SB96
208922-2
By Senators Givhan, Elliott, Jones and Singleton
RFD: Judiciary
First Read: 02-FEB-21
PFD: 01/27/2021
ENROLLED, An Act,


BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:
Section 1. Sections 10A-1-1.02, 10A-1-1.03, and 10A-1-4.02, as amended by Act 2020-73, 2020 Regular Session, of the Code of Alabama 1975, are amended to read as follows:

"§10A-1-1.02.

(a) All provisions of this chapter shall apply to all entities formed pursuant to or governed by Chapters 2A to 11, inclusive, and Chapter 17, except to the extent, if any, that any provision of this chapter is inconsistent with or as otherwise provided by the provisions of this title or other statutory or constitutional provisions specifically applicable to the entity as set forth in this chapter and except as set forth in subsections (c), (d), and (e).

(b) The provisions of this chapter shall apply to entities formed pursuant to or governed by Chapter 16, Chapter 20, and Chapter 30 only as provided therein or expressly provided in this chapter.

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

(d) Provisions in another chapter may provide that the provisions of this chapter do not apply by specifically providing which provisions in this chapter do not apply.

(e) Provisions in another chapter may provide that the governing documents of an entity governed by that other
chapter may supersede the provisions of this chapter by specifically providing which provisions in this chapter may be superseded by those governing documents.

"§10A-1-1.03.

"(a) If a term, including a term that is defined in subsection (b) of this section, is defined in a chapter of this title, then, when used in that chapter, the term shall have the meaning set forth in that chapter.

"(b) As used in this title, unless except as provided in subsection (a) of this section or where the context otherwise requires, the following terms mean:

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

"(2) ASSOCIATE. When used to indicate a relationship with:
"(A) a domestic or foreign entity for which the person is:

"(i) an officer or governing person; or
"(ii) a beneficial owner of 10 percent or more of a class of voting ownership interests or similar securities of the entity;

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

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

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

"(3) ASSOCIATION. Includes, but is not limited to, an unincorporated nonprofit association as defined in Chapter 17 and an unincorporated professional association as defined in Article 1 of Chapter 30.

"(4) BENEFIT CORPORATION. A benefit corporation as defined in Chapter 2A.

"(5) BUSINESS CORPORATION. A corporation or foreign corporation as defined in Chapter 2A. The term includes a benefit corporation as defined in Chapter 2A.

"(6) BUSINESS TRUST. A business trust as defined in Chapter 16.
"(7) CERTIFICATE OF DISSOLUTION. Any document such as a certificate of dissolution, statement of dissolution, or articles of dissolution, required or permitted to be filed publicly with respect to an entity's dissolution and winding up of its business, activity, activities, not for profit activity, or affairs.

"(8) CERTIFICATE OF FORMATION.

"(A) The document required to be filed publicly under this title to form a filing entity; and

"(B) if appropriate, a restated certificate of formation and all amendments of an original or restated certificate of formation.

"(9) CERTIFICATE OF OWNERSHIP. An instrument evidencing an ownership interest or membership interest in an entity.

"(10) CERTIFICATED OWNERSHIP INTEREST. An ownership interest of a domestic entity represented by a certificate.

"(11) CERTIFICATION or CERTIFIED. Duly authenticated by the proper officer or filing officer of the jurisdiction the laws of which govern the internal affairs of an entity.

"(12) CONTRIBUTION. A tangible or intangible benefit that a person transfers to an entity in consideration for an ownership interest in the entity or otherwise in the person's capacity as an owner or a member. A benefit that may constitute a contribution transferred in exchange for an
ownership interest or transferred in the transferor's capacity as an owner or member may include cash, property, services rendered, a contract for services to be performed, a promissory note or other obligation of a person to pay cash or transfer property to the entity, or securities or other interests in or obligations of an entity. In either case, the benefit does not include cash or property received by the entity:

"(A) with respect to a promissory note or other obligation to the extent that the agreed value of the note or obligation has previously been included as a contribution; or

"(B) that the person intends to be a loan to the entity.

"(13) CONVERSION. A conversion, whether referred to as a conversion, domestication, or otherwise, means:

"(A) the continuance of a domestic entity as a foreign entity of any type;

"(B) the continuance of a foreign entity as a domestic entity of any type; or

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

"(14) CONVERTED ENTITY. An entity resulting from a conversion.

"(15) CONVERTING ENTITY. An entity as the entity existed before the entity's conversion.
"(16) COOPERATIVE. Includes an employee cooperative as defined in Chapter 11.

"(17) CORPORATION. Includes a domestic or foreign business corporation, including a benefit corporation, as defined in Chapter 2A, a domestic or foreign nonprofit corporation as defined in Chapter 3, a domestic or foreign professional corporation as defined in Chapter 4, and those entities specified in Chapter 20 as corporate.

"(18) COURT. The designated court, and if none, the circuit court specifically set forth in this title, and if none, any other court having jurisdiction in a case.

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

"(20) DEBTOR IN BANKRUPTCY. A person who is the subject of:

"(A) an order for relief under the United States bankruptcy laws, Title 11, United States Code, or comparable order under a successor statute of general application; or
"(B) a comparable order under federal, state, or foreign law governing insolvency.

"(21) DESIGNATED COURT. The court or courts that are designated in the (i) certificate of incorporation or bylaws of a corporation as authorized by Chapter 2A, (ii) limited liability company agreement of a limited liability company formed pursuant to or governed by Chapter 5A, (iii) partnership agreement of a partnership formed pursuant to or governed by Chapter 8A, or (iv) limited partnership agreement of a limited partnership formed pursuant to or governed by Chapter 9A.

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

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

"(24) DOMESTIC. With respect to an entity, means governed as to its internal affairs by this title.

"(25) DOMESTIC ENTITY. An entity governed as to its internal affairs by this title.

"(26) EFFECTIVE DATE OF THIS TITLE. January 1, 2011.
"(27) ELECTRONIC. Relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

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

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

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

"(31) ENTITY. A domestic or foreign organization.

"(32) FILING ENTITY. A domestic entity that is a corporation, limited partnership, limited liability limited partnership, limited liability company, professional association, employee cooperative corporation, or real estate investment trust.
"(33) FILING INSTRUMENT. An instrument, document, or statement that is required or permitted by this title to be delivered for filing by or for an entity to a filing officer.

"(34) FILING OFFICER. An officer of this state with whom a filing instrument is required or permitted to be delivered for filing pursuant to this title.

"(35) FOREIGN. With respect to an entity, means governed as to its internal affairs by the laws of a jurisdiction other than this state.

"(36) FOREIGN ENTITY. An entity governed as to its internal affairs by the laws of a jurisdiction other than this state.

"(37) FOREIGN FILING ENTITY. A foreign entity that registers or is required to register as a foreign entity under Article 7.

"(38) FOREIGN GOVERNMENTAL AUTHORITY. A governmental official, agency, or instrumentality of a jurisdiction other than this state.

"(39) FOREIGN NONFILING ENTITY. A foreign entity that is not a foreign filing entity.

"(40) GENERAL PARTNER.

"(A) Each partner in a general partnership; or

"(B) a person who is admitted to a limited partnership as a general partner in accordance with the governing documents of the limited partnership.
"(41) GENERAL PARTNERSHIP. A partnership as defined in Chapter 8A. The term includes a limited liability partnership as defined in Chapter 8A.

"(42) GOVERNING AUTHORITY. A person or group of persons who are entitled to manage and direct the affairs of an entity pursuant to this title and the governing documents of the entity, except that if the governing documents of the entity or this title divide the authority to manage and direct the affairs of the entity among different persons or groups of persons according to different matters, governing authority means the person or group of persons entitled to manage and direct the affairs of the entity with respect to a matter under the governing documents of the entity or this title. The term includes the board of directors of a corporation, by whatever name known, or other persons authorized to perform the functions of the board of directors of a corporation, the general partners of a general partnership or limited partnership, the persons who have direction and oversight of a limited liability company, and the trust managers of a real estate investment trust. The term does not include an officer who is acting in the capacity of an officer.

"(43) GOVERNING DOCUMENTS.

"(A) In the case of a domestic entity:
"(i) the certificate of formation for a filing entity or the document or agreement under which a nonfiling entity is formed; and

"(ii) the other documents or agreements, including bylaws, partnership agreements of partnerships, limited liability company agreements of limited liability companies, or similar documents, adopted by the entity pursuant to this title to govern the formation or the internal affairs of the entity; or

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

"(44) GOVERNING PERSON. A person serving as part of the governing authority of an entity.

"(45) INDIVIDUAL. A natural person and the estate of an incompetent or deceased natural person.

"(46) INSOLVENCY. The inability of a person to pay the person's debts as they become due in the usual course of business or affairs.

"(47) INSOLVENT. A person who is unable to pay the person's debts as they become due in the usual course of business or affairs.
"(48) JUDGE OF PROBATE. The judge of probate of the county in which an entity is required or permitted to deliver a filing instrument for filing pursuant to this title.

"(49) JURISDICTION OF FORMATION.

"(A) In the case of a filing entity, this state;

"(B) in the case of a foreign entity, the jurisdiction in which the entity's certificate of formation or similar organizational instrument is filed, or if no certificate of formation or similar organizational instrument is filed, then the laws of the jurisdiction which govern the internal affairs of the foreign entity;

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

"(D) in the case of a foreign limited liability partnership, the laws of the jurisdiction which govern the filing of the foreign limited liability partnership's statement of limited liability partnership or such filing in that jurisdiction; and

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

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

"(ii) if subparagraph (i) does not apply, the
jurisdiction in which the entity has its principal office.

"(50) LAW. Unless the context requires otherwise,
both statutory and common law.

"(51) LICENSE. A license, certificate of
registration, or other legal authorization.

"(52) LICENSING AUTHORITY. The state court, state
regulatory licensing board, or other like agency which has the
power to issue a license or other legal authorization to
render professional services.

"(53) LIMITED LIABILITY COMPANY. A limited liability
company as defined in Chapter 5A.

"(54) LIMITED LIABILITY LIMITED PARTNERSHIP. A
limited liability limited partnership as defined in Chapter
9A.

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

"(56) LIMITED PARTNER. A person who has been
admitted to a limited partnership as a limited partner as
provided by:
"(A) in the case of a domestic limited partnership, Chapter 9A; or

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

"(57) LIMITED PARTNERSHIP. A limited partnership as defined in Chapter 9A. The term includes a limited liability limited partnership as defined in Chapter 9A.

"(58) MANAGERIAL OFFICIAL. An officer or a governing person.

"(59) MEMBER.

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

"(B) in the case of a nonprofit corporation formed pursuant to or governed by Chapter 3, a person having membership rights in the nonprofit corporation in accordance with its governing documents as provided in Chapter 3;

"(C) in the case of an employee cooperative corporation formed pursuant to or governed by Chapter 11, a natural person who, as provided in Chapter 11, has been accepted for membership in and owns a membership share in an employee cooperative;

"(D) in the case of a nonprofit association, a person who, as provided in Chapter 17, may participate in the selection of persons authorized to manage the affairs of the nonprofit association or in the development of its policy.
"(60) MERGER. The combination of one or more domestic entities with one or more domestic entities or foreign entities resulting in:

"(A) one or more surviving domestic entities or foreign entities;

"(B) the creation of one or more new domestic entities or foreign entities, or one or more surviving domestic entities or foreign entities; or

"(C) one or more surviving domestic entities or foreign entities and the creation of one or more new domestic entities or foreign entities.

"(61) NONFILING ENTITY. A domestic entity that is not a filing entity. The term includes a domestic general partnership, a limited liability partnership, and a nonprofit association.

"(62) NONPROFIT ASSOCIATION. An unincorporated nonprofit association as defined in Chapter 17. The term does not include a general partnership which has filed a statement of not for profit partnership in accordance with Chapter 8A, a limited partnership which is carrying on a not for profit purpose, or a limited liability company which is carrying on a not for profit purpose.

"(63) NONPROFIT CORPORATION. A domestic or foreign nonprofit corporation as defined in Chapter 3.
"(64) NONPROFIT ENTITY. An entity that is a nonprofit corporation, nonprofit association, or other entity that is organized solely for one or more nonprofit purposes.

"(65) OFFICER. An individual elected, appointed, or designated as an officer of an entity by the entity's governing authority or under the entity's governing documents.

"(66) ORGANIZATION. A corporation, limited partnership, general partnership, limited liability company, business trust, real estate investment trust, joint venture, joint stock company, cooperative, association, or other organization, including, regardless of its organizational form, a bank, insurance company, credit union, and savings and loan association, whether for profit, not for profit, nonprofit, domestic, or foreign.

"(67) ORGANIZER. A person, who need not be an owner or member of the entity, who, having the capacity to contract, is authorized to execute documents in connection with the formation of the entity. The term includes an incorporator.

"(68) OWNER.

"(A) With respect to a foreign or domestic business corporation or real estate investment trust, a stockholder or a shareholder;

"(B) with respect to a foreign or domestic partnership, a partner;
(C) with respect to a foreign or domestic limited liability company or association, a member; and

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

(69) OWNERSHIP INTEREST. An owner's interest in an entity. The term includes the owner's share of profits and losses or similar items and the right to receive distributions. The term does not include an owner's right to participate in management or participate in the direction or oversight of the entity. An ownership interest is personal property.

(70) PARENT or PARENT ENTITY. An entity that:

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

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

(71) PARTNER. A limited partner or general partner.

(72) PARTNERSHIP. Includes a general partnership, a limited liability partnership, a foreign limited liability partnership, a limited partnership, a foreign limited partnership, a limited liability limited partnership, and a foreign limited liability limited partnership.

(73) PARTNERSHIP AGREEMENT. Any agreement (whether referred to as a partnership agreement or otherwise), written, oral or implied, of the partners as to the activities and
affairs of a general partnership or a limited partnership. The partnership agreement includes any amendments to the partnership agreement. In the case of limited partnerships formed prior to October 1, 1998, partnership agreement includes the certificate of partnership.

(74) PARTY TO THE MERGER. A domestic entity or foreign entity that under a plan of merger is combined by a merger. The term does not include a domestic entity or foreign entity that is not to be combined into or with one or more domestic entities or foreign entities, regardless of whether ownership interests of the entity are to be issued under the plan of merger.

(75) PERSON. An individual, including the estate of an incompetent or deceased individual, or an entity, whether created by the laws of this state or another state or foreign country, including, without limitation, a general partnership, limited liability partnership, limited partnership, limited liability limited partnership, limited liability company, corporation, professional corporation, nonprofit corporation, professional association, trustee, personal representative, fiduciary, as defined in Section 19-3-150 or person performing in any similar capacity, business trust, estate, trust, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.
"(76) PRESIDENT.

"(A) The individual designated as president of an entity under the entity's governing documents; or

"(B) the officer or committee of persons authorized to perform the functions of the principal executive officer of an entity without regard to the designated name of the officer or committee.

"(77) PRINCIPAL OFFICE. The office, in or out of this state, where the principal executive office, whether referred to as the principal executive office, chief executive office, or otherwise, of an entity is located.

"(78) PROFESSIONAL ASSOCIATION. A professional association as defined in Chapter 30.

"(79) PROFESSIONAL CORPORATION. A domestic or foreign professional corporation as defined in Chapter 4.

"(80) PROFESSIONAL ENTITY. A professional association and a professional corporation.

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

"(82) PROPERTY. Includes all property, whether real, personal, or mixed, or tangible or intangible, or any right or interest therein.
"(83) REAL ESTATE INVESTMENT TRUST. An unincorporated trust, association, or other entity as defined in Chapter 10.

"(84) SECRETARY.

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

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

"(85) SECRETARY OF STATE. The Secretary of State of the State of Alabama.

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

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

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

"(87) STATE. Includes, when referring to a part of the United States, a state or commonwealth, and its agencies and governmental subdivisions, and a territory or possession, and its agencies and governmental subdivisions, of the United States.
(88) SUBSCRIBER. A person who agrees with or makes an offer to an entity to purchase by subscription an ownership interest in the entity.

(89) SUBSCRIPTION. An agreement between a subscriber and an entity, or a written offer made by a subscriber to an entity before or after the entity's formation, in which the subscriber agrees or offers to purchase a specified ownership interest in the entity.

(90) SUBSIDIARY. An entity at least 50 percent of:

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

(B) the voting power of which is possessed by a parent entity.

(91) TREASURER.

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

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

(92) TRUSTEE. A person who serves as a trustee of a trust, including a real estate investment trust.

(93) UNCERTIFICATED OWNERSHIP INTEREST. An ownership interest in a domestic entity that is not represented by a certificate.

(94) VICE PRESIDENT.
(A) The individual designated as vice president of an entity under the governing documents of the entity; or

(B) the officer or committee of persons authorized to perform the functions of the president of the entity on the death, absence, or resignation of the president or on the inability of the president to perform the functions of office without regard to the designated name of the officer or committee.

(95) WRITING or WRITTEN. Information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

§10A-1-4.02.

(a) A filing instrument required or allowed by this title to be delivered to the Secretary of State for filing shall be delivered to the Secretary of State for filing.

(b) A filing instrument required or permitted by this title to be delivered to the judge of probate for filing shall be delivered to the judge of probate for filing.

(c) If a provision of this title does not specify which filing officer a filing instrument is to be delivered to for filing, that filing instrument shall be delivered to the Secretary of State for filing.

(d) If the filing officer finds that a filing instrument delivered to the filing officer for filing
substantially conforms to the provisions of this title that apply to that filing instrument and that all required fees have been paid, the filing officer shall file it immediately upon delivery by:

"(1) recording that filing instrument as "filed,"
tagether with the name and official title of the filing officer and the date and time of receipt on the instrument and all copies required hereunder and on the receipt for the filing fee;

"(2) accepting that filing instrument into the filing system adopted by the filing officer and assigning the instrument a date and time of filing; and

"(3) delivering a copy of that filing instrument, indicating the date and time of the filing on the copy along with the filing fee receipt to the entity or its representative.

"(e) The filing fee to be collected by the filing officer shall be paid or provision for payment shall be made in a manner permitted by the filing officer. The filing officer may accept payment of the correct amount due by check, credit card, charge card, or similar method. If the amount due is tendered by any method other than cash, the liability shall not be finally discharged until the filing officer receives final irrevocable full payment of immediately available funds. If after five consecutive calendar days prior notice by the
filing officer to the entity or person who delivered a filing
instrument for filing for which the filing fee was not
received in final irrevocable full payment of immediately
available funds, then the filing officer may declare the
filing instrument to be null and void and of no legal effect
as if it had never been filed and may remove the filing
instrument from the records of the filing officer.

"(f) If the filing officer refuses to file a filing
instrument, the filing officer shall return it to the entity
or its representative within five consecutive calendar days
after the filing instrument was delivered to the filing
officer for filing, together with a brief, written explanation
of the reason for the refusal.

"(g) Delivery by a filing officer of an
acknowledgement of filing, receipt for the filing fee, an
explanation for the reason a filing instrument was not filed,
notice that a filing fee was not made in final irrevocable
full payment of immediately available funds, or other
communication as to a filing instrument delivered for filing
to that filing officer may be accomplished by mail, courier,
or electronic transmission.

"(h) The duty of the filing officer to file filing
instruments pursuant to this title is ministerial. Filing or
refusing to file a filing instrument by the filing officer
does not:
"(1) affect the validity or invalidity of the filing instrument in whole or in part;

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

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

"(i) The Secretary of State shall assign a unique identifying number to each domestic entity and each foreign filing entity for which the Secretary of State has filed or files a filing instrument and shall keep:

"(1) an alphabetical list of all those domestic entities and registered foreign filing entities;

"(2) with respect to those domestic entities and registered foreign filing entities, all filing instruments and any other document required or permitted to be delivered to the Secretary of State for filing pursuant to this title; and

"(3) the data contained in those filing instruments.

"(j) The Secretary of State shall establish and maintain an automated electronic system that enables:

"(i) the delivery, acceptance, and filing by electronic transmission of all filing instruments authorized or required by this title to be delivered to the Secretary of State for filing;
"(ii) all filing instruments to be in a form that complies with this title but does not require the filing instruments to be in a form adopted by or otherwise required by the Secretary of State;

"(iii) the delivery, acceptance, and filing of filing instruments by electronic transmission to occur 24 hours a day, seven days a week, each day of the year, including holidays and weekends; and

"(iv) each person delivering a filing instrument by means of electronic transmission to the Secretary of State for filing to receive from the Secretary of State immediate confirmation that the filing instrument has been delivered to, and accepted and filed by, the Secretary of State with that confirmation to include the information required in subsections (d)(1), (d)(2), and (d)(3), associated with that filing instrument, clearly set forth on a digital copy of that filing instrument.

"(k) If a filing instrument which is authorized or required to be delivered to the Secretary of State for filing by this title is delivered to the Secretary of State by means other than electronic transmission, and that filing instrument complies with the requirements of this title, then the Secretary of State shall:

"(i) file that filing instrument as of the date and time of the receipt of that filing instrument;
"(ii) confirm that the filing instrument has been delivered to, and accepted and filed by, the Secretary of State with that confirmation to include the information required in subsections (d)(1), (d)(2), and (d)(3), associated with that filing instrument, clearly set forth on a copy of that filing instrument; and

"(iii) either (A) place that confirmation and that copy of the filing instrument in the United States mail, postage prepaid, and properly addressed to the person who delivered that filing instrument to the Secretary of State, not later than the next business day or (B) transmit that confirmation and that copy of the filing instrument by electronic transmission to the person who delivered that filing instrument to the Secretary of State, not later than the next business day.

"(l) Subject to subsection (e), a filing officer who has filed a filing instrument shall maintain that filing instrument in perpetuity."

Section 2. Section 10A-1-5.18 is added to the Code of Alabama 1975, to read as follows:

§10A-1-5.18.

If an entity is listed in the Secretary of State's records as an entity that has been dissolved, then if that entity is reinstated in accordance with this chapter or the chapter that governs the dissolved entity, the name of that
entity following revocation and reinstatement shall be that entity's name at the time of revocation and reinstatement if that entity's name complies with this article at the time of revocation and reinstatement. If that entity's name does not comply with this article, the name of that entity following revocation and reinstatement shall be that entity's name followed by the word "reinstated."


"Notwithstanding Section 10A-1-1.03, as used in this chapter, unless otherwise specified or unless the context otherwise requires, the following terms have the following meanings:
"(1) AUTHORIZED STOCK means the stock of all classes and series a corporation or foreign corporation is authorized to issue.

"(2) BENEFICIAL STOCKHOLDER means a person who owns the beneficial interest in stock, which is either a record stockholder or a person on whose behalf shares of stock are registered in the name of an intermediary or nominee.

"(3) CERTIFICATE OF INCORPORATION means the certificate of incorporation described in Section 10A-2A-2.02, all amendments to the certificate of incorporation, and any other documents permitted or required to be delivered for filing by a corporation with the Secretary of State under this chapter or Chapter 1 that modify, amend, supplement, restate, or replace the certificate of incorporation. After an amendment of the certificate of incorporation or any other document filed under this chapter or Chapter 1 that restates the certificate of incorporation in its entirety, the certificate of incorporation shall not include any prior documents. When used with respect to a corporation incorporated and existing on December 31, 2019, under a predecessor law of this state, the term "certificate of incorporation" means articles of incorporation, charter, or similar incorporating document, and all amendments and restatements to the certificate of incorporation, charter, or similar incorporating document. When used with respect to a
foreign corporation, a nonprofit corporation, or a foreign
nonprofit corporation, the "certificate of incorporation" of
such an entity means the document of such entity that is
equivalent to the certificate of incorporation of a
corporation. The term "certificate of incorporation" as used
in this chapter is synonymous to the term "certificate of
formation" used in Chapter 1.

"(4) CORPORATION, except in the phrase "foreign
corporation," means an entity incorporated or existing under
this chapter.

"(5) DELIVER or DELIVERY means any method of
delivery used in conventional commercial practice, including
delivery by hand, mail, commercial delivery, and, if
authorized in accordance with Section 10A-2A-1.41, by
electronic transmission.

"(6) DISTRIBUTION means a direct or indirect
transfer of cash or other property (except a corporation's own
stock) or incurrence of indebtedness by a corporation to or
for the benefit of its stockholders in respect of any of its
stock. A distribution may be in the form of a payment of a
dividend; a purchase, redemption, or other acquisition of
stock; a distribution of indebtedness; a distribution in
liquidation; or otherwise.

"(7) DOCUMENT means a writing as defined in Chapter
1.
"(8) EFFECTIVE DATE, when referring to a document accepted for filing by the Secretary of State, means the time and date determined in accordance with Article 4 of Chapter 1.

"(9) ELECTRONIC MAIL means an electronic transmission directed to a unique electronic mail address, which electronic mail shall be deemed to include any files attached thereto and any information hyperlinked to a website if such electronic mail includes the contact information of an officer or agent of the corporation who is available to assist with accessing those files and that information.

"(10) ELECTRONIC MAIL ADDRESS means a destination, commonly expressed as a string of characters, consisting of a unique user name or mailbox (commonly referred to as the "local part" of the address) and a reference to an internet domain (commonly referred to as the "domain part" of the address), whether or not displayed, to which electronic mail can be sent or delivered.

"(11) ELIGIBLE ENTITY means an unincorporated entity, foreign unincorporated entity, nonprofit corporation, or foreign nonprofit corporation.

"(12) ELIGIBLE INTERESTS means interests or memberships.

"(13) EMPLOYEE includes an officer, but not a director. A director may accept duties that make the director also an employee.
"(14) ENTITY includes corporation; foreign corporation; nonprofit corporation; foreign nonprofit corporation; estate; trust; unincorporated entity; foreign unincorporated entity; and state, United States, and foreign government.

"(15) EXPENSES means reasonable expenses of any kind that are incurred in connection with a matter.

"(16) FILING ENTITY means an unincorporated entity, other than a limited liability partnership, that is of a type that is created by filing a public organic record or is required to file a public organic record that evidences its creation.

"(17) FOREIGN CORPORATION means a corporation incorporated under a law other than the law of this state which would be a corporation if incorporated under the law of this state.

"(18) FOREIGN NONPROFIT CORPORATION means a corporation incorporated under a law other than the law of this state which would be a nonprofit corporation if incorporated under the law of this state.

"(19) GOVERNING STATUTE means the statute governing the internal affairs of a corporation, foreign corporation, nonprofit corporation, foreign nonprofit corporation, unincorporated entity, or foreign unincorporated entity.
(20) GOVERNMENTAL SUBDIVISION includes authority, county, district, and municipality.

(21) INCLUDES and INCLUDING denote a partial definition or a nonexclusive list.

(22) INTEREST means either or both of the following rights under the governing statute governing an unincorporated entity:

(i) the right to receive distributions from the entity either in the ordinary course or upon liquidation; or

(ii) the right to receive notice or vote on issues involving its internal affairs, other than as an agent, assignee, proxy, or person responsible for managing its business and affairs.

(23) INTEREST HOLDER means a person who holds of record an interest.

(24) KNOWLEDGE is determined as follows:

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

(1) has actual knowledge of it; or

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

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

(1) knows of it;

(2) receives notification of it in accordance with Section 10A-2A-1.41;
''(3) has reason to know the fact from all of the facts known to the person at the time in question; or
''(4) is deemed to have notice of the fact under subsection (d).
''(c) A person notifies another of a fact by taking steps reasonably required to inform the other person in ordinary course in accordance with Section 10A-2A-1.41, whether or not the other person knows the fact.
''(d) A person is deemed to have notice of a corporation's:
  ''(1) matters included in the certificate of incorporation upon filing;
  ''(2) dissolution, 90 days after a certificate of dissolution under Section 10A-2A-14.03 becomes effective;
  ''(3) conversion, merger, or interest exchange under Article 9 or Article 11, 90 days after a statement of conversion, or statement of merger or interest exchange becomes effective;
  ''(4) conversion or merger under Article 8 of Chapter 1, 90 days after a statement of conversion or statement of merger becomes effective; and
  ''(5) revocation of dissolution and reinstatement, 90 days after certificate of revocation of dissolution and reinstatement under Section 10A-2A-14.04 becomes effective.
"(e) A stockholder's knowledge, notice, or receipt of a notification of a fact relating to the corporation is not knowledge, notice, or receipt of a notification of a fact by the corporation solely by reason of the stockholder's capacity as a stockholder.

"(f) The date and time of the effectiveness of a notice delivered in accordance with Section 10A-2A-1.41, is determined by Section 10A-2A-1.41.

"(25) MEANS denotes an exhaustive definition.

"(26) MEMBERSHIP means the rights of a member in a nonprofit corporation or foreign nonprofit corporation.

"(27) MERGER means a transaction pursuant to Section 10A-2A-11.02.

"(28) ORGANIZATIONAL DOCUMENTS means the public organic record and private organizational documents of a corporation, foreign corporation, or eligible entity.

"(29) PRINCIPAL OFFICE means the office (in or out of this state) so designated in the annual report where the principal executive offices of a corporation or foreign corporation are located.

"(30) PRIVATE ORGANIZATIONAL DOCUMENTS means (i) the bylaws of a corporation, foreign corporation, nonprofit corporation, or foreign nonprofit corporation, or (ii) the rules, regardless of whether in writing, that govern the internal affairs of an unincorporated entity or foreign
unincorporated entity, are binding on all its interest
holders, and are not part of its public organic record, if
any. Where private organizational documents have been amended
or restated, the term means the private organizational
documents as last amended or restated.

"(31) PROCEEDING includes any civil suit and
criminal, administrative, and investigatory action.

"(32) PUBLIC ORGANIC RECORD means (i) the
certificate of incorporation of a corporation, foreign
corporation, nonprofit corporation, or foreign nonprofit
corporation, or (ii) the document, if any, the filing of which
is required to create an unincorporated entity or foreign
unincorporated entity, or which creates the unincorporated
entity or foreign unincorporated entity and is required to be
filed. Where a public organic record has been amended or
restated, the term means the public organic record as last
amended or restated.

"(33) RECORD DATE means the date fixed for
determining the identity of the corporation's stockholders and
their stockholdings for purposes of this chapter. Unless
another time is specified when the record date is fixed, the
determination shall be made as of the close of business at the
principal office of the corporation on the date so fixed.

"(34) RECORD STOCKHOLDER means (i) the person in
whose name shares of stock are registered in the records of
the corporation, or (ii) the person identified as the
beneficial owner of stock in a beneficial ownership
certificate pursuant to Section 10A-2A-7.23 on file with the
corporation to the extent of the rights granted by such
certificate.

"(35) SECRETARY means the corporate officer to whom
the board of directors has delegated responsibility under
Section 10A-2A-8.40(c) to maintain the minutes of the meetings
of the board of directors and of the stockholders and for
authenticating records of the corporation.

"(36) STOCK EXCHANGE means a transaction pursuant to
Section 10A-2A-11.03.

"(37) STOCKHOLDER means a record stockholder.

"(38) STOCK means the units into which the
proprietary interests in a corporation or foreign corporation
are divided.

"(39) TYPE OF ENTITY means a generic form of entity:
(i) recognized at common law; or (ii) formed under a governing
statute, regardless of whether some entities formed under that
law are subject to provisions of that law that create
different categories of the form of entity.

"(40) UNINCORPORATED ENTITY means an organization or
artificial legal person that either has a separate legal
existence or has the power to acquire an estate in real
property in its own name and that is not any of the following:
a corporation, foreign corporation, nonprofit corporation, foreign nonprofit corporation, a series of a limited liability company or of another type of entity, an estate, a trust, a state, United States, or foreign government. The term includes a general partnership, limited liability company, limited partnership, business trust, joint stock association, and unincorporated nonprofit association.

"(41) UNITED STATES includes any district, authority, bureau, commission, department, and any other agency of the United States.

"(42) UNRESTRICTED VOTING TRUST BENEFICIAL OWNER means, with respect to any stockholder rights, a voting trust beneficial owner whose entitlement to exercise the stockholder right in question is not inconsistent with the voting trust agreement.

"(43) VOTING GROUP means all stock of one or more classes or series that under the certificate of incorporation or this chapter are entitled to vote and be counted together collectively on a matter at a meeting of stockholders. All stock entitled by the certificate of incorporation or this chapter to vote generally on the matter is for that purpose a single voting group.

"(44) VOTING POWER means the current power to vote in the election of directors.
"(45) VOTING TRUST BENEFICIAL OWNER means an owner of a beneficial interest in stock of the corporation held in a voting trust established pursuant to Section 10A-2A-7.30(a).

"§10A-2A-1.41.

"(a) A notice under this chapter must be in writing unless oral notice is reasonable in the circumstances. Unless otherwise agreed between the sender and the recipient, words in a notice or other communication under this chapter must be in English.

"(b) A notice or other communication may be given by any method of delivery, except that notice or other communication by electronic transmissions must be in accordance with this section. If the methods of delivery are impracticable, a notice or other communication from the corporation may be given by means of a broad non-exclusionary distribution to the public (which may include a newspaper of general circulation in the area where published; radio, television, or other form of public broadcast communication; or other methods of distribution that the corporation has previously identified to its stockholders).

"(c) A notice or other communication to a corporation or to a foreign corporation registered to do transact business in this state may be delivered to the corporation's registered agent at its registered office or to the secretary at the corporation's principal office shown in
its most recent annual report or, in the case of a foreign
corporation that has not yet delivered an annual report, in
its foreign registration under Chapter 1.

"(d) A notice or other communications from the
corporation to a stockholder may be
delivered by electronic mail to the electronic mail address for that stockholder as reflected in
the books and records of the corporation required to be
included in the record of stockholders maintained pursuant to
Section 10A-2A-16.01(d), unless that stockholder has
previously notified the corporation in writing that the stockholder objects to receiving notices and other
communications by electronic mail. Any such notice or
communication may be delivered by another form of electronic transmission other than electronic mail if consented to by the stockholder or if authorized by subsection (j), and any other.

Any notice or other communication from the corporation to any other person may be delivered by electronic transmission if consented to by the recipient or if authorized by subsection (j). Any consent given under this subsection or subsection (j) may be revoked with respect to future notices or
communications by the person who consented by written notice
to the person to whom the consent was delivered.

"(e) Any consent under subsection (d) may be revoked
by the person who consented by written or electronic notice to
the person to whom the consent was delivered. Authority to deliver notice or other communications to a stockholder by electronic mail or by electronic transmission may no longer be delivered to an electronic mail address or other electronic transmission address pursuant to subsection (d) shall cease if (i) the corporation is unable to deliver receives notice from the information processing system into which the notice or other communication was entered that two consecutive notices or other communications given by electronic transmissions to that stockholder in accordance with subsection (d) have not been delivered to the electronic mail address or other electronic transmission address to which the notice or other communication was directed, and (ii) the inability notice of non-delivery becomes known to the secretary or an assistant secretary or to the transfer agent, or other another person responsible for the giving of notice notices or other communications for the corporation; provided, however, the inadvertent failure to treat that inability recognize the notice of non-delivery as a cessation of authority to provide a stockholder with notice by electronic mail or other electronic transmission shall not invalidate any meeting or other action.
"(f) Unless otherwise agreed between the sender and the recipient, a notice or other communication by electronic transmission is received when:

  "(1) it enters an information processing system that the recipient has designated or uses for the purposes of receiving electronic transmissions or information of the type sent, and from which the recipient is able to retrieve the directed to (i) in the case of a stockholder, the electronic mail address for the stockholder required to be included in the record of stockholders maintained pursuant to Section 10A-2A-16.01(d) or other electronic transmission address at which the stockholder has consented to receive notice or other communications by electronic transmission, or (ii) in the case of any other recipient, the electronic transmission address at which the recipient has consented to receive notice or other communications by electronic transmission; and

  "(2) it is in a form capable of being processed by that system.

"(g) Receipt of an electronic acknowledgement from an information processing system described in subsection (f)(1) establishes that an electronic transmission was received but, by itself, does not establish that the content sent corresponds to the content received.

"(h) An electronic transmission is received under this section even if no person is aware of its receipt.
(i) A notice or other communication, if in a comprehensible form or manner, is effective at the earliest of the following:

(1) if in a physical form, the earliest of when it is actually received, or when it is left at:

(i) a stockholder's address shown on the corporation's included in the record of stockholders maintained by the corporation under pursuant to Section 10A-2A-16.01(d);

(ii) a director's residence or usual place of business; or

(iii) the corporation's principal office;

(2) if mailed by United States mail postage prepaid and correctly addressed to a stockholder at the stockholder's address included in the record of stockholders maintained pursuant to Section 10A-2A-16.01(d), upon deposit in the United States mail;

(3) if mailed by United States mail postage prepaid and correctly addressed to a recipient other than a stockholder at the address included in the corporation's records, the earliest of when it is actually received, or:

(i) if sent by registered or certified mail, return receipt requested, the date shown on the return receipt signed by or on behalf of the addressee; or
"(ii) five days after it is deposited in the United States mail;

"(4) if sent by a nationally recognized commercial carrier that issues a receipt or other confirmation of delivery, the earliest of when it is actually received or the date shown on the receipt or other confirmation of delivery issued by the commercial carrier;

"(5) if an electronic transmission, when it is received as provided in subsection (f); and

"(6) if oral, when communicated.

"(j) A notice or other communication may be in the form of an electronic transmission that cannot be directly reproduced in paper form by the recipient through an automated process used in conventional commercial practice only if (i) the electronic transmission is otherwise retrievable in perceivable form, and (ii) the sender and the recipient have consented in writing to the use of such form of electronic transmission.

"(k) If this chapter prescribes requirements for notices or other communications in particular circumstances, those requirements govern. If the certificate of incorporation or bylaws prescribe requirements for notices or other communications, not inconsistent with this section or other provisions of this chapter, those requirements govern. The certificate of incorporation or bylaws may authorize or
require delivery of notices of meetings of directors by electronic transmission.

"(l) In the event that any provisions of this chapter are deemed to modify, limit, or supersede the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. §§7001 et seq., the provisions of this chapter shall control to the maximum extent permitted by Section 102(a)(2) of that federal act.

"(m) Whenever a notice or communication would otherwise be required to be given under this chapter to a stockholder, the notice or communication need not be given if the corporation is not permitted to deliver the notice or communication by electronic transmission pursuant to subsections (d) and (e) and:

"(1) notices and communications to stockholders of two consecutive annual meetings, and all notices and communications of meetings during the period between those two consecutive annual meetings, have been sent to that stockholder at that stockholder's address included in the record of stockholders maintained pursuant to Section 10A-2A-16.01(d) and have been returned undeliverable or could not be delivered; or

"(2) all, but not less than two, distributions to stockholders during a 12-month period, or two consecutive distributions to stockholders during a period of more than 12
months, have been sent to that stockholder at that stockholder's address included in the record of stockholders maintained pursuant to Section 10A-2A-16.01(d) and have been returned undeliverable or could not be delivered; or

"(3) no address has been provided to the corporation by or on behalf of a stockholder and the corporation has not otherwise obtained an address for that stockholder it believes to be reliable.

"In addition, if any stockholder to which this subsection (m) applies delivers to the corporation a written notice or communication setting forth that stockholder's then-current address, the requirement that notice and communication be given to that stockholder shall be reinstated.

"(n) Whenever a notice or communication is required to be given, under this chapter or the certificate of incorporation or bylaws of any corporation, to any person with whom notice to or communication with is unlawful, the giving of the notice or communication to that person shall not be required and there shall be no duty to apply to any governmental authority or agency for a license or permit to give the notice or communication to that person. Any action or meeting which shall be taken or held without notice or communication to the person with whom notice to or communication with is unlawful shall have the same force and
effect as if the notice or communication had been duly given. In the event that the action taken by the corporation is such as to require the filing of a certificate or other filing instrument under any other sections of this chapter, the certificate or other filing instrument shall state, if that is the fact and if notice or communication is required, that notice or communication was given to all persons entitled to receive notice or communication except those persons with whom notice to or communication with is unlawful.

"§10A-2A-2.01.

"Notwithstanding Section 10A-1-3.04, in shall not apply to this chapter. In order to incorporate a corporation, one or more incorporators must execute a certificate of incorporation and deliver it for filing to the Secretary of State.

"§10A-2A-2.02.

"Notwithstanding Section 10A-1-3.05 shall not apply to this chapter. Instead:

"(a) The certificate of incorporation must set forth:

"(1) a corporate name for the corporation that satisfies the requirements of Article 5 of Chapter 1;

"(2) the number of shares of stock the corporation is authorized to issue;
"(3) the street and mailing addresses of the corporation's initial registered office, the county within this state in which the street and mailing address is located, and the name of the corporation's initial registered agent at that office as required by Article 5 of Chapter 1; and

"(4) the name and address of each incorporator.

"(b) The certificate of incorporation may set forth:

"(1) the names and addresses of the individuals who are to serve as the initial directors;

"(2) provisions not inconsistent with law regarding:

"(i) the purpose or purposes for which the corporation is organized;

"(ii) managing the business and regulating the affairs of the corporation;

"(iii) defining, limiting, and regulating the powers of the corporation, its board of directors, and stockholders;

"(iv) a par value for authorized stock or classes of stock; or

"(v) subject to subsection (f), a provision imposing personal liability for the debts of the corporation on its stockholders to a specified extent and upon specified conditions; otherwise, the stockholders of a corporation shall not be personally liable for the payment of the corporation's debts, except as they may be liable by reason of their own conduct or acts;
"(3) any provision that under this chapter is permitted to be set forth in the certificate of incorporation or required or permitted to be set forth in the bylaws;

"(4) a provision eliminating or limiting the liability of a director to the corporation or its stockholders for money damages for any action taken, or any failure to take any action, as a director, except liability for (i) the amount of a financial benefit received by a director to which the director is not entitled; (ii) an intentional infliction of harm on the corporation or the stockholders; (iii) a violation of Section 10A-2A-8.32; or (iv) an intentional violation of criminal law;

"(5) a provision permitting or making obligatory indemnification of a director for liability as defined in Section 10A-2A-8.50 to any person for any action taken, or any failure to take any action, as a director, except liability for (i) receipt of a financial benefit to which the director is not entitled, (ii) an intentional infliction of harm on the corporation or its stockholders, (iii) a violation of Section 10A-2A-8.32, or (iv) an intentional violation of criminal law; and

"(6) a provision limiting or eliminating any duty of a director or any other person to offer the corporation the right to have or participate in any, or one or more classes or categories of, business opportunities, before the pursuit or
taking of the opportunity by the director or other person;
provided that any application of that provision to an officer
or a related person of that officer (i) also requires approval
of that application by the board of directors, subsequent to
the effective date of the provision, by action of qualified
directors taken in compliance with the same procedures as are
set forth in Section 10A-2A-8.60, and (ii) may be limited by
the authorizing action of the board of directors.

"(c) The certificate of incorporation need not set
forth any of the corporate powers enumerated in Sections

"(d) Provisions of the certificate of incorporation
may be made dependent upon facts objectively ascertainable
outside the certificate of incorporation in accordance with
Section 10A-2A-1.20(c).

"(e) As used in this section, "related person" has
the meaning specified in Section 10A-2A-8.60.

"(f) The certificate of incorporation may not
contain any provision that would impose liability on a
stockholder for the attorney's fees or expenses of the
corporation or any other party in connection with an internal
corporate claim, as defined in Section 10A-2A-2.07(d).

"(g) The certificate of incorporation is part of a
binding contract between the corporation and the stockholders,
subject to the provisions of this chapter.

(a) After fixing a record date for a meeting, a corporation shall prepare an alphabetical list of the names of all its stockholders who are entitled to notice of the stockholders' meeting. If the board of directors fixes a different record date under Section 10A-2A-7.07(e) to determine the stockholders entitled to vote at the meeting, a corporation also shall prepare an alphabetical list of the names of all its stockholders who are entitled to vote at the meeting. Each list must be arranged by voting group (and within each voting group by class or series of stock) and show contain the address of and number and class or series of shares of stock held by each stockholder. If, and if the notice or other communications regarding the meeting have been or will be sent by the corporation has an electronic mail address for to a stockholder and the corporation uses that by electronic mail address to send notices and other communications to that stockholder, then the corporation shall include that electronic mail address on the stockholders' list or other electronic transmission, the electronic mail or other electronic transmission address of that stockholder.

(b) The stockholders' list for of stockholders entitled to notice shall be available for inspection by any stockholder, beginning two business days after notice of the meeting is given for which the list was prepared and
continuing through the meeting, (i) at the corporation's principal office or at a place identified in the meeting notice in the city where the meeting will be held or (ii) on a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of the meeting. The list of stockholders entitled to vote shall be similarly available for inspection promptly after the record date for voting. In the event that the corporation determines to make the list of stockholders available on an electronic network, the corporation may take reasonable steps to ensure that such information is available only to stockholders of the corporation. A stockholders' list for voting shall be similarly available for inspection promptly after the record date for voting. A stockholder, or the stockholder's agent or attorney, is entitled on written demand to inspect and, subject to the requirements of Section 10A-2A-16.02(c), to copy a list of stockholders, during regular business hours and at the stockholder's expense, during the period it is available for inspection. A corporation may satisfy the stockholder's right to copy a list of stockholders by furnishing a copy in the manner described in Section 10A-2A-16.03(b). A stockholder and the stockholder's agent or attorney who inspects or is furnished a copy of a list of stockholders under this subsection (b) or under subsection (c) or who copies the list under this
subsection (b) may use the information on that list only for purposes related to the meeting and its subject matter and must keep the information on that list confidential.

"(c) If the meeting is to be held at a place, the corporation shall make the list of stockholders entitled to vote available at the meeting and any adjournment, and any stockholder, or the stockholder's agent or attorney, is entitled to inspect the list at any time during the meeting or and any adjournment. If the meeting is to be held solely by means of remote communication, then such list shall also be open to available for such inspection during the meeting and any adjournment on a reasonably accessible electronic network, and the information required to access such list shall be provided with the notice of the meeting. The corporation may satisfy its obligation to make such list available for inspection during a meeting by furnishing a copy of the list in the manner described in Section 10A-2A-16.03(b) to the stockholders prior to the meeting.

"(d) If the corporation refuses to allow a stockholder, or the stockholder's agent or attorney, to inspect a stockholders' list of stockholders before or at the meeting or any adjournment (or copy a list as permitted by subsection (b)), the designated court, and if none, the circuit court for the county in which the corporation's principal office is located in this state, and if none in this
state, the circuit court for the county in which the
corporation's most recent registered office is located, on
application of the stockholder, may summarily order the
inspection or copying at the corporation's expense and may
postpone the meeting for which the list was prepared until the
inspection or copying is complete.

"(e) Refusal or failure to prepare or make available
the stockholders' list of stockholders does not affect the
validity of action taken at the meeting.

"(f) The stock transfer records of the corporation
shall be prima facie evidence as to who are the stockholders
entitled to examine the stockholders' list or transfer records
or to vote at any meeting of stockholders.


"Notwithstanding Division C of Article 3 of Chapter
1 shall not apply to this chapter. Instead:

"(a) Each member of the board of directors, when
discharging the duties of a director, shall act: (i) in good
faith, and (ii) in a manner the director reasonably believes
to be in the best interests of the corporation.

"(b) The members of the board of directors or a
board committee, when becoming informed in connection with
their decision-making function or devoting attention to their
oversight function, shall discharge their duties with the care
that a person in a like position would reasonably believe appropriate under similar circumstances.

"(c) In discharging board of directors or board committee duties, a director shall disclose, or cause to be disclosed, to the other board of directors or board committee members information not already known by them but known by the director to be material to the discharge of their decision-making or oversight functions, except that disclosure is not required to the extent that the director reasonably believes that doing so would violate a duty imposed under law, a legally enforceable obligation of confidentiality, or a professional ethics rule.

"(d) In discharging board of directors or board committee duties, a director who does not have knowledge that makes reliance unwarranted is entitled to rely on the performance by any of the persons specified in subsection (f)(1) or subsection (f)(3) to whom the board of directors may have delegated, formally or informally by course of conduct, the authority or duty to perform one or more of the board of directors' functions that are delegable under applicable law.

"(e) In discharging board of directors or board committee duties, a director who does not have knowledge that makes reliance unwarranted is entitled to rely on information, opinions, reports, or statements, including financial
statements and other financial data, prepared or presented by any of the persons specified in subsection (f).

"(f) A director is entitled to rely, in accordance with subsection (d) or (e), on:

"(1) one or more officers or employees of the corporation whom the director reasonably believes to be reliable and competent in the functions performed or the information, opinions, reports or statements provided;

"(2) legal counsel, public accountants, or other persons retained by the corporation as to matters involving skills or expertise the director reasonably believes are matters (i) within the particular person's professional or expert competence, or (ii) as to which the particular person merits confidence; or

"(3) a board committee of which the director is not a member if the director reasonably believes the committee merits confidence.


"Notwithstanding Division C of Article 3 of Chapter 1 shall not apply to this chapter. Instead:

"(a) A director shall not be liable to the corporation or its stockholders for any decision to take or not to take action, or any failure to take any action, as a director, unless the party asserting liability in a proceeding establishes that:
"(1) no defense interposed by the director based on
(i) any provision in the certificate of incorporation
authorized by Section 10A-2A-2.02(b)(4) or by Section
10A-2A-2.02(b)(6), or (ii) the protection afforded by Section
10A-2A-8.60, precludes liability; and

"(2) the challenged conduct consisted or was the
result of:

"(i) action not in good faith; or

"(ii) a decision

"(A) which the director did not reasonably believe
to be in the best interests of the corporation, or

"(B) as to which the director was not informed to an
extent the director reasonably believed appropriate in the
circumstances; or

"(iii) a lack of objectivity due to the director's
familial, financial or business relationship with, or a lack
of independence due to the director's domination or control
by, another person having a material interest in the
challenged conduct,

"(A) which relationship or which domination or
control could reasonably be expected to have affected the
director's judgment respecting the challenged conduct in a
manner adverse to the corporation, and

"(B) after a reasonable expectation to that effect
has been established, the director shall not have established
that the challenged conduct was reasonably believed by the
director to be in the best interests of the corporation; or

"(iv) a sustained failure of the director to devote
attention to ongoing oversight of the business and affairs of
the corporation, or a failure to devote timely attention, by
making (or causing to be made) appropriate inquiry, when
particular facts and circumstances of significant concern
materialize that would alert a reasonably attentive director
to the need for that inquiry; or

"(v) receipt of a financial benefit to which the
director was not entitled or any other breach of the
director's duties to deal fairly with the corporation and its
stockholders that is actionable under applicable law.

"(b) The party seeking to hold the director liable:

"(1) for money damages, shall also have the burden
of establishing that:

"(i) harm to the corporation or its stockholders has
been suffered, and

"(ii) the harm suffered was proximately caused by
the director's challenged conduct; or

"(2) for other money payment under a legal remedy,
such as compensation for the unauthorized use of corporate
assets, shall also have whatever persuasion burden may be
called for to establish that the payment sought is appropriate
in the circumstances; or
"(3) for other money payment under an equitable remedy, such as profit recovery by or disgorgement to the corporation, shall also have whatever persuasion burden may be called for to establish that the equitable remedy sought is appropriate in the circumstances.

"(c) Nothing contained in this section shall (i) in any instance where fairness is at issue alter the burden of proving the fact or lack of fairness otherwise applicable, (ii) alter the fact or lack of liability of a director under another section of this chapter, such as the provisions governing the consequences of an unlawful distribution under Section 10A-2A-8.32 or a transactional interest under Section 10A-2A-8.60, or (iii) affect any rights to which the corporation or a stockholder may be entitled under another statute of this state or the United States.

"§10A-2A-8.42.

"Notwithstanding Division C of Article 3 of Chapter 1 shall not apply to this chapter. Instead:

"(a) An officer, when performing in his or her capacity as such, has the duty to act:

"(1) in good faith;

"(2) with the care that a person in a like position would reasonably exercise under similar circumstances; and

"(3) in a manner the officer reasonably believes to be in the best interests of the corporation.
"(b) The duty of an officer includes the obligation:

"(1) to inform the superior officer to whom, or the board of directors or the board committee to which, the officer reports of information about the affairs of the corporation known to the officer, within the scope of the officer's functions, and known to the officer to be material to that superior officer, board of directors or board committee; and

"(2) to inform his or her superior officer, or another appropriate person within the corporation, or the board of directors, or a board committee, of any actual or probable material violation of law involving the corporation or material breach of duty to the corporation by an officer, employee, or agent of the corporation, that the officer believes has occurred or is likely to occur.

"(c) In discharging an officer's duties, an officer who does not have knowledge that makes reliance unwarranted is entitled to rely on:

"(1) the performance of properly delegated responsibilities by one or more employees of the corporation whom the officer reasonably believes to be reliable and competent in performing the responsibilities delegated; or

"(2) information, opinions, reports or statements, including financial statements and other financial data, prepared or presented by one or more employees of the
corporation whom the officer reasonably believes to be reliable and competent in the matters presented or by legal counsel, public accountants, or other persons retained by the corporation as to matters involving skills or expertise the officer reasonably believes are matters (i) within the particular person's professional or expert competence or (ii) as to which the particular person merits confidence.

"(d) An officer shall not be liable to the corporation or its stockholders for any decision to take or not to take action, or any failure to take any action, as an officer, if the duties of the office are performed in compliance with this section. Whether an officer who does not comply with this section shall have liability will depend in each instance on applicable law, including those principles of Section 10A-2A-8.31 that have relevance.

"§10A-2A-8.43.

"Notwithstanding Division C of Article 3 of Chapter 1 shall not apply to this chapter. Instead:

"(a) An officer may resign at any time by delivering a written notice to the board of directors, its chair, the appointing officer, the secretary, or the corporation. A resignation is effective as provided in Section 10A-2A-1.41(i) unless the notice provides for a delayed effectiveness, including effectiveness determined upon a future event or events. If effectiveness of a resignation is stated to be
delayed and the board of directors or the appointing officer
accepts the delay, the board of directors or the appointing
officer may fill the pending vacancy before the delayed
effectiveness but the new officer may not take office until
the vacancy occurs.

"(b) An officer may be removed at any time with or
without cause by (i) the board of directors; (ii) the
appointing officer, unless the certificate of incorporation,
bylaws, or the board of directors provide otherwise; or (iii)
any other officer if authorized by the certificate of
incorporation, bylaws, or the board of directors.

"(c) In this section, "appointing officer" means the
officer (including any successor to that officer) who
appointed the officer resigning or being removed.


"Notwithstanding Division A of Article 6 of Chapter
1 shall not apply to this chapter. Instead, a corporation may
provide indemnification or advance expenses to a director or
an officer only as permitted by this Division E of this
Article 8.

"§10A-2A-9.01.

"As used in this Article 9:

"Notwithstanding Section 10A-1-1.03, as used in
this article, unless the context otherwise requires, the
following terms have the following meanings:
"(1) "Converted organization" CONVERTED ORGANIZATION means the organization into which a converting organization converts pursuant to this article.

"(2) "Converting corporation" CONVERTING CORPORATION means a converting organization that is a corporation.

"(3) "Converting organization" CONVERTING ORGANIZATION means an organization that converts into another organization pursuant to this article.

"(4) "Governing statute" GOVERNING STATUTE of an organization means the statute that governs the organization's internal affairs.

"(5) "Organization" ORGANIZATION means a general partnership, including a limited liability partnership; limited partnership, including a limited liability limited partnership; limited liability company; business trust; corporation; nonprofit corporation; professional corporation; or any other person having a governing statute. The term includes domestic and foreign organizations whether or not organized for profit.

"(6) "Organizational documents" ORGANIZATIONAL DOCUMENTS means:

"(A) for a general partnership or foreign general partnership, its partnership agreement and if applicable, its registration as a limited liability partnership or a foreign limited liability partnership;
(B) for a limited partnership or foreign limited partnership, its certificate of formation and partnership agreement, or comparable writings as provided in its governing statute;

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

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

(E) for a corporation for profit or foreign corporation for profit, its certificate of incorporation, bylaws, and other agreements among its stockholders that are authorized by its governing statute, or comparable writings as provided in its governing statute;

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

(G) for a professional corporation or foreign professional corporation, its certificate of incorporation, bylaws, and other agreements among its stockholders that are
authorized by its governing statute, or comparable writings as provided in its governing statute; and

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

"§10A-2A-10.06.

"Notwithstanding Division B of Article 3 of Chapter 1 shall not apply to this chapter. Instead:

"(a) After an amendment to the certificate of incorporation has been adopted and approved in the manner required by this chapter and by the certificate of incorporation, the corporation shall deliver to the Secretary of State for filing a certificate of amendment, which must set forth:

"(1) the name of the corporation;

"(2) the text of each amendment adopted, or the information required by Section 10A-2A-1.20(c)(5);

"(3) if an amendment provides for an exchange, reclassification, or cancellation of issued stock, provisions for implementing the amendment if not contained in the amendment itself, (which may be made dependent upon facts objectively ascertainable outside the certificate of amendment in accordance with Section 10A-2A-1.20(c)(5));

"(4) the date of each amendment's adoption; and
"(5) if an amendment:

"(i) was adopted by the incorporators or board of directors without stockholder approval, a statement that the amendment was duly adopted by the incorporators or by the board of directors, as the case may be, and that stockholder approval was not required;

"(ii) required approval by the stockholders, a statement that the amendment was duly approved by the stockholders in the manner required by this chapter and by the certificate of incorporation; or

"(iii) is being filed pursuant to Section 10A-2A-1.20(c)(5), a statement to that effect; and

"(6) the unique identifying number or other designation as assigned by the Secretary of State.

"(b) A certificate of amendment shall take effect at the effective date determined in accordance with Article 4 of Chapter 1.

"§10A-2A-10.07.

"Notwithstanding Division B of Article 3 of Chapter 1 shall not apply to this chapter. Instead:

"(a) A corporation's board of directors may restate its certificate of incorporation at any time, without stockholder approval, to consolidate all amendments into a single document.
(b) If the restated certificate of incorporation includes one or more new amendments that require stockholder approval, the amendments shall be adopted and approved as provided in Section 10A-2A-10.03.

(c) A corporation that restates its certificate of incorporation shall deliver to the Secretary of State for filing a certificate of restatement setting forth:

(1) the name of the corporation;

(2) the text of the restated certificate of incorporation;

(3) a statement that the restated certificate of incorporation consolidates all amendments into a single document; and

(4) if a new amendment is included in the restated certificate of incorporation, the statements required under Section 10A-2A-10.06 with respect to the new amendment; and

(5) the unique identifying number or other designation as assigned by the Secretary of State.

(d) The duly adopted restated certificate of incorporation supersedes the original certificate of incorporation and all amendments to the certificate of incorporation.

(e) The Secretary of State may certify the restated certificate of incorporation as the certificate of incorporation.
incorporation currently in effect, without including the
statements required by subsection (c)(4).

"§10A-2A-10.08.

"Notwithstanding Division B of Article 3 of Chapter
1 shall not apply to this chapter. Instead:

"(a) A corporation's certificate of incorporation
may be amended without action by the board of directors or
stockholders to carry out a plan of reorganization ordered or
decreed by a court of competent jurisdiction under the
authority of a law of the United States if the certificate of
incorporation after the amendment only contains provisions
required or permitted by Section 10A-2A-2.02.

"(b) The individual or individuals designated by the
court shall deliver to the Secretary of State for filing a
certificate of amendment setting forth:

"(1) the name of the corporation;

"(2) the text of each amendment approved by the
court;

"(3) the date of the court's order or decree
approving the certificate of amendment;

"(4) the title of the reorganization proceeding in
which the order or decree was entered; and

"(5) a statement that the court had jurisdiction of
the proceeding under federal statute; and
"(6) the unique identifying number or other designation as assigned by the Secretary of State

"(c) Stockholders of a corporation undergoing reorganization do not have dissenters' rights except as and to the extent provided in the reorganization plan.

"(d) This section does not apply after entry of a final decree in the reorganization proceeding even though the court retains jurisdiction of the proceeding for limited purposes unrelated to consummation of the reorganization plan.

"§10A-2A-11.01.

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

"(1) "Acquired entity" ACQUIRED ENTITY means the corporation or foreign corporation that will have all of one or more classes or series of its stock acquired in a stock exchange.

"(2) "Acquiring entity" ACQUIRING ENTITY means the corporation or foreign corporation that will acquire all of one or more classes or series of stock of the acquired entity in a stock exchange.

"(3) "Constituent corporation" CONSTITUENT CORPORATION means a constituent organization that is a corporation.
"(4) "Constituent organization" CONSTITUENT ORGANIZATION means an organization that is party to a merger under this article.

"(5) "Governing statute" GOVERNING STATUTE of an organization means the statute that governs the organization's internal affairs.

"(6) "Organization" ORGANIZATION means a general partnership, including a limited liability partnership; limited partnership, including a limited liability limited partnership; limited liability company; business trust; corporation; nonprofit corporation; professional corporation; or any other person having a governing statute. The term includes domestic and foreign organizations whether or not organized for profit.

"(7) "Organizational documents" ORGANIZATIONAL DOCUMENTS means:

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

"(B) for a limited partnership or foreign limited partnership, its certificate of formation and partnership agreement, or comparable writings as provided in its governing statute;
"(C) for a limited liability company or foreign limited liability company, its certificate of formation and limited liability company agreement, or comparable writings as provided in its governing statute;

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

"(E) for a corporation or foreign corporation, its certificate of incorporation, bylaws, and other agreements among its stockholders that are authorized by its governing statute, or comparable writings as provided in its governing statute;

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

"(G) for a professional corporation or foreign professional corporation, its certificate of incorporation, bylaws, and other agreements among its stockholders that are authorized by its governing statute, or comparable writings as provided in its governing statute; and

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

"(8) "New personal liability" NEW PERSONAL LIABILITY means personal liability of a person, resulting from a merger or stock exchange, that is (i) (A) in respect of an entity which is different from the entity in which the person held stock or eligible interests immediately before the merger became effective, or (B) in respect of an entity which is different from the entity in which the person held stock immediately before the stock exchange became effective; or (ii) in respect of the same entity as the one in which the person held stock or eligible interests immediately before the merger became effective if (A) the person did not have personal liability immediately before the merger became effective, or (B) the person had personal liability immediately before the merger became effective, the terms and conditions of which were changed when the merger became effective; or (iii) in respect of the same entity as the one in which the person held stock immediately before the stock exchange became effective if (A) the person did not have personal liability immediately before the stock exchange became effective, or (B) the person had personal liability immediately before the stock exchange became effective, the terms and conditions of which were changed when the stock exchange became effective.
"(9) "Surviving organization" SURVIVING ORGANIZATION means an organization into which one or more other organizations are merged under this article, whether the organization pre-existed the merger or was created pursuant to the merger.

"§10A-2A-13.01. "Notwithstanding Chapter 1, in In this Article 13:

"(1) "Affiliate" AFFILIATE means a person that directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with another person or is a senior executive of that person. For purposes of Section 10A-2A-13.02(b)(4), a person is deemed to be an affiliate of its senior executives.

"(2) "Corporation" CORPORATION means the corporation that is the issuer of the stock held by a stockholder demanding appraisal and, for matters covered in Section 10A-2A-13.22 through Section 10A-2A-13.31, includes the surviving organization of a merger.

"(3) "Fair value" FAIR VALUE means the value of the corporation's stock determined:

"(i) immediately before the effectiveness of the corporate action to which the stockholder objects;

"(ii) using customary and current valuation concepts and techniques generally employed for similar businesses in the context of the transaction requiring appraisal; and

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"(iii) without discounting for lack of marketability or minority status.

"(4) "Interest" INTEREST means interest from the date the corporate action becomes effective until the date of payment, and shall be compounded quarterly and shall accrue at five percent over the Federal Reserve discount rate (including any surcharge) as established from time to time during the period between the effective date of the corporate action and the date of payment.

"(5) "Interested transaction" INTERESTED TRANSACTION means a corporate action described in Section 10A-2A-13.02(a), other than a merger pursuant to Section 10A-2A-11.05, involving an interested person in which any of the stock or assets of the corporation are being acquired or converted. As used in this definition:

"(i) "Interested person" means a person, or an affiliate of a person, who at any time during the one-year period immediately preceding approval by the board of directors of the corporate action:

"(A) was the beneficial owner of 20 percent or more of the voting power of the corporation, other than as owner of excluded stock;

"(B) had the power, contractually or otherwise, other than as owner of excluded stock, to cause the
appointment or election of 25 percent or more of the directors
to the board of directors of the corporation; or

"(C) was a senior executive or director of the
corporation or a senior executive of any affiliate of the
corporation, and that senior executive or director will
receive, as a result of the corporate action, a financial
benefit not generally available to other stockholders as such,
other than:

"(I) employment, consulting, retirement, or similar
benefits established separately and not as part of or in
contemplation of the corporate action;

"(II) employment, consulting, retirement, or similar
benefits established in contemplation of, or as part of, the
corporate action that are not more favorable than those
existing before the corporate action or, if more favorable,
that have been approved on behalf of the corporation in the
same manner as is provided in Section 10A-2A-8.60; or

"(III) in the case of a director of the corporation
who will, in the corporate action, become a director or
governing person of the acquiror or any of its affiliates,
rights and benefits as a director or governing person that are
provided on the same basis as those afforded by the acquiror
generally to other directors or governing persons of the
acquiror or its affiliate.
"(ii) "Beneficial owner" means any person who, directly or indirectly, through any contract, arrangement, or understanding, other than a revocable proxy, has or shares the power to vote, or to direct the voting of, stock; except that a member of a national securities exchange is not deemed to be a beneficial owner of securities held directly or indirectly by it on behalf of another person if the member is precluded by the rules of the exchange from voting without instruction on contested matters or matters that may affect substantially the rights or privileges of the holders of the securities to be voted. When two or more persons agree to act together for the purpose of voting their stock of the corporation, each member of the group formed thereby is deemed to have acquired beneficial ownership, as of the date of the agreement, of all stock having voting power of the corporation beneficially owned by any member of the group.

"(iii) "Excluded stock" means stock acquired pursuant to an offer for all stock having voting power if the offer was made within one year before the corporate action for consideration of the same kind and of a value equal to or less than that paid in connection with the corporate action.

"(6) "Preferred stock" PREFERRED STOCK means a class or series of stock whose holders have preference over any other class or series of stock with respect to distributions.
"(7) "Senior executive" SENIOR EXECUTIVE means the chief executive officer, chief operating officer, chief financial officer, and any individual in charge of a principal business unit or function.

"(8) "Stockholder" STOCKHOLDER means a record stockholder, a beneficial stockholder, and a voting trust beneficial owner.

"S10A-2A-16.01.

"(a) A corporation shall maintain the following records:

"(1) its certificate of incorporation as currently in effect;

"(2) any notices to stockholders referred to in Section 10A-2A-1.20(c)(5) specifying facts on which a filed document is dependent if those facts are not included in the certificate of incorporation or otherwise available as specified in Section 10A-2A-1.20(c)(5);

"(3) its bylaws as currently in effect;

"(4) all written communications within the past three years to stockholders generally;

"(5) minutes of all meetings of, and records of all actions taken without a meeting by, its stockholders, its board of directors, and board committees established under Section 10A-2A-8.25;
(6) a list of the names and business addresses of its current directors and officers; and

(7) its most recent annual report delivered to the Secretary of State under Section 10A-2A-16.11.

(b) A corporation shall maintain all annual financial statements prepared for the corporation for its last three fiscal years (or any shorter period of existence) and any audit or other reports with respect to those financial statements.

(c) A corporation shall maintain accounting records in a form that permits preparation of its financial statements.

(d) A corporation shall maintain a record of its current stockholders in alphabetical order by class or series of stock showing the address of each stockholder to which notices and other communications from the corporation are to be sent, and which shall include the number and class or series of stock held by each stockholder. Nothing contained in this subsection shall require the corporation to include in that record the electronic mail address or other electronic contact information of a stockholder. In addition if a stockholder has provided an electronic mail address to the corporation or has consented to receive notices or other communications by electronic mail or other electronic transmission, the record of stockholders shall include the
electronic mail or other electronic transmission address of
the stockholder if notices or other communications are being
delivered by the corporation to the stockholder at that
electronic mail or other electronic transmission address
pursuant to Section 10A-2A-1.41(d). An electronic mail address
of a stockholder shall be deemed to be provided by a
stockholder if it is contained in a communication to the
corporation by or on behalf of the stockholder, unless the
communication expressly indicates that the electronic mail
address may not be used to deliver notices or other
communications.

"(e) A corporation shall maintain the records
specified in this section in a manner so that they may be made
available for inspection within a reasonable time.

"§10A-3-1.02.

"As used in this chapter, the following terms shall
have the following meanings, respectively, unless the context
otherwise requires:

"(1) ARTICLES OF INCORPORATION. The original or
restated articles of incorporation or articles of
consolidation and all amendments thereto, including articles
of merger, of a domestic or foreign nonprofit corporation. The
term articles of incorporation of a nonprofit corporation
constitutes its certificate of formation as defined in Section
10A-1-1.03(7) Chapter 1. The terms may be used
interchangeably. The articles of incorporation or certificate of formation of a nonprofit corporation, together with its bylaws, constitute its governing documents within the meaning of Section 10A-1-1.03(40) as described in Chapter 1.

"(2) BOARD OF DIRECTORS. The group of persons vested with the management of the affairs of the corporation irrespective of the name by which the group is designated. The board of directors of a nonprofit corporation is its governing authority as that term is defined in Section 10A-1-1.03(39) Chapter 1, unless the certificate of formation provides otherwise as provided in Section 10A-3-2.08.

"(3) BYLAWS. The code or codes of rules adopted for the regulation or management of the affairs of the corporation irrespective of the name or names by which the rules are designated. The bylaws of a nonprofit corporation, together with its articles of incorporation or certificate of formation, constitute the nonprofit corporation's governing documents within the meaning of Section 10A-1-1.03(40) as described in Chapter 1.

"(4) ELECTRONIC MAIL means an electronic transmission directed to a unique electronic mail address.

"(5) ELECTRONIC MAIL ADDRESS means a destination, commonly expressed as a string of characters, consisting of a unique user name or mailbox (commonly referred to as the "local part" of the address) and a reference to an internet
domain (commonly referred to as the "domain part" of the address), whether or not displayed, to which electronic mail can be sent or delivered.

"(4)(6) FOREIGN NONPROFIT CORPORATION. A nonprofit corporation organized under laws other than the laws of Alabama.

"(5)(7) MEMBER. One having membership rights in a corporation in accordance with the provisions of its governing documents. A member may be a natural person, a partnership, a professional association or professional corporation, a corporation for profit or a nonprofit corporation.

"(6)(8) NONPROFIT CORPORATION. A nonprofit corporation no part of the income or profit of which is distributable to its members, directors, or officers.

"(7)(9) NONPROFIT CORPORATION or DOMESTIC NONPROFIT CORPORATION. A nonprofit corporation subject to the provisions of this chapter, except a foreign nonprofit corporation.

"(8)(10) VERIFIED. Supported by an affidavit or oath confirming the correctness, truth, or authenticity of the matter set forth therein."

Section 4. Section 10A-3-1.05 is added to the Code of Alabama 1975, to read as follows:

§10A-3-1.05.

(a) A notice under this chapter must be in writing unless oral notice is reasonable in the circumstances. Unless
otherwise agreed between the sender and the recipient, words in a notice or other communication under this chapter must be in English.

(b) A notice or other communication may be given by any method of delivery, except that notice or other communication by electronic transmission must be in accordance with this section. If the methods of delivery are impracticable, a notice or other communication from the nonprofit corporation may be given by means of a broad non-exclusionary distribution to the public (which may include a newspaper of general circulation in the area where published; radio, television, or other form of public broadcast communication; or other methods of distribution that the nonprofit corporation has previously identified to its recipients).

(c) A notice or other communication to a nonprofit corporation or to a foreign nonprofit corporation registered to transact business in this state may be delivered to the nonprofit corporation's registered agent at its registered office or to the secretary at the nonprofit corporation's principal office shown in its most recent annual report or, in the case of a foreign nonprofit corporation that has not yet delivered an annual report, in its foreign registration under Chapter 1.
(d) A notice or other communication from the nonprofit corporation to a member may be delivered by electronic mail to an electronic mail address for that member as reflected in the books and records of the nonprofit corporation, unless that member has previously notified the nonprofit corporation in writing that the member objects to receiving notices and other communications by electronic mail. The notice or other communication may be delivered to a member by another form of electronic transmission if consented to by that member or if authorized by subsection (j). Any notice or other communication from the nonprofit corporation to any other person may be delivered by electronic transmission if consented to by the recipient or if authorized by subsection (j). Any consent under this subsection or subsection (j) may be revoked with respect to future notices or communications by the person who consented by giving written or electronic notice to the person to whom the consent was delivered.

(e) A notice or other communication may no longer be delivered to an electronic mail address or other electronic transmission address pursuant to subsection (d) if (i) the nonprofit corporation receives notice from the information processing system into which the notice or other communication was entered that two consecutive notices or other communications given by electronic transmission have not been delivered to the electronic mail address or other electronic
transmission address to which the notice or other communication was directed, and (ii) the notice of non-delivery becomes known to the secretary or an assistant secretary, or another person responsible for the giving of notices or other communications for the nonprofit corporation; provided, however, that the inadvertent failure to recognize the notice of non-delivery as a cessation of authority to provide a member with notice by electronic mail or other electronic transmission shall not invalidate any meeting or other action.

(f) Unless otherwise agreed between the sender and the recipient, a notice or other communication by electronic transmission is received when:

(1) it enters an information processing system directed to (i) in the case of a member, the electronic mail address for the member as reflected in the books and records of the nonprofit corporation or other electronic transmission address at which the member has consented to receive notice or other communication by electronic transmission, or (ii) in the case of any other recipient, the electronic transmission address at which the recipient has consented to receive notice or other communication by electronic transmission; and

(2) it is in a form capable of being processed by that system.
(g) Receipt of an electronic acknowledgement from an information processing system described in subsection (f)(1) establishes that an electronic transmission was received but, by itself, does not establish that the content sent corresponds to the content received.

(h) An electronic transmission is received under this section even if no person is aware of its receipt.

(i) A notice or other communication, if in a comprehensible form or manner, is effective at the earliest of the following:

(1) if in a physical form, the earliest of when it is actually received, or when it is left at:

   (i) a member's address reflected in the books and records of the nonprofit corporation;

   (ii) a director's residence or usual place of business; or

   (iii) the nonprofit corporation's principal office;

(2) if mailed by United States mail postage prepaid and addressed to a member at the member's address reflected in the books and records of the nonprofit corporation, upon deposit in the United States mail;

(3) if mailed by United States mail postage prepaid and addressed to a recipient other than a member, at the address of the recipient reflected in the books and records of
the nonprofit corporation, the earliest of when it is actually received, or:

(i) if sent by registered or certified mail, return receipt requested, the date shown on the return receipt signed by or on behalf of the addressee; or

(ii) five days after it is deposited in the United States mail;

(4) if sent by a nationally recognized commercial carrier that issues a receipt or other confirmation of delivery, the earliest of when it is actually received or the date shown on the receipt or other confirmation of delivery issued by the commercial carrier;

(5) if an electronic transmission, when it is received as provided in subsection (f); and

(6) if oral, when communicated.

(j) A notice or other communication may be in the form of an electronic transmission that cannot be directly reproduced in paper form by the recipient through an automated process used in conventional commercial practice only if (i) the electronic transmission is otherwise retrievable in perceivable form, and (ii) the sender and the recipient have consented in writing to the use of that form of electronic transmission.

(k) If this chapter prescribes requirements for notices or other communications in particular circumstances,
those requirements govern. If the certificate of incorporation
or bylaws prescribe requirements for notices or other
communications, not inconsistent with this section or other
provisions of this chapter, those requirements govern. The
certificate of incorporation or bylaws may authorize or
require delivery of notices of meetings of directors by
electronic transmission.

(l) In the event that any provisions of this chapter
are deemed to modify, limit, or supersede the federal
Electronic Signatures in Global and National Commerce Act, 15
U.S.C. §§7001 et seq., the provisions of this chapter shall
control to the maximum extent permitted by Section 102(a)(2)
of that federal act.

(m) Whenever a notice or communication would
otherwise be required to be given under any provision of this
chapter to a member, the notice or communication need not be
given if the nonprofit corporation is not permitted to deliver
the notice or communication by electronic transmission
pursuant to subsections (d) and (e) and:

(1) notices and communications to members of two
consecutive annual meetings, and all notices and
communications of meetings during the period between those two
consecutive annual meetings, have been sent to that member at
that member's address as reflected in the books and records of
the nonprofit corporation and have been returned undeliverable
or could not be delivered; or

(2) no address has been provided to the nonprofit
corporation by or on behalf of a member and the nonprofit
corporation has not otherwise obtained an address for that
member it believes to be reliable.

In addition if any member to which this subsection
(m) applies delivers to the nonprofit corporation a written
notice or communication setting forth that member's
then-current address, the requirement that notice and
communication be given to that member shall be reinstated.

(n) Whenever a notice or communication is required
to be given, under any provision of this chapter or of the
certificate of incorporation or bylaws of any nonprofit
corporation, to any person with whom notice to or
communication with is unlawful, the giving of the notice or
communication to that person shall not be required and there
shall be no duty to apply to any governmental authority or
agency for a license or permit to give the notice or
communication to that person. Any action or meeting which
shall be taken or held without notice or communication to the
person with whom notice to or communication with is unlawful
shall have the same force and effect as if the notice or
communication had been duly given. In the event that the
action taken by the nonprofit corporation is such as to
require the filing of a certificate or other filing instrument
under any of the other sections of this chapter, the
certificate or other filing instrument shall state, if that is
the fact and if notice or communication is required, that
notice or communication was given to all persons entitled to
receive notice or communication except those persons with whom
notice to or communication with is unlawful.

Section 5. Sections 10A-3-2.02, 10A-3-2.03,
10A-3-2.09, and 10A-3-2.21, Section 10A-5A-1.02, as amended by
Act 2018-125, 2018 Regular Session, Sections 10A-5A-2.01,
10A-5A-2.02, and 10A-5A-7.02, as amended by Act 2020-73, 2020
Regular Session, Section 10A-5A-7.04, Section 10A-5A-7.05, as
amended by Act 2020-73, 2020 Regular Session, Sections
Section 10A-5A-11.13, as amended by Act 2020-73, 2020 Regular
10A-8A-1.02, as amended by Act 2019-304, 2019 Regular Session,
Section 10A-8A-4.10, as added to the Code of Alabama 1975 by
Act 2018-125, 2018 Regular Session, Section 10A-8A-8.02, as
amended by Act 2020-73, 2020 Regular Session, Section
10A-8A-8.06, as added to the Code of Alabama by Act 2018-125,
2018 Regular Session, Section 10A-8A-8.07, as amended by Act
2020-73, 2020 Regular Session, Sections 10A-8A-8.09,
10A-8A-8.10, and 10A-8A-9.01, as added to the Code of Alabama
1975 by Act 2018-125, 2018 Regular Session, Section

"§10A-3-2.02.

"(a) Meetings Unless the board of directors determines to hold the meeting of the members solely by means of remote communication in accordance with subsections (d), (e), and (f), meetings of members may be held at the place, either within or without Alabama, as may be provided in the bylaws. In the absence of any provision, all meetings shall be held at the registered office of the corporation in Alabama.

"(b) An annual meeting of the members shall be held at the time as may be provided in the bylaws. Failure to hold the annual meeting at the designated time shall not work a forfeiture or dissolution of the corporation.

"(c) Special meetings of the members may be called by the president or by the board of directors. Special meetings of the members may also be called by other officers or persons or number or proportion of members as may be provided in the governing documents. In the absence of a
provision fixing the number or proportion of members entitled
to call a meeting, a special meeting of members may be called
by members having one-twentieth of the votes entitled to be
cast at the meeting.

"(d) Members may participate in any meeting of the
members by means of remote communication to the extent the
governing authority authorizes participation for that meeting.
Participation as a member by means of remote communication
shall be subject to guidelines and procedures as the governing
authority adopts, and shall be in conformity with this
subsection.

"(e) Members participating in a meeting of the
members by means of remote communication shall be deemed
present and may vote at that meeting if the corporation has
implemented reasonable measures:

"(1) to verify that each person participating
remotely as a member is a member; and

"(2) to provide members participating remotely a
reasonable opportunity to participate in the meeting and to
vote on matters submitted to the members, including an
opportunity to communicate, and to read or hear the
proceedings of the meeting, substantially concurrently with
the proceedings.

"(f) Unless the certificate of incorporation or
bylaws require the meeting of members to be held at a place,
the governing authority may determine that any meeting of the
members shall not be held at any place and shall instead be
held solely by means of remote communication, but only if the
corporation implements the measures specified in subsection
(e).

"§10A-3-2.03.

"Unless otherwise provided in the nonprofit
corporation's governing documents, written notice stating the
place, if any, day, and hour of the meeting and, in case of a
special meeting, the purpose or purposes for which the meeting
is called, shall be delivered not less than 10 nor more than
50 60 days before the date of the meeting, either personally
or by mail, by or at the direction of the president, or the
secretary, or the officers or persons calling the meeting, to
each member entitled to vote at the meeting. If mailed, the
notice shall be deemed to be delivered when deposited in the
United States mail addressed to the member at his or her
address as it appears on the records of the nonprofit
corporation, with postage thereon prepaid. If the board of
directors has authorized participation by means of remote
communication pursuant to Section 10A-3A-2.02(d), (e), and
(f), the notice to the members must describe the means of
remote communication to be used.

"§10A-3-2.09."
"(a) The number of directors of a nonprofit corporation shall be not less than three one. Subject to this limitation, unless the number of directors shall be is fixed by the certificate of formation or the bylaws, except as to the board of directors may fix the number of the first board of directors which number from time to time. The number of directors to serve on the initial board of directors shall be fixed by the certificate of formation. The certificate of formation or bylaws require an amendment to the certificate or the bylaws, the number of directors may be increased or decreased from time to time by amendment to the bylaws, unless the certificate of formation provides that a change in the number of directors shall be made only by amendment of the certificate of formation the board of directors. No decrease in number shall have the effect of shortening the term of any incumbent director. In the absence of a bylaw fixing the number of directors, the number shall be the same as that stated in the certificate of formation.

"(b) The directors constituting the first initial board of directors shall be named in the certificate of formation and shall hold office until the first annual election of directors or for any other period as may be specified in the governing documents. Thereafter, directors shall be elected or appointed in the manner and for the terms provided in the governing documents of the nonprofit
corporation. In the absence of a provision fixing the term of office, the term of office of a director shall be one year.

"(c) Directors may be divided into classes and the terms of office of the several classes need not be uniform. Each director shall hold office for the term to which he or she is elected or appointed and until his or her successor shall have been elected or appointed and qualified.

"(d) A director may be removed from office pursuant to any procedure therefor provided in the certificate of formation.

"§10A-3-2.21.

"(a) The officers of a nonprofit corporation shall consist of a president, one or more vice-presidents, a secretary, a treasurer, and other officers and assistant officers as may be deemed necessary, each of whom shall be elected or appointed at such time, in the manner and for the terms not exceeding three years as may be prescribed in the nonprofit corporation's governing documents. In the absence of any provision, all officers shall be elected or appointed annually by the board of directors. Each officer shall hold office for the term to which he or she is elected or appointed and until his or her successor shall have been elected or appointed. If the bylaws so provide, any two or more offices may be held by the same person, except the offices of president and secretary.
"(b) The governing documents of the nonprofit corporation may provide that any one or more officers of the corporation shall be ex officio members of the board of directors.

"(c) The officers of a corporation may be designated by additional titles as may be provided in the governing documents of the nonprofit corporation.

"(d) The officers and employees of the nonprofit corporation shall not be liable for obligations of the corporation.

"§10A-5A-1.02.

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

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

"(b) "Constituent limited liability company" CONSTITUENT LIMITED LIABILITY COMPANY means a constituent organization that is a limited liability company.

"(c) "Constituent organization" CONSTITUENT ORGANIZATION means an organization that is party to a merger under Article 10.
"(d) "Converted organization" CONVERTED ORGANIZATION means the organization into which a converting organization converts pursuant to Article 10.

"(e) "Converting limited liability company" CONVERTING LIMITED LIABILITY COMPANY means a converting organization that is a limited liability company.

"(f) "Converting organization" CONVERTING ORGANIZATION means an organization that converts into another organization pursuant to Article 10.

"(g) "Disqualified person" DISQUALIFIED PERSON means any person who is not a qualified person.

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

"(i) "Foreign limited liability company" FOREIGN LIMITED LIABILITY COMPANY means a limited liability company governed by the laws of a jurisdiction other than this state which would be a limited liability company if governed by the laws of this state.

"(j) "Governing statute" GOVERNING STATUTE means the statute that governs an organization's internal affairs.

"(k) "Limited liability company," LIMITED LIABILITY COMPANY, except in the phrase "foreign limited liability
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company," means an entity formed or existing under this chapter.

"(l) "Limited liability company agreement" LIMITED LIABILITY COMPANY AGREEMENT means any agreement (whether referred to as a limited liability company agreement, operating agreement or otherwise), written, oral or implied, of the member or members as to the activities and affairs of a limited liability company or series thereof. The limited liability company agreement of a limited liability company having only one member shall not be unenforceable by reason of there being only one person who is a party to the limited liability company agreement. The limited liability company agreement includes any amendments to the limited liability company agreement.

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

"(n) "Organization" ORGANIZATION means a general partnership, including a limited liability partnership; limited partnership, including a limited liability limited partnership; limited liability company; business trust; corporation; nonprofit corporation; professional corporation; or any other person having a governing statute. The term includes domestic and foreign organizations whether or not organized for profit.
"(o) "Organizational documents" ORGANIZATIONAL DOCUMENTS means:

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

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

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

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

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

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

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

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

"(p) "Qualified person," QUALIFIED PERSON, with respect to a limited liability company rendering professional services in this state, means a person authorized by this state or a regulatory authority of this state to own a transferable interest in that limited liability company.

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

"(r) "Transfer" TRANSFER means an assignment, conveyance, deed, bill of sale, lease, mortgage, security interest, encumbrance, gift, or transfer by operation of law.
"(s) "Transferee" TRANSFEREE means a person to which all or part of a transferable interest has been transferred, whether or not the transferor is a member.

"(t) "Transferable interest" TRANSFERABLE INTEREST means a member's right to receive distributions from a limited liability company or a series thereof.

"§10A-5A-2.01.

"(a) In order to form a limited liability company, one or more organizers must execute a certificate of formation and deliver it for filing to the filing officer provided for in subsection (e). Notwithstanding Section 10A-1-3.05 shall not apply to this chapter. Instead, the certificate of formation shall set forth:

"(1) the name of the limited liability company, which must comply with Article 5 of Chapter 1;

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

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

"(4) a statement that there is at least one member of the limited liability company;

"(5) if applicable, a statement as provided in Section 10A-5A-11.02(b)(3); and

"(6) any other matters the members determine to include therein.
(b) A limited liability company is formed when its certificate of formation becomes effective in accordance with Article 4 of Chapter 1.

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

(d) A limited liability company agreement shall be entered into either before, after, or at the time of the filing of the certificate of formation and, whether entered into before, after, or at the time of the filing, may be made effective as of the filing of the certificate of formation or at any other time or date provided in the limited liability company agreement.

(e) A certificate of formation shall be delivered for filing to the Secretary of State.

§10A-5A-2.02.

Notwithstanding Division B of Article 3 of Chapter 1 shall not apply to this chapter. Instead:

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

(b) A certificate of formation may be restated with or without amendment at any time.
"(c) To amend its certificate of formation, a
limited liability company must deliver a certificate of
amendment for filing to the Secretary of State which
certificate of amendment shall state:

"(1) the name of the limited liability company;
"(2) the unique identifying number or other
designation as assigned by the Secretary of State; and
"(3) the changes the amendment makes to the
certificate of formation as most recently amended or restated.

"(d) To restate its certificate of formation, a
limited liability company must deliver a restated certificate
of formation for filing to the Secretary of State. A restated
certificate of formation must:

"(1) be designated as such in the heading;
"(2) state the limited liability company's name;
"(3) state the unique identifying number or other
designation as assigned by the Secretary of State; and
"(4) set forth any amendment or change effected in
connection with the restatement of the certificate of
formation.

Any such restatement that effects an amendment shall
be subject to any other provision of this chapter, not
inconsistent with this section, which would apply if a
separate certificate of amendment were filed to effect the
amendment or change.
(e) The original certificate of formation, as theretofore amended, shall be superseded by the restated certificate of formation and thenceforth, the restated certificate of formation, including any further amendment or changes made thereby, shall be the certificate of formation of the limited liability company, but the original effective date of formation shall remain unchanged.

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

§10A-5A-7.02.

Notwithstanding Section 10A-1-9.12:

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

(1) collecting its assets;

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

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

(4) distributing its remaining property in accordance with Section 10A-5A-7.06; and
(5) doing every other act necessary to wind up and liquidate its activities and affairs.

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

(1) deliver for filing a statement of dissolution to the Secretary of State setting forth:

(A) The name of the limited liability company.

(B) The unique identifying number or other designation as assigned by the Secretary of State.

(C) That the limited liability company has dissolved.

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

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

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

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

(5) resolve disputes by mediation or arbitration; and

(6) merge or convert in accordance with Article 10 of this chapter or Article 8 of Chapter 1.
"(c) The dissolution of a limited liability company does not:

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

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

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

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

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

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


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

"(a) A dissolved limited liability company may dispose of any known claims against it by following the procedures described in subsection (b) at any time after the effective date of the dissolution of the limited liability company.
"(b) A dissolved limited liability company may give notice of the dissolution in a record to the holder of any known claim. The notice must:

"(1) identify the dissolved limited liability company;

"(2) describe the information required to be included in a claim;

"(3) provide a mailing address to which the claim is to be sent;

"(4) state the deadline, which may not be fewer than 120 days from the effective date of the notice, by which the dissolved limited liability company must receive the claim; and

"(5) state that if not sooner barred, the claim will be barred if not received by the deadline.

"(c) Unless sooner barred by any other statute limiting actions, a claim against a dissolved limited liability company is barred:

"(1) if a claimant who was given notice under subsection (b) does not deliver the claim to the dissolved limited liability company by the deadline; or

"(2) if a claimant whose claim was rejected by the dissolved limited liability company does not commence a proceeding to enforce the claim within 90 days from the effective date of the rejection notice.
"(d) For purposes of this section, known claim or claim includes unliquidated claims, but does not include a contingent liability that has not matured so that there is no immediate right to bring suit or a claim based on an event occurring after the effective date of dissolution.

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

"§10A-5A-7.05.

"Notwithstanding Sections 10A 1 9.01 and 10A 1 9.22:

"(a) A dissolved limited liability company may publish notice of its dissolution and request that persons with claims against the dissolved limited liability company present them in accordance with the notice.

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

"(1) be published at least one time in a newspaper of general circulation in the county in which the dissolved limited liability company's principal office is located or, if it has none in this state, in the county in which the dissolved limited liability company's most recent registered office is located;

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

"(3) state that if not sooner barred, a claim against the dissolved limited liability company will be barred
unless a proceeding to enforce the claim is commenced within two years after the publication of the notice.

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

"(1) a claimant who was not given notice under Section 10A-5A-7.04(b);

"(2) a claimant whose claim was timely sent to the dissolved limited liability company but not acted on by the dissolved limited liability company; and

"(3) a claimant whose claim is contingent at the effective date of the dissolution of the limited liability company, or is based on an event occurring after the effective date of the dissolution of the limited liability company.

"(d) A claim that is not barred under this section, any other statute limiting actions, or Section 10A-5A-7.04 may be enforced:

"(1) against a dissolved limited liability company, to the extent of its undistributed assets; and
"(2) except as provided in subsection (h), if the assets of a dissolved limited liability company have been distributed after dissolution, against the person or persons owning the transferable interests to the extent of that person's proportionate share of the claim or of the assets distributed to that person after dissolution, whichever is less, but a person's total liability for all claims under subsection (d) may not exceed the total amount of assets distributed to that person after dissolution of the limited liability company.

"(e) A dissolved limited liability company that published a notice under this section may file an application with the circuit court for the county in which the dissolved limited liability company's principal office is located in this state, and if the limited liability company does not have a principal office within this state, with the circuit court for the county in which the dissolved limited liability company's most recent registered office is located, for a determination of the amount and form of security to be provided for payment of claims that are contingent or have not been made known to the dissolved limited liability company or that are based on an event occurring after the effective date of the dissolution of the limited liability company but that, based on the facts known to the dissolved limited liability company, are reasonably estimated to arise after the effective
date of the dissolution of the limited liability company. Provision need not be made for any claim that is or is reasonably anticipated to be barred under subsection (c).

"(f) Within 10 days after the filing of the application provided for in subsection (e), notice of the proceeding shall be given by the dissolved limited liability company to each potential claimant as described in subsection (e).

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

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

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

"(j) If a claim has been satisfied, disposed of, or barred under Section 10A-5A-7.04, this section, or other law, the person or persons designated to wind up the affairs of a limited liability company, and the owners of the transferable interests receiving assets from the limited liability company, shall not be liable for that claim.

"§10A-5A-7.06.

"Notwithstanding Section 10A-1-9.12, upon the winding up of a limited liability company, the assets shall be applied as follows:

"(a) Payment, or adequate provision for payment, shall be made to creditors, including, to the extent permitted by law, members who are creditors, in satisfaction of liabilities of the limited liability company.

"(b) After a limited liability company complies with subsection (a), any surplus must be distributed:

"(1) first, to each person owning a transferable interest that reflects contributions made on account of the transferable interest and not previously returned, an amount equal to the value of the person's unreturned contributions; and
(2) then to each person owning a transferable interest in the proportions in which the owners of transferable interests share in distributions before dissolution.

(c) If the limited liability company does not have sufficient surplus to comply with subsection (b)(1), any surplus must be distributed among the owners of transferable interests in proportion to the value of their respective unreturned contributions.


Notwithstanding Sections 10A-1-9.31 and 10A-1-9.32, a limited liability company that has been dissolved may be reinstated upon compliance with the following conditions:

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

(1) required for reinstatement under the limited liability company agreement; or

(2) if the limited liability company agreement does not state the consent required for reinstatement, sufficient for dissolution under the limited liability company agreement; or

(3) if the limited liability company agreement neither states the consent required for reinstatement nor for dissolution, sufficient for dissolution under this chapter;
"(b) in the case of a written objection to reinstatement having been delivered to the limited liability company before or at the time of the consent required by subsection (a) by the members or other persons having authority under the limited liability company agreement to bring about or prevent dissolution of the limited liability company, those members or persons withdrawing that written objection effective at the time of the consent required by subsection (a);

"(c) in the case of a limited liability company dissolved in a judicial proceeding initiated by one or more of the members, the consent of each of those members shall have been obtained and shall be included in the consent required by subsection (a); and

"(d) the filing of a certificate of reinstatement in accordance with Section 10A-5A-7.08.


"Notwithstanding Section 10A-1-9.12:

"(a) A dissolved series continues its existence as a series but may not carry on any activities and affairs except as is appropriate to wind up and liquidate its activities and affairs, including:

"(1) collecting the assets of the series;"
(2) disposing of the properties of the series that will not be distributed in kind to persons owning transferable interests;

(3) discharging or making provisions for discharging the liabilities of the series;

(4) distributing the remaining property of the series in accordance with Section 10A-5A-11.14; and

(5) doing every other act necessary to wind up and liquidate the series' activities and affairs.

(b) In winding up a series' activities and affairs, a series may:

(1) preserve the series' activities and affairs and property as a going concern for a reasonable time;

(2) prosecute, defend, or settle actions or proceedings whether civil, criminal, or administrative;

(3) transfer the series' property; and

(4) resolve disputes by mediation or arbitration.

(c) The dissolution of a series does not:

(1) transfer title to the series' property;

(2) prevent the commencement of a proceeding by or against the series in the series' name;

(3) terminate, abate, or suspend a proceeding pending by or against the series on the effective date of dissolution; or
"(4) abate, suspend, or otherwise alter the
application of Section 10A-5A-3.01.


"Notwithstanding Sections 10A 1 9.01 and 10A 1 9.21:

"(a) A dissolved series may dispose of any known
claims against it by following the procedures described in
subsection (b), at any time after the effective date of the
dissolution of the series.

"(b) A dissolved series may give notice of the
dissolution in a writing to the holder of any known claim. The
notice must:

"(1) identify the limited liability company and the
dissolved series;

"(2) describe the information required to be
included in a claim;

"(3) provide a mailing address to which the claim is
to be sent;

"(4) state the deadline, which may not be fewer than
120 days from the effective date of the notice, by which the
dissolved series must receive the claim; and

"(5) state that if not sooner barred, the claim will
be barred if not received by the deadline.

"(c) Unless sooner barred by any other statute
limiting actions, a claim against a dissolved series is
barred:
"(1) If a claimant who was given notice under subsection (b) does not deliver the claim to the dissolved series by the deadline; or

"(2) If a claimant whose claim was rejected by the dissolved series does not commence a proceeding to enforce the claim within 90 days from the effective date of the rejected notice.

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

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


"(a) A dissolved series may publish notice of its dissolution and request that persons with claims against the dissolved series present them in accordance with the notice.

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

"(1) be published at least one time in a newspaper of general circulation in the county in which the limited liability company's principal office is located or, if it has none in this state, in the county in which the limited liability company's most recent registered office is located;
(2) describe the information that must be included in a claim and provide a mailing address to which the claim is to be sent; and

(3) state that if not sooner barred, a claim against the dissolved series will be barred unless a proceeding to enforce the claim is commenced within two years after the publication of the notice.

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

(1) a claimant who was not given notice under Section 10A-5A-11.12(b);

(2) a claimant whose claim was timely sent to the dissolved series but not acted on by the dissolved series; and

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

(d) A claim that is not barred under this section, any other statute limiting actions, or Section 10A-5A-11.12 may be enforced:
"(1) against a dissolved series, to the extent of its undistributed assets associated with the series; and

"(2) except as provided in subsection (h), if the assets of a dissolved series have been distributed after dissolution, against the person or persons owning the transferable interests associated with the series to the extent of that person's proportionate share of the claim or of the assets of the series distributed to that person after dissolution, whichever is less, but a person's total liability for all claims under this subsection may not exceed the total amount of assets of the series distributed to that person after dissolution of the series.

"(e) A dissolved series that published a notice under this section may file an application with the circuit court for the county in which the limited liability company's principal office is located in this state and if the limited liability company does not have a principal office within this state then the circuit court for the county in which the limited liability company's most recent registered office is located, for a determination of the amount and form of security to be provided for payment of claims that are contingent or have not been made known to the dissolved series or that are based on an event occurring after the effective date of the dissolution of the series but that, based on the facts known to the dissolved series, are reasonably estimated
to arise after the effective date of the dissolution of the series. Provision need not be made for any claim that is or is reasonably anticipated to be barred under subsection (c).

"(f) Within 10 days after the filing of the application provided for in subsection (e), notice of the proceeding shall be given by the dissolved series to each potential claimant as described in subsection (e).

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

"(h) Provision by the dissolved series for security in the amount and the form ordered by the circuit court under subsection (e) shall satisfy the dissolved series' obligation with respect to claims that are contingent, have not been made known to the dissolved series, or are based on an event occurring after the effective date of the dissolution of the series, and those claims may not be enforced against a person owning a transferable interest to whom assets have been distributed by the dissolved series after the effective date of the dissolution of the series.

"(i) Nothing in this section shall be deemed to extend any otherwise applicable statute of limitations.
"(j) If a claim has been satisfied, disposed of, or barred under Section 10A-5A-11.12, this section, or other law, the person or persons designated to wind up the affairs of a limited liability company, and the owners of the transferable interests receiving assets from the limited liability company, shall not be liable for that claim.


"Notwithstanding Section 10A-1-9.12, upon Upon the winding up of a series, the assets of the series shall be applied as follows:

"(a) Payment, or adequate provision for payment, shall be made to creditors of the series, including, to the extent permitted by law, members who are associated with the series and who are also creditors of the series, in satisfaction of liabilities of the series.

"(b) After a series complies with subsection (a), any surplus must be distributed:

"(1) first, to each person owning a transferable interest associated with that series that reflects contributions made on account of that transferable interest and not previously returned, an amount equal to the value of the unreturned contributions; and

"(2) then to each person owning a transferable interest associated with that series in the proportions in which the owners of transferable interests associated with
that series share in distributions prior to the dissolution of
the series.

"(c) If the series does not have sufficient surplus
to comply with subsection (b)(1), any surplus must be
distributed among the owners of transferable interests
associated with that series in proportion to the value of
their respective unreturned contributions.


"Notwithstanding Sections 10A 1 9.31 and 10A 1 9.32,
A series that has been dissolved may be reinstated upon
compliance with the following conditions:

"(a) the consent shall have been obtained from the
members or other persons associated with the series entitled
to consent at the time that is:

"(1) required for reinstatement of the series under
the limited liability company agreement; or

"(2) if the limited liability company agreement does
not state the consent required for reinstatement, sufficient
for dissolution of the series under the limited liability
company agreement; or

"(3) if the limited liability company agreement
neither states the consent required for reinstatement nor for
dissolution, sufficient for dissolution of the series under
this chapter;
"(b) in the case of a written objection to
reinstatement having been delivered to the series before or at
the time of the consent required by subsection (a) by the
members or other persons having authority under the limited
liability company agreement to bring about or prevent
dissolution of the series, those members or persons
withdrawing that written objection effective at the time of
the consent required by subsection (a); and

"(c) In the case of a series dissolved in a judicial
proceeding initiated by one or more of the members associated
with the series, the consent of each of those members shall
have been obtained and shall be included in the consent
required by subsection (a)(1).

"§10A-8A-1.02.

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

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

"(2) "Disqualified person" DISQUALIFIED PERSON means
any person who is not a qualified person.

"(3) "Distribution" DISTRIBUTION except as otherwise
provided in Section 10A-8A-4.09(f), means a transfer of money
or other property from a partnership to another person on
account of a transferable interest.
(4) "Foreign limited liability partnership" FOREIGN LIMITED LIABILITY PARTNERSHIP means a foreign partnership whose partners have limited liability for the debts, obligations, or other liabilities of the foreign partnership under a provision similar to Section 10A-8A-3.06(c).

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

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

(7) "Not for profit activity" NOT FOR PROFIT ACTIVITY includes every undertaking not for profit.

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

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

(B) has not dissociated as a partner under Section 10A-8A-6.01.
"(9) "Partnership" PARTNERSHIP means an entity that is formed under this chapter or that is governed by this chapter. The term includes, for all purposes of the laws of this state, a limited liability partnership.

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

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

"(12) "Person dissociated as a partner" PERSON DISSOCIATED AS A PARTNER means a person dissociated as a partner of a partnership.

"(13) "Qualified person," QUALIFIED PERSON, with respect to a partnership rendering professional services in this state, means a person authorized by this state or a regulatory authority of this state to own a transferable interest in that partnership.

"(14) "Required information" REQUIRED INFORMATION means the information that a partnership is required to maintain under Section 10A-8A-1.11.
"(15) "Statement" STATEMENT means a statement of partnership under Section 10A-8A-2.02, a statement of not for profit partnership under Section 10A-8A-2.02, a statement of authority under Section 10A-8A-3.03, a statement of denial under Section 10A-8A-3.04, a statement of dissociation under Section 10A-8A-7.04, a statement of dissolution under Section 10A-8A-8.02 or under Section 10A-8A-8.03, a certificate of reinstatement under Section 10A-8A-8.11, a statement of limited liability partnership under Section 10A-8A-10.01, a statement of cancellation under Section 10A-8A-10.01, or any other document required or permitted to be delivered to the Secretary of State for filing under this chapter, or an amendment or cancellation of any of the foregoing.

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

"(17) "Transferable interest" TRANSFERABLE INTEREST means a partner's right to receive distributions from a partnership.

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

"§10A-8A-4.10.

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

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"(a) Subject to subsection (f), a partner, without having any particular purpose for seeking the information, may inspect and copy during regular hours at a reasonable location specified by the partnership, required information and any other records maintained by the partnership regarding the partnership's business or not for profit activity and financial condition.

"(b) Subject to subsection (f), each partner and the partnership shall furnish to a partner:

"(1) without demand, any information concerning the partnership's business or not for profit activity reasonably required for the proper exercise of the partner's rights and duties under the partnership agreement or this chapter; and

"(2) on demand, any other information concerning the partnership's business or not for profit activity, except to the extent the demand or the information demanded is unreasonable or otherwise improper under the circumstances.

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

"(1) the information or writing pertains to the period during which the person was a partner;
"(2) the person seeks the information or record in good faith; and

"(3) it is determined that:

"(i) the person seeks the information for a purpose reasonably related to the person's interest as a partner;

"(ii) the person's demand describes with reasonable particularity the information sought and the purpose for seeking the information; and

"(iii) the information sought is directly connected to the person's purpose.

"(d) Within 10 days after receiving a demand pursuant to subsection (c), the partnership in a writing shall inform the person that made the demand:

"(1) what information the partnership will provide in response to the demand;

"(2) when and where the partnership will provide the information;

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

"(4) what, if any, restrictions will be imposed pursuant to the partnership agreement or subsection (f).

"(e) If a partner dies, Section 10A-8A-5.04 applies.

"(f) In addition to any restriction or condition stated in its partnership agreement, a partnership, as to a
matter within the ordinary course of its business or not for profit activity, may:

"(1) impose reasonable restrictions and conditions on access to and use of information to be furnished under this section, including designating information confidential and imposing nondisclosure and safeguarding obligations on the recipient; and

"(2) keep confidential from the partners and any other person, for such period of time as the partnership deems reasonable, any information that the partnership reasonably believes to be in the nature of trade secrets or other information the disclosure of which the partnership in good faith believes is not in the best interest of the partnership or could damage the partnership or its business or not for profit activity, or that the partnership is required by law or by agreement with a third party to keep confidential.

"In any dispute concerning the reasonableness of a restriction under this subsection, the partnership has the burden of proving reasonableness.

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

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

"(i) The rights under this section do not extend to a person as transferee, but the rights under subsection (c) of a person dissociated as a partner may be exercised by the legal representative of an individual who dissociated as a partner under Section 10A-8A-6.01(6).

"(j) Any partner who, without reasonable cause, refuses to allow any partner or person dissociated as a partner, or his or her agent or attorney to inspect or copy any records of the partnership to which such partner or person dissociated as a partner is entitled under this section, shall be personally liable to the partner or person dissociated as a partner for a penalty in an amount not to exceed 10 percent of the fair market value of the transferable interest of the partner or person dissociated as a partner, in addition to any other damages or remedy.

"§10A-8A-8.02.

"Notwithstanding Section 10A-1-9.12:

"(a) A dissolved partnership continues its existence as a partnership but may not carry on any business or not for profit activity except as is appropriate to wind up and liquidate its business or not for profit activity, including:

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

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

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

"(5) doing every other act necessary to wind up and liquidate its business or not for profit activity.

"(b) In winding up its business or not for profit activity, a partnership may:

"(1) deliver to the Secretary of State for filing a statement of dissolution setting forth:

"(A) The name of the partnership;

"(B) If the partnership has filed a statement of partnership, a statement of not for profit partnership, a statement of authority, or a statement of limited liability partnership, the unique identifying number or other designation as assigned by the Secretary of State;

"(C) That the partnership has dissolved;

"(D) The name, street address, and mailing address of the partner who will be winding up the business or not for profit activity of the partnership pursuant to Section 10A-8A-8.03(a), and if none, the name, street address, and mailing address of the person appointed pursuant to Section
(b) or (c) to wind up the business or not for profit activity of the partnership;

"(E) If the partnership has filed a statement of partnership, a statement of not for profit partnership, or a statement of limited liability partnership, the name, street address, and mailing address of the partnership's registered agent; and

"(F) Any other information the partnership deems appropriate;

"(2) preserve the partnership's business or not for profit activity as a going concern for a reasonable time;

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

"(4) transfer the partnership's assets;

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

"(6) merge or convert in accordance with Article 9 of this chapter or Article 8 of Chapter 1.

"(c) The dissolution of a partnership does not:

"(1) transfer title to the partnership's property;

"(2) prevent the commencement of a proceeding by or against the partnership in its partnership name;

"(3) terminate, abate, or suspend a proceeding pending by or against the partnership on the effective date of dissolution;
"(4) terminate the authority of its registered
agent; or

"(5) abate, suspend, or otherwise alter the
application of Section 10A-8A-3.06.

"(d) A statement of dissolution is a filing
instrument under Chapter 1.

"§10A-8A-8.06.

"Notwithstanding Sections 10A 1 9.01 and 10A 1 9.21:

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

"(b) A dissolved partnership may give notice of the
dissolution in writing to the holder of any known claim. The
notice must:

"(1) identify the dissolved partnership;

"(2) describe the information required to be
included in a claim;

"(3) provide a mailing address to which the claim is
to be sent;

"(4) state the deadline, which may not be fewer than
120 days from the effective date of the notice, by which the
dissolved partnership must receive the claim;

"(5) state that if not sooner barred, the claim will
be barred if not received by the deadline; and
"(6) unless the partnership has been throughout its existence a limited liability partnership, state that the barring of a claim against the partnership will also bar any corresponding claim against any partner or person dissociated as a partner which is based on Section 10A-8A-3.06.

"(c) Unless sooner barred by any other statute limiting actions, a claim against a dissolved partnership is barred:

"(1) if a claimant who was given notice under subsection (b) does not deliver the claim to the dissolved partnership by the deadline; or

"(2) if a claimant whose claim was rejected by the dissolved partnership, does not commence a proceeding to enforce the claim within 90 days from the effective date of the rejection notice.

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

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

"§10A-8A-8.07.

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

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

"(1) be published at least one time in a newspaper of general circulation in the county in which the dissolved partnership's principal office in this state is located, and if none, was last located;

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

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

"(4) unless the partnership has been throughout its existence a limited liability partnership, state that the barring of a claim against the partnership will also bar any corresponding claim against any partner or person dissociated as a partner which is based on Section 10A-8A-3.06.

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

"(1) a claimant who was not given notice under
Section 10A-8A-8.06;

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

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

"(d) A claim that is not barred under this section,
any other statute limiting actions, or Section 10A-8A-8.06 may
be enforced:

"(1) against a partnership, to the extent of its
undistributed assets;

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

"(3) against any person liable on the claim under
Sections 10A-8A-3.06, 10A-8A-7.03, and 10A-8A-8.05.

"(e) A dissolved partnership that published a notice
under this section may file an application with a court of
competent jurisdiction for a determination of the amount and
form of security to be provided for payment of claims that are
contingent or have not been made known to the dissolved
partnership or that are based on an event occurring after the
effective date of the dissolution of the partnership but that,
based on the facts known to the dissolved partnership, are
reasonably estimated to arise after the effective date of the
dissolution of the partnership. Provision need not be made for
any claim that is or is reasonably anticipated to be barred
under subsection (c).

"(f) Within 10 days after the filing of the
application provided for in subsection (e), notice of the
proceeding shall be given by the dissolved partnership to each
potential claimant as described in subsection (e).

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

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

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

"(j) If a claim has been satisfied, disposed of, or barred under Section 10A-8A-8.06, this section, or other law, the person or persons designated to wind up the business or not for profit activity of a partnership, and the owners of the transferable interests receiving assets from the partnership, shall not be liable for that claim.


"Notwithstanding Section 10A-1-9.12, upon the winding up of a partnership, the assets of the partnership, including any obligation under Sections 10A-8A-4.03,
10A-8A-4.04, and 10A-8A-4.09, and any contribution required by this section, shall be applied as follows:

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

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

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

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

"(c) If the partnership does not have sufficient surplus to comply with subsection (b)(1), any surplus must be distributed among the owners of transferable interests in proportion to the value of their respective unreturned contributions.

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

"(1) Each person that was a partner when the obligation was incurred and that has not been released from the obligation under Section 10A-8A-7.03(c) and (d) shall contribute to the partnership for the purpose of enabling the partnership to satisfy the obligation. The contribution due from each of those persons is in proportion to the right to receive distributions in the capacity of partner in effect for each of those persons when the obligation was incurred.

"(2) If a person does not contribute the full amount required under paragraph (1) with respect to an unsatisfied obligation of the partnership, the other persons required to contribute by paragraph (1) on account of the obligation shall contribute the additional amount necessary to discharge the obligation. The additional contribution due from each of those other persons is in proportion to the right to receive distributions in the capacity of partner in effect for each of those other persons when the obligation was incurred.

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

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

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

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

"§10A-8A-8.10.

"Notwithstanding Sections 10A 1 9.31 and 10A 1 9.32, a partnership that has been dissolved may be reinstated upon compliance with the following conditions:

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

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

"(2) if the partnership agreement does not state the consent required for reinstatement, sufficient for dissolution under the partnership agreement; or
"(3) if the partnership agreement neither states the consent required for reinstatement nor for dissolution, sufficient for dissolution under this chapter;

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

"(c) in the case of a partnership dissolved in a judicial proceeding initiated by one or more of the partners pursuant to Section 10A-8A-8.01(4), the consent of each of those partners shall have been obtained and shall be included in the consent required by subsection (a);

"(d) in the case of a partnership dissolved in a judicial proceeding initiated by one or more of transferees pursuant to Section 10A-8A-8.01(5), the consent of each of those transferees shall have been obtained and shall be included in the consent required by subsection (a); and

"(e) in the case of a partnership that has filed a statement of dissolution, the filing of a certificate of reinstatement in accordance with Section 10A-8A-8.11.

"§10A-8A-9.01.
"Notwithstanding Section 10A-1-1.03, as used in this article, unless the context otherwise requires, the following terms mean:

"(1) "Constituent organization" CONSTITUENT ORGANIZATION means an organization that is party to a merger under this article.

"(2) "Constituent partnership" CONSTITUENT PARTNERSHIP means a constituent organization that is a partnership.

"(3) "Converted organization" CONVERTED ORGANIZATION means the organization into which a converting organization converts pursuant to this article.

"(4) "Converting organization" CONVERTING ORGANIZATION means an organization that converts into another organization pursuant to this article.

"(5) "Converting partnership" CONVERTING PARTNERSHIP means a converting organization that is a partnership.

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

"(7) "Organization" ORGANIZATION means a partnership, including a limited liability partnership; limited partnership, including a limited liability limited partnership; limited liability company; business trust; corporation; nonprofit corporation; professional corporation;
or any other person having a governing statute. The term includes domestic and foreign organizations whether or not organized for profit.

"(8) "Organizational documents" ORGANIZATIONAL DOCUMENTS means:

"(A)(i) for a partnership, its partnership agreement and, if applicable, its statement of partnership, statement of not for profit partnership, or statement of limited liability partnership; and (ii) for a foreign partnership, its partnership agreement and, if applicable, its statement of foreign limited liability partnership;

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

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

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

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

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

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

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

"(9) "Surviving organization" SURVIVING ORGANIZATION means an organization into which one or more other organizations are merged under this article, whether the organization pre-existed the merger or was created pursuant to the merger.

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

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

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

"(3) "FOREIGN LIMITED LIABILITY LIMITED PARTNERSHIP" means a foreign limited partnership whose general partners have limited liability for the obligations of the foreign limited partnership under a provision similar to Section 10A-9A-4.04(c).

"(4) "FOREIGN LIMITED PARTNERSHIP" means a partnership formed under the laws of a jurisdiction other than this state and required by those laws to have one or more general partners and one or more limited partners. The term includes a foreign limited liability limited partnership.

"(5) "GENERAL PARTNER" means:

"(A) with respect to a limited partnership, a person that:
"(i) is admitted as a general partner under Section 10A-9A-4.01;

"or

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

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

"(6) "LIMITED LIABILITY LIMITED PARTNERSHIP," except in the phrase "foreign limited liability limited partnership," means a limited partnership whose certificate of formation states that the limited partnership is a limited liability limited partnership.

"(7) "LIMITED PARTNER" means:

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

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

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

"(B) with respect to a foreign limited partnership, a person that has rights, powers, and obligations similar to those of a limited partner in a limited partnership.
"(8) "LIMITED PARTNERSHIP," except in the phrases "foreign limited partnership" and "foreign limited liability limited partnership," means an entity, having one or more general partners and one or more limited partners, which is formed under this chapter by two or more persons or becomes subject to this chapter under Article 10 or Section 10A-9A-11.01(a). The term includes a limited liability limited partnership.

"(9) "PARTNER" means a limited partner or general partner.

"(10) "PARTNERSHIP AGREEMENT" means any agreement (whether referred to as a partnership agreement or otherwise), written, oral or implied, of the partners as to the activities and affairs of a limited partnership. The partnership agreement includes any amendments to the partnership agreement.

"(11) "PERSON DISSOCIATED AS A GENERAL PARTNER" means a person dissociated as a general partner of a limited partnership.

"(12) "REQUIRED INFORMATION" means the information that a limited partnership is required to maintain under Section 10A-9A-1.11.

"(13) "TRANSFER" means an assignment, conveyance, deed, bill of sale, lease, mortgage, security interest, encumbrance, gift, or transfer by operation of law.
"(14) "TRANSFERABLE INTEREST" means a partner's right to receive distributions from a limited partnership.

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

§10A-9A-2.01.

"(a) In order to form a limited partnership, a person must deliver a certificate of formation for filing to the Secretary of State. Notwithstanding Section 10A-1-3.05 shall not apply to this chapter. Instead, the certificate of formation shall set forth:

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

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

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

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

"(5) whether the limited partnership is a limited liability limited partnership;

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

"(7) any other matters the partners determine to include therein which comply with Section 10A-9A-1.08.
"(b) A limited partnership is formed when the certificate of formation becomes effective in accordance with Article 4 of Chapter 1.

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

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

"§10A-9A-2.02.

"Notwithstanding Division B of Article 3 of Chapter 1 shall not apply to this chapter. Instead:

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

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

"(c) To amend its certificate of formation, a limited partnership must deliver a certificate of amendment for filing to the Secretary of State which certificate of amendment shall state:
"(1) the name of the limited partnership;
"(2) the unique identifying number or other designation as assigned by the Secretary of State; and 
"(3) the changes the amendment makes to the certificate of formation as most recently amended or restated.

"(d) Prior to a statement of dissolution being delivered to the Secretary of State for filing, a limited partnership shall promptly deliver a certificate of amendment for filing with the Secretary of State to reflect:

"(1) the admission of a new general partner; or
"(2) the dissociation of a person as a general partner.

"(e) Prior to a statement of dissolution being delivered to the Secretary of State for filing, if a general partner knows that any information in a filed certificate of formation was inaccurate when the certificate of formation was filed or has become inaccurate due to changed circumstances and if such information is required to be set forth in a newly filed certificate of formation under this chapter, the general partner shall promptly:

"(1) cause the certificate of formation to be amended; or
"(2) if appropriate, deliver for filing with the Secretary of State a certificate of correction in accordance with Chapter 1.
(f) A certificate of formation may be amended at any time pursuant to this section for any other proper purpose as determined by the limited partnership. A certificate of formation may also be amended in a statement of merger pursuant to Article 8 of Chapter 1 or Article 10 of this chapter.

(g) In order to restate its certificate of formation, a limited partnership must deliver a restated certificate of formation for filing with the Secretary of State. A restated certificate of formation must:

(1) be designated as such in the heading;

(2) state the name of the limited partnership;

(3) state the unique identifying number or other designation as assigned by the Secretary of State;

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

(5) set forth the text of the restated certificate of formation; and

(6) state that the restated certificate of formation consolidates all amendments into a single document.
"(h) The original certificate of formation, as theretofore amended, shall be superseded by the restated certificate of formation and thenceforth, the restated certificate of formation, including any further amendment or changes made thereby, shall be the certificate of formation of the limited partnership, but the original effective date of formation shall remain unchanged.

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

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

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

"§10A-9A-4.06.

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

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

"(1) amend the partnership agreement;

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

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

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

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

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

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

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

"§10A-9A-4.07.

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

"(a) Subject to subsection (f), a general partner, without having any particular purpose for seeking the information, may inspect and copy during regular business hours at a reasonable location specified by the limited partnership, required information and any other records maintained by the limited partnership regarding the limited partnership's activities and affairs and financial condition.

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

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

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

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

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

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

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

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

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

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

"(1) impose reasonable restrictions and conditions on access to and use of information to be furnished under this section, including designating information confidential and imposing nondisclosure and safeguarding obligations on the recipient; and

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

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

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

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

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

"(j) Any general partner who, without reasonable
cause, refuses to allow any general partner or person
dissociated as a general partner, or their agent or attorney
to inspect or copy any records of the limited partnership to
which such general partner or person disassociated as a
general partner is entitled under this section, shall be
personally liable to the general partner or person disassociated
as a general partner for a penalty in an amount not to exceed
10 percent of the fair market value of the partnership
interest of the general partner or person disassociated as a
general partner, in addition to any other damages or remedy.

"§10A-9A-8.02.

"Notwithstanding Section 10A-1-9.12:

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

"(1) collecting its assets;

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

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

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

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

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

"(1) deliver for filing a statement of dissolution to the Secretary of State setting forth:

"(A) The name of the limited partnership;

"(B) The unique identifying number or other designation as assigned by the Secretary of State;

"(C) That the limited partnership has dissolved;

"(D) The name and street mailing address of the general partner who will be winding up the affairs of the limited partnership pursuant to Section 10A-9A-8.03(a), and if none, the name and street address of the person appointed pursuant to Section 10A-9A-8.03(b) or (c) to wind up the activities and affairs of the limited partnership; and
"(E) Any other information the limited partnership deems appropriate;

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

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

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

"(5) resolve disputes by mediation or arbitration;

and

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

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

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

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

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

"(4) terminate the authority of its registered agent; or
"(5) abate, suspend, or otherwise alter the application of Sections 10A-9A-3.03 and 10A-9A-4.04(b) and (c).

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

"§10A-9A-8.06.

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

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

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

"(1) identify the dissolved limited partnership;

"(2) describe the information required to be included in a claim;

"(3) provide a mailing address to which the claim is to be sent;

"(4) state the deadline, which may not be fewer than 120 days from the effective date of the notice, by which the dissolved partnership must receive the claim;

"(5) state that if not sooner barred, the claim will be barred if not received by the deadline; and
"(6) unless the limited partnership has been throughout its existence a limited liability limited partnership, state that the barring of a claim against the limited partnership will also bar any corresponding claim against any general partner or person dissociated as a general partner which is based on Section 10A-9A-4.04.

"(c) Unless sooner barred by any other statute limiting actions, a claim against a dissolved limited partnership is barred:

"(1) if a claimant who was given notice under subsection (b) does not deliver the claim to the dissolved limited partnership by the deadline; or

"(2) if a claimant whose claim was rejected by the dissolved limited partnership, does not commence a proceeding to enforce the claim within 90 days from the effective date of the rejection notice.

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

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


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

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

"(1) be published at least one time in a newspaper of general circulation in the county in which the dissolved limited partnership's principal office is located in this state, and if none in this state, in the county in which the limited partnership's most recent registered office is located;

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

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

"(4) unless the limited partnership has been throughout its existence a limited liability limited partnership, state that the barring of a claim against the limited partnership will also bar any corresponding claim against any general partner or person dissociated as a general partner which is based on Section 10A-9A-4.04.
"(c) If a dissolved limited partnership publishes a newspaper notice in accordance with subsection (b), unless sooner barred by any other statute limiting actions, the claim of each of the following claimants is barred unless the claimant commences a proceeding to enforce the claim against the dissolved limited partnership within two years after the publication date of the newspaper notice:

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

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

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

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

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

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

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

"(e) A dissolved limited partnership that published a notice under this section may file an application with the designated court, and if none the circuit court for the county in which the dissolved limited partnership's principal office is located in this state and if the dissolved limited partnership does not have a principal office within this state, in the circuit court for the county in which the dissolved limited partnership's most recent registered office is located, for a determination of the amount and form of security to be provided for payment of claims that are contingent or have not been made known to the dissolved limited partnership or that are based on an event occurring after the effective date of the dissolution of the limited partnership but that, based on the facts known to the dissolved limited partnership, are reasonably estimated to arise after the effective date of the dissolution of the limited partnership. Provision need not be made for any claim
that is or is reasonably anticipated to be barred under subsection (c).

"(f) Within 10 days after the filing of the application provided for in subsection (e), notice of the proceeding shall be given by the dissolved limited partnership to each potential claimant as described in subsection (e).

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

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

"(i) Nothing in this section shall be deemed to extend any otherwise applicable statute of limitations.
"(j) If a claim has been satisfied, disposed of, or barred under Section 10A-9A-8.06, this section, or other law, the person or persons designated to wind up the affairs of a limited partnership, and the owners of the transferable interests receiving assets from the limited partnership, shall not be liable for that claim.


"Notwithstanding Section 10A-1-9.12, upon the winding up of a limited partnership, the assets of the limited partnership, including any obligation under Article 5 of this chapter, and any contribution required by this section, shall be applied as follows:

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

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

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

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

"(c) If the limited partnership does not have
sufficient surplus to comply with subsection (b)(1), any
surplus must be distributed among the owners of transferable
interests in proportion to the value of their respective
unreturned contributions.

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

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

"(2) If a person does not contribute the full amount
required under paragraph (1) with respect to an unsatisfied
obligation of the limited partnership, the other persons
required to contribute by paragraph (1) on account of the
obligation shall contribute the additional amount necessary to
discharge the obligation. The additional contribution due from
each of those other persons is in proportion to the right to
receive distributions in the capacity of general partner in
effect for each of those other persons when the obligation was
incurred.

"(3) If a person does not make the additional
collection required by paragraph (2), further additional
collections are determined and due in the same manner as
provided in that paragraph.

"(e) A person that makes an additional contribution
under subsection (d) (2) or (3) may recover from any person
whose failure to contribute under subsection (d) (1) or (2)
necessitated the additional contribution. A person may not
recover under this subsection more than the amount
additional contributed. A person's liability under this
subsection may not exceed the amount the person failed to
contribute.

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

"(g) An assignee for the benefit of creditors of a
limited partnership or a partner, or a person appointed by a
court to represent creditors of a limited partnership or a
partner, may enforce a person's obligation to contribute under
subsection (d).
Notwithstanding Sections 10A-1-9.31 and 10A-1-9.32, a limited partnership that has been dissolved may be reinstated upon compliance with the following conditions:

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

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

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

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

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

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

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

"§10A-9A-10.01.

"Notwithstanding Section 10A-1-1.03, as As used in
this article, unless the context otherwise requires, the
following terms mean:

"(1) "CONSTITUENT LIMITED PARTNERSHIP" means a
constituent organization that is a limited partnership.

"(2) "CONSTITUENT ORGANIZATION" means an
organization that is party to a merger under this article.

"(3) "CONVERTED ORGANIZATION" means the organization
into which a converting organization converts pursuant to this
article.

"(4) "CONVERTING LIMITED PARTNERSHIP" means a
converting organization that is a limited partnership.

"(5) "CONVERTING ORGANIZATION" means an organization
that converts into another organization pursuant to this
article.

"(6) "GENERAL PARTNER" means a general partner of a
limited partnership.

"(7) "GOVERNING STATUTE" of an organization means
the statute that governs the organization's internal affairs.
"(8) **ORGANIZATION** means a general partnership, including a limited liability partnership; limited partnership, including a limited liability limited partnership; limited liability company; business trust; corporation; nonprofit corporation; professional corporation; or any other person having a governing statute. The term includes domestic and foreign organizations whether or not organized for profit.

"(9) **ORGANIZATIONAL DOCUMENTS** means:

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

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

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

"(D) for a business or statutory trust or foreign business or statutory trust its agreement of trust and declaration of trust, or comparable writings as provided in its governing statute;
"(E) for a corporation for profit or foreign corporation for profit, its certificate of formation, bylaws, and other agreements among its shareholders that are authorized by its governing statute, or comparable writings as provided in its governing statute;

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

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

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

"(10) "SURVIVING ORGANIZATION" means an organization into which one or more other organizations are merged under this article, whether the organization pre-existed the merger or was created pursuant to the merger."

Section 6. Section 40-9-12, Code of Alabama 1975, is amended to read as follows:
§40-9-12.

"(a) The National Foundation's Alabama Field Offices, all Young Men's Hebrew Associations (Y.M.H.A.) also known as Jewish Community Centers (J.C.C.), and all real and personal property of all Young Men's Hebrew Associations (Y.M.H.A.) also known as Jewish Community Centers (J.C.C.), the Seamen's Home of Mobile, incorporated under Act No. 145, Acts of Alabama 1844-45, the Girl Scouts of America and the Boy Scouts of America, and any council, troop or other subdivision thereof now existing or hereafter created and all real and personal property of the Girl Scouts of America and the Boy Scouts of America, and any council, troop or other subdivision thereof now existing or hereafter created, the Catholic Maritime Club of Mobile, Inc., the Knights of Pythias Lodges, the Salvation Army, Inc., the Elks Memorial Center, and all real and personal property of the Salvation Army, Inc., and the Elks Memorial Center, all United Way organizations and United Way member agencies in Alabama, other qualifying united appeal funds and their recipients as provided in subsection (d), and the real and personal property of all United Way organizations and United Way member agencies in Alabama, other qualifying united appeal funds and their recipients as provided in subsection (d), and the Alabama Masonic Home, the American Cancer Society, and all real and personal property of American Cancer Society, the New Hope
Industries of Dothan, and all real and personal property of the New Hope Industries of Dothan, the Helping Hand Club of Anniston, and all real and personal property of the Helping Hand Club of Anniston, Childhaven, Inc., and all real and personal property of Childhaven, Inc., Presbyterian Home for Children and all real and personal property of Presbyterian Home for Children, Freewill Baptist Children's Home and all real and personal property of Freewill Baptist Children's Home, Methodist Homes for the Aging and all real and personal property of Methodist Homes for the Aging, and United Methodist Children's Home and all real and personal property of United Methodist Children's Home, Birmingham Building Trades Towers of Birmingham, Alabama, a nonprofit corporation, the Holy Comforter House, Inc., of Gadsden, Alabama, a nonprofit corporation, the University of Alabama Huntsville Foundation and all real and personal property of the University of Alabama Huntsville Foundation, the Birmingham Football Foundation, Inc., a nonprofit corporation, and all real and personal property of the Birmingham Football Foundation, Inc., and of any branch or department of any of the same heretofore or hereafter organized and existing in good faith in the State of Alabama, for other than pecuniary gain and not for individual profit, when such real or personal property shall be used by such associations or nonprofit corporations, their branches or departments in and about the
conducting, maintaining, operating and carrying out of the
program, work, principles, objectives, and policies of such
associations or nonprofit corporations, their branches or
departments, in any city or county of the State of Alabama,
are exempt from the payment of any and all state, county, and
municipal taxes, licenses, fees, and charges of any nature
whatsoever, including any privilege or excise tax heretofore
or hereafter levied by the State of Alabama or any county or
municipality thereof. The receipt, assessment or collection of
any fee, admission, service charge, rent, dues, or any other
item or charge by any such association or nonprofit
corporation, its branches or departments from any person,
firm, or corporation for any services rendered by any such
association or nonprofit corporation, its branches or
departments or for the use or occupancy of any real or
personal property of any such association or nonprofit
corporation, its branches or departments in or about the
conducting, maintaining, operating, and carrying out of the
program, work, principles, objectives, and policies of any
such association or nonprofit corporation, its branches, or
departments shall not be held or construed by any court,
agency, officer, or commission of the State of Alabama, or any
county or municipality thereof, to constitute pecuniary gain
or individual profit by any such association or nonprofit
corporation, its branches or departments, or the doing of
business in such a manner as to prejudice or defeat, in any manner, the right and privilege of any such association or nonprofit corporation, its branches or departments to claim or rely upon or receive the exemption of such association or nonprofit corporation, its branches or departments and of all real and personal property thereof from taxation, as herein provided.

"(b) With respect to gasoline, tobacco, playing card tax or any other tax required by law to be prepaid by the retailer, the associations, nonprofit corporations, or organizations exempt under this section shall pay the appropriate tax at the time purchases are made, and the amount of such tax shall be refunded to such associations, nonprofit corporations, or organizations by the Department of Revenue pursuant to the procedures for refunds provided in Chapter 2A of this title.

"(c) For purposes of this section, the following words and phrases shall have the following meanings:

"(1) SUPPORTED CHARITY. Any charitable, civic, or eleemosynary institution for which a united appeal fund solicits funds.

"(2) UNITED APPEAL FUND. Any nonprofit entity that demonstrates to the reasonable satisfaction of the Department of Revenue that it has all of the following characteristics:
"a. Is an Alabama nonprofit corporation, or another type of legal entity, whether formed in Alabama or in another jurisdiction, which is required by its principal governing documents to be operated as a charity.

"b. Is one of a class, donations to which are deductible for federal and Alabama income tax purposes under Section 170(c) of the Internal Revenue Code.

c. Has as its principal purpose, as stated by its principal governing documents, the raising of funds or the aggregation or consolidation of fund raising efforts, to support other charities which are not themselves united appeal funds, known as supported charities.

d. Has been issued a Certificate of Exemption from Alabama sales, use, and lodgings tax prior to July 1, 2017, and has continually maintained the Certificate of Exemption as required by Section 40-9-60.

e. With respect to the distribution of funds raised by the united appeal fund, the entity's principle governing documents must require that no supported charity, as defined in this subsection, will receive de minimis support.

"(3) UNITED WAY MEMBER AGENCY. Any nonprofit organization that receives more than a de minimis amount of funding through the approval of the board of a United Way organization, but only if the nonprofit organization is:
"a. Accountable to the granting United Way organization for the expenditure of any funds received from such United Way organization.

"b. Included on a list of such nonprofit organizations to be submitted to the Department of Revenue under subsection (e) by all United Way organizations on or before a date provided for in a rule of the Department of Revenue.

"(4) UNITED WAY ORGANIZATION. Any nonprofit corporation legally authorized and licensed to operate under the name United Way and use the name United Way and the associated logo and trademarks.

"(d) (1) Each supported charity must be separately identified by name in the principal governing documents of the united appeal fund entity, and by name and federal employer identification number at the request of the Department of Revenue. Each supported charity must agree, in its own principal governing documents, to become or remain a member of the united appeal fund that funded the supported charity.

"(2) The special rules provided in this subsection shall not apply to any United Way organization or any United Way member agency.

"(e) (1) Each United Way organization shall provide the Department of Revenue with a list of its constituent United Way member agencies on an annual basis.
"(2) The Department of Revenue, by rule, shall provide the date on which United Way organizations shall submit the list required by this subsection."

Section 7. This act shall become effective on January 1, 2022, following its passage and approval by the Governor, or its otherwise becoming law.
President and Presiding Officer of the Senate

Speaker of the House of Representatives

Patrice Harris,
Secretary.

House of Representatives
Amended and passed 15-APR-21

Senate concurred in House amendment 20-APR-21

By: Senator Givhan