grant of authority.

5           A statement of denial is a limitation on authority  
6 as provided in Section 10A-8A-3.03.

7           §10A-8A-3.05. Partnership liable for partner's  
8 actionable conduct.

9           (a) A partnership is liable for loss or injury  
10 caused to a person, or for a penalty incurred, as a result of  
11 a wrongful act or omission, or other actionable conduct, of a  
12 partner acting in the ordinary course of business or not for  
13 profit activity of the partnership or with authority of the  
14 partnership.

15           (b) If, in the ordinary course of business or not  
16 for profit activity of the partnership's business or not for  
17 profit activity, or while acting with authority of the  
18 partnership, a partner receives or causes the partnership to  
19 receive money or property of a person not a partner, and the  
20 money or property is misapplied by a partner, the partnership  
21 is liable for the loss.

22           §10A-8A-3.06. Partner's liability.

23           (a) Except as otherwise provided in subsection (b)  
24 or subsection (c), all partners are liable jointly and  
25 severally for all obligations of the partnership unless  
26 otherwise agreed by the claimant or provided by law.

1 (b) A person admitted as a partner into an existing  
2 partnership is not personally liable for any partnership  
3 obligation incurred before the person's admission as a  
4 partner.

5 (c) Except as set forth in subsection (b) of Section  
6 10A-8A-10.02, a debt, obligation, or other liability of a  
7 partnership incurred while the partnership is a limited  
8 liability partnership is solely the debt, obligation, or other  
9 liability of the limited liability partnership. Except as set  
10 forth in subsection (b) of Section 10A-8A-10.02, a partner in  
11 a limited liability partnership is not personally liable or  
12 accountable, directly or indirectly, including by way of  
13 indemnification, contribution, assessment, or otherwise, for  
14 debts, obligations, and liabilities of, or chargeable to, the  
15 limited liability partnership, or another partner or partners,  
16 whether arising in tort, contract, or otherwise, solely by  
17 reason of being such a partner or acting, or omitting to act,  
18 in such capacity, which such debts, obligations and  
19 liabilities occur, are incurred or are assumed while the  
20 partnership is a limited liability partnership. This  
21 subsection applies (1) despite anything inconsistent in the  
22 partnership agreement that existed immediately before the  
23 partnership becomes a limited liability partnership, and (2)  
24 regardless of the dissolution of the limited liability  
25 partnership.

26 (d) Subsection (c) of this section shall not affect  
27 the liability of a limited liability partnership to the extent

1 of partnership assets for partnership debts, obligations and  
2 liabilities.

3 (e) A partner in a limited liability partnership is  
4 not a necessary or proper party to a proceeding by or against  
5 a limited liability partnership, the object of which is to  
6 recover any debts, obligations, or liabilities of, or  
7 chargeable to, the limited liability partnership, unless the  
8 partner is personally liable therefor under subsection (b) of  
9 Section 10A-8A-10.02.

10 §10A-8A-3.07. Actions by and against partnership and  
11 partners.

12 (a) A partnership may sue and be sued in the name of  
13 the partnership.

14 (b) An action may be brought against the partnership  
15 and, except as provided in Section 10A-8A-3.06, against any or  
16 all of the partners in the same action or in separate actions.

17 (c) A judgment against a partnership is not by  
18 itself a judgment against a partner. A judgment against a  
19 partnership may not be satisfied from a partner's assets  
20 unless there is also a judgment against the partner.

21 (d) A judgment creditor of a partner may not levy  
22 execution against the assets of the partner to satisfy a  
23 judgment based on a claim against the partnership unless the  
24 claim is for a debt, obligation, or liability for which the  
25 partner is personally liable as provided in Section  
26 10A-8A-3.06 and either:

1           (1) a judgment based on the same claim has been  
2 obtained against the partnership and a writ of execution on  
3 the judgment has been returned unsatisfied in whole or in  
4 part;

5           (2) the partnership is a debtor in bankruptcy;

6           (3) the partner has agreed that the creditor need  
7 not exhaust partnership assets;

8           (4) a court grants permission to the judgment  
9 creditor to levy execution against the assets of a partner  
10 based on a finding that partnership assets subject to  
11 execution are clearly insufficient to satisfy the judgment,  
12 that exhaustion of partnership assets is excessively  
13 burdensome, or that the grant of permission is an appropriate  
14 exercise of the court's equitable powers; or

15           (5) liability is imposed on the partner by law or  
16 contract independent of the existence of the partnership.

17           (e) This section applies to any partnership  
18 liability or obligation resulting from a representation by a  
19 partner or purported partner under Section 10A-8A-3.08.

20           §10A-8A-3.08. Liability of purported partner.

21           Except as provided in Section 10A-8A-3.06:

22           (a) If a person, by words or conduct, purports to be  
23 a partner, or consents to being represented by another as a  
24 partner, in a partnership or with one or more persons not  
25 partners, the purported partner is liable to a person to whom  
26 the representation is made, if that person, relying on the  
27 representation, enters into a transaction with the actual or

1 purported partnership. If the representation, either by the  
2 purported partner or by a person with the purported partner's  
3 consent, is made in a public manner, the purported partner is  
4 liable to a person who relies upon the purported partnership  
5 even if the purported partner is not aware of being held out  
6 as a partner to the claimant. If partnership liability  
7 results, the purported partner is liable with respect to that  
8 liability as if the purported partner were a partner. If no  
9 partnership liability results, the purported partner is liable  
10 with respect to that liability jointly and severally with any  
11 other person consenting to the representation.

12 (b) If a person is thus represented to be a partner  
13 in an existing partnership, or with one or more persons not  
14 partners, the purported partner is an agent of persons  
15 consenting to the representation to bind them to the same  
16 extent and in the same manner as if the purported partner were  
17 a partner, with respect to persons who enter into transactions  
18 in reliance upon the representation. If all of the partners of  
19 the existing partnership consent to the representation, a  
20 partnership act or obligation results. If fewer than all of  
21 the partners of the existing partnership consent to the  
22 representation, the person acting and the partners consenting  
23 to the representation are jointly and severally liable.

24 (c) A person is not liable as a partner merely  
25 because the person is named by another in a statement of  
26 authority.

1 (d) A person does not continue to be liable as a  
2 partner merely because of a failure to file a statement of  
3 dissociation or to amend a statement of authority to indicate  
4 the partner's dissociation from the partnership.

5 (e) Except as otherwise provided in subsections (a)  
6 and (b), persons who are not partners as to each other are not  
7 liable as partners to other persons.

8 Article 4. Relations of Partners to Each Other and  
9 to Partnership.

10 §10A-8A-4.01. Partner's rights and duties.

11 (a) Each partner is deemed to have an account that  
12 is:

13 (1) credited with an amount equal to the money plus  
14 the value of any other property, net of the amount of any  
15 liabilities, the partner contributes to the partnership and  
16 the partner's share of the partnership profits; and

17 (2) charged with an amount equal to the money plus  
18 the value of any other property, net of the amount of any  
19 liabilities, distributed by the partnership to the partner and  
20 the partner's share of the partnership losses provided that a  
21 partner shall not be charged with any share of partnership  
22 loss attributable to a debt, obligation or liability for which  
23 the partner is not personally liable under Section 10A-8A-3.06  
24 unless the loss is satisfied out of partnership assets.

25 (b) Each partner is entitled to an equal share of  
26 the partnership profits and, subject to the limitations in  
27 subsection (a) (2) of this section, is chargeable with a share



1 of the partnership losses in proportion to the partner's share  
2 of the profits.

3 (c) A partnership shall reimburse a partner for  
4 payments made and indemnify a partner for liabilities incurred  
5 by the partner in the ordinary course of the business or not  
6 for profit activity of the partnership or for the preservation  
7 of its business or not for profit activity or property;  
8 provided, however, no partner in a limited liability  
9 partnership shall be required as a consequence of the  
10 indemnification to make any payment on behalf of the limited  
11 liability partnership to any other partners to the extent that  
12 the payment would be inconsistent with Sections 10A-8A-3.06,  
13 10A-8A-8.06, or 10A-8A-8.07.

14 (d) A partnership shall reimburse a partner for an  
15 advance beyond the amount of capital the partner agreed to  
16 contribute.

17 (e) A payment or advance made by a partner which  
18 gives rise to a partnership obligation under subsection (c) or  
19 (d) constitutes a loan to the partnership which accrues  
20 interest from the date of the payment or advance.

21 (f) Each partner has equal rights in the management  
22 and conduct of the partnership business or not for profit  
23 activity.

24 (g) A partner may use or possess partnership  
25 property only on behalf of the partnership.

26 (h) A partner is not entitled to remuneration for  
27 services performed for the partnership, except for reasonable

1 compensation for services rendered in winding up the business  
2 or not for profit activity of the partnership.

3 (i) A difference arising as to a matter in the  
4 ordinary course of business or not for profit activity of a  
5 partnership may be decided by a majority of the partners. An  
6 act outside the ordinary course of business or not for profit  
7 activity of a partnership and an amendment to the partnership  
8 agreement may be undertaken only with the consent of all of  
9 the partners.

10 (j) This section does not affect the obligations of  
11 a partnership to other persons under Section 10A-8A-3.01.

12 §10A-8A-4.02. Admission of partner.

13 (a) The initial partners of a partnership are  
14 admitted as partners upon the formation of the partnership.

15 (b) After formation, a person is admitted as a  
16 partner of the partnership:

17 (1) as provided in the partnership agreement;

18 (2) as the result of a transaction effective under  
19 Article 9 of this chapter or Article 8 of Chapter 1;

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

21 (4) as provided in Section 10A-8A-8.01(6) or  
22 10A-8A-8.01(7).

23 (c) Each person to be admitted as a partner to a  
24 partnership formed under either Section 10A-8A-2.01(a) (i) or  
25 10A-8A-2.01(a) (ii) may be admitted as a partner without:

26 (1) acquiring a transferable interest; or

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

3                   §10A-8A-4.03. Form of contribution. A contribution  
4 by a partner may be made to a partnership as agreed by the  
5 partners.

6                   §10A-8A-4.04. Liability for contribution.

7                   (a) A partner's obligation to make a contribution to  
8 a partnership is not excused by the partner's death,  
9 disability, or other inability to perform personally.

10                  (b) If a partner does not make a contribution  
11 required by an enforceable promise, the partner or the  
12 partner's estate is obligated, at the election of the  
13 partnership, to contribute money equal to the value of the  
14 portion of the contribution that has not been made. The  
15 foregoing election shall be in addition to, and not in lieu  
16 of, any other rights, including the right to specific  
17 performance, that the partnership may have under the  
18 partnership agreement or applicable law.

19                  (c) The obligation of a partner to make a  
20 contribution to a partnership may be compromised only by  
21 consent of all partners. A conditional obligation of a partner  
22 to make a contribution to a partnership may not be enforced  
23 unless the conditions of the obligation have been satisfied or  
24 waived as to or by that partner. Conditional obligations  
25 include contributions payable upon a discretionary call of a  
26 partnership before the time the call occurs.

1 (d) A creditor of a limited liability partnership  
2 which extends credit or otherwise acts in reliance on an  
3 obligation described in subsection (a), without notice of any  
4 compromise under this subsection, may enforce the original  
5 obligation.

6 (e) A promise by a partner to make a contribution to  
7 a partnership is not enforceable unless set forth in a writing  
8 signed by the partner.

9 §10A-8A-4.05. Sharing of distributions before  
10 dissolution. All partners shall share equally in any  
11 distributions made by a partnership before its dissolution and  
12 winding up.

13 §10A-8A-4.06. Interim distributions. Subject to  
14 Section 10A-8A-7.01, a partner has a right to a distribution  
15 before the dissolution and winding up of a partnership as  
16 provided in the partnership agreement. A decision to make a  
17 distribution before the dissolution and winding up of the  
18 partnership is a decision in the ordinary course of the  
19 business or not for profit activity of the partnership.

20 §10A-8A-4.07. Distribution in kind. A partner does  
21 not have a right to demand and receive a distribution from a  
22 partnership in any form other than money. Except as otherwise  
23 provided in Section 10A-8A-8.07, a partnership may distribute  
24 an asset in kind if each partner receives a percentage of the  
25 asset in proportion to the partner's share of distributions.

26 §10A-8A-4.08. Right to distribution. If a partner  
27 becomes entitled to receive a distribution, the partner has

1 the status of, and is entitled to all remedies available to, a  
2 creditor of the partnership with respect to the distribution.  
3 However, the partnership's obligation to make a distribution  
4 is subject to offset for any amount owed to the partnership by  
5 the partner or dissociated partner on whose account the  
6 distribution is made.

7 §10A-8A-4.09. Limitations on distribution and  
8 liability for improper distributions.

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

22 (b) A partner who consents to a distribution in  
23 violation of subsection (a) or the partnership agreement, and  
24 who knew at the time of the distribution that the distribution  
25 violated subsection (a) or the partnership agreement, shall be  
26 liable to the limited liability partnership for the amount of  
27 that distribution.

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

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

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

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

25           (g) This section shall not apply to distributions  
26 made in accordance with Section 10A-8A-8.09.

1           §10A-8A-4.10. Right of partner and former partner to  
2 information.

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

4           (a) Subject to subsection (f), a partner, without  
5 having any particular purpose for seeking the information, may  
6 inspect and copy during regular hours at a reasonable location  
7 specified by the partnership, required information and any  
8 other records maintained by the partnership regarding the  
9 partnership's business or not for profit activity and  
10 financial condition.

11           (b) Subject to subsection (f), each partner and the  
12 partnership shall furnish to a partner:

13           (1) without demand, any information concerning the  
14 partnership's business or not for profit activity reasonably  
15 required for the proper exercise of the partner's rights and  
16 duties under the partnership agreement or this chapter; and

17           (2) on demand, any other information concerning the  
18 partnership's business or not for profit activity, except to  
19 the extent the demand or the information demanded is  
20 unreasonable or otherwise improper under the circumstances.

21           (c) Subject to subsections (e) and (f), on 10 days'  
22 demand made in a writing received by the partnership, a person  
23 dissociated as a partner may have access to the information  
24 and records described in subsection (a) at the location  
25 specified in subsection (a) if:

26           (1) the information or writing pertains to the  
27 period during which the person was a partner;

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

3           (3) it is determined that:

4           (i) the person seeks the information for a purpose  
5 reasonably related to the person's interest as a partner;

6           (ii) the person's demand describes with reasonable  
7 particularity the information sought and the purpose for  
8 seeking the information; and

9           (iii) the information sought is directly connected  
10 to the person's purpose.

11           (d) Within 10 days after receiving a demand pursuant  
12 to subsection (c), the partnership in a writing shall inform  
13 the person that made the demand:

14           (1) what information the partnership will provide in  
15 response to the demand;

16           (2) when and where the partnership will provide the  
17 information;

18           (3) if the partnership declines to provide any  
19 demanded information, the partnership's reasons for declining;  
20 and

21           (4) what, if any, restrictions will be imposed  
22 pursuant to the partnership agreement or subsection (f).

23           (e) If a partner dies, Section 10A-8A-5.04 applies.

24           (f) In addition to any restriction or condition  
25 stated in its partnership agreement, a partnership, as to a  
26 matter within the ordinary course of its business or not for  
27 profit activity, may:



1           (1) impose reasonable restrictions and conditions on  
2 access to and use of information to be furnished under this  
3 section, including designating information confidential and  
4 imposing nondisclosure and safeguarding obligations on the  
5 recipient; and

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

15           In any dispute concerning the reasonableness of a  
16 restriction under this subsection, the partnership has the  
17 burden of proving reasonableness.

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

21           (h) A partner or person dissociated as a partner may  
22 exercise the rights under this section through an attorney or  
23 other agent. Any restriction imposed under subsection (f) or  
24 by the partnership agreement applies both to the attorney or  
25 other agent and to the partner or person dissociated as a  
26 partner.

1 (i) The rights under this section do not extend to a  
2 person as transferee, but the rights under subsection (c) of a  
3 person dissociated as a partner may be exercised by the legal  
4 representative of an individual who dissociated as a partner  
5 under Section 10A-8A-6.01(6).

6 (j) Any partner who, without reasonable cause,  
7 refuses to allow any partner or person dissociated as a  
8 partner, or his or her agent or attorney to inspect or copy  
9 any records of the partnership to which such partner or person  
10 dissociated as a partner is entitled under this section, shall  
11 be personally liable to the partner or person dissociated as a  
12 partner for a penalty in an amount not to exceed 10 percent of  
13 the fair market value of the transferable interest of the  
14 partner or person dissociated as a partner, in addition to any  
15 other damages or remedy.

16 §10A-8A-4.11. General standards of partner's  
17 conduct.

18 (a) The duties that a partner has to the partnership  
19 and to the other partners include the duty of loyalty and the  
20 duty of care as described in subsections (b) and (c).

21 (b) A partner's duty of loyalty to the partnership  
22 and to the other partners includes each of the following:

23 (1) to account to the partnership and to hold as  
24 trustee for it any property, profit, or benefit derived by the  
25 partner in the conduct or winding up of the partnership's  
26 business or not for profit activity or derived from a use by

1 the partner of partnership property, including the  
2 appropriation of a partnership opportunity;

3 (2) to refrain from dealing with the partnership in  
4 the conduct or winding up of the partnership's business or not  
5 for profit activity as or on behalf of a party having an  
6 interest adverse to the partnership; and

7 (3) to refrain from competing with the partnership  
8 in the conduct or winding up of the partnership's business or  
9 not for profit activity.

10 (c) A partner's duty of care to the partnership and  
11 to the other partners in the conduct or winding up of the  
12 partnership's business or not for profit activity includes  
13 refraining from engaging in grossly negligent or reckless  
14 conduct, intentional misconduct, or a knowing violation of  
15 law.

16 (d) A partner shall discharge the duties to the  
17 partnership and to the other partners under this chapter and  
18 under the partnership agreement and exercise any rights  
19 consistently with the implied contractual covenant of good  
20 faith and fair dealing.

21 (e) A partner does not violate a duty or obligation  
22 under this chapter or under the partnership agreement merely  
23 because the partner's conduct furthers the partner's own  
24 interest.

25 §10A-8A-4.12. Reliance on reports and information. A  
26 partner of a partnership shall be fully protected in relying  
27 in good faith upon the records of the partnership and upon

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

14 §10A-8A-4.13. Actions by partnership and partners.

15 (a) Except as provided in Sections 10A-8A-3.06,  
16 10A-8A-8.06, or 10A-8A-8.07, a partnership may maintain an  
17 action against a partner for a breach of the partnership  
18 agreement, or for the violation of a duty to the partnership,  
19 causing harm to the partnership.

20 (b) Except as provided in Sections 10A-8A-3.06,  
21 10A-8A-8.06, or 10A-8A-8.07, a partner may maintain an action  
22 against the partnership or another partner for legal or  
23 equitable relief, with or without an accounting as to  
24 partnership business or not for profit activity, to:

25 (1) enforce the partner's rights under the  
26 partnership agreement;

1           (2) enforce the partner's rights under this chapter,  
2 including:

3           (i) the partner's rights under Sections 10A-8A-4.01,  
4 10A-8A-4.03, or 10A-8A-4.04;

5           (ii) the partner's right on dissociation to have the  
6 partner's transferable interest in the partnership purchased  
7 pursuant to Section 10A-8A-7.01 or enforce any other right  
8 under Article 6 or 7; or

9           (iii) the partner's right to compel a dissolution  
10 and winding up of the partnership's business or not for profit  
11 activity under Section 10A-8A-8.01 or enforce any other right  
12 under Article 8; or

13           (3) enforce the rights and otherwise protect the  
14 interests of the partner, including rights and interests  
15 arising independently of the partnership relationship.

16           (c) The accrual of, and any time limitation on, a  
17 right of action for a remedy under this section is governed by  
18 other law. A right to an accounting upon a dissolution and  
19 winding up does not revive a claim barred by law.

20           §10A-8A-4.14. Continuation of partnership beyond  
21 definite term or particular undertaking.

22           (a) If a partnership for a definite term or  
23 particular undertaking is continued, without an express  
24 agreement, after the expiration of the term or completion of  
25 the undertaking, the rights and duties of the partners remain  
26 the same as they were at the expiration or completion, so far  
27 as is consistent with a partnership at will.

1 (b) If the partners, or those of them who habitually  
2 acted in the business or not for profit activity during the  
3 term or undertaking, continue the business or not for profit  
4 activity without any settlement or liquidation of the  
5 partnership, they are presumed to have agreed that the  
6 partnership will continue.

7 Article 5. Transferees and Creditors of Partners.

8 §10A-8A-5.01. Partner's transferable interest in  
9 partnership. The only interest of a partner which is  
10 transferable is the partner's transferable interest. A  
11 transferable interest is personal property.

12 §10A-8A-5.02. 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 partnership; and

21 (4) subject to Section 10A-8A-5.05, does not entitle  
22 the transferee to:

23 (A) participate in the management or conduct of the  
24 partnership's business or not for profit activity; or

25 (B) except as otherwise provided in subsection (d),  
26 have access to required information, records, or other

1 information concerning the partnership's business or not for  
2 profit activity.

3 (b) A transferee has a right:

4 (1) to receive, in accordance with the transfer,  
5 distributions to which the transferor would otherwise be  
6 entitled;

7 (2) to receive upon the dissolution and winding up  
8 of the partnership, in accordance with the transfer, the net  
9 amount otherwise distributable to the transferor; and

10 (3) to seek under Section 10A-8A-8.01(5) a judicial  
11 determination that it is equitable to wind up the partnership  
12 business or not for profit activity.

13 (c) A transferable interest may be evidenced by a  
14 certificate of transferable interest issued by the  
15 partnership. A partnership agreement may provide for the  
16 transfer of the transferable interest represented by the  
17 certificate and make other provisions with respect to the  
18 certificate. No certificate of transferable interest shall be  
19 issued in bearer form.

20 (d) In a dissolution and winding up, a transferee is  
21 entitled to an account of the partnership's transactions only  
22 from the date of dissolution.

23 (e) Except as otherwise provided in Sections  
24 10A-8A-6.01(4), 10A-8A-6.01(11), and 10A-8A-6.01(12), when a  
25 partner transfers a transferable interest, the transferor  
26 retains the rights of a partner other than the right to

1 distributions transferred and retains all duties and  
2 obligations of a partner.

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

6 (g) When a partner transfers a transferable interest  
7 to a person that is admitted as a partner with respect to the  
8 transferred interest, the transferee is liable for the  
9 partner's obligations under Sections 10A-8A-4.04 and  
10 10A-8A-4.09 to the extent that the obligations are known to  
11 the transferee when the transferee voluntarily accepts  
12 admission as a partner.

13 §10A-8A-5.03. Rights of creditor of partner or  
14 transferee.

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

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

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

23 (d) Subject to subsection (c):

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

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

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

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

22           §10A-8A-5.04. Power of personal representative of  
23 deceased partner.

24           If a partner dies, the deceased partner's personal  
25 representative or other legal representative may:

26           (a) for the period of time that the deceased  
27 partner's personal representative or other legal

1 representative holds the deceased partner's transferable  
2 interest:

3 (1) exercise the rights of a holder of transferable  
4 interests under this chapter;

5 (2) exercise the rights of a transferee under  
6 Section 10A-8A-5.02; and

7 (3) for purposes of settling the estate, exercise  
8 the rights of a current partner under Section 10A-8A-4.10; and

9 (b) for the period of time that the deceased  
10 partner's personal representative or other legal  
11 representative does not hold the deceased partner's  
12 transferable interest, for purposes of settling the estate,  
13 exercise the rights of a person dissociated as a partner under  
14 Section 10A-8A-4.10.

15 Article 6. Partner's Dissociation.

16 §10A-8A-6.01. Events causing partner's dissociation.

17 A person is dissociated from a partnership as a  
18 partner upon the occurrence of any of the following events:

19 (1) the partnership has notice of the person's  
20 express will to dissociate as a partner, except that if the  
21 person specifies a dissociation date later than the date the  
22 partnership had notice, then the person is dissociated as a  
23 partner on that later date;

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

26 (3) the person is expelled as a partner pursuant to  
27 the partnership agreement;

1           (4) the person is expelled as a partner by the  
2 unanimous consent of the other partners if:

3           (A) it is unlawful to carry on the partnership's  
4 business or not for profit activity with the person as a  
5 partner;

6           (B) there has been a transfer of all of the person's  
7 transferable interest in the partnership, other than a  
8 transfer for security purposes;

9           (C) the person is an organization and, within 90  
10 days after the partnership notifies the person that it will be  
11 expelled as a partner because it has filed a statement of  
12 dissolution or the equivalent, or its right to conduct  
13 business or not for profit activity has been suspended by its  
14 jurisdiction of formation, the statement of dissolution or the  
15 equivalent has not been revoked or its right to conduct  
16 business or not for profit activity has not been reinstated;  
17 or

18           (D) the person is an organization and, within 90  
19 days after the partnership notifies the person that it will be  
20 expelled as a partner because the person has been dissolved  
21 and its business or not for profit activity is being wound up,  
22 the organization has not been reinstated or the dissolution  
23 and winding up have not been revoked or cancelled;

24           (5) on application by the partnership, the person is  
25 expelled as a partner by judicial order because the person:

26           (A) has engaged, or is engaging, in wrongful conduct  
27 that has adversely and materially affected, or will adversely

1 and materially affect, the partnership's business or not for  
2 profit activity;

3 (B) has willfully or persistently committed, or is  
4 willfully or persistently committing, a material breach of the  
5 partnership agreement or the person's duty or obligation under  
6 this chapter or other applicable law; or

7 (C) has engaged, or is engaging, in conduct relating  
8 to the business or not for profit activity of the partnership  
9 that makes it not reasonably practicable to carry on the  
10 business or not for profit activity with the person as  
11 partner;

12 (6) in the case of a person who is an individual,  
13 and the person dies, there is appointed a guardian or general  
14 conservator for the person or there is a judicial  
15 determination that the person has otherwise become incapable  
16 of performing the person's duties as a partner under this  
17 chapter or the partnership agreement;

18 (7) the person becomes a debtor in bankruptcy,  
19 executes an assignment for the benefit of creditors, or seeks,  
20 consents, or acquiesces to the appointment of a trustee,  
21 receiver, or liquidator of the person or of all or  
22 substantially all of the person's property;

23 (8) in the case of a person that is a trust or is  
24 acting as a partner by virtue of being a trustee of a trust,  
25 the trust's entire transferable interest in the partnership is  
26 distributed, but not solely by reason of the substitution of a  
27 successor trustee;

1           (9) in the case of a person that is an estate or is  
2 acting as a partner by virtue of being a personal  
3 representative of an estate, the estate's entire transferable  
4 interest in the partnership is distributed, but not solely by  
5 reason of the substitution of a successor personal  
6 representative;

7           (10) in the case of a person that is not an  
8 individual, the legal existence of the person otherwise  
9 terminates;

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

12           (12) the transfer of a partner's entire remaining  
13 transferable interest to a transferee upon the transferee's  
14 becoming a partner; or

15           (13) the partnership's participation in a conversion  
16 or merger under Article 9, or Article 8 of Chapter 1 of this  
17 title if the partnership:

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

19           (B) is the converted or surviving entity but, as a  
20 result of the conversion or merger, the person ceases to be a  
21 partner.

22           §10A-8A-6.02. Partner's power to dissociate;  
23 wrongful dissociation.

24           (a) A person has the power to dissociate as a  
25 partner at any time, rightfully or wrongfully, by express will  
26 pursuant to Section 10A-8A-6.01(1).

27           (b) A person's dissociation is wrongful only if:

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

3           (2) in the case of a partnership for a definite term  
4 or particular undertaking, before the expiration of the term  
5 or the completion of the undertaking if any of the following  
6 apply:

7           (A) the person dissociates as a partner by express  
8 will, unless the dissociation follows not later than 90 days  
9 after another person's dissociation by death or otherwise  
10 under Section 10A-8A-6.01(6) through (10) or wrongful  
11 dissociation under this subsection;

12           (B) the person is expelled as a partner by judicial  
13 order under Section 10A-8A-6.01(5);

14           (C) the person is dissociated under Section  
15 10A-8A-6.01(7); or

16           (D) in the case of a person that is not a trust  
17 other than a business trust, an estate, or an individual, the  
18 person is expelled or otherwise dissociated because it  
19 willfully dissolved or terminated.

20           (c) A person that wrongfully dissociates as a  
21 partner is liable to the partnership and to the other partners  
22 for damages caused by the dissociation. The liability is in  
23 addition to any debt, obligation, or other liability of the  
24 partner to the partnership or the other partners.

25           §10A-8A-6.03. Effect of partner's dissociation.

26           (a) If a person's dissociation results in a  
27 dissolution and winding up of the partnership business or not

1 for profit activity, Article 8 applies; otherwise, Article 7  
2 applies.

3 (b) Upon a person's dissociation as a partner:

4 (1) the person's right to participate in the  
5 management and conduct of the partnership business or not for  
6 profit activity terminates, except as provided in Section  
7 10A-8A-8.03;

8 (2) the person's duty of loyalty under Section  
9 10A-8A-4.11(b) (3) terminates; and

10 (3) the person's duty of loyalty under Section  
11 10A-8A-4.11(b) (1) and (2) and duty of care under Section  
12 10A-8A-4.11(c) continue only with regard to matters arising  
13 and events occurring before the person's dissociation, unless  
14 the partner participates in winding up the partnership's  
15 business or not for profit activity pursuant to Section  
16 10A-8A-8.03.

17 Article 7. Person's Dissociation as a Partner when  
18 Business or Not for Profit Activity Not Wound Up.

19 §10A-8A-7.01. Purchase of transferable interest of a  
20 person dissociated as a partner.

21 (a) If a person is dissociated as a partner from a  
22 partnership without resulting in a dissolution and winding up  
23 of the partnership business or not for profit activity under  
24 Section 10A-8A-8.01, the partnership shall cause that person's  
25 transferable interest in the partnership owned by that person  
26 at the time of dissociation to be purchased for a buyout price  
27 determined pursuant to subsection (b).



1           (b) The buyout price of the transferable interest  
2 owned by the person at the time of dissociation as a partner  
3 is an amount equal to the fair value of that person's  
4 transferable interest as of the date of dissociation. Interest  
5 on the buyout price must be paid from the date of dissociation  
6 to the date of payment.

7           (c) Damages for wrongful dissociation under Section  
8 10A-8A-6.02(b) and (c), and all other amounts owing, whether  
9 or not presently due, from the person dissociated as a partner  
10 to the partnership, must be offset against the buyout price.  
11 Interest on damages for wrongful dissociation must be paid  
12 from the date of the wrongful dissociation to the date of  
13 payment. Interest on all other amounts, whether or not  
14 presently due, must be paid from the date the amount owed  
15 becomes due to the date of payment.

16           (d) A partnership shall indemnify a person  
17 dissociated as a partner whose transferable interest is being  
18 purchased against all partnership liabilities, whether  
19 incurred before or after the dissociation, except liabilities  
20 incurred by an act of the person dissociated as a partner  
21 under Section 10A-8A-7.02.

22           (e) If no agreement for the purchase of the  
23 transferable interests of a person dissociated as a partner is  
24 reached within 120 days after a written demand for payment,  
25 the partnership shall pay, or cause to be paid, in cash to the  
26 person dissociated as a partner the amount the partnership

1 estimates to be the buyout price and accrued interest, reduced  
2 by any offsets and accrued interest under subsection (c).

3 (f) If a deferred payment is authorized under  
4 subsection (h), the partnership may tender a written offer to  
5 pay the amount it estimates to be the buyout price and accrued  
6 interest, reduced by any offsets under subsection (c), stating  
7 the time of payment, the amount and type of security for  
8 payment, and the other terms and conditions of the obligation.

9 (g) The payment or tender required by subsection (e)  
10 or (f) must be accompanied by the following:

11 (1) a written statement of partnership assets and  
12 liabilities as of the date of dissociation;

13 (2) the latest available partnership balance sheet  
14 and income statement, if any;

15 (3) a written explanation of how the estimated  
16 amount of the payment was calculated; and

17 (4) written notice which shall state that the  
18 payment is in full satisfaction of the obligation to purchase  
19 unless, within 120 days after the written notice, the person  
20 dissociated as a partner commences an action to determine the  
21 buyout price of that person's transferable interest, any  
22 offsets under subsection (c), or other terms of the obligation  
23 to purchase.

24 (h) A person that wrongfully dissociates as a  
25 partner before the expiration of a definite term or the  
26 completion of a particular undertaking is not entitled to  
27 payment of any portion of the buyout price until the

1 expiration of the term or completion of the undertaking,  
2 unless the person establishes to the satisfaction of the court  
3 that earlier payment will not cause undue hardship to the  
4 business or not for profit activity of the partnership. A  
5 deferred payment under this subsection must bear interest and,  
6 to the extent it would not cause undue hardship to the  
7 business or not for profit activity of the partnership, be  
8 adequately secured.

9 (i) A person dissociated as a partner may maintain  
10 an action against the partnership, pursuant to Section  
11 10A-8A-4.13(b)(2)(ii), to determine the buyout price of that  
12 person's transferable interest under subsection (b), any  
13 offsets under subsection (c), or other terms of the obligation  
14 to purchase. The action must be commenced within 120 days  
15 after the partnership has tendered payment or an offer to pay  
16 or within one year after written demand for payment if no  
17 payment or offer to pay is tendered. The court shall determine  
18 the buyout price of that person's transferable interest under  
19 subsection (b), any offset due under subsection (c), and  
20 accrued interest, and enter judgment for any additional  
21 payment or refund. If deferred payment is authorized under  
22 subsection (h), the court shall also determine the security,  
23 if any, for payment and other terms of the obligation to  
24 purchase. The court may assess reasonable attorney's fees and  
25 the fees and expenses of appraisers or other experts for a  
26 party to the action, in amounts the court finds equitable,  
27 against a party that the court finds acted arbitrarily,

1 vexatiously, or not in good faith. The finding may be based on  
2 the partnership's failure to tender payment or an offer to pay  
3 or to comply with subsection (g).

4 §10A-8A-7.02. Power to bind and liability of person  
5 dissociated as a partner.

6 (a) For one year after a person dissociates as a  
7 partner without resulting in a dissolution and winding up of  
8 the partnership business or not for profit activity, the  
9 partnership, including a surviving partnership or other  
10 surviving entity under Article 9 of this chapter and Article 8  
11 of Chapter 1, is bound by an act of the person dissociated as  
12 a partner which would have bound the partnership under Section  
13 10A-8A-3.01 before dissociation only if at the time of  
14 entering into the transaction the other party:

15 (1) reasonably believed that the person dissociated  
16 as a partner was then a partner and reasonably relied on such  
17 belief in entering into the transaction;

18 (2) did not have notice of the person's dissociation  
19 as a partner; and

20 (3) is not deemed to have had knowledge or notice  
21 under Section 10A-8A-1.03.

22 (b) A person dissociated as a partner is liable to  
23 the partnership for any damage caused to the partnership  
24 arising from an obligation incurred by the person dissociated  
25 as a partner after dissociation for which the partnership is  
26 liable under subsection (a).

1           §10A-8A-7.03. Liability of person dissociated as a  
2 partner to other persons.

3           (a) A person's dissociation as a partner does not of  
4 itself discharge that person's liability for a partnership  
5 obligation incurred before dissociation. A person dissociated  
6 as a partner is not liable for a partnership obligation  
7 incurred after dissociation, except as provided in subsection  
8 (b).

9           (b) A person that dissociates as a partner without  
10 resulting in a dissolution and winding up of the partnership  
11 business or not for profit activity is liable as a partner to  
12 the other party in a transaction entered into by the  
13 partnership, or a surviving partnership or other surviving  
14 entity under Article 9 of this chapter or Article 8 of Chapter  
15 1, within one year after the partner's dissociation, only if  
16 the partner is liable for the obligation under Section  
17 10A-8A-3.06 and at the time of entering into the transaction  
18 the other party:

19           (1) reasonably believed that the person dissociated  
20 as a partner was then a partner and reasonably relied on such  
21 belief in entering into the transaction;

22           (2) did not have notice of the person's  
23 dissociation; and

24           (3) is not deemed to have had knowledge or notice  
25 under Section 10A-8A-1.03 of the person's dissociation.

26           (c) By agreement with the partnership creditor and  
27 the partners continuing the business or not for profit

1 activity, a person dissociated as a partner may be released  
2 from liability for a partnership obligation.

3 (d) A person dissociated as a partner is released  
4 from liability for a partnership obligation if a partnership  
5 creditor, with notice of the person's dissociation but without  
6 the person's consent, agrees to a material alteration in the  
7 nature or time of payment of a partnership obligation.

8 §10A-8A-7.04. Statement of dissociation.

9 (a) A person dissociated as a partner or the  
10 partnership may file a statement of dissociation stating the  
11 name of the partnership and that the person is dissociated as  
12 a partner from the partnership.

13 (b) A state of dissociation is a limitation on the  
14 authority of a person dissociated as a partner for the purposes  
15 of Section 10A-8A-3.03.

16 §10A-8A-7.05. Continued use of partnership name.

17 Continued use of a partnership name, or a person's name that  
18 is dissociated as a partner as part thereof, by partners  
19 continuing the business or not for profit activity does not of  
20 itself make the person dissociated as a partner liable for an  
21 obligation of the partners or the partnership continuing the  
22 business or not for profit activity.

23 Article 8. Dissolution and Winding Up.

24 §10A-8A-8.01. Events of dissolution.

25 A partnership is dissolved, and its business or not  
26 for profit activity must be wound up, upon the occurrence of  
27 the first of the following events:

1           (1) in a partnership at will, the partnership knows  
2 or has notice of a person's express will to dissociate as a  
3 partner, other than a partner that has dissociated under  
4 Section 10A-8A-6.01(2) through (10), but, if the person has  
5 specified a dissociation date later than the date the  
6 partnership knew or had notice, on the later date;

7           (2) in a partnership for a definite term or  
8 particular undertaking:

9           (i) within 90 days after a partner's dissociation by  
10 death or otherwise under Section 10A-8A-6.01(6) through (10),  
11 or a partner's wrongful dissociation under Section  
12 10A-8A-6.02(b), at least half of the remaining partners  
13 affirmatively consent to dissolve the partnership and wind up  
14 the partnership business or not for profit activity, for which  
15 purpose a partner's rightful dissociation pursuant to Section  
16 10A-8A-6.02(b) (2) (A) constitutes the expression of that  
17 partner's will to wind up the business or not for profit  
18 activity of the partnership;

19           (ii) the consent of all of the partners to dissolve  
20 and wind up the partnership's business or not for profit  
21 activity; or

22           (iii) the expiration of the term or the completion  
23 of the undertaking;

24           (3) an event or circumstance that the partnership  
25 agreement states causes dissolution;

26           (4) on application by a partner, the entry of an  
27 order by a court of competent jurisdiction dissolving the

1 partnership on the grounds that it is not reasonably  
2 practicable to carry on the partnership's business or not for  
3 profit activity in conformity with the partnership agreement;

4 (5) on application by a transferee of a partner's  
5 transferable interest, a judicial determination that it is  
6 equitable to wind up the partnership business or not for  
7 profit activity:

8 (i) after the expiration of the term or completion  
9 of the undertaking, if the partnership was for a definite term  
10 or particular undertaking at the time of the transfer; or

11 (ii) at any time, if the partnership was a  
12 partnership at will at the time of the transfer;

13 (6) the passage of 90 consecutive days during which  
14 the partnership does not have at least two partners, unless  
15 either of the following applies:

16 (i) The remaining partner agrees in writing within  
17 90 days after the dissociation of the last partner, to  
18 continue the business or not for profit activity of the  
19 partnership and to admit one or more new partners; or

20 (ii) The business or not for profit activity of the  
21 partnership is continued and one or more new partners are  
22 admitted in the manner stated in the partnership agreement; or

23 (7) the passage of 90 consecutive days during which  
24 the partnership does not have any remaining partners, unless  
25 either of the following applies:

26 (i) The holders of all of the transferable interests  
27 in the partnership agree in writing, within 90 days after the



1 dissociation of the last partner, to continue the business or  
2 not for profit activity of the partnership and to admit two or  
3 more new partners; or

4 (ii) The business or not for profit activity of the  
5 partnership is continued and two or more new partners are  
6 admitted in the manner stated in the partnership agreement.

7 §10A-8A-8.02. Effect of dissolution.

8 Notwithstanding Section 10A-1-9.12:

9 (a) A dissolved partnership continues its existence  
10 as a partnership but may not carry on any business or not for  
11 profit activity except as is appropriate to wind up and  
12 liquidate its business or not for profit activity, including:

13 (1) collecting its assets;

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

16 (3) discharging or making provisions for discharging  
17 its liabilities;

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

20 (5) doing every other act necessary to wind up and  
21 liquidate its business or not for profit activity.

22 (b) In winding up its business or not for profit  
23 activity, a partnership may:

24 (1) deliver to the Secretary of State for filing a  
25 statement of dissolution setting forth:

26 (A) The name of the partnership;

1 (B) If the partnership has filed a statement of  
2 partnership, a statement of not for profit partnership, a  
3 statement of authority, or a statement of limited liability  
4 partnership, the date of filing its statement of partnership,  
5 statement of not for profit partnership, statement of  
6 authority, or statement of limited liability partnership, and  
7 all amendments and restatements thereof, and the office or  
8 offices where filed;

9 (C) That the partnership has dissolved;

10 (D) The name, street address, and mailing address of  
11 the partner who will be winding up the business or not for  
12 profit activity of the partnership pursuant to Section  
13 10A-8A-8.03(a), and if none, the name, street address, and  
14 mailing address of the person appointed pursuant to Section  
15 10A-8A-8.03(b) or (c) to wind up the business or not for  
16 profit activity of the partnership;

17 (E) If the partnership has filed a statement of  
18 partnership, a statement of not for profit partnership, or a  
19 statement of limited liability partnership, the name, street  
20 address, and mailing address of the partnership's registered  
21 agent; and

22 (F) Any other information the partnership deems  
23 appropriate;

24 (2) preserve the partnership's business or not for  
25 profit activity as a going concern for a reasonable time;

26 (3) prosecute, defend, or settle actions or  
27 proceedings whether civil, criminal or administrative;

- 1 (4) transfer the partnership's assets;
- 2 (5) resolve disputes by mediation or arbitration;

3 and

- 4 (6) merge or convert in accordance with Article 9 of
- 5 this chapter or Article 8 of Chapter 1.

6 (c) The dissolution of a partnership does not:

- 7 (1) transfer title to the partnership's property;

8 (2) prevent the commencement of a proceeding by or

9 against the partnership in its partnership name;

10 (3) terminate, abate or suspend a proceeding pending

11 by or against the partnership on the effective date of

12 dissolution;

- 13 (4) terminate the authority of its registered agent;

14 or

15 (5) abate, suspend, or otherwise alter the

16 application of Section 10A-8A-3.06.

17 (d) A statement of dissolution is a filing

18 instrument under Chapter 1.

19 §10A-8A-8.03. Right to wind up business or not for

20 profit activity.

21 (a) If a dissolved partnership has a partner or

22 partners that have not dissociated, that partner or those

23 partners shall wind up the business or not for profit activity

24 of the partnership and shall have the powers set forth in

25 Section 10A-8A-8.04. A person whose dissociation as a partner

26 resulted in the dissolution of the partnership may participate

1 in the winding up as if still a partner, unless the  
2 dissociation was wrongful.

3 (b) If a dissolved partnership does not have a  
4 partner and no person has the right to participate in winding  
5 up under subsection (a), the personal or legal representative  
6 of the last person to have been a partner may wind up the  
7 partnership's business or not for profit activity. If the  
8 representative does not exercise that right, a person to wind  
9 up the partnership's business or not for profit activity may  
10 be appointed by the affirmative vote or consent of transferees  
11 owning a majority of the transferable interests at the time  
12 the consent is to be effective.

13 (c) A court of competent jurisdiction may order  
14 judicial supervision of the winding up of a dissolved  
15 partnership, including the appointment of a person to wind up  
16 the partnership's business or not for profit activity:

17 (1) on application of a partner or any person  
18 entitled under the last sentence of subsection (a) to  
19 participate in the winding up of the dissolved partnership, if  
20 the applicant establishes good cause;

21 (2) on application of a transferee, if the  
22 partnership does not have a partner and within a reasonable  
23 time following the dissolution no person having the authority  
24 to wind up the business or not for profit activity of the  
25 partnership has been appointed pursuant to subsection (b);

26 (3) on application of a transferee, if the  
27 partnership does not have a partner and within a reasonable

1 time following the dissolution the person appointed pursuant  
2 to subsection (b) is not winding up the business or not for  
3 profit activity of the partnership; or

4 (4) in connection with a proceeding under Section  
5 10A-8A-8.01(4) or (5).

6 (d) A person appointed under subsection (b) or (c)  
7 is not a partner but:

8 (1) has the powers of a partner under Section  
9 10A-8A-8.04 but is not liable for the debts, liabilities, and  
10 other obligations of the partnership solely by reason of  
11 having or exercising those powers or otherwise acting to wind  
12 up the business or not for profit activity of the dissolved  
13 partnership; and

14 (2) shall promptly deliver to the Secretary of State  
15 for filing a statement of dissolution setting forth the items  
16 listed in Section 10A-8A-8.02(b)(1) and the following:

17 (A) that the partnership does not have a partner;

18 (B) the name, street address, and mailing address of  
19 each person that has been appointed to wind up the business or  
20 not for profit activity of the partnership;

21 (C) that each person has been appointed pursuant to  
22 subsection (b) or (c), as applicable, to wind up the business  
23 or not for profit activity of the partnership; and

24 (D) pursuant to this section, that each person has  
25 the powers of a partner under Section 10A-8A-8.04 but is not  
26 liable for the debts, liabilities, and other obligations of  
27 the partnership solely by reason of having or exercising those

1 powers or otherwise acting to wind up the business or not for  
2 profit activity of the dissolved partnership.

3 §10A-8A-8.04. Power to bind partnership after  
4 dissolution.

5 (a) After dissolution, a partnership is bound by the  
6 act of a partner or by the act of a dissociated partner acting  
7 as a partner under Section 10A-8A-8.03(a) which:

8 (1) is appropriate for winding up the partnership's  
9 business or not for profit activity; or

10 (2) would have bound the partnership under Section  
11 10A-8A-3.01 before dissolution, if, at the time the other  
12 party enters into the transaction, the other party does not  
13 have notice of the dissolution.

14 (b) Subject to subsection (a), a person dissociated  
15 as a partner binds a partnership through an act occurring  
16 after dissolution only if:

17 (1) at the time the other party enters into the  
18 transaction the other party does not have notice of the  
19 dissociation and reasonably believes that the person is a  
20 partner; and

21 (2) the act:

22 (A) is appropriate for winding up the partnership's  
23 business or not for profit activity; or

24 (B) would have bound the partnership under Section  
25 10A-8A-3.01 before dissolution and at the time the other party  
26 enters into the transaction the other party does not have  
27 notice of the dissolution.

1           §10A-8A-8.05. Liability after dissolution of partner  
2 and person dissociated as partner; other partners, and persons  
3 dissociated as partners.

4           (a) If a partner having knowledge of the dissolution  
5 causes a partnership to incur an obligation under Section  
6 10A-8A-8.04(a) by an act that is not appropriate for winding  
7 up the partnership's business or not for profit activity, the  
8 partner is liable:

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

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

15           (b) If a person dissociated as a partner causes a  
16 partnership to incur an obligation under Section  
17 10A-8A-8.04(b), the person is liable:

18           (1) to the partnership for any damage caused to the  
19 partnership arising from the obligation; and

20           (2) if a partner or another person dissociated as a  
21 partner is liable for the obligation, to the partner or other  
22 person for any damage caused to the partner or other person  
23 arising from the liability.

24           (c) A person dissociated as a partner is not liable  
25 under subsection (b) if:

26           (1) the last sentence of Section 10A-8A-8.03(a)  
27 permits the person to participate in winding up; and

1           (2) the act that causes the partnership to be bound  
2 under Section 10A-8A-8.04(b) is appropriate for winding up the  
3 partnership's business or not for profit activity.

4           §10A-8A-8.06. Known claims against dissolved  
5 partnership.

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

7           (a) A dissolved partnership may dispose of any known  
8 claims against it by following the procedures described in  
9 subsection (b) at any time after the effective date of the  
10 dissolution of the partnership.

11           (b) A dissolved partnership may give notice of the  
12 dissolution in writing to the holder of any known claim. The  
13 notice must:

14           (1) identify the dissolved partnership;

15           (2) describe the information required to be included  
16 in a claim;

17           (3) provide a mailing address to which the claim is  
18 to be sent;

19           (4) state the deadline, which may not be fewer than  
20 120 days from the effective date of the notice, by which the  
21 dissolved partnership must receive the claim;

22           (5) state that if not sooner barred, the claim will  
23 be barred if not received by the deadline; and

24           (6) unless the partnership has been throughout its  
25 existence a limited liability partnership, state that the  
26 barring of a claim against the partnership will also bar any



1 corresponding claim against any partner or person dissociated  
2 as a partner which is based on Section 10A-8A-3.06.

3 (c) Unless sooner barred by any other statute  
4 limiting actions, a claim against a dissolved partnership is  
5 barred:

6 (1) if a claimant who was given notice under  
7 subsection (b) does not deliver the claim to the dissolved  
8 partnership by the deadline; or

9 (2) if a claimant whose claim was rejected by the  
10 dissolved partnership, does not commence a proceeding to  
11 enforce the claim within 90 days from the effective date of  
12 the rejection notice.

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

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

20 §10A-8A-8.07. Other claims against dissolved  
21 partnership.

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

23 (a) A dissolved partnership may publish notice of  
24 its dissolution and request that persons with claims against  
25 the dissolved partnership present them in accordance with the  
26 notice.

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

1           (1) be published at least one time in a newspaper of  
2 general circulation in the county in which the dissolved  
3 partnership's principal place of business or not for profit  
4 activity in this state is located, and if none, was last  
5 located;

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

9           (3) state that if not sooner barred, a claim against  
10 the dissolved partnership will be barred unless a proceeding  
11 to enforce the claim is commenced within two years after the  
12 publication of the notice; and

13           (4) unless the partnership has been throughout its  
14 existence a limited liability partnership, state that the  
15 barring of a claim against the partnership will also bar any  
16 corresponding claim against any partner or person dissociated  
17 as a partner which is based on Section 10A-8A-3.06.

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

25           (1) a claimant who was not given notice under  
26 Section 10A-8A-8.06;

1           (2) a claimant whose claim was timely sent to the  
2 dissolved partnership but not acted on by the dissolved  
3 partnership; and

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

8           (d) A claim that is not barred under this section,  
9 any other statute limiting actions, or Section 10A-8A-8.06 may  
10 be enforced:

11           (1) against a partnership, to the extent of its  
12 undistributed assets;

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

22           (3) against any person liable on the claim under  
23 Sections 10A-8A-3.06, 10A-8A-7.03 and 10A-8A-8.05.

24           (e) A dissolved partnership that published a notice  
25 under this section may file an application with a court of  
26 competent jurisdiction for a determination of the amount and  
27 form of security to be provided for payment of claims that are

1 contingent or have not been made known to the dissolved  
2 partnership or that are based on an event occurring after the  
3 effective date of the dissolution of the partnership but that,  
4 based on the facts known to the dissolved partnership, are  
5 reasonably estimated to arise after the effective date of the  
6 dissolution of the partnership. Provision need not be made for  
7 any claim that is or is reasonably anticipated to be barred  
8 under subsection (c).

9 (f) Within ten days after the filing of the  
10 application provided for in subsection (e), notice of the  
11 proceeding shall be given by the dissolved partnership to each  
12 potential claimant as described in subsection (e).

13 (g) The court under subsection (e) may appoint a  
14 guardian ad litem to represent all claimants whose identities  
15 are unknown in any proceeding brought under this section. The  
16 reasonable fees and expenses of the guardian, including all  
17 reasonable expert witness fees, shall be paid by the dissolved  
18 partnership.

19 (h) Provision by the dissolved partnership for  
20 security in the amount and the form ordered by the court under  
21 subsection (e) shall satisfy the dissolved partnership's  
22 obligation with respect to claims that are contingent, have  
23 not been made known to the dissolved partnership, or are based  
24 on an event occurring after the effective date of the  
25 dissolution of the partnership, and those claims may not be  
26 enforced against a person owning a transferable interest to  
27 whom assets have been distributed by the dissolved partnership

1 after the effective date of the dissolution of the  
2 partnership.

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

5 (j) If a claim has been satisfied, disposed of, or  
6 barred under Section 10A-8A-8.06, this section, or other law,  
7 the person or persons designated to wind up the business or  
8 not for profit activity of a partnership, and the owners of  
9 the transferable interests receiving assets from the  
10 partnership, shall not be liable for that claim.

11 §10A-8A-8.08. Liability of partner and person  
12 dissociated as partner when claim against partnership. If a  
13 claim against a dissolved partnership is barred under Section  
14 10A-8A-8.06 or 10A-8A-8.07, any corresponding claim under  
15 Sections 10A-8A-3.06, 10A-8A-7.03, and 10A-8A-8.05 is also  
16 barred.

17 §10A-8A-8.09. Disposition of assets, when  
18 contributions required.

19 Notwithstanding Section 10A-1-9.12, upon the winding  
20 up of a partnership, the assets of the partnership, including  
21 any obligation under Sections 10A-8A-4.03, 10A-8A-4.04, and  
22 10A-8A-4.09, and any contribution required by this section,  
23 shall be applied as follows:

24 (a) Payment, or adequate provision for payment,  
25 shall be made to creditors, including, to the extent permitted  
26 by law, partners who are creditors, in satisfaction of  
27 liabilities of the partnership.

1 (b) After a partnership complies with subsection  
2 (a), any surplus must be distributed:

3 (1) first, to each person owning a transferable  
4 interest that reflects contributions made on account of the  
5 transferable interest and not previously returned, an amount  
6 equal to the value of the person's unreturned contributions;  
7 and

8 (2) then to each person owning a transferable  
9 interest in the proportions in which the owners of  
10 transferable interests share in distributions before  
11 dissolution.

12 (c) If the partnership does not have sufficient  
13 surplus to comply with subsection (b)(1), any surplus must be  
14 distributed among the owners of transferable interests in  
15 proportion to the value of their respective unreturned  
16 contributions.

17 (d) If a partnership's assets are insufficient to  
18 satisfy all of its obligations under subsection (a), with  
19 respect to each unsatisfied obligation incurred when the  
20 partnership was not a limited liability partnership, the  
21 following rules apply:

22 (1) Each person that was a partner when the  
23 obligation was incurred and that has not been released from  
24 the obligation under Section 10A-8A-7.03(c) and (d) shall  
25 contribute to the partnership for the purpose of enabling the  
26 partnership to satisfy the obligation. The contribution due  
27 from each of those persons is in proportion to the right to

1 receive distributions in the capacity of partner in effect for  
2 each of those persons when the obligation was incurred.

3 (2) If a person does not contribute the full amount  
4 required under paragraph (1) with respect to an unsatisfied  
5 obligation of the partnership, the other persons required to  
6 contribute by paragraph (1) on account of the obligation shall  
7 contribute the additional amount necessary to discharge the  
8 obligation. The additional contribution due from each of those  
9 other persons is in proportion to the right to receive  
10 distributions in the capacity of partner in effect for each of  
11 those other persons when the obligation was incurred.

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

16 (e) A person that makes an additional contribution  
17 under subsection (d)(2) or (3) may recover from any person  
18 whose failure to contribute under subsection (d)(1) or (2)  
19 necessitated the additional contribution. A person may not  
20 recover under this subsection more than the amount  
21 additionally contributed. A person's liability under this  
22 subsection may not exceed the amount the person failed to  
23 contribute.

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

26 (g) An assignee for the benefit of creditors of a  
27 partnership or a partner, or a person appointed by a court to

1 represent creditors of a partnership or a partner, may enforce  
2 a person's obligation to contribute under subsection (d).

3 §10A-8A-8.10. Reinstatement after dissolution.

4 Notwithstanding Sections 10A-1-9.31 and 10A-1-9.32,  
5 a partnership that has been dissolved may be reinstated upon  
6 compliance with the following conditions:

7 (a) the consent shall have been obtained from the  
8 partners or other persons entitled to consent at the time that  
9 is:

10 (1) required for reinstatement under the partnership  
11 agreement; or

12 (2) if the partnership agreement does not state the  
13 consent required for reinstatement, sufficient for dissolution  
14 under the partnership agreement; or

15 (3) if the partnership agreement neither states the  
16 consent required for reinstatement nor for dissolution,  
17 sufficient for dissolution under this chapter;

18 (b) in the case of a written objection to  
19 reinstatement having been delivered to the partnership before  
20 or at the time of the consent required by subsection (a) by  
21 the partners or other persons having authority under the  
22 partnership agreement to bring about or prevent dissolution of  
23 the partnership, those partners or persons withdrawing that  
24 written objection effective at the time of the consent  
25 required by subsection (a);

26 (c) in the case of a partnership dissolved in a  
27 judicial proceeding initiated by one or more of the partners



1 pursuant to Section 10A-8A-8.01(4), the consent of each of  
2 those partners shall have been obtained and shall be included  
3 in the consent required by subsection (a);

4 (d) in the case of a partnership dissolved in a  
5 judicial proceeding initiated by one or more of transferees  
6 pursuant to Section 10A-8A-8.01(5), the consent of each of  
7 those transferees shall have been obtained and shall be  
8 included in the consent required by subsection (a); and

9 (e) in the case of a partnership that has filed a  
10 statement of dissolution, the filing of a certificate of  
11 reinstatement in accordance with Section 10A-8A-8.11.

12 §10A-8A-8.11. Certificate of reinstatement.

13 A partnership that has dissolved, has filed a  
14 statement of dissolution, and is seeking to reinstate in  
15 accordance with Section 10A-8A-8.10, shall deliver to the  
16 Secretary of State for filing a certificate of reinstatement  
17 in accordance with the following:

18 (a) A certificate of reinstatement shall be  
19 delivered to the Secretary of State for filing. The  
20 certificate of reinstatement shall state:

21 (1) the name of the partnership before  
22 reinstatement;

23 (2) the name of the partnership following  
24 reinstatement, which partnership name shall comply with  
25 Section 10A-8A-8.12;

26 (3) the date of formation of the partnership;

1 (4) the date of filing its statement of dissolution,  
2 and all amendments and restatements thereof, and the office or  
3 offices where filed;

4 (5) if the partnership has filed a statement of  
5 partnership, a statement of not for profit partnership, a  
6 statement of authority, or a statement of limited liability  
7 partnership, the date of filing its statement of partnership,  
8 statement of not for profit partnership, statement of  
9 authority, or statement of limited liability partnership, and  
10 all amendments and restatements thereof, and the office or  
11 offices where filed;

12 (6) the date of dissolution of the partnership, if  
13 known;

14 (7) a statement that all applicable conditions of  
15 Section 10A-8A-8.10 have been satisfied; and

16 (8) the address of the registered office and the  
17 name of the registered agent at that address in compliance  
18 with Article 5 of Chapter 1.

19 (b) A partnership shall deliver to the Secretary of  
20 State for filing a statement of dissolution prior to or  
21 simultaneously with the certificate of reinstatement. If a  
22 partnership has not filed a statement of partnership, a  
23 statement of not for profit partnership, or a statement of  
24 limited liability partnership prior to filing its statement of  
25 dissolution, the partnership must also deliver to the  
26 Secretary of State for filing a statement of partnership, a  
27 statement of not for profit partnership, or a statement of

1 limited liability partnership, simultaneously with the  
2 certificate of reinstatement.

3 (c) A certificate of reinstatement is a filing  
4 instrument under Chapter 1.

5 §10A-8A-8.12. Partnership name upon reinstatement.

6 The name of a partnership following the filing of a  
7 certificate of reinstatement shall be determined as follows:

8 (a) if the partnership is listed in the Secretary of  
9 State's records as a partnership that has been dissolved, then  
10 the name of a partnership following reinstatement shall be  
11 that partnership name at the time of reinstatement if that  
12 partnership name complies with Article 5 of Chapter 1 at the  
13 time of reinstatement; and

14 (b) if that partnership name does not comply with  
15 Article 5 of Chapter 1, the name of the partnership following  
16 reinstatement shall be that partnership name followed by the  
17 word "reinstated."

18 §10A-8A-8.13. Effect of reinstatement.

19 (a) Subject to subsection (b), upon reinstatement,  
20 the partnership shall be deemed for all purposes to have  
21 continued its business or not for profit activity as if  
22 dissolution had never occurred; and each right inuring to, and  
23 each debt, obligation, and liability incurred by, the  
24 partnership after the dissolution shall be determined as if  
25 the dissolution had never occurred.

26 (b) The rights of persons acting in reliance on the  
27 dissolution before those persons had notice of the

1 reinstatement shall not be adversely affected by the  
2 reinstatement.

3 Article 9. Conversions and Mergers.

4 §10A-8A-9.01. Definitions.

5 Notwithstanding Section 10A-1-1.03, as used in this  
6 article, unless the context otherwise requires, the following  
7 terms mean:

8 (1) "Constituent organization" means an organization  
9 that is party to a merger under this article.

10 (2) "Constituent partnership" means a constituent  
11 organization that is a partnership.

12 (3) "Converted organization" means the organization  
13 into which a converting organization converts pursuant to this  
14 article.

15 (4) "Converting organization" means an organization  
16 that converts into another organization pursuant to this  
17 article.

18 (5) "Converting partnership" means a converting  
19 organization that is a partnership.

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

22 (7) "Organization" means a partnership, including a  
23 limited liability partnership; limited partnership, including  
24 a limited liability limited partnership; limited liability  
25 company; business trust; corporation; nonprofit corporation;  
26 professional corporation; or any other person having a

1 governing statute. The term includes domestic and foreign  
2 organizations whether or not organized for profit.

3 (8) "Organizational documents" means:

4 (A) (i) for a partnership, its partnership agreement  
5 and, if applicable, its statement of partnership, statement of  
6 not for profit partnership, or statement of limited liability  
7 partnership; (ii) for a foreign partnership, its partnership  
8 agreement and, if applicable, its statement of foreign limited  
9 liability partnership;

10 (B) for a limited partnership or foreign limited  
11 partnership, its certificate of formation and partnership  
12 agreement, or comparable writings as provided in its governing  
13 statute;

14 (C) for a limited liability company or foreign  
15 limited liability company, its certificate of formation and  
16 limited liability company agreement, or comparable writings as  
17 provided in its governing statute;

18 (D) for a business or statutory trust or foreign  
19 business or statutory trust its agreement of trust and  
20 declaration of trust, or comparable writings as provided in  
21 its governing statute;

22 (E) for a corporation for profit or foreign  
23 corporation for profit, its certificate of formation, bylaws,  
24 and other agreements among its shareholders that are  
25 authorized by its governing statute, or comparable writings as  
26 provided in its governing statute;

1 (F) for a nonprofit corporation or foreign nonprofit  
2 corporation, its certificate of formation, bylaws, and other  
3 agreements that are authorized by its governing statute, or  
4 comparable writings as provided in its governing statute;

5 (G) for a professional corporation or foreign  
6 professional corporation, its certificate of formation,  
7 bylaws, and other agreements among its shareholders that are  
8 authorized by its governing statute, or comparable writings as  
9 provided in its governing statute; and

10 (H) for any other organization, the basic writings  
11 that create the organization and determine its internal  
12 governance and the relations among the persons that own it,  
13 have an interest in it, or are members of it.

14 (9) "Surviving organization" means an organization  
15 into which one or more other organizations are merged under  
16 this article, whether the organization pre-existed the merger  
17 or was created pursuant to the merger.

18 §10A-8A-9.02. Conversion.

19 (a) An organization other than a partnership may  
20 convert to a partnership, and a partnership may convert to an  
21 organization other than a partnership pursuant to this  
22 section, Sections 10A-8A-9.03 through 10A-8A-9.05, and a plan  
23 of conversion, if:

24 (1) the governing statute of the organization that  
25 is not a partnership authorizes the conversion;

1           (2) the law of the jurisdiction governing the  
2           converting organization and the converted organization does  
3           not prohibit the conversion; and

4           (3) the converting organization and the converted  
5           organization each comply with the governing statute and  
6           organizational documents applicable to that organization in  
7           effecting the conversion.

8           (b) A plan of conversion must be in writing and must  
9           include:

10           (1) the name, type of organization, and mailing  
11           address of the principal office of the converting organization  
12           before conversion;

13           (2) the name, type of organization, and mailing  
14           address of the principal office of the converted organization  
15           after conversion;

16           (3) the terms and conditions of the conversion,  
17           including the manner and basis for converting interests in the  
18           converting organization into any combination of money,  
19           interests in the converted organization, and other  
20           consideration allowed in Section 10A-8A-9.02(c); and

21           (4) the organizational documents of the converted  
22           organization.

23           (c) In connection with a conversion, rights or  
24           securities of or interests in the converting organization may  
25           be exchanged for or converted into cash, property, or rights  
26           or securities of or interests in the converted organization,  
27           or, in addition to or in lieu thereof, may be exchanged for or

1 converted into cash, property, or rights or securities of or  
2 interests in another organization or may be cancelled.

3 (d) If a partnership is the converting organization  
4 and that partnership does not have an effective statement of  
5 partnership, statement of not for profit partnership, or  
6 statement of limited liability partnership on file with the  
7 Secretary of State, then that partnership must, before  
8 proceeding with a conversion deliver to the Secretary of State  
9 for filing, a statement of partnership, statement of not for  
10 profit partnership, or statement of limited liability  
11 partnership simultaneously with the delivery to the Secretary  
12 of State for filing, of a statement of conversion.

13 (e) If an organization is converting to a  
14 partnership, the converting organization must deliver to the  
15 Secretary of State for filing a statement of partnership,  
16 statement of not for profit partnership, or a statement of  
17 limited liability partnership in accordance with Section  
18 10A-8A-9.04.

19 §10A-8A-9.03. Action on plan of conversion by  
20 converting partnership.

21 (a) Subject to Section 10A-8A-9.10, a plan of  
22 conversion must be consented to by all the partners of a  
23 converting partnership.

24 (b) Subject to Section 10A-8A-9.10 and any  
25 contractual rights, after a conversion is approved, and at any  
26 time before a filing is made under Section 10A-8A-9.04, a



1 converting partnership may amend the plan or abandon the  
2 planned conversion:

3 (1) as provided in the plan; and

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

6 §10A-8A-9.04. Filings required for conversion;  
7 effective date.

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

9 (1) if the converting organization is an  
10 organization formed under, or its internal affairs are  
11 governed by, the laws of this state, the converting  
12 organization shall file a statement of conversion in  
13 accordance with subsection (c), which statement of conversion  
14 must be signed in accordance with Section 10A-8A-2.03 and  
15 which must include:

16 (A) the name of the converting organization;

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

21 (C) a statement that the converting organization has  
22 been converted into the converted organization;

23 (D) the name and type of organization of the  
24 converted organization and the jurisdiction of its governing  
25 statute;

26 (E) the street and mailing address of the principal  
27 office of the converted organization;

1 (F) the date the conversion is effective under the  
2 governing statute of the converted organization;

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

5 (H) a statement that the conversion was approved as  
6 required by the governing statute of the converted  
7 organization; and

8 (I) if the converted organization is a foreign  
9 organization not authorized to conduct business or not for  
10 profit activity in this state, the street and mailing address  
11 of an office for the purposes of Section 10A-8A-9.05(b); and

12 (2) if the converted organization is a partnership,  
13 the converting organization shall deliver to the Secretary of  
14 State for filing a statement of partnership, statement of not  
15 for profit partnership, or statement of limited liability  
16 partnership, as applicable, which statement of partnership,  
17 statement of not for profit partnership, or statement of  
18 limited liability partnership must include, in addition to the  
19 information required by Section 10A-8A-2.02 or 10A-8A-10.01,  
20 as applicable:

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

23 (B) the name and type of organization of the  
24 converting organization and the jurisdiction of the converting  
25 organization's governing statute; and

1           (C) a statement that the conversion was approved in  
2 a manner that complied with the converting organization's  
3 governing statute.

4           (3) if the converting organization is a partnership  
5 and that partnership does not have an effective statement of  
6 partnership, statement of not for profit partnership, or  
7 statement of limited liability partnership on file with the  
8 Secretary of State, then the converting organization must  
9 deliver to the Secretary of State for filing, a statement of  
10 partnership, statement of not for profit partnership, or  
11 statement of limited liability partnership simultaneously with  
12 the delivery to the Secretary of State for filing, of a  
13 statement of conversion.

14           (b) A conversion becomes effective:

15           (1) if the converted organization is a partnership,  
16 when the statement of partnership, statement of not for profit  
17 partnership, or statement of limited liability partnership  
18 takes effect; and

19           (2) if the converted organization is not a  
20 partnership, as provided by the governing statute of the  
21 converted organization.

22           (c) If the converting organization is an  
23 organization formed under, or its internal affairs are  
24 governed by, the laws of this state, then the converting  
25 organization shall file the statement of conversion required  
26 under subsection (a)(1) and the statement, if any, required

1 under subsection (a) (3) with the Secretary of State in  
2 accordance with Section 10A-1-4.02(c) (1).

3 (d) If the converted organization is a partnership,  
4 then, notwithstanding Section 10A-1-4.02(b), the converting  
5 organization shall file a statement of partnership, statement  
6 of not for profit partnership, or statement of limited  
7 liability partnership required under subsection (a) (2) with  
8 the Secretary of State in accordance with Section  
9 10A-1-4.02(c) (5), along with the fees specified in Section  
10 10A-1-4.31 subject to subsections (f) (3) and (f) (4).

11 (e) If the converting organization is required to  
12 file a statement of conversion and a statement of partnership,  
13 statement of not for profit partnership, or statement of  
14 limited liability partnership with the Secretary of State,  
15 then the converting organization shall file the statement of  
16 conversion and the statement of partnership, statement of not  
17 for profit partnership, or statement of limited liability  
18 partnership with the Secretary of State simultaneously.

19 (f) In the case of a statement of conversion that is  
20 to be filed with the Secretary of State pursuant to subsection  
21 (c):

22 (1) if the converting organization has a certificate  
23 of formation filed with the judge of probate, the Secretary of  
24 State shall within 10 days transmit a certified copy of the  
25 statement of conversion to the office of the judge of probate  
26 in the county in which the certificate of formation for such

1 converting organization was filed along with the proper fee  
2 for the judge of probate.

3 (2) if the converting organization did not file its  
4 certificate of formation with the judge of probate, but rather  
5 in accordance with this title filed its certificate of  
6 formation with the Secretary of State, the Secretary of State  
7 shall not transmit a certified copy of the statement of  
8 conversion to the office of the judge of probate and shall not  
9 collect any fee for the judge of probate.

10 (3) if the converting organization is, immediately  
11 prior to the conversion becoming effective, an organization  
12 described in Section 10A-1-4.02(c) (4), but is not required  
13 under this title to file its organizational documents with the  
14 judge of probate, the Secretary of State shall not transmit a  
15 certified copy of the statement of conversion to the office of  
16 the judge of probate and shall not collect any fee for the  
17 judge of probate.

18 (4) if the converting organization is a partnership,  
19 the Secretary of State shall not transmit a certified copy of  
20 the statement of conversion to the office of the judge of  
21 probate and shall not collect any fee for the judge of  
22 probate.

23 (g) In the case of a statement of partnership,  
24 statement of not for profit partnership, or statement of  
25 limited liability partnership that is to be filed with the  
26 Secretary of State pursuant to subsection (d), the Secretary  
27 of State shall not transmit a certified copy of the statement

1 of partnership, statement of not for profit partnership, or  
2 statement of limited liability partnership to the office of  
3 the judge of probate and shall not collect any fee for the  
4 judge of probate, but shall collect the fee provided for the  
5 Secretary of State in Section 10A-1-4.31(a)(1).

6 (h) After a conversion becomes effective, if the  
7 converted organization is a partnership, then all filing  
8 instruments required to be filed under this title regarding  
9 that converted organization shall be filed with the Secretary  
10 of State.

11 (i) If:

12 (1) the converting organization is a filing entity,  
13 a partnership with an effective statement of partnership,  
14 statement of not for profit partnership, or statement of  
15 limited liability partnership on file with the Secretary of  
16 State, a foreign filing entity registered to conduct business  
17 or not for profit activity in this state or a qualified  
18 foreign limited liability partnership;

19 (2) the converted organization will be a filing  
20 entity, a partnership with an effective statement of  
21 partnership, statement of not for profit partnership, or  
22 statement of limited liability partnership on file with the  
23 Secretary of State, a foreign filing entity registered to  
24 conduct business or not for profit activity in this state or a  
25 qualified foreign limited liability partnership;

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 purposes  
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 is a filing instrument  
23 under Chapter 1.

24           (1) Except as set forth in subsections (f) (2),  
25 (f) (3), and (f) (4), the filing fees for a statement of  
26 conversion shall be the same fee as provided in Section  
27 10A-1-4.31(a) (5).

1 §10A-8A-9.05. Effect of conversion.

2 (a) When a conversion takes effect:

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

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

15 (3) an action or proceeding pending by or against  
16 the converting organization continues as if the conversion had  
17 not occurred;

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

22 (5) except as otherwise provided in the plan of  
23 conversion, the terms and conditions of the plan of conversion  
24 take effect;

25 (6) except as otherwise agreed, for all purposes of  
26 the laws of this state, the converting organization shall not  
27 be required to wind up its business or not for profit activity



1 or pay its liabilities and distribute its assets, and the  
2 conversion shall not be deemed to constitute a dissolution of  
3 the converting organization;

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

11 (8) if the converted organization is a partnership,  
12 for all purposes of the laws of this state, the partnership  
13 shall be deemed to be the same organization as the converting  
14 organization, and the conversion shall constitute a  
15 continuation of the existence of the converting organization  
16 in the form of a partnership;

17 (9) if the converted organization is a partnership,  
18 the existence of the partnership shall be deemed to have  
19 commenced on the date the converting organization commenced  
20 its existence in the jurisdiction in which the converting  
21 organization was first created, formed, organized,  
22 incorporated, or otherwise came into being;

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

25 (11) If the Secretary of State has assigned a unique  
26 identifying number or other designation to the converting  
27 organization and

1 (i) the converted organization is formed pursuant  
2 to, or governed by, the laws of this state or

3 (ii) the converted organization is, within 30 days  
4 after the effective date of the conversion, registered to  
5 transact business in this state, then that unique identifying  
6 number or other designation shall continue to be assigned to  
7 the converted organization.

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

21 §10A-8A-9.06. Merger.

22 (a) A partnership may merge with one or more other  
23 constituent organizations pursuant to this section, Sections  
24 10A-8A-9.07 through 10A-8A-9.09, and a plan of merger, if:

25 (1) the governing statute of each of the other  
26 organizations authorizes the merger;

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

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

5           (b) A plan of merger must be in writing and must  
6 include:

7           (1) the name, type of organization, and mailing  
8 address of the principal office of each constituent  
9 organization;

10          (2) the name, type of organization, and mailing  
11 address of the principal office of the surviving organization  
12 and, if the surviving organization is to be created pursuant  
13 to the merger, a statement to that effect;

14          (3) the terms and conditions of the merger,  
15 including the manner and basis for converting the interests in  
16 each constituent organization into any combination of money,  
17 interests in the surviving organization, and other  
18 consideration as allowed by subsection (c);

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

22          (5) if the surviving organization is not to be  
23 created pursuant to the merger, any amendments to be made by  
24 the merger to the surviving organization's organizational  
25 documents.

26          (c) In connection with a merger, rights or  
27 securities of or interests in a constituent organization may

1 be exchanged for or converted into cash, property, or rights  
2 or securities of or interests in the surviving organization,  
3 or, in addition to or in lieu thereof, may be exchanged for or  
4 converted into cash, property, or rights or securities of or  
5 interests in another organization or may be cancelled.

6 §10A-8A-9.07. Action on plan of merger by  
7 constituent partnership.

8 (a) Subject to Section 10A-8A-9.10, a plan of merger  
9 must be consented to by all the partners of a constituent  
10 partnership.

11 (b) Subject to Section 10A-8A-9.10 and any  
12 contractual rights, after a merger is approved, and at any  
13 time before a filing is made under Section 10A-8A-9.08, a  
14 constituent partnership may amend the plan or abandon the  
15 merger:

16 (1) as provided in the plan; and

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

19 §10A-8A-9.08. Filings required for merger; effective  
20 date.

21 (a) After each constituent organization has approved  
22 the plan of merger, a statement of merger must be signed on  
23 behalf of:

24 (1) each constituent partnership, as provided in  
25 Section 10A-8A-2.03(a); and

26 (2) each other constituent organization, as provided  
27 by its governing statute.

1 (b) A statement of merger under this section must  
2 include:

3 (1) the name, type of organization, and mailing  
4 address of the principal office of each constituent  
5 organization and the jurisdiction of its governing statute;

6 (2) the name, type of organization, and mailing  
7 address of the principal office of the surviving organization,  
8 the jurisdiction of its governing statute, and, if the  
9 surviving organization is created pursuant to the merger, a  
10 statement to that effect;

11 (3) the date of the filing of the certificate of  
12 formation, if any, and all prior amendments and the filing  
13 office or offices, if any, and where such is filed of each  
14 constituent organization which was formed under the laws of  
15 this state;

16 (4) the date of the filing of the statement of  
17 partnership, statement of not for profit partnership, or  
18 statement of limited liability partnership, if any, and all  
19 prior amendments and the filing office or offices, if any, and  
20 where such is filed of each constituent organization which is  
21 a partnership;

22 (5) the date the merger is effective under the  
23 governing statute of the surviving organization;

24 (6) if the surviving organization is to be created  
25 pursuant to the merger:

1 (A) if it will be a partnership, the partnership's  
2 statement of partnership, statement of not for profit  
3 partnership, or statement of limited liability partnership; or

4 (B) if it will be an organization other than a  
5 partnership, any organizational document that creates the  
6 organization that is required to be in a public writing;

7 (7) if the surviving organization exists before the  
8 merger, any amendments provided for in the plan of merger for  
9 the organizational document that are required to be in a  
10 public writing;

11 (8) a statement as to each constituent organization  
12 that the merger was approved as required by the organization's  
13 governing statute;

14 (9) if the surviving organization is a foreign  
15 organization not authorized to conduct business or not for  
16 profit activity in this state, the street and mailing address  
17 of an office for the purposes of Section 10A-8A-9.09(b); and

18 (10) any additional information required by the  
19 governing statute of any constituent organization.

20 (c) Prior to the statement of merger being delivered  
21 for filing to the Secretary of State in accordance subsection  
22 (d), all constituent organizations that are partnerships,  
23 other than a partnership that is created pursuant to the  
24 merger, must have on file with the Secretary of State a  
25 statement of partnership, statement of not for profit  
26 partnership, or statement of limited liability partnership.

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

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

12 (e) A merger becomes effective under this article:

13 (1) if the surviving organization is a partnership,  
14 upon the later of:

15 (A) the filing of the statement of merger with the  
16 Secretary of State; or

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

18 (2) if the surviving organization is not a  
19 partnership, as provided by the governing statute of the  
20 surviving organization.

21 (f) After a merger becomes effective, if the  
22 surviving organization is a partnership, then all filing  
23 instruments required to be filed under this title regarding  
24 that surviving organization shall be filed with the Secretary  
25 of State.

26 (g) A certified copy of the statement of merger  
27 required to be filed under this section may be filed in the



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

9 (h) A statement of merger is a filing instrument  
10 under Chapter 1.

11 (i) Except as provided in the last two sentences of  
12 subsection (d), the filing fees for a statement of merger  
13 shall be the same fees as provided in Section  
14 10A-1-4.31(a)(5).

15 §10A-8A-9.09. Effect of merger.

16 (a) When a merger becomes effective:

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

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

23 (3) all property owned by, and every contract right  
24 possessed by, each constituent organization that ceases to  
25 exist vests in the surviving organization without transfer,  
26 reversion, or impairment and the title to any property and  
27 contract rights vested by deed or otherwise in the surviving

1 organization shall not revert, be in any way impaired, or be  
2 deemed to be a transfer by reason of the merger;

3 (4) all debts, obligations, and other liabilities of  
4 each constituent organization, other than the surviving  
5 organization, are debts, obligations, and other liabilities of  
6 the surviving organization, and neither the rights of  
7 creditors, nor any liens upon the property of any constituent  
8 organization, shall 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 and the name of the surviving organization may  
12 be, but need not be, substituted in any pending proceeding for  
13 the name of any constituent organization whose separate  
14 existence ceased in the merger;

15 (6) except as prohibited by law other than this  
16 chapter, or the terms of the merger, all of the rights,  
17 privileges, franchises, immunities, powers, and purposes of  
18 each constituent organization, other than the surviving  
19 organization, vest in the surviving organization;

20 (7) except as otherwise provided in the plan of  
21 merger, the terms and conditions of the plan of merger take  
22 effect;

23 (8) except as otherwise agreed, if a constituent  
24 partnership ceases to exist, the merger does not dissolve the  
25 partnership;

26 (9) if the surviving organization is created  
27 pursuant to the merger:

1 (A) if it is a partnership, the statement of  
2 partnership, statement of not for profit partnership or  
3 statement of limited liability partnership becomes effective;  
4 or

5 (B) if it is an organization other than a  
6 partnership, the organizational documents that create the  
7 organization become effective;

8 (10) if the surviving organization existed before  
9 the merger, any amendments provided for in the statement of  
10 merger for the organizational documents of that organization  
11 become effective;

12 (11) the transferable interests of each partnership  
13 that is a constituent organization to the merger, and the  
14 ownership interests of each organization that is not a  
15 partnership, but is a constituent organization to the merger,  
16 that are to be converted in accordance with the terms of the  
17 merger into transferable interests, ownership interests, other  
18 securities, obligations, rights to acquire transferable  
19 interests, ownership interests, or other securities, cash,  
20 other property, or any combination of the foregoing, are  
21 converted, and the former holder of such transferable  
22 interests or ownership interests is entitled only to the  
23 rights provided to that former holder by those terms or the  
24 statute governing that former holder's constituent  
25 organization; and

26 (12) if the surviving organization exists before the  
27 merger:

1 (i) all the property and contract rights of the  
2 surviving organization remain its property and contract rights  
3 without transfer, reversion, or impairment;

4 (ii) the surviving organization remains subject to  
5 all its debts, obligations, and other liabilities; and

6 (iii) except as provided by law other than this  
7 chapter, or the plan of merger, the surviving organization  
8 continues to hold all of its rights, privileges, franchises,  
9 immunities, powers, and purposes.

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

23 §10A-8A-9.10. Restrictions on approval of mergers,  
24 conversions and on relinquishing LLP status.

25 (a) If a partner of a converting or constituent  
26 partnership will have personal liability with respect to a  
27 converted or surviving organization, approval and amendment of

1 a plan of conversion or plan of merger are ineffective without  
2 that partner's consent to the plan.

3 (b) A statement of cancellation of the statement of  
4 limited liability partnership filed in connection with a  
5 conversion or merger is ineffective without each partner's  
6 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-8A-9.11. Liability of partner after conversion  
13 or merger.

14 (a) A conversion or merger under this article does  
15 not discharge any liability under Section 10A-8A-3.06,  
16 10A-8A-7.02, or 10A-8A-7.03 of a person that was a partner in  
17 or dissociated as a partner from a converting or constituent  
18 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 partnership; and

25 (3) if a person is required to pay any amount under  
26 this subsection:

1 (A) the person has a right of contribution from each  
2 other person that was liable as a partner under Section  
3 10A-8A-3.06 when the obligation was incurred and has not been  
4 released from the obligation under Section 10A-8A-7.02 or  
5 10A-8A-7.03; and

6 (B) the contribution due from each of those persons  
7 is in proportion to the right to receive distributions in the  
8 capacity of partner in effect for each of those persons when  
9 the obligation was incurred.

10 (b) In addition to any other liability provided by  
11 law:

12 (1) a person that immediately before a conversion or  
13 merger became effective was a partner in a converting or  
14 constituent partnership that was not a limited liability  
15 partnership is personally liable for each obligation of the  
16 converted or surviving organization arising from a transaction  
17 with a third party after the conversion or merger becomes  
18 effective, if, at the time the third party enters into the  
19 transaction, the third party:

20 (A) does not have notice of the conversion or  
21 merger; and

22 (B) reasonably believes that:

23 (i) the converted or surviving business is the  
24 converting or constituent partnership;

25 (ii) the converting or constituent partnership is  
26 not a limited liability partnership; and

1 (iii) the person is a partner in the converting or  
2 constituent partnership; and

3 (2) a person that was dissociated as a partner from  
4 a converting or constituent partnership before the conversion  
5 or merger became effective is personally liable for each  
6 obligation of the converted or surviving organization arising  
7 from a transaction with a third party after the conversion or  
8 merger becomes effective, if:

9 (A) immediately before the conversion or merger  
10 became effective the converting or surviving partnership was  
11 not a limited liability partnership; and

12 (B) at the time the third party enters into the  
13 transaction the third party:

14 (i) does not have notice of the dissociation;

15 (ii) does not have notice of the conversion or  
16 merger; and

17 (iii) reasonably believes that the converted or  
18 surviving organization is the converting or constituent  
19 partnership, the converting or constituent partnership is not  
20 a limited liability partnership, and the person is a partner  
21 in the converting or constituent partnership.

22 §10A-8A-9.12. Power of partners and persons  
23 dissociated as partners to bind organization after conversion  
24 or merger.

25 (a) An act of a person that immediately before a  
26 conversion or merger became effective was a partner in a  
27 converting or constituent partnership binds the converted or

1 surviving organization after the conversion or merger becomes  
2 effective, if:

3 (1) before the conversion or merger became  
4 effective, the act would have bound the converting or  
5 constituent partnership under Section 10A-8A-3.01; and

6 (2) at the time the third party enters into the  
7 transaction, the third party:

8 (A) does not have notice of the conversion or  
9 merger; and

10 (B) reasonably believes that the converted or  
11 surviving organization is the converting or constituent  
12 partnership and that the person is a partner in the converting  
13 or constituent partnership.

14 (b) An act of a person that before a conversion or  
15 merger became effective was dissociated as a partner from a  
16 converting or constituent partnership binds the converted or  
17 surviving organization after the conversion or merger becomes  
18 effective, if:

19 (1) before the conversion or merger became  
20 effective, the act would have bound the converting or  
21 constituent partnership under Section 10A-8A-3.01 if the  
22 person had been a partner; and

23 (2) at the time the third party enters into the  
24 transaction, the third party:

25 (A) does not have notice of the dissociation;

26 (B) does not have notice of the conversion or  
27 merger; and



1 (C) reasonably believes that the converted or  
2 surviving organization is the converting or constituent  
3 partnership and that the person is a partner in the converting  
4 or constituent partnership.

5 (c) If a person having knowledge of the conversion  
6 or merger causes a converted or surviving organization to  
7 incur an obligation under subsection (a) or (b), the person is  
8 liable:

9 (1) to the converted or surviving organization for  
10 any damage caused to the organization arising from the  
11 obligation; and

12 (2) if another person is liable for the obligation,  
13 to that other person for any damage caused to that other  
14 person arising from the liability.

15 §10A-8A-9.13. Article not exclusive. This article is  
16 not exclusive. This article does not preclude an entity from  
17 being converted or merged under law other than this chapter.

18 Article 10. Limited Liability Partnership.

19 §10A-8A-10.01. Limited liability partnerships;  
20 statements; cancellations.

21 (a) A partnership may be formed as, or may become, a  
22 limited liability partnership pursuant to this section.

23 (b) In order to form a limited liability  
24 partnership, the original partnership agreement of the  
25 partnership shall state that the partnership is formed as a  
26 limited liability partnership, and the partnership shall  
27 deliver to the Secretary of State for filing a statement of

1 limited liability partnership in accordance with subsection  
2 (d) of this section.

3 (c) In order for an existing partnership to become a  
4 limited liability partnership, the terms and conditions on  
5 which the partnership becomes a limited liability partnership  
6 must be approved by the affirmative approval necessary to  
7 amend the partnership agreement and, in the case of a  
8 partnership agreement that expressly considers obligations to  
9 contribute to the partnership, also the affirmative approval  
10 necessary to amend those provisions, and after such approval,  
11 the partnership shall deliver to the Secretary of State for  
12 filing a statement of limited liability partnership in  
13 accordance with subsection (d).

14 (d) A statement of limited liability partnership  
15 must contain all of the following:

16 (1) the name of the limited liability partnership  
17 which must comply with Article 5 of Chapter 1;

18 (2) the street, and mailing, if different, address  
19 of its principal office.

20 (3) the street and mailing address of a registered  
21 office and the name of the registered agent at that office for  
22 service of process in this state which the partnership shall  
23 be required to maintain;

24 (4) a statement that the partnership was formed as a  
25 limited liability partnership in accordance with subsection  
26 (b) or a statement that the statement of limited liability

1 partnership was approved in accordance with subsection (c);  
2 and

3 (5) a statement that the partnership is a limited  
4 liability partnership.

5 (e) A statement of limited liability partnership may  
6 be amended or restated from time to time in accordance with  
7 Section 10A-1-4.26.

8 (f) The statement of limited liability partnership  
9 shall be executed by one or more partners authorized to  
10 execute the statement of limited liability partnership.

11 (g) The statement of limited liability partnership  
12 shall be accompanied by a fee for the Secretary of State in  
13 the respective amounts prescribed by Section 10A-1-4.31.

14 (h) The Secretary of State shall file the statement  
15 of limited liability partnership of any partnership as a  
16 limited liability partnership that submits a completed  
17 statement of limited liability partnership with the required  
18 fees. The filing by the Secretary of State of a statement of  
19 limited liability partnership is conclusive evidence that the  
20 partnership has satisfied all conditions required to be a  
21 limited liability partnership.

22 (i) The statement of limited liability partnership  
23 is effective, and a partnership becomes a limited liability  
24 partnership, immediately on the date the statement of limited  
25 liability partnership is filed with the Secretary of State or  
26 at any later date or time specified in the statement of  
27 limited liability partnership in compliance with Article 4 of

1 Chapter 1. The status as a limited liability partnership  
2 remains effective, regardless of changes in the partnership,  
3 and partnership continues as a limited liability partnership  
4 until a statement of cancellation is voluntarily filed in  
5 accordance with subsection (m).

6 (j) The fact that a statement of limited liability  
7 partnership is on file with the Secretary of State is notice  
8 that the partnership is a limited liability partnership and as  
9 notice of the facts required to be set forth in the statement  
10 of limited liability partnership.

11 (k) A partnership that has filed a statement of  
12 limited liability partnership as a limited liability  
13 partnership is for all purposes, except as provided in Section  
14 10A-8A-3.06, the same entity that existed before the statement  
15 of limited liability partnership was filed and continues to be  
16 a partnership under the laws of this state subject to the  
17 limited liability partnership provisions of this chapter. If a  
18 limited liability partnership dissolves and its business or  
19 not for profit activity, or a portion of its business or not  
20 for profit activity is continued without the complete winding  
21 up of partnership's business or not for profit activity, a  
22 partnership which is a successor to the limited liability  
23 partnership shall not be required to file a new statement of  
24 limited liability partnership.

25 (l) The status of the partnership as a limited  
26 liability partnership and the liability of a partner of the  
27 limited liability partnership shall not be adversely affected

1 by error or subsequent changes in the information stated in  
2 the statement of limited liability partnership under  
3 subsection (d).

4 (m) The decision to file a statement of cancellation  
5 shall require the approval of all of the partners of the  
6 partnership. The statement of cancellation must be delivered  
7 for filing to the Secretary of State and must contain the  
8 following:

9 (1) the name of the limited liability partnership;

10 (2) the date and office or offices in which it filed  
11 its statement of limited liability partnership, and all  
12 amendments and restatements thereof;

13 (3) the street and mailing address of its principal  
14 office;

15 (4) the street and mailing address of its registered  
16 office and the name of the registered agent at that office for  
17 service of process in this state which the partnership was  
18 required to maintain;

19 (5) a statement that the statement of cancellation  
20 was approved in accordance with this subsection; and

21 (6) any other information that the partners  
22 determine to include.

23 (n) A statement of cancellation must be executed by  
24 one or more partners authorized to execute the statement of  
25 cancellation.

26 (o) The statement of cancellation is effective, and  
27 a partnership ceases to be a limited liability partnership,

1 immediately on the date the statement of cancellation is  
2 delivered to the Secretary of State for filing or at any later  
3 date or time specified in the statement of cancellation in  
4 compliance with Article 4 of Chapter 1. The statement of  
5 cancellation shall not cause the dissolution of the  
6 partnership.

7 (p) The filing of a statement of cancellation of a  
8 limited liability partnership does not affect the limited  
9 liability of partners for debts, obligations or liabilities of  
10 the partnership which occur or were incurred prior to the  
11 filing of the statement of cancellation.

12 (q) A dissolved limited liability partnership shall  
13 continue its status as a limited liability partnership unless  
14 a statement of cancellation is voluntarily filed in accordance  
15 with subsection (m).

16 (r) The statement of limited liability partnership  
17 and the statement of cancellation are filing instruments for  
18 the purposes of Chapter 1.

19 §10A-8A-10.02. Special rules for limited liability  
20 partnerships performing professional services.

21 (a) A limited liability partnership shall have the  
22 power to render professional services if it complies with the  
23 rules of the licensing authority for such profession.

24 (b) Every individual who renders professional  
25 services as a partner or as an employee of a limited liability  
26 partnership shall be liable for any negligent or wrongful act  
27 or omission in which the individual personally participates to

1 the same extent the individual would be liable if the  
2 individual rendered the services as a sole practitioner.

3 (c) Except as otherwise provided in subsection (b),  
4 the personal liability of a partner of any limited liability  
5 partnership engaged in providing professional services shall  
6 be governed by Section 10A-8A-3.06.

7 (d) The personal liability of a partner or employee  
8 of a foreign limited liability partnership engaged in  
9 providing professional services shall be determined under the  
10 law of the jurisdiction which governs the foreign limited  
11 liability partnership.

12 (e) Nothing in this article shall restrict or limit  
13 in any manner the authority or duty of a licensing authority  
14 with respect to individuals rendering a professional service  
15 within the jurisdiction of the licensing authority. Nothing in  
16 this article shall restrict or limit any law, rule, or  
17 regulation pertaining to standards of professional conduct.

18 (f) Nothing in this article shall limit the  
19 authority of a licensing authority to impose requirements in  
20 addition to those stated in this chapter on any limited  
21 liability partnership or foreign limited liability partnership  
22 rendering professional services within the jurisdiction of the  
23 licensing authority.

24 (g) A partner's transferable interest in a limited  
25 liability partnership organized to render professional  
26 services may be voluntarily transferred only to a qualified  
27 person.

1 §10A-8A-10.03. Death or disqualification of partner.

2 (a) In the case of a limited liability partnership  
3 performing professional services, upon the death of a partner,  
4 upon a partner becoming a disqualified person, or upon a  
5 transferable interest being transferred by operation of law or  
6 court decree to a disqualified person, the transferable  
7 interest of the deceased partner or of the disqualified person  
8 may be transferred to a qualified person and, if not so  
9 transferred, subject to Section 10A-8A-4.09, shall be  
10 purchased by the limited liability partnership as provided in  
11 this section.

12 (b) If the price of the transferable interest is not  
13 fixed by the partnership agreement, the limited liability  
14 partnership, within six months after the death or 30 days  
15 after the disqualification or transfer, as the case may be,  
16 shall make a written offer to pay to the holder of the  
17 transferable interest a specified price deemed by the limited  
18 liability partnership to be the fair value of the transferable  
19 interest as of the date of the death, disqualification, or  
20 transfer. The offer shall be given to the personal  
21 representative of the estate of the deceased partner, the  
22 disqualified person, or the transferee, as the case may be,  
23 and shall be accompanied by a balance sheet of the limited  
24 liability partnership, as of the latest available date and not  
25 more than 12 months prior to the making of the offer, and a  
26 profit and loss statement of the limited liability partnership



1 for the 12-month period ended on the date of the balance  
2 sheet.

3 (c) If within 30 days after the date of the written  
4 offer from the limited liability partnership the fair value of  
5 the transferable interest is agreed upon between the personal  
6 representative of the estate of the deceased partner, the  
7 disqualified person, or the transferee, as the case may be,  
8 and the limited liability partnership, payment therefor shall  
9 be made within 90 days, or such other period as the parties  
10 may agree, after the date of the offer. Upon payment of the  
11 agreed value, the personal representative of the estate of the  
12 deceased partner, the disqualified person, or the transferee,  
13 as the case may, be shall cease to have any interest in, or  
14 claim to, the transferable interest.

15 (d) If within 30 days from the date of the written  
16 offer from the limited liability partnership, the personal  
17 representative of the estate of the deceased partner, the  
18 disqualified person, or the transferee, as the case may be,  
19 and the limited liability partnership do not so agree as to  
20 the fair value of the transferable interest, then either party  
21 may commence a civil action in the circuit court in the county  
22 in which the limited liability partnership's principal place  
23 of business or not for profit activity within this state is  
24 located, and if the limited liability partnership does not  
25 have a principal place of business or not for profit activity  
26 within this state, then the circuit court for the county in  
27 which the limited liability partnership's most recent

1 registered office is located requesting that the fair value of  
2 the transferable interest be found and determined. The  
3 personal representative of the estate of the deceased partner,  
4 the disqualified person, or the transferee, as the case may  
5 be, wherever residing, shall be made a party to the proceeding  
6 as an action against that person's transferable interest quasi  
7 in rem. Service shall be made in accordance with the rules of  
8 civil procedure. The personal representative of the estate of  
9 the deceased partner, the disqualified person, or the  
10 transferee, as the case may be, shall be entitled to a  
11 judgment against the limited liability partnership for the  
12 amount of the fair value of that person's transferable  
13 interest as of the date of death, disqualification, or  
14 transfer. The court may order that the judgment be paid in  
15 installments and with interest and on terms as the court may  
16 determine. The court may appoint one or more persons as  
17 appraisers to receive evidence and recommend a decision on the  
18 question of fair value. The appraisers shall have the power  
19 and authority as shall be specified in the order of their  
20 appointment or an amendment thereof.

21 (e) The judgment shall include an allowance for  
22 interest at the rate the court finds to be fair and equitable  
23 in all the circumstances, from the date of death,  
24 disqualification, or transfer.

25 (f) The costs and expenses of any proceeding shall  
26 be determined by the court and shall be assessed against the  
27 parties in a manner the court deems equitable.

1 (g) The expenses shall include reasonable  
2 compensation for and reasonable expenses of the appraisers and  
3 a reasonable attorney's fee but shall exclude the fees and  
4 expenses of counsel for and of experts employed by any party;  
5 but:

6 (1) if the fair value of the transferable interest  
7 as determined materially exceeds the amount which the limited  
8 liability partnership offered to pay therefor, or if no offer  
9 was made by the limited liability partnership, the court in  
10 its discretion may award to the personal representative of the  
11 estate of the deceased partner, the disqualified person, or  
12 the transferee, as the case may be, the sum the court  
13 determines to be reasonable compensation to any expert or  
14 experts employed by the personal representative of the estate  
15 of the deceased partner, the disqualified person, or the  
16 transferee, as the case may be, in the proceeding; and

17 (2) if the offer of the limited liability  
18 partnership for the transferable interest materially exceeds  
19 the amount of the fair value of the transferable interest as  
20 determined, the court in its discretion may award to the  
21 limited liability partnership the sum the court determines to  
22 be reasonable compensation to any expert or experts employed  
23 by the limited liability partnership, in the proceeding.

24 (h) If the purchase or transfer of the transferable  
25 interest of a deceased partner, a disqualified person or a  
26 transferee is not completed within 12 months after the death  
27 of the deceased partner or 12 months after the

1       disqualification or transfer, as the case may be, the limited  
2       liability partnership shall forthwith cancel the transferable  
3       interest on its books and the personal representative of the  
4       estate of the deceased partner, the disqualified person, or  
5       the transferee, as the case may be, shall have no further  
6       interest in the transferable interest other than that person's  
7       right to payment for the transferable interest under this  
8       section.

9               (i) This section shall not require a limited  
10       liability partnership to purchase a transferable interest of a  
11       disqualified person if the disqualification is for less than  
12       12 months from the date of disqualification. A limited  
13       liability partnership may require the disqualified person to  
14       sell the disqualified person's transferable interest to the  
15       limited liability partnership upon any disqualification.

16              (j) Any provision of a partnership agreement  
17       regarding the purchase or transfer of a transferable interest  
18       of a limited liability partnership performing professional  
19       services shall be specifically enforceable in the courts of  
20       Alabama.

21              (k) Nothing in this section shall prevent or relieve  
22       a limited liability partnership from paying pension benefits  
23       or other deferred compensation.

24              Article 11. Transition Rules and Miscellaneous  
25       Provisions.

26              §10A-8A-11.01. Application to existing  
27       relationships.

1 (a) Beginning January 1, 2019, this chapter governs  
2 all partnerships and all foreign partnerships.

3 (b) With respect to a partnership formed before  
4 January 1, 2019, and governed by the laws of this state, the  
5 following rules apply:

6 (1) a registration of a limited liability  
7 partnership which is current and effective as of December 31,  
8 2018, shall remain effective without further action on the  
9 part of the limited liability partnership, and a partnership  
10 having the status of a limited liability partnership, under  
11 predecessor law, shall have the status of a limited liability  
12 partnership under this chapter and to the extent such  
13 partnership has not filed a statement of limited liability  
14 partnership pursuant to this chapter, the registration or  
15 latest annual notice filed by such partnership under  
16 predecessor law shall constitute a statement of limited  
17 liability partnership filed under this chapter;

18 (2) a partnership's partnership agreement existing  
19 as of December 31, 2018, shall be deemed to be that  
20 partnership's partnership agreement under this chapter;

21 (3) a statement of partnership authority is deemed  
22 to be a statement of authority and each statement of  
23 partnership authority existing as of December 31, 2018, shall  
24 remain effective without further action on the part of the  
25 partnership for the remainder of the period of time authorized  
26 under predecessor law, unless earlier amended, in which case,

1 such statement of partnership authority shall comply with  
2 Section 10A-8A-3.03;

3 (4) a statement of denial, statement of  
4 dissociation, and statement of dissolution existing as of  
5 December 31, 2018, shall be deemed to be a statement of  
6 denial, statement of dissociation, and statement of  
7 dissolution under this chapter respectively;

8 (5) a registration of a foreign limited liability  
9 partnership which is current and effective as of December 31,  
10 2018, shall remain effective without further action on the  
11 part of the foreign limited liability partnership, and a  
12 foreign limited liability partnership having the status of a  
13 qualified foreign limited liability partnership, under  
14 predecessor law, shall have the status of a qualified foreign  
15 limited liability partnership under this chapter and to the  
16 extent such partnership has not filed a statement of foreign  
17 limited liability partnership pursuant to this chapter, the  
18 registration or latest annual notice filed by such partnership  
19 under predecessor law shall constitute a statement of foreign  
20 limited liability partnership filed under this chapter; and

21 (6) if a limited liability partnership or foreign  
22 limited liability partnership is using the phrase "registered  
23 limited liability partnership" or the abbreviation "RLLP" or  
24 "R.L.L.P.," in its name as of December 31, 2018, such phrase  
25 or abbreviation shall continue to comply with Article 5 of  
26 Chapter 1 unless and until it changes or amends, by whatever  
27 means, its name on or after January 1, 2019, at which point it

1 may only use the term "limited liability partnership" or the  
2 abbreviation "LLP" or "L.L.P.," in its name in compliance with  
3 Article 5 of Chapter 1. No limited liability partnership which  
4 is formed or elects to become a limited liability partnership  
5 on or after January 1, 2018, and no foreign limited liability  
6 partnership which delivers to the Secretary of State for  
7 filing, a statement of foreign limited liability partnership,  
8 may use the phrase "registered limited liability partnership"  
9 or the abbreviation "RLLP" or "R.L.L.P.," in its name.

10 §10A-8A-11.02. Severability clause. If any provision  
11 of this chapter or its application to any person or  
12 circumstance is held invalid, the invalidity does not affect  
13 other provisions or applications of this chapter which can be  
14 given effect without the invalid provision or application, and  
15 to this end the provisions of this chapter are severable.

16 §10A-8A-11.03. Relation to Electronic Signatures in  
17 Global and National Commerce Act. This chapter modifies,  
18 limits, or supersedes the federal Electronic Signatures in  
19 Global and National Commerce Act, 15 U.S.C. Section 7001 et  
20 seq., but this chapter does not modify, limit, or supersede  
21 Section 101(c) of that act or authorize electronic delivery of  
22 any of the notices described in Section 103(b) of that act.

23 §10A-8A-11.04. Effective date. This chapter takes  
24 effect January 1, 2019.

25 §10A-8A-11.05. Repeals. Effective January 1, 2019,  
26 the following parts of the Code of Alabama 1975, are repealed:  
27 Section 10A-1-7.33 and Chapter 8 of Title 10A, comprised of

1 Sections 10A-8-1.01 to 10A-8-11.04, inclusive, as amended and  
2 in effect immediately before the effective date of this act.

3 §10A-8A-11.06. Savings clause.

4 (a) Except as provided in subsection (b), the repeal  
5 of a statute by this chapter does not affect:

6 (1) the operation of the statute or any action taken  
7 under it before its repeal;

8 (2) any ratification, right, remedy, privilege,  
9 obligation, or liability acquired, accrued, or incurred under  
10 the statute before its repeal;

11 (3) any violation of the statute, or any penalty,  
12 forfeiture, or punishment incurred because of the violation,  
13 before its repeal; or

14 (4) any proceeding, reorganization, or dissolution  
15 commenced under the statute before its repeal, and the  
16 proceeding, reorganization, or dissolution may be completed in  
17 accordance with the statute as if it had not been repealed.

18 (b) If a penalty or punishment imposed for violation  
19 of a statute repealed by this chapter is reduced by this  
20 chapter, the penalty or punishment if not already imposed  
21 shall be imposed in accordance with this chapter.

22 §10A-8A-11.07. Composite returns. The Alabama  
23 Department of Revenue shall promulgate rules and regulations  
24 similar to those provided under Section 40-18-176, relating to  
25 Alabama S corporations, to permit the filing of annual  
26 composite income tax returns for one or more nonresident  
27 partners, who are individuals, of a partnership, limited



1 liability partnership or foreign limited liability partnership  
2 with an effective statement of foreign limited liability  
3 partnership on file with the Secretary of State, as well as  
4 one or more nonresident members, who are individuals, of a  
5 limited liability company or foreign limited liability company  
6 and one or more nonresident beneficiaries, who are  
7 individuals, of a business trust, organized under or  
8 recognized by the laws of this state.

9 §10A-8A-11.08. Taxation of limited liability  
10 partnership. A limited liability partnership and a foreign  
11 limited liability partnership shall be taxed as a partnership  
12 in accordance with Section 40-18-24, as amended from time to  
13 time, will file partnership returns as required by Section  
14 40-18-28, as amended from time to time, and shall for all  
15 other tax purposes be taxed as a partnership, all being  
16 subject to the limited liability partnership and a foreign  
17 limited liability partnership maintaining its status as a  
18 partnership under federal income tax law.

19 §10A-8A-11.09. Reserved power of the state to alter  
20 or repeal chapter. All provisions of this chapter may be  
21 altered from time to time or repealed and all rights of  
22 partners, partnerships, and agents are subject to this  
23 reservation. Unless expressly stated to the contrary in this  
24 chapter, all amendments of this chapter shall apply to  
25 partners, partnerships, and agents whether or not existing as  
26 such at the time of the enactment of any such amendment.

1                   §10A-8A-11.10. Interstate application. A limited  
2 liability partnership governed by this chapter may conduct its  
3 business or not for profit activity, carry on its operations,  
4 and have and exercise the powers granted by this chapter in  
5 any state, foreign country, or other jurisdiction.

6                   Section 8. This act shall become effective on  
7 January 1, 2019.

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House of Representatives

Read for the first time and re-  
ferred to the House of Representa-  
tives committee on Judiciary ..... 09-JAN-18

Read for the second time and placed  
on the calendar..... 11-JAN-18

Read for the third time and passed  
as amended..... 18-JAN-18

Yeas 93, Nays 0, Abstains 3

Jeff Woodard  
Clerk