

1 SB361
2 183688-2
3 By Senators Orr and Whatley
4 RFD: Judiciary
5 First Read: 06-APR-17

2
3
4
5
6
7
8 SYNOPSIS: Under existing law, the Alabama Partnership
9 Act governs the formation, powers, governance, and
10 dissolution of partnerships in the state.

11 This bill would revise the Alabama
12 Partnership Act and would specify that the
13 procedures for formation, powers, governance, and
14 dissolution are applicable to limited liability
15 limited partnerships, limited liability
16 partnerships, foreign limited liability
17 partnerships, and foreign limited liability
18 partnerships that function in the state. This bill
19 would make conforming changes elsewhere in the
20 business entities law.

21
22 A BILL

23 TO BE ENTITLED

24 AN ACT

25
26 Relating to business entities; to amend Section
27 10A-1-1.02, Section 10A-1-1.03, as amended by Act 2016-379,

1 2016 Regular Session, Sections 10A-1-1.06, 10A-1-1.08,
2 10A-1-1.12, 10A-1-2.02, 10A-1-3.06, 10A-1-3.17, 10A-1-3.32,
3 10A-1-3.33, 10A-1-3.41, 10A-1-4.01, 10A-1-4.02, 10A-1-4.25,
4 10A-1-4.31, 10A-1-5.01, 10A-1-5.02, 10A-1-5.03, 10A-1-5.04,
5 10A-1-5.05, 10A-1-5.06, and 10A-1-5.08; to add Section
6 10A-1-5.10; to amend Sections 10A-1-5.11, 10A-1-5.12,
7 10A-1-5.31, 10A-1-5.32, 10A-1-5.33, 10A-1-7.01, 10A-1-7.02,
8 10A-1-7.03, 10A-1-7.04, 10A-1-7.05, and 10A-1-7.06, Section
9 10A-1-7.07, as amended by Act 2016-379, 2016 Regular Session,
10 10A-1-7.11, 10A-1-7.12, 10A-1-7.13, 10A-1-7.14, 10A-1-7.22,
11 10A-1-7.23, 10A-1-7.24, 10A-1-7.31, 10A-1-7.32, 10A-1-7.34,
12 10A-1-7.36, 10A-1-7.37, 10A-1-8.01, 10A-1-8.02, and
13 10A-1-8.03, to amend and renumber Section 10A-1-9.01 as
14 10A-1-9.02, to add a new Section 10A-1-9.01, and to amend
15 Sections 10A-1-9.21, 10A-1-9.22, 10A-5A-1.02, 10A-5A-1.06,
16 10A-9A-1.07, and 10A-17-1.02 of the Code of Alabama 1975, to
17 revise and replace the Alabama Partnership Act; and to provide
18 that the procedures for formation, powers, governance, and
19 dissolution are applicable to limited liability limited
20 partnerships, limited liability partnerships, foreign limited
21 liability partnerships, and foreign limited liability limited
22 partnerships that function in the state; to repeal Sections
23 10A-1-5.07, 10A-1-7.33, and Chapter 8 of Title 10A, comprised
24 of Sections 10A-8-1.01 to 10A-8-11.04, inclusive, Code of
25 Alabama 1975; and to add Chapter 8A to Title 10A of the Code
26 of Alabama 1975.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Section 10A-1-1.02, Section 10A-1-1.03,
2 as amended by Act 2016-379, 2016 Regular Session, Sections
3 10A-1-1.06, 10A-1-1.08, 10A-1-1.12, 10A-1-2.02, 10A-1-3.06,
4 10A-1-3.17, 10A-1-3.32, 10A-1-3.33, 10A-1-3.41, 10A-1-4.01,
5 10A-1-4.02, 10A-1-4.25, 10A-1-4.31, 10A-1-5.01, 10A-1-5.02,
6 10A-1-5.03, 10A-1-5.04, 10A-1-5.05, 10A-1-5.06, and 10A-1-5.08
7 of the Code of Alabama 1975, are amended to read as follows:

8 "§10A-1-1.02.

9 "(a) All provisions of this chapter shall apply to
10 all entities formed under or governed by Chapters 2 to 11,
11 inclusive, except to the extent, if any, that any provision of
12 this chapter is inconsistent with or as otherwise provided by
13 the provisions of this title or other statutory or
14 constitutional provisions specifically applicable to the
15 entity.

16 "(b) The provisions of this chapter shall apply to
17 entities formed under or governed by Chapter 16, Chapter 17,
18 Chapter 20, and Chapter 30 only as provided therein or
19 expressly provided in this chapter.

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

24 "~~(d) Any section of any act enacted at the 2009 and~~
25 ~~2010 Regular Sessions in substantive conflict with any~~
26 ~~provision of Act 2009-513 shall prevail over Act 2009-513~~
27 ~~whether enacted before or after Act 2009-513.~~

1 ~~"(e) When codifying Act 2009-513 and acts of the~~
2 ~~2009 and 2010 Regular Sessions or any special session~~
3 ~~occurring before the 2011 Regular Session, the Code~~
4 ~~Commissioner shall place the provisions of other acts relating~~
5 ~~to the subject of Act 2009-513 within the structure of Title~~
6 ~~10A as specified by Act 2009-513. Actions taken by the Code~~
7 ~~Commissioner in complying with this requirement shall include,~~
8 ~~but not be limited to, placing a section that is amended and~~
9 ~~renumbered by Act 2009-513 into the code in the substantive~~
10 ~~form as amended by the other act but assigning it the code~~
11 ~~section number contained in Act 2009-513 and assigning a~~
12 ~~section number based on the numbering system contained in Act~~
13 ~~2009-513 for any section amended by another act that is~~
14 ~~repealed by Act 2009-513.~~

15 "§10A-1-1.03.

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

18 "(1) AFFILIATE. A person who controls, is controlled
19 by, or is under common control with another person. An
20 affiliate of an individual includes the spouse, or a parent or
21 sibling thereof, of the individual, or a child, grandchild,
22 sibling, parent, or spouse of any thereof, of the individual,
23 or an individual having the same home as the individual, or a
24 trust or estate of which an individual specified in this
25 sentence is a substantial beneficiary; a trust, estate,
26 incompetent, conservatee, protected person, or minor of which
27 the individual is a fiduciary; or an entity of which the

1 individual is director, general partner, agent, employee or
2 the governing authority or member of the governing authority.

3 "(2) ASSOCIATE. When used to indicate a relationship
4 with:

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

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

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

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

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

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

19 "(3) ASSOCIATION. Includes, but is not limited to,
20 an unincorporated nonprofit association as defined in ~~Section~~
21 ~~10A-17-1.02(2)~~ Chapter 17 and an unincorporated professional
22 association as defined in ~~Section 10A-30-1.01(2)~~ Article 1 of
23 Chapter 30.

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

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

3 "(6) CERTIFICATE OF DISSOLUTION. Any document such
4 as a certificate of dissolution, statement of dissolution, or
5 articles of dissolution, required or permitted to be filed
6 publicly with respect to an entity's dissolution and winding
7 up of its business, activity, activities, not for profit
8 activity, or affairs.

9 "~~(6)~~ (7) CERTIFICATE OF FORMATION.

10 "(A) the document required to be filed publicly
11 under Article 3, Chapter 5A or Chapter 9A to form a filing
12 entity; and

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

16 "~~(7)~~ (8) CERTIFICATE OF OWNERSHIP. An instrument
17 evidencing an ownership interest or membership interest in an
18 entity.

19 "~~(8)~~ CERTIFICATE OF TERMINATION. Any document, such
20 as articles of dissolution in the case of a corporation, or
21 certificate of cancellation, in the case of a limited
22 partnership, required by law to be filed publicly with respect
23 to an entity's dissolution and the winding up of its affairs
24 or the end of its existence. In the case of an entity whose
25 separate existence ceases as a result of a merger, the
26 articles of merger shall constitute the certificate of
27 termination.

1 "(9) CERTIFICATED OWNERSHIP INTEREST. An ownership
2 interest of a domestic entity represented by a certificate
3 ~~issued in bearer or registered form.~~

4 "(10) CERTIFICATION. Duly authenticated by the
5 proper officer ~~of the state or county under the laws of which~~
6 ~~a domestic or foreign entity is formed~~ or filing officer of
7 the jurisdiction the laws of which govern the internal affairs
8 of an entity.

9 "(11) CONTRIBUTION. A tangible or intangible benefit
10 that a person transfers to an entity in consideration for an
11 ownership interest in the entity or otherwise in the person's
12 capacity as an owner or a member. ~~In the case of an entity to~~
13 ~~which Section 234 of the Constitution of Alabama of 1901, now~~
14 ~~appearing as Section 234 of the Official Recompilation of the~~
15 ~~Constitution of Alabama of 1901, as amended, applies, the~~
16 ~~benefit that may constitute a contribution transferred in~~
17 ~~exchange for an ownership interest or transferred in the~~
18 ~~transferor's capacity as an owner or member shall be limited~~
19 ~~to money, work or labor done, or property actually received.~~
20 ~~For entities to which Section 234 does not apply, the~~ A
21 benefit that may constitute a contribution transferred in
22 exchange for an ownership interest or transferred in the
23 transferor's capacity as an owner or member may include cash,
24 property, services rendered, a contract for services to be
25 performed, a promissory note or other obligation of a person
26 to pay cash or transfer property to the entity, or securities
27 or other interests in or obligations of an entity. In either

1 case, the benefit does not include cash or property received
2 by the entity:

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

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

8 "(12) CONVERSION.

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

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

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

15 "(13) CONVERTED ENTITY. An entity resulting from a
16 conversion. ~~The term converted entity is synonymous with the~~
17 ~~term resulting entity.~~

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

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

23 "(16) CORPORATION. Includes a domestic or foreign
24 business corporation ~~within the meaning of Section~~
25 ~~10A-2-1.40(3) or Section 10A-2-1.40(9), a~~ as defined in
26 Chapter 2, a domestic or foreign nonprofit corporation ~~within~~
27 ~~the meaning of Section 10A-3-1.02(7) or Section 10A-3-1.02(4),~~

1 ~~a~~ as defined in Chapter 3, a domestic or foreign professional
2 corporation ~~within the meaning of Section 10A-4-1.03(3) or~~
3 ~~Section 10A-4-1.03(4)~~ as defined in Chapter 4, and those
4 entities specified in Chapter 20 as corporate.

5 "(17) COURT. Every court and judge having
6 jurisdiction in a case.

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

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

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

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

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

25 "(21) DISTRIBUTION. A transfer of property,
26 including cash, from an entity to an owner or member of the
27 entity in the owner's or member's capacity as an owner or

1 member. The term includes a dividend, a redemption or purchase
2 of an ownership interest, or a liquidating distribution.

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

5 "(23) DOMESTIC ENTITY. An organization formed and
6 existing under this title.

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

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

11 "(26) ENTITY. A domestic entity or foreign entity.

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

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

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

24 "(30) FOREIGN. With respect to an entity, that the
25 entity is formed and existing under the laws of a jurisdiction
26 other than this state.

1 "(31) FOREIGN ENTITY. An organization formed and
2 existing under the laws of a jurisdiction other than this
3 state.

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

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

10 "(34) FOREIGN LIMITED LIABILITY LIMITED PARTNERSHIP.
11 A foreign limited liability limited partnership as defined in
12 Chapter 9A.

13 "(35) FOREIGN LIMITED LIABILITY PARTNERSHIP. A
14 foreign limited liability partnership as defined in Chapter
15 8A.

16 "~~(34)~~ (36) FOREIGN LIMITED PARTNERSHIP. A foreign
17 limited partnership within the meaning of Section
18 ~~10A-9A-1.02(4)~~ as defined in Chapter 9A.

19 "~~(35)~~ (37) FOREIGN NONFILING ENTITY. A foreign
20 entity that is not a foreign filing entity.

21 "~~(36)~~ (38) FUNDAMENTAL BUSINESS TRANSACTION. A
22 merger, interest exchange, conversion, or sale of all or
23 substantially all of an entity's assets.

24 "~~(37)~~ (39) GENERAL PARTNER.

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

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

4 "~~(38)~~ (40) GENERAL PARTNERSHIP. A partnership ~~within~~
5 ~~the meaning of Section 10A-8-1.02(3)~~ as defined in Chapter 8A.
6 The term includes a registered limited liability partnership
7 ~~within the meaning of Section 10A-8-1.02(7)~~ as defined in
8 Chapter 8A.

9 "~~(39)~~ (41) GOVERNING AUTHORITY. A person or group of
10 persons who are entitled to manage and direct the affairs of
11 an entity under this title and the governing documents of the
12 entity, except that if the governing documents of the entity
13 or this title divide the authority to manage and direct the
14 affairs of the entity among different persons or groups of
15 persons according to different matters, governing authority
16 means the person or group of persons entitled to manage and
17 direct the affairs of the entity with respect to a matter
18 under the governing documents of the entity or this title. The
19 term includes the board of directors of a corporation, by
20 whatever name known, or other persons authorized to perform
21 the functions of the board of directors of a corporation, the
22 general partners of a general partnership or limited
23 partnership, ~~the managers of a limited liability company that~~
24 ~~is managed by managers, the members~~ the persons who have
25 direction and oversight of a limited liability company, ~~that~~
26 ~~is managed by members who are entitled to manage the company,~~
27 and the trust managers of a real estate investment trust. The

1 term does not include an officer who is acting in the capacity
2 of an officer.

3 ~~"(40)~~ (42) GOVERNING DOCUMENTS.

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

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

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

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

18 ~~"(41)~~ (43) GOVERNING PERSON. A person serving as
19 part of the governing authority of an entity.

20 ~~"(42)~~ (44) INDIVIDUAL. A natural person and the
21 estate of an incompetent or deceased natural person.

22 ~~"(43)~~ (45) INSOLVENCY. The inability of a person to
23 pay the person's debts as they become due in the usual course
24 of business or affairs.

25 ~~"(44)~~ (46) INSOLVENT. A person who is unable to pay
26 the person's debts as they become due in the usual course of
27 business or affairs.

1 "~~(45)~~ (47) JUDGE OF PROBATE. The judge of probate of
2 the county in which a domestic entity's certificate of
3 formation is filed, or, with respect to ~~partnership statements~~
4 ~~provided for in Section 10A-8-1.06~~ a statement of authority
5 under Chapter 8A, which is to be filed in the real property
6 records of a particular county, the judge of probate of the
7 county in which ~~a~~ that statement is filed.

8 "~~(46)~~ (48) JURISDICTION OF FORMATION.

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

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

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

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

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

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

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

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

16 "~~(47)~~ (49) LAW. Unless the context requires
17 otherwise, both statutory and common law.

18 "~~(48)~~ (50) LICENSE. A license, certificate of
19 registration, or other legal authorization.

20 "~~(49)~~ (51) LICENSING AUTHORITY. The state court,
21 state regulatory licensing board, or other like agency which
22 has the power to issue a license or other legal authorization
23 to render professional services.

24 "~~(50)~~ (52) LIMITED LIABILITY COMPANY. A limited
25 liability company ~~within the meaning of~~ as defined in Chapter
26 5A.

1 "(53) LIMITED LIABILITY LIMITED PARTNERSHIP. A
2 limited liability limited partnership as defined in Chapter
3 9A.

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

6 "~~(51)~~ (55) LIMITED PARTNER. A person who has been
7 admitted to a limited partnership as a limited partner as
8 provided by:

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

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

14 "~~(52)~~ (56) LIMITED PARTNERSHIP. A limited
15 partnership within the meaning of Section 10A-9-1.02(11) or
16 10A-9A-1.02(8), as applicable as defined in Chapter 9A. The
17 term includes a limited liability limited partnership as
18 defined in Chapter 9A.

19 "~~(53)~~ (57) MANAGERIAL OFFICIAL. An officer or a
20 governing person.

21 "~~(54)~~ (58) MEMBER.

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

23 "(B) in the case of a nonprofit corporation governed
24 by ~~Article~~ Chapter 3, a person having membership rights in a
25 corporation in accordance with its governing documents as
26 provided in ~~Section 10A-3-1.02(5)~~ Chapter 3;

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

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

11 "~~(55)~~ (59) MERGER.

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

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

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

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

24 "~~(iii) (C) one or more surviving domestic entities
25 or non-code organizations and the creation of one or more new
26 domestic entities or non-code organizations.~~

1 "~~(56)~~ (60) NON-CODE ORGANIZATION. An organization
2 other than a domestic entity.

3 "~~(57)~~ (61) NONFILING ENTITY. A domestic entity that
4 is not a filing entity. The term includes a domestic general
5 partnership, a ~~registered~~ limited liability partnership, and a
6 nonprofit association.

7 "~~(58)~~ (62) NONPROFIT ASSOCIATION. An unincorporated
8 nonprofit association ~~within the meaning of Section~~
9 ~~10A-17-1.02(2)~~ as defined in Chapter 17. The term does not
10 include a general partnership which has filed a statement of
11 not for profit partnership in accordance with Chapter 8A, a
12 limited partnership which is carrying on a not for profit
13 purpose, or a limited liability company which is carrying on a
14 not for profit purpose.

15 "~~(59)~~ (63) NONPROFIT CORPORATION. A domestic or
16 foreign nonprofit corporation ~~within the meaning of Section~~
17 ~~10A-3-1.02(7) or Section 10A-3-1.02(4)~~ as defined in Chapter
18 3.

19 "~~(60)~~ (64) NONPROFIT ENTITY. An entity that is a
20 nonprofit corporation, nonprofit association, or other entity
21 that is organized solely for one or more nonprofit purposes.

22 "~~(61)~~ (65) OFFICER. An individual elected,
23 appointed, or designated as an officer of an entity by the
24 entity's governing authority or under the entity's governing
25 documents.

26 "~~(62)~~ (66) ORGANIZATION. A corporation, limited
27 partnership, or general partnership, limited liability

1 company, business trust, real estate investment trust, joint
2 venture, joint stock company, cooperative, association, bank,
3 insurance company, credit union, savings and loan association,
4 or other organization, regardless of whether the organization
5 is for profit, not for profit, nonprofit, domestic, or
6 foreign.

7 "~~(63)~~ (67) ORGANIZER. A person, who need not be an
8 owner or member of the entity, who, having the capacity to
9 contract, is authorized to execute documents in connection
10 with the formation of the entity.

11 "~~(64)~~ (68) OWNER.

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

14 "(B) with respect to a foreign or domestic
15 partnership, a partner;

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

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

20 "~~(65)~~ (69) OWNERSHIP INTEREST. An owner's interest
21 in an entity. The term includes the owner's share of profits
22 and losses or similar items and the right to receive
23 distributions. The term does not include an owner's right to
24 participate in management or participate in the direction or
25 oversight of the entity. An ownership interest is personal
26 property.

1 "~~(66)~~ (70) PARENT ENTITY or PARENT ORGANIZATION. An
2 entity or organization that:

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

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

7 "~~(67)~~ (71) PARTNER. A limited partner or general
8 partner.

9 "~~(68)~~ (72) PARTNERSHIP. Includes a general
10 partnership, a ~~registered~~ limited liability partnership, a
11 foreign ~~registered~~ limited liability partnership, a limited
12 partnership, a foreign limited partnership, a limited
13 liability limited partnership ~~within the meaning of Section~~
14 ~~10A-9-1.02(9) and Section 10A-9A-1.02(6)~~, and a foreign
15 limited liability limited partnership ~~within the meaning of~~
16 ~~Section 10A-9-1.02(6) and Section 10A-9A-1.02(3)~~.

17 "~~(69)~~ (73) PARTNERSHIP AGREEMENT. Any agreement
18 (whether referred to as a partnership agreement or otherwise),
19 written, oral or implied, of the partners as to the activities
20 and affairs of a general partnership or a limited partnership.
21 The partnership agreement includes any amendments to the
22 partnership agreement. In the case of limited partnerships
23 formed prior to October 1, 1998, partnership agreement
24 includes the certificate of partnership.

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

1 "~~(71)~~ (74) PARTY TO THE MERGER. A domestic entity or
2 non-code organization that under a plan of merger is ~~divided~~
3 ~~or~~ combined by a merger. The term does not include a domestic
4 entity or non-code organization that is not to be ~~divided or~~
5 combined into or with one or more domestic entities or
6 non-code organizations, regardless of whether ownership
7 interests of the entity are to be issued under the plan of
8 merger.

9 "~~(72)~~ (75) PERSON. An individual or an organization,
10 whether created by the laws of this state or another state or
11 foreign country, including, without limitation, a general
12 partnership, ~~registered~~ limited liability partnership, limited
13 partnership, limited liability limited partnership, limited
14 liability company, corporation, professional corporation,
15 professional association, trustee, personal representative,
16 fiduciary, as defined in Section 19-3-150 or person performing
17 in any similar capacity, business trust, estate, trust,
18 association, joint venture, government, governmental
19 subdivision, agency, or instrumentality, or any other legal or
20 commercial entity.

21 "~~(73)~~ (76) PRESIDENT.

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

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

1 "~~(74)~~ (77) PROFESSIONAL ASSOCIATION. A professional
2 association ~~within the meaning of Section 10A-30-1.01~~ as
3 defined in Chapter 30.

4 "~~(75)~~ (78) PROFESSIONAL CORPORATION. A domestic or
5 foreign professional corporation ~~within the meaning of Section~~
6 ~~10A-4-1.03(2) or Section 10A-4-1.03(3)~~ as defined in Chapter
7 4.

8 "~~(76)~~ (79) PROFESSIONAL ENTITY. A professional
9 association ~~or~~ and a professional corporation.

10 "~~(77)~~ (80) PROFESSIONAL SERVICE. Any type of service
11 that may lawfully be performed only pursuant to a license
12 issued by a state court, state regulatory licensing board, or
13 other like agency pursuant to state laws.

14 "~~(78)~~ (81) PROPERTY. Includes all property, whether
15 real, personal, or mixed, or tangible and or intangible,
16 ~~property and an~~ or any right or interest in that property
17 therein.

18 "~~(79)~~ (82) REAL ESTATE INVESTMENT TRUST. An
19 unincorporated trust, association, or other entity ~~within the~~
20 ~~meaning of Section 10A-10-1.02(1)~~ as defined in Chapter 10.

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

24 "~~(81)~~ (83) SECRETARY.

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

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

4 "~~(82)~~ (84) SECRETARY OF STATE. The Secretary of
5 State of the State of Alabama.

6 "~~(83)~~ (85) SIGNATURE. Any symbol executed or adopted
7 by a person with present intention to authenticate a writing.
8 Unless the context requires otherwise, the term includes an
9 electronic signature and a facsimile of a signature.

10 "~~(84)~~ (86) STATE. Includes, when referring to a part
11 of the United States, a state or commonwealth, and its
12 agencies and governmental subdivisions, and a territory or
13 possession, and its agencies and governmental subdivisions, of
14 the United States.

15 "~~(85)~~ (87) SUBSCRIBER. A person who agrees with or
16 makes an offer to an entity to purchase by subscription an
17 ownership interest in the entity.

18 "~~(86)~~ (88) SUBSCRIPTION. An agreement between a
19 subscriber and an entity, or a written offer made by a
20 subscriber to an entity before or after the entity's
21 formation, in which the subscriber agrees or offers to
22 purchase a specified ownership interest in the entity.

23 "~~(87)~~ (89) SUBSIDIARY. An entity or organization at
24 least 50 percent of:

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

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

3 "~~(88)~~ (90) TREASURER.

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

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

9 "~~(89)~~ (91) TRUSTEE. A person who serves as a trustee
10 of a trust, including a real estate investment trust.

11 "~~(90)~~ (92) UNCERTIFICATED OWNERSHIP INTEREST. An
12 ownership interest in a domestic entity that is not
13 represented by a certificate ~~in bearer or registered form.~~

14 "~~(91)~~ (93) VICE PRESIDENT.

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

17 "(B) the officer or committee of persons authorized
18 to perform the functions of the president of the entity on the
19 death, absence, or resignation of the president or on the
20 inability of the president to perform the functions of office
21 without regard to the designated name of the officer or
22 committee.

23 "~~(92)~~ (94) WRITING or WRITTEN. Information that is
24 inscribed on a tangible medium or that is stored in an
25 electronic or other medium and is retrievable in perceivable
26 form.

27 "§10A-1-1.06.

1 "To the extent not inconsistent with the
2 Constitution of Alabama of 1901, and other statutes of this
3 state wherein the terms may be found, and as the context
4 requires, in this title or any other statute of this state:

5 "(1) a reference to certificate of formation
6 includes, in the case of a corporation, articles of
7 incorporation, certificate of incorporation, and charter; in
8 the case of limited partnership, a certificate of limited
9 partnership and a certificate of formation; in the case of a
10 limited liability company, certificate of formation and
11 articles of organization; and in the case of a business trust
12 or a real estate investment trust, declaration of trust and,
13 similarly, a reference to articles of incorporation,
14 certificate of incorporation, charter, certificate of limited
15 partnership, or articles of organization includes a
16 certificate of formation;

17 ~~"(2) a reference to certificate of termination~~
18 ~~includes, in the case of a corporation or a limited liability~~
19 ~~company, articles of dissolution and statement of dissolution,~~
20 ~~and in the case of a limited partnership, a certificate of~~
21 ~~cancellation and a statement of dissolution; similarly, a~~
22 reference to articles of dissolution, includes statement of
23 dissolution, ~~or certificate of cancellation includes~~
24 ~~certificate of termination~~ and certificate of dissolution,
25 and, similarly, a reference to ~~certificate of termination~~
26 statement of dissolution includes articles of dissolution,
27 ~~statement of dissolution,~~ and certificate of dissolution, and

1 similarly, a reference to a ~~statement~~ certificate of
2 dissolution includes articles of dissolution, ~~certificate of~~
3 ~~termination, and certificate~~ and statement of dissolution;

4 "(3) a reference to certificate of merger includes
5 articles of merger and statement of merger and similarly, a
6 reference to articles of merger includes certificate of merger
7 and statement of merger, and similarly, a reference to
8 statement of merger includes certificate of merger and
9 articles of merger;

10 "(4) a reference to authorized capital stock
11 includes authorized shares;

12 "(5) a reference to capital stock includes
13 authorized and issued shares, issued shares, and stated
14 capital;

15 "(6) a reference to a certificate of registration,
16 certificate of authority, statement of foreign limited
17 liability partnership, and permit to ~~do~~ transact business
18 includes registration;

19 "(7) a reference to stock and shares of stock
20 includes shares;

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

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

25 "§10A-1-1.08.

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

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

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

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

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

13 "(f) Chapter ~~8~~ 8A and the provisions of Chapter 1 to
14 the extent applicable to general partnerships may be cited as
15 the Alabama ~~Uniform~~ Partnership Law.

16 "~~(g) Chapter 9 and the provisions of Chapter 1 to~~
17 ~~the extent applicable to limited partnerships may be cited as~~
18 ~~the Alabama Uniform Limited Partnership Law.~~ Chapter 9A and
19 the provisions of Chapter 1 to the extent applicable to
20 limited partnerships may be cited as the Alabama Limited
21 Partnership Law.

22 "(h) Chapter 10 and the provisions of Chapter 1 to
23 the extent applicable to real estate investment trusts may be
24 cited as the Alabama Real Estate Investment Trust Law.

25 "(i) Chapter 11 and the provisions of Chapter 1 and
26 Chapter 2 to the extent applicable to employee cooperative

1 corporations may be cited as the Alabama Employee Cooperative
2 Corporations Law.

3 "(j) Chapter 17 may be cited as the Alabama
4 Unincorporated Nonprofit Association Law.

5 "§10A-1-1.12.

6 "~~¶~~ For entities other than general partnerships, if
7 the formation of an entity does not occur when a certificate
8 of formation or similar instrument filed with the Secretary of
9 State or the judge of probate, as the case may be, or with a
10 foreign governmental authority takes effect, the law governing
11 the entity's formation and internal affairs is the law of the
12 entity's jurisdiction of formation.

13 "§10A-1-2.02.

14 "A domestic entity may not engage in a business, ~~or~~
15 activity, not for profit activity, or any other activity,
16 whether or not for profit, that:

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

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

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

26 "§10A-1-3.06.

1 "The formation and existence of a domestic ~~filing~~
2 entity that is a converted entity in a conversion or that is
3 to be created under a plan of merger takes effect and
4 commences on the effectiveness of the conversion or merger, as
5 appropriate.

6 "§10A-1-3.17.

7 "(a) A restated certificate of formation must
8 accurately state the text of the previous certificate of
9 formation, regardless of whether the certificate of formation
10 is an original, corrected, or restated certificate, and
11 include:

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

14 "(2) each new amendment to the certificate being
15 restated.

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

17 "(1) the name and address of each organizer other
18 than the name and address of each general partner of a limited
19 partnership; and

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

22 "(c) A restated certificate of formation that does
23 not make new amendments requiring owner approval to the
24 certificate of formation being restated must be accompanied
25 by:

26 "(1) a statement that (i) the restated certificate
27 of formation accurately states the text of the certificate of

1 formation being restated, as amended, restated, and corrected,
2 except for information omitted under subsection (b) ~~and that~~ ,
3 (ii) the restated certificate does not make new amendments
4 requiring owner approval, and, ~~if it does not, that~~ (iii) the
5 governing persons have adopted the restatement in the manner
6 required by this title and the governing documents of the
7 entity; and

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

10 "(d) A restated certificate of formation that makes
11 new amendments requiring owner approval to the certificate of
12 formation being restated must:

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

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

17 "(3) be accompanied by a statement that each
18 amendment has been approved in the manner required by this
19 title and the governing documents of the entity, including any
20 information required by this article to be set forth in an
21 amendment to the certificate of formation as to the owner
22 approval of the amendment;

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

25 "(A) accurately states the text of the certificate
26 of formation being restated and each amendment to the

1 certificate of formation being restated that is in effect, as
2 further amended by the restated certificate of formation; and

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

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

8 "§10A-1-3.32.

9 "(a) This section applies to entities other than (i)
10 corporations formed under Chapter 2 ~~and~~, professional
11 corporations formed under Chapter 4, and real estate
12 investment trusts governed by Chapter 10, each of which is
13 governed by the separate recordkeeping requirements and record
14 inspections provisions of Chapter 2, and (ii) limited
15 liability companies formed under Chapter 5A, partnerships
16 governed by Chapter 8A, and limited partnerships formed under
17 Chapter 9A, each of which are governed by the separate
18 recordkeeping requirements and record inspection provisions ~~of~~
19 ~~Chapter 2 rather than by this section~~ set forth in each
20 entity's respective chapter governing that entity.

21 "(b) With respect to an entity covered by this
22 section, the books and records maintained under the chapter of
23 this title applicable to the entity and any other books and
24 records of the entity, wherever situated, are subject to
25 inspection and copying at the reasonable request, and at the
26 expense of, any owner or member or the owner's or member's
27 agent or attorney during regular business hours. The right of

1 access extends to the legal representative of a deceased owner
2 or member or owner or member under legal disability. The
3 entity shall also provide former owners and members with
4 access to its books and records pertaining to the period
5 during which they were owners or members.

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

9 "(d) Any agent or governing person of an entity who,
10 without reasonable cause, refuses to allow any owner or member
11 or the owner's or member's agent or legal counsel to inspect
12 any books or records of the entity shall be personally liable
13 to the agent or member for a penalty in an amount not to
14 exceed 10 percent of the fair market value of the ownership
15 interest of the owner or member, in addition to any other
16 damages or remedy.

17 "§10A-1-3.33.

18 "(a) An entity covered by Section 10A-1-3.32 shall
19 provide governing persons and their agents and attorneys
20 access to its books and records, including the books and
21 records required to be maintained under the chapter of this
22 title applicable to the entity and other books and records of
23 the entity for any purpose reasonably related to the governing
24 person's service as a governing person. The right of access
25 shall include the right to inspect and copy books and records
26 during ordinary business hours. An entity may impose a

1 reasonable charge covering the costs of labor and material for
2 copies of documents furnished.

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

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

9 "(2) On demand, any other information concerning the
10 entity's business and affairs, except to the extent the demand
11 or the information demanded is unreasonable or otherwise
12 improper under the circumstances.

13 "(c) A court may require an entity covered by
14 Section 10A-1-3.32 to open the books and records of the
15 entity, including the books and records required to be
16 maintained by the entity under the chapter of this title
17 applicable to the entity, to permit a governing person to
18 inspect, make copies of, or take extracts from the books and
19 records or may require an entity to furnish the governing
20 person with information concerning the entity's business and
21 affairs on a showing by the governing person that:

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

23 "(2) the person's purpose for inspecting the
24 entity's books and records under subsection (a) or in
25 obtaining information as to the entity's business and affairs
26 under subsection (b) (1) is reasonably related to the person's
27 service as a governing person or, in the case of information

1 as to the entity's business and affairs demanded under
2 subsection (b) (2), that neither the demand nor the information
3 demanded is unreasonable or otherwise improper under the
4 circumstances;

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

8 "(4) the entity refused the person's access to the
9 books and records or to furnish information as to the entity's
10 business and affairs.

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

14 "§10A-1-3.41.

15 "(a) Ownership interests in a domestic entity may be
16 certificated or uncertificated.

17 "(b) The ownership interests in a business
18 corporation, real estate investment trust, or professional
19 corporation must be certificated unless the governing
20 documents of the entity or a resolution adopted by the
21 governing authority of the entity states that the ownership
22 interests are uncertificated. If a domestic entity changes the
23 form of its ownership interests from certificated to
24 uncertificated, a certificated ownership interest subject to
25 the change becomes an uncertificated ownership interest only
26 after the certificate is surrendered to the domestic entity.

1 "(c) Ownership interests in a domestic entity, other
2 than a domestic entity described in subsection (b), are
3 uncertificated unless this title or the governing documents of
4 the domestic entity state that the interests are certificated.

5 "(d) Unless an entity's chapter specially provides
6 otherwise, no certificate of a certificated ownership interest
7 shall be issued in bearer form.

8 "§10A-1-4.01.

9 "(a) A filing instrument must be:

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

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

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

26 "(c) The execution of a filing instrument
27 constitutes an affirmation by each person executing the

1 instrument that the facts therein are true, under penalties
2 for perjury prescribed by Section 13A-10-103 or its successor.

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

21 "§10A-1-4.02.

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

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

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

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

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

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

16 "(1) certificates of formation;

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

19 "(3) restated certificates of formation;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 "§10A-1-4.25.

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

26 "(b) As to a person who acted in reliance on the
27 filing instrument prior to its correction and who is adversely

1 affected by ~~the~~ that correction, the filing instrument is
2 considered to have been corrected on the date the certificate
3 of correction is filed.

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

11 "§10A-1-4.31.

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

	FEE FOR STATE OF	FEE FOR THE JUDGE
"FILING INSTRUMENT	ALABAMA	OF PROBATE
"(1) Certificate of for- mation and restated cer- tificate of formation	\$100	\$50
"(2) Amendment to cer- tificate of formation	\$50	\$25
"(3) Name reservations		
"A. less than 24 hours	\$25	No fee
"B. 24 hours or more	\$10	No fee

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

1	liability partnership		
2	annual report <u>(8) State-</u>		
3	<u>ments and any document</u>		
4	<u>required or permitted to</u>		
5	<u>be filed with the Secre-</u>		
6	<u>tary of State under</u>		
7	<u>Chapter 8A</u>		
8	"(10) Partnership state-		
9	ment (filing or certi-		
10	fying) <u>(9) Certified</u>		
11	<u>statements and any docu-</u>		
12	<u>ment required or permit-</u>		
13	<u>ted to be filed with the</u>		
14	<u>judge of probate under</u>		
15	<u>Chapter 8A</u>	\$25	\$25 <u>\$100</u>
16	"(11) <u>(10)</u> Any other		
17	filing instrument re-		
18	quired or permitted to		
19	be filed under this ti-		
20	tle	\$25	\$25

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

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

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

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

26 "(e) Seventy percent of funds collected by the
27 Secretary of State in relation to entities during the fiscal

1 year shall be deposited to the credit of the State General
2 Fund.

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

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

10 "(1) ~~One dollar fifty cents (\$1.50)~~ Two dollars
11 (\$2.00) a page for copying; and

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

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

17 "(1) ~~One dollar fifty cents (\$1.50)~~ Two dollars
18 (\$2.00) a page for copying; and

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

21 "(i) For requests of immediate expedition of
22 documents to be obtained in less than 24 hours, other than
23 name reservations and certificates of existence, by the
24 Secretary of State regarding document filings, certifications,
25 and certificates in addition to required fees, a one hundred
26 dollar (\$100) surcharge shall be imposed.

27 "§10A-1-5.01.

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

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

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

11 "(3) Common law.

12 "§10A-1-5.02.

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

19 "§10A-1-5.03.

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

24 "(1) the name of another existing filing entity or
25 ~~registered~~ a general partnership that has an effective
26 statement of partnership, statement of not for profit

1 partnership, or limited liability partnership with an
2 effective current registration under Chapter 8A;

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

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

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

14 "(c) In determining whether a name is the same as or
15 not distinguishable on the records of the Secretary of State
16 from the name of another entity, words, phrases, or
17 abbreviations indicating the type of entity, such as
18 "corporation," "corp.," "general partnership," "GP," "G.P.,"
19 "not for profit general partnership," "NGP," "N.G.P.,"
20 "incorporated," "Inc.," "limited liability company," "LLC,"
21 "L.L.C." "limited partnership," "LP," "L.P.," "Ltd.," "limited
22 liability limited partnership," "LLLP," "L.L.L.P." "limited
23 liability partnership," "LLP," or "L.L.P." "~~registered limited~~
24 ~~liability partnership,~~" "~~RLLP,~~" "~~limited liability company,~~"
25 ~~or "LLC"~~ shall not be taken into account unless waived in
26 writing by the incumbent holder of the name.

27 "§10A-1-5.04.

1 "(a) The name of a corporation or foreign
2 corporation registered to transact business in this state must
3 contain:

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

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

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

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

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

15 "§10A-1-5.05.

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

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

25 "(c) The name of a limited liability limited
26 partnership must contain the phrase "limited liability limited

1 partnership" or the abbreviation "LLLP" or "L.L.L.P." and must
2 not contain the abbreviation "L.P.," "LP," or "Ltd."

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

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

12 "§10A-1-5.06.

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

17 "§10A-1-5.08.

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

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

1 (a) The name of a general partnership that has filed
2 a statement of partnership in accordance with Section
3 10A-8A-2.02 must include the words "general partnership" or
4 the abbreviation "G.P." or "GP".

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

9 Section 3. Sections 10A-1-5.11, 10A-1-5.12,
10 10A-1-5.31, 10A-1-5.32, 10A-1-5.33, 10A-1-7.01, 10A-1-7.02,
11 10A-1-7.03, 10A-1-7.04, 10A-1-7.05, and 10A-1-7.06, Section
12 10A-1-7.07, as amended by Act 2016-379, 2016 Regular Session,
13 10A-1-7.11, 10A-1-7.12, 10A-1-7.13, 10A-1-7.14, 10A-1-7.22,
14 10A-1-7.23, 10A-1-7.24, 10A-1-7.31, 10A-1-7.32, 10A-1-7.34,
15 10A-1-7.36, 10A-1-7.37, 10A-1-8.01, 10A-1-8.02, 10A-1-8.03,
16 10A-1-9.01, and 10A-1-9.02 of the Code of Alabama 1975, are
17 amended to read as follows:

18 "§10A-1-5.11.

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

1 "(b) The application must set forth the name and
2 address of the applicant and the name proposed to be reserved
3 and must be:

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

5 "(2) signed by the applicant or by the agent or
6 attorney of the applicant.

7 "(c) The name may also be reserved by electronic
8 means, subject to the requirements as the Secretary of State
9 may establish for reservation of names by means, including
10 requirements for payment of the fee for name reservation.

11 "§10A-1-5.12.

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

15 "(1) the name of an existing filing entity ~~or~~
16 ~~registered~~; the name of a general partnership that has an
17 effective statement of partnership, statement of not for
18 profit partnership, or statement of limited liability
19 partnership with an effective registration on file with the
20 Secretary of State under Chapter 8A;

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

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

24 "(b) Subsection (a) does not apply if the other
25 entity or the person for whom the name is reserved consents in
26 writing to the subsequent reservation of a name not
27 distinguishable on the records of the Secretary of State, and

1 submits an undertaking in form satisfactory to the Secretary
2 of State to change its name to a name that is distinguishable
3 on the records of the Secretary of State from the name applied
4 for or, if the conflict is with a reserved or registered name,
5 transfers its reservation to the applicant pursuant to Section
6 10A-1-5.16.

7 "§10A-1-5.31.

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

18 "(1) a registered agent; and

19 "(2) a registered office.

20 "(b) A registered agent:

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

24 "(2) may be:

25 "(A) an individual who is a resident of this state;

26 or

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

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

5 "(c) The registered office:

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

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

11 "(3) may not be solely a mailbox service or a
12 telephone answering service.

13 "§10A-1-5.32.

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

22 "(b) The statement must contain:

23 "(1) the name of the entity;

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

25 "(3) the street address of the entity's registered
26 agent;

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

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

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

9 "(7) a recitation that the street address of the
10 registered office and the street address of the registered
11 agent's business are the same.

12 "(c) On acceptance of the statement by the Secretary
13 of State, the statement is:

14 "(1) in the case of a domestic filing entity,
15 effective to change the designation of the entity's registered
16 agent or registered office, or both, without the necessity of
17 amending the entity's certificate of formation;

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

1 "(3) in the case of a foreign filing entity other
2 than a foreign limited liability partnership, effective to
3 change the designation of the entity's registered agent or
4 registered office, or both, and effective as an amendment of
5 its application for registration as a foreign entity under
6 Article 7; or

7 "(4) in the case of a foreign ~~registered~~ limited
8 liability partnership, effective to change the designation of
9 its registered agent or registered office, or both, without
10 the necessity of amending its ~~registration as a~~ statement of
11 foreign limited liability partnership ~~filed under Section~~
12 ~~10A-8-10.01, and effective as an amendment to its application~~
13 ~~for registration as a foreign entity~~ under Article 7.

14 "§10A-1-5.33.

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

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

24 "(1) the name of the entity represented by the
25 registered agent;

1 "(2) the name of the entity's registered agent and
2 the address at which the registered agent maintained the
3 entity's registered office;

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

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

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

11 "(c) On acceptance of the statement by the Secretary
12 of State, the statement is:

13 "(1) in the case of a domestic filing entity,
14 effective to make the change set forth in the statement
15 without the necessity of amending the entity's certificate of
16 formation;

17 "(2) in the case of a ~~domestic registered~~ general
18 partnership with an effective statement of partnership,
19 statement of not for profit partnership, or statement of
20 limited liability partnership on file with the Secretary of
21 State, effective to ~~make the change set forth in the statement~~
22 ~~its registered agent or registered office, or both,~~ without
23 the necessity of amending its ~~registration as a~~ statement of
24 ~~partnership,~~ statement of not for profit partnership, or
25 ~~statement of limited liability partnership filed under Section~~
26 ~~10A-8-10.01~~ Chapter 8A;

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

5 "(4) in the case of a foreign ~~registered~~ limited
6 liability partnership, effective to make the change set forth
7 in the statement, and effective as an amendment to its
8 ~~application for registration as a~~ statement of foreign entity
9 limited liability partnership under Article 7.

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

12 "§10A-1-7.01.

13 "(a) (1) For purposes of this Article 7, the terms
14 register, registering, and registered include (i) a foreign
15 entity other than a foreign limited liability partnership
16 delivering to the Secretary of State for filing an application
17 for registration and the Secretary of State filing the
18 application for registration, and (ii) a foreign limited
19 liability partnership delivering to the Secretary of State for
20 filing a statement of foreign limited liability partnership
21 and the Secretary of State filing the statement of foreign
22 limited liability partnership.

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

1 "(3) For purposes of this Article 7, the terms
2 transact business and transacting business shall include
3 conducting a business, activity, not for profit activity, and
4 any other activity, whether or not for profit.

5 "~~(a)~~ (b) To transact business in this state, a
6 foreign entity must register under this chapter if the foreign
7 entity:

8 "(1) is a foreign entity, the formation of which, if
9 formed in this state, would require the filing under Article 3
10 of a certificate of formation; ~~or~~

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

12 "~~(2)~~ (3) affords limited liability under the law of
13 its jurisdiction of formation for any owner or member.

14 "~~(b)~~ (c) A foreign entity described by subsection
15 ~~(a)~~ (b) must maintain the entity's registration while
16 transacting business in this state.

17 "§10A-1-7.02.

18 "(a) A foreign entity not described by Section
19 10A-1-7.01~~(a)~~ (b) may transact business in this state without
20 registering under this chapter.

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

24 "(c) A foreign entity is not required to register
25 under this chapter if other law of this state or of federal
26 law authorizes the foreign entity to transact the particular
27 business authorized by law in this state.

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

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

6 "§10A-1-7.03.

7 "A foreign entity that is eligible under other law
8 of this state to register to transact business in this state,
9 but that is not registered under that law, may register under
10 this chapter unless that ~~registration~~ registering is
11 prohibited by the other law. ~~The~~ A registration under this
12 chapter confers only the authority provided by this chapter.

13 "§10A-1-7.04.

14 "~~(a) A foreign filing entity registers by filing an~~
15 ~~application for registration as provided by Article 4. (1) A~~
16 foreign entity described in Section 10A-1-7.01(b) other than a
17 foreign limited liability partnership, registers by delivering
18 to the Secretary of State for filing an application for
19 registration in accordance with the procedures in Article 4.

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

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

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

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

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

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

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

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

14 "(7) the street address and mailing address, if
15 different, of the principal office of the foreign filing
16 entity and;

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

21 "~~(c) A foreign filing entity may register regardless~~
22 ~~of any differences between the law of the entity's~~
23 ~~jurisdiction and of this state applicable to the governing of~~
24 ~~the internal affairs or to the liability of an owner, member,~~
25 ~~or managerial official. Notwithstanding the foregoing, no~~
26 ~~foreign filing entity may carry on in this state any business~~

1 of a character that may not lawfully be carried on by a
2 domestic filing entity of the same type.

3 ~~"(d) In the case of a foreign corporation filing an
4 application pursuant to this section, the foreign corporation
5 shall also, to the extent required by the Constitution of
6 Alabama of 1901, file a copy of its articles or certificate of
7 incorporation or association or other certificate of formation
8 and all amendments thereto duly certified by the Secretary of
9 State or other official having custody of corporate records in
10 the state or other jurisdiction under whose law it is
11 incorporated.~~

12 "(c) The statement of foreign limited liability
13 partnership must state:

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

19 "(2) the jurisdiction which governs the foreign
20 limited liability partnership's partnership agreement and
21 under which it is a limited liability partnership;

22 "(3) the date of the foreign limited liability
23 partnership's formation;

24 "(4) that the foreign limited liability partnership
25 exists as a valid foreign limited liability partnership under
26 the laws of the jurisdiction which governs the foreign limited

1 liability partnership's partnership agreement and under which
2 it is a limited liability partnership;

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

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

8 "(7) the street address and mailing address, if
9 different, of the initial registered office and the name of
10 the initial registered agent for service of process which
11 Article 5 requires to be maintained at that office;

12 "(d) The application for registration of a foreign
13 entity described in Section 10A-1-7.01(b) other than a foreign
14 limited liability partnership shall be executed by one or more
15 persons authorized to execute an application for registration.
16 The statement of foreign limited liability partnership shall
17 be executed by one or more partners authorized to execute a
18 statement of foreign limited liability partnership.

19 "(e) The status of the foreign entity after
20 registration and the liability of its owners, managers,
21 members, or managerial officials shall not be adversely
22 affected by error or subsequent changes in the information
23 stated in the application for registration or statement of
24 foreign limited liability partnership, as applicable.

25 "(f) The fact that an application for registration
26 or a statement of foreign limited liability partnership, as
27 applicable, is on file with the Secretary of State is notice

1 that the foreign entity is authorized to transact business in
2 this state and as notice of all facts required to be set forth
3 in the application for registration or the statement of
4 foreign limited liability partnership, as applicable.

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

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

15 "§10A-1-7.05.

16 "(a) The application for registration of a foreign
17 entity and the statement of foreign limited liability
18 partnership takes effect in accordance with Article 4 of this
19 chapter. The registration of a foreign entity is effective
20 when the application filed under Article 4 takes effect. The
21 registration remains in effect until the registration
22 terminates, is withdrawn, or is revoked.

23 "(b) Except in a proceeding to revoke the
24 registration of a foreign entity or as otherwise provided by
25 the law of Alabama, the Secretary of State's issuance of an
26 acknowledgment that the foreign entity has filed an
27 application for registration or a statement of foreign limited

1 liability partnership, as applicable, is conclusive evidence
2 of the authority of the foreign ~~filing~~ entity to transact
3 business in this state under the foreign entity's name or
4 under another name stated in the application, for registration
5 in accordance with Section 10A-1-7.04(b) (1) or stated in the
6 statement of foreign limited liability partnership in
7 accordance with Section 10A-1-7.04(c) (1), as applicable.

8 "§10A-1-7.06.

9 "(a) If any statement in ~~the~~ an application for
10 registration ~~of a~~ or a statement of foreign ~~entity~~ limited
11 liability partnership was false when made or any arrangements
12 or other facts described have changed, making the application
13 for registration or statement of foreign limited liability
14 partnership, as applicable, inaccurate in any respect, the
15 foreign entity shall file with the Secretary of State an
16 amendment correcting the false or inaccurate statement. A
17 foreign ~~filing~~ entity must amend its registration to change
18 its name if the name has changed. If the ~~entity's~~ name of a
19 foreign entity as changed is not available in this state or
20 otherwise does not satisfy the requirements of Article 5, the
21 foreign entity, pursuant to the requirements of Section
22 10A-1-7.07, must adopt a name that complies with Article 5
23 under which it will transact business in this state.

24 "(b) A foreign ~~filing~~ entity may amend its
25 application for registration or statement of foreign limited
26 liability partnership by filing an application for amendment
27 of registration as provided by Article 4.

1 "(c) The application for amendment must be filed
2 promptly on the discovery that any statement in the
3 application for registration or statement of foreign limited
4 liability partnership, as applicable, was false when made, but
5 not later than 60 days after the discovery. The application
6 for amendment must be filed promptly after any arrangements
7 other facts described in the application have changed, making
8 the application inaccurate in any respect, but not later than
9 90 days after the change.

10 "§10A-1-7.07.

11 "If the name of a foreign entity does not satisfy
12 the requirements of Article 5, the foreign entity, for use in
13 this state, may:

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

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

19 "(3) if a limited partnership that is not a limited
20 liability limited partnership, add to its partnership name the
21 word "limited" or the abbreviation "Ltd." or the phrase
22 "limited partnership" or the abbreviation "L.P." or "LP" but
23 its name must not contain the phrase "limited liability
24 limited partnership" or the abbreviation "LLLP" or "L.L.L.P.";

25 "(4) if a limited partnership that is a limited
26 liability limited partnership, add to its partnership name the
27 phrase "limited liability limited partnership" or the

1 abbreviation "LLLP" or "L.L.L.P." and must not contain the
2 abbreviation "Ltd.," "L.P.," or "LP."

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

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

9 "(7) if a ~~registered~~ limited liability partnership,
10 add to its partnership name the phrase "~~registered~~ limited
11 liability partnership" or the abbreviation "L.L.P." or "LLP";
12 ~~and~~

13 "(8) if a general partnership that is authorized by
14 the laws of the jurisdiction that govern its partnership
15 agreement to file the equivalent of a statement of partnership
16 as provided under Chapter 8A, add to its name the phrase
17 "general partnership" or the abbreviation "G.P." or "GP";

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

24 "~~(8)~~ (10) use a fictitious name available for use in
25 this state that satisfies the requirements of Article 5, if it
26 delivers to the Secretary of State for filing a copy of the

1 resolution of its governing authority, certified by its
2 secretary, adopting the fictitious name.

3 "§10A-1-7.11.

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

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

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

12 "(2) the type of entity and the entity's
13 jurisdiction of formation, and in the case of a foreign
14 limited liability partnership, the jurisdiction which laws
15 govern the foreign limited liability partnership and its
16 partnership agreement;

17 "(3) the street address and mailing address, if
18 different, of the principal office of the foreign ~~filing~~
19 entity;

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

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

23 "(A) revokes the authority of the foreign entity's
24 registered agent in this state to accept service of process;
25 and

26 "(B) consents that service of process in any action,
27 suit, or proceeding stating a cause of action arising in this

1 state during the time the foreign ~~filing~~ entity was authorized
2 to transact business in this state may be made on the foreign
3 ~~filing~~ entity in accordance with the Alabama Rules of Civil
4 Procedure and any other notice or demand required or permitted
5 by law to be served on the foreign entity may be served in a
6 manner similar to the procedure provided for the service of
7 process by the Alabama Rules of Civil Procedure;

8 "(6) (A) a mailing address to which process may be
9 mailed pursuant to the applicable service of process
10 procedures of the Alabama Rules of Civil Procedure and to
11 which any notice or demand required or permitted by law to be
12 served on the foreign entity may be mailed; and

13 "(B) a commitment by the foreign entity that if the
14 mailing address stated in the certificate of withdrawal under
15 paragraph (A) changes, the foreign entity will promptly amend
16 the certificate of withdrawal to update the address; and

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

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

23 "(d) If the existence or separate existence of a
24 foreign ~~filing~~ entity registered in this state terminates
25 ~~because of dissolution, termination, merger, conversion, or~~
26 ~~other circumstances~~, a certificate by an authorized
27 governmental official of the entity's jurisdiction of

1 formation that evidences the termination shall be filed with
2 the Secretary of State.

3 "(e) The registration of the foreign ~~filing~~ entity
4 ~~in this state~~ terminates when a certificate of withdrawal
5 under this section or a certificate evidencing termination
6 under subsection (d) is filed.

7 "§10A-1-7.12.

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

12 "(1) the foreign entity does not deliver its annual
13 report, if required by law, to the Secretary of State within
14 180 days after it is due;

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

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

21 "(4) the foreign entity does not file a statement of
22 change of registered agent or registered office with the
23 Secretary of State under Section 10A-1-5.32 within 60 days of
24 the change or its registered agent does not file a change of
25 name or change of address of the registered office with the
26 Secretary of State under Section 10A-1-5.33 within 60 days of
27 the change;

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

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

11 "§10A-1-7.13.

12 "(a) If the Secretary of State determines that one
13 or more grounds exist under Section 10A-1-7.12 for revocation
14 of a registration, ~~he or she~~ the Secretary of State shall
15 serve the foreign entity with written notice of ~~his or her~~ the
16 determination of the Secretary of State by serving ~~its~~ the
17 foreign entity's registered agent, which service may be by
18 registered mail, or, if the foreign entity has no registered
19 agent or its registered agent cannot with reasonable diligence
20 be served, by serving the foreign entity by any method
21 permitted under Sections 10A-1-5.35 and 10A-1-5.36.

22 "(b) If the foreign entity does not correct each
23 ground for revocation or demonstrate to the reasonable
24 satisfaction of the Secretary of State that each ground
25 determined by the Secretary of State does not exist within 60
26 days after service of the notice is perfected under subsection
27 (a), the Secretary of State may revoke the foreign entity's

1 registration by signing a certificate of revocation that
2 recites the ground or grounds for revocation and its effective
3 date. The Secretary of State shall file the original of the
4 certificate and serve a copy on the foreign entity by serving
5 its registered agent, which service may be by registered mail,
6 or, if the foreign entity has no registered agent or its
7 registered agent cannot with reasonable diligence be served,
8 by serving the foreign entity by any method permitted under
9 Sections 10A-1-5.35 and 10A-1-5.36.

10 "(c) The authority of a foreign entity to transact
11 business in this state ceases on the date shown on the
12 certificate revoking its ~~certificate of authority~~
13 registration.

14 "(d) Revocation of a foreign entity's registration
15 does not terminate the authority of the registered agent of
16 the foreign entity. Service of process in any action, suit, or
17 proceeding stating a cause of action arising in this state
18 during the time the foreign entity was authorized to transact
19 business in this state may be made on the foreign entity whose
20 registration has been suspended by service on the registered
21 agent or by serving the entity by any method permitted under
22 Sections 10A-1-5.35 and 10A-1-5.36.

23 "§10A-1-7.14.

24 "(a) A foreign entity may appeal the Secretary of
25 State's revocation of its registration to the Circuit Court of
26 Montgomery County within 30 days after service of the
27 certificate of revocation is perfected under Section

1 10A-1-7.13. The foreign entity appeals by petitioning the
2 court to set aside the revocation and attaching to the
3 petition copies of the Secretary of State's acknowledgment of
4 its application for registration, ~~if any,~~ or statement of
5 foreign limited liability partnership, as applicable and the
6 Secretary of State's certificate of revocation.

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

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

13 "§10A-1-7.22.

14 "(a) The failure of a foreign filing entity to
15 register to transact business in this state or to appoint and
16 maintain a registered agent in this state shall not impair the
17 validity of any contract or act of the foreign entity and
18 shall not prevent the foreign entity from defending any action
19 or proceeding in any court of this state, but the foreign
20 entity shall not maintain any action or proceeding in any
21 court of this state until it has delivered to the Secretary of
22 State for filing an application for registration or a
23 statement of foreign limited liability partnership, as
24 applicable, in accordance with Section 10A-1-7.04. A foreign
25 filing entity, by transacting business in this state without
26 filing an application for registration or a statement of
27 foreign limited liability partnership, as applicable, appoints

1 the Secretary of State as its agent for service of process
2 with respect to causes of action arising out of the
3 transaction of business or activities in this state. The
4 liability of the owners, members, and managerial officials of
5 a foreign filing entity is governed by the laws of the
6 jurisdiction under whose laws it was formed or under which it
7 is governed, and any limitations on that liability are not
8 waived solely by reason of having transacted business in this
9 state without filing an application for registration or a
10 statement of foreign limited liability partnership, as
11 applicable.

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

15 "§10A-1-7.23.

16 "The Secretary of State may collect from a foreign
17 filing entity a late filing fee equal to the application for
18 registration fee for the or the statement of foreign limited
19 liability partnership fee, as applicable, for the foreign
20 filing entity for each year of delinquency if the foreign
21 filing entity has transacted business in this state for more
22 than 90 days. The Secretary of State may condition the
23 effectiveness of a registration on the payment of the late
24 filing fee.

25 "§10A-1-7.24.

26 "This article does not excuse a foreign filing
27 entity from complying with duties imposed under other law,

1 including other chapters of this title, relating to filing or
2 ~~registration~~ registering requirements.

3 "§10A-1-7.31.

4 "A foreign entity may not conduct in this state a
5 business, ~~or activity,~~ not for profit activity, or any other
6 activity, whether or not for profit, that is not permitted by
7 this title to be transacted by the domestic entity to which it
8 most closely corresponds, unless other law of this state
9 authorizes the entity to conduct the business, ~~or activity,~~
10 not for profit activity or any other activity, whether or not
11 for profit.

12 "§10A-1-7.32.

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

17 "§10A-1-7.34.

18 "A vote cast or consent provided by a foreign ~~filing~~
19 entity with respect to its ownership or membership interest in
20 a domestic entity of which the foreign ~~filing~~ entity is a
21 lawful owner or member, and the foreign ~~filing~~ entity's
22 participation in the management and control of the business
23 and affairs of the domestic entity to the extent of the
24 participation of other owners or members, are not invalidated
25 if the foreign ~~filing~~ entity does not register to transact
26 business in this state, subject to all law governing a
27 domestic entity, including the antitrust law of this state.

1 "§10A-1-7.36.

2 "Foreign entities that have complied with the
3 constitution and laws of this state as to ~~doing~~ transacting
4 business ~~herein~~ in this state shall have the same right of
5 eminent domain and the same remedies for enforcing the rights
6 as domestic entities of like kind and character possess.

7 "§10A-1-7.37.

8 "Any foreign entity which has complied with the
9 constitution and laws of this state for ~~doing~~ transacting
10 business ~~herein~~ in this state and which is engaged in
11 constructing or operating a streetcar, electric light,
12 telegraph, telephone or power lines, pipelines, or works in an
13 adjoining state may extend its lines, tracks, ways, pipelines,
14 or works into this state and connect with other lines,
15 pipelines, ways or works of similar or like character and, for
16 that purpose, may have and exercise the same rights,
17 privileges, immunities and remedies as to right of eminent
18 domain and condemnation proceedings as are had and exercised
19 by domestic entities engaged in like or similar business.

20 "§10A-1-8.01.

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

23 "(1) CORPORATIONS.

24 "a. The terms and conditions of a conversion of a
25 corporation other than a nonprofit corporation must be
26 approved by all of the corporation's shareholders ~~except~~ or as
27 otherwise provided in the corporation's governing documents;

1 but in no case may the vote required for shareholder approval
2 be set at less than a majority of the votes entitled to be
3 cast by each voting group entitled by law to vote separately
4 on the conversion. If the governing documents provide for
5 approval of a conversion by less than all of a corporation's
6 shareholders, approval of the conversion shall constitute
7 corporate action subject to dissenter's rights pursuant to
8 Article 13 of Chapter 2 of the Alabama Business Corporation
9 Law. No conversion of a corporation to a general or limited
10 partnership may be effected without the consent in writing of
11 each shareholder who will have personal liability with respect
12 to the converted entity, notwithstanding any provision in the
13 governing documents of the converting corporation providing
14 for less than unanimous shareholder approval for the
15 conversion.

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

1 governing documents; but in no case may the governing
2 documents provide for approval by less than a majority of the
3 board of directors.

4 "(2) LIMITED PARTNERSHIPS. The terms and conditions
5 of a conversion of a limited partnership must be approved by
6 all of the partners or as otherwise provided in the
7 partnership agreement. No conversion of a limited partnership
8 to a general partnership may be effected without the consent
9 in writing of each limited partner who will have personal
10 liability with respect to the converted entity,
11 notwithstanding any provision in the limited partnership
12 agreement of the converting limited partnership providing for
13 approval of the conversion by less than all partners.

14 "(3) LIMITED LIABILITY COMPANIES. The terms and
15 conditions of a conversion of a limited liability company must
16 be approved by all of the limited liability company's members
17 or as otherwise provided in the limited liability company's
18 governing documents. No conversion of a limited liability
19 company to a general or limited partnership may be effected
20 without the consent in writing of each member who will have
21 personal liability with respect to the converted entity,
22 notwithstanding any provision in the governing documents of
23 the converting limited liability company providing for less
24 than unanimous member approval for the conversion.

25 "(4) GENERAL PARTNERSHIPS, INCLUDING ~~REGISTERED~~
26 LIMITED LIABILITY PARTNERSHIPS. The terms and conditions of a
27 conversion of a general partnership must be approved by all of

1 the partners or as otherwise provided in the partnership
2 agreement. No conversion of a ~~registered~~ limited liability
3 partnership to a general or limited partnership may be
4 effected without the consent in writing of each partner who
5 will have personal liability with respect to the converted
6 entity, notwithstanding any provision in the partnership
7 agreement of the converting ~~registered~~ limited liability
8 partnership providing for less than unanimous partner approval
9 for the conversion.

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

23 "(6) OTHER ENTITY. The terms and conditions of a
24 conversion of any entity not specified above must be approved
25 by all owners of the converting entity. No conversion of any
26 entity shall be effected without the consent in writing of any
27 owner of the converting entity who has limited liability and

1 who shall become an owner without limited liability protection
2 of the converted entity.

3 "(7) ENTITY WITHOUT OWNERS. If the converting entity
4 does not have owners, the terms and conditions of the
5 conversion must be unanimously approved by the governing
6 authority of the converting entity.

7 "(b) After the conversion is approved pursuant to
8 subsection (a), the following documentation and filing
9 requirements apply:

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

15 "a. constitute a certificate of formation or amended
16 and restated certificate of formation, as the case may be, for
17 the converted entity; and

18 "b. shall satisfy the requirements of Section
19 10A-1-4.02(a).

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

24 "a. The name and type of entity of the converted
25 entity and the jurisdiction of its governing statute and its
26 unique identifying number or other designation as assigned by
27 the Secretary of State, if any.

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

2 "c. A statement that the converting entity has been
3 converted into the converted entity.

4 "d. The public office where the certificate of
5 formation, if any, of the converting entity is filed and the
6 date of the filing thereof.

7 "e. If the converted entity is one in which one or
8 more owners lack limited liability protection, a statement
9 that each owner of the converting entity who is to become an
10 owner without limited liability protection of the ~~resulting~~
11 converted entity has consented in writing to the conversion as
12 required by this section.

13 "f. A statement that the conversion was approved
14 pursuant to this section and, if either the converting entity
15 or the converted entity is a foreign entity, that the
16 conversion was approved as required by the governing statute
17 of such foreign entity.

18 "(3) After the conversion has become effective in
19 accordance with subsection (c), then, as provided in Section
20 10A-1-4.02(c) (4), all filing instruments with respect to the
21 converted entity that would otherwise be required by this
22 title to be delivered to the judge of probate for filing shall
23 instead be delivered to the Secretary of State for filing.

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

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

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

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

5 "b. If either the converted entity or the converting
6 entity is a foreign entity, then any filing required under the
7 governing statute of such foreign entity to effectuate the
8 conversion is filed before the effective date specified in the
9 statement of conversion.

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

14 "(d) Conversion has the following effects:

15 "(1)a. Any ~~other~~ entity that has been converted
16 pursuant to this article is for all purposes the same entity
17 that existed before the conversion and the conversion shall
18 constitute a continuation of the existence of the converting
19 entity in the form of the converted entity. The conversion
20 shall not be deemed to constitute a dissolution or termination
21 of the converting entity.

22 "b. If the Secretary of State has assigned a unique
23 identifying number or other designation to the converting
24 entity, that number or designation shall continue to be
25 assigned to the converted entity.

26 "(2)a. All property, real, personal, and mixed owned
27 by the converting entity; all rights, immunities, and

1 franchises of the converting entity, of a public as well as a
2 private nature; and all debts or obligations due the
3 converting entity, shall remain owned and held by, vested in,
4 and due to, the converted entity, shall not be deemed to have
5 been transferred to the converted entity as a consequence of
6 the conversion, and shall not revert or be in any way impaired
7 by reason of the conversion.

8 "b. A certified copy of the statement of conversion
9 may be filed in the office of the judge of probate in any
10 county in which the converting entity owned real property, to
11 be recorded without payment and without collection by the
12 judge of probate of any deed or other transfer tax or fee. The
13 judge of probate shall, however, be entitled to collect the
14 filing fees prescribed by Section 12-19-90. Any filing shall
15 evidence chain of title, but lack of filing shall not affect
16 the converted entity's title to the real property.

17 "(3) All debts, obligations, and other liabilities
18 of the converting entity shall continue as the debts,
19 obligations, and liabilities of the converted entity and the
20 converted entity shall continue to be responsible and liable
21 for all the liabilities and obligations of the converting
22 entity. Neither the rights of creditors, nor any liens upon
23 the property of the converting entity, shall be impaired by
24 the conversion, and an owner of the converted entity shall
25 continue to be liable for all obligations of the converting
26 entity for which the owner was personally liable before the
27 conversion.

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

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

10 "b. An owner with limited liability protection who
11 becomes an owner without limited liability protection is
12 liable for an obligation of the converted entity incurred
13 after conversion to the extent provided for by the laws
14 applicable to the converted entity.

15 "(6) An owner without limited liability protection
16 who as a result of a conversion becomes an owner of a
17 converted entity with limited liability protection remains
18 liable for an obligation incurred by the converting entity
19 before the conversion takes effect only to the extent, if any,
20 the owner would have been liable if the conversion had not
21 occurred.

22 "§10A-1-8.02.

23 "(a) Pursuant to an approved plan of merger, a
24 corporation, limited partnership, limited liability company,
25 general partnership, real estate investment trust, or any
26 other entity may merge with any other entity or entities,

1 whether the other entity or entities are the same or another
2 form of entity, as provided in this section.

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

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

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

8 "(3) The form of the surviving entity and the status
9 in the surviving entity of each owner of an entity that is a
10 party to the merger.

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

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

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

17 "(1) Amendments to the certificate of formation of
18 the surviving entity.

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

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

21 "(1) CORPORATIONS.

22 a. In the case of a corporation, other than a
23 nonprofit corporation, that is a party to a merger, the plan
24 of merger must be approved in accordance with the procedures
25 and by the shareholder vote required by Section 10A-2-11.03 or
26 Section 10A-2-11.04. If the governing documents of the
27 corporation provide for approval of a merger by less than all

1 of the corporation's shareholders, approval of the merger
2 shall constitute corporate action subject to dissenter's
3 rights pursuant to Article 13 of Chapter 2. No merger of a
4 corporation into a general or limited partnership may be
5 effected without the consent in writing of each shareholder
6 who will have personal liability with respect to the resulting
7 or surviving entity, notwithstanding any provision in the
8 governing documents of the corporation that is a party to the
9 merger providing for less than unanimous shareholder approval
10 for the conversion.

11 "b. In the case of a nonprofit corporation, the plan
12 of merger must be approved by all the corporation's members
13 entitled to vote thereon, if it is a nonprofit corporation
14 with members with voting rights, ~~except~~ or as otherwise
15 provided in the corporation's governing documents; but in no
16 case may the governing documents provide for approval by less
17 than a majority of the members entitled to vote thereon. If
18 the nonprofit corporation has no members, or no members
19 entitled to vote thereon, the plan of merger must be approved
20 by a unanimous vote of the board of directors of the nonprofit
21 corporation, except as otherwise provided in the governing
22 documents; but in no case may the governing documents provide
23 for approval by less than a majority of the board of
24 directors.

25 "(2) LIMITED PARTNERSHIPS. In the case of a limited
26 partnership that is a party to the merger, the plan of merger
27 must be approved in writing by all of the partners or as

1 otherwise provided in the partnership agreement. No merger of
2 a limited partnership with a general partnership in which the
3 general partnership is the surviving or resulting entity may
4 be effected without the consent in writing of each limited
5 partner who will have personal liability with respect to the
6 surviving or resulting entity, notwithstanding any provision
7 in the limited partnership agreement of the merging limited
8 partnership providing for approval of the merger by less than
9 all partners.

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

23 "(4) GENERAL PARTNERSHIPS, INCLUDING ~~REGISTERED~~
24 LIMITED LIABILITY PARTNERSHIPS. In the case of a general
25 partnership that is a party to the merger, the plan of merger
26 must be approved in writing by all of the partners or as
27 otherwise provided in the partnership agreement. No merger of

1 a ~~registered~~ limited liability partnership into a general or
2 limited partnership may be effected without the consent in
3 writing of each partner who will have personal liability with
4 respect to the surviving or resulting entity, notwithstanding
5 any provision in the partnership agreement of the ~~registered~~
6 limited liability partnership providing for less than
7 unanimous partner approval for a merger.

8 "(5) REAL ESTATE INVESTMENT TRUST. In the case of a
9 real estate investment trust that is a party to the merger,
10 the plan of merger must be approved in writing by all of the
11 trust's shareholders ~~except~~ or as otherwise provided in the
12 trust's declaration of trust, but in no case may the vote
13 required for shareholder approval be set at less than a
14 majority of all the votes entitled to be cast. No merger of a
15 real estate investment trust with a general or limited
16 partnership that is to be the surviving or resulting entity
17 may be effected without the consent in writing of each
18 shareholder who will have personal liability with respect to
19 the surviving or resulting business entity.

20 "(6) OTHER ENTITY. In the case of an entity other
21 than a corporation, limited partnership, limited liability
22 company, general partnership, or real estate investment trust
23 that is a party to the merger, by approval in writing of all
24 owners of the entity. No merger of any entity shall be
25 effected without the consent in writing of any owner who has
26 limited liability as an owner of an entity party to the

1 merger, and who will have personal liability with respect to
2 the surviving or resulting entity.

3 "(e) After a plan of merger is approved and before
4 the merger takes effect, the plan may be amended or abandoned
5 as provided in the plan, or if the plan does not provide for
6 amendment or abandonment, in the same manner as required for
7 the approval of the plan of merger originally.

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

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

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

14 "a. A delayed effective date is specified in the
15 statement of merger.

16 "b. If either the converted entity or the merging
17 entity is a foreign entity, then any filing required under the
18 governing statute of such foreign entity to effectuate the
19 merger is filed before the effective date specified in the
20 statement of merger.

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

26 "(g) The certificate of merger shall include the
27 following:

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

4 "(2) The public office where the certificate of
5 formation, if any, of each of the parties to the merger is
6 filed.

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

10 "(4) If the surviving or resulting entity is one in
11 which one or more owners lack limited liability protection, a
12 statement that each owner of an entity party to the merger who
13 is to be an owner of the surviving or resulting entity without
14 limited liability protection has consented in writing to the
15 merger as required by this article.

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

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

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

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

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

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

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

7 "(1) Every other entity party to the merger merges
8 into the surviving entity which shall be deemed to be the
9 resulting entity of the merger and the separate existence of
10 every entity, other than the surviving or resulting entity,
11 ceases.

12 "(2) All property, real, personal, and mixed owned
13 by each of the merged entities; all rights, immunities, and
14 franchises of the merged entities, of a public as well as a
15 private nature; and all debts and obligations due the merged
16 entities, are taken and deemed to be transferred and vested in
17 the surviving or resulting entity without the necessity of any
18 deed or other instrument of conveyance to the surviving or
19 resulting entity and without payment and without collection by
20 any filing officer of any deed or other transfer tax or fee. A
21 certified copy of the certificate of merger may be filed in
22 the real estate records in the office of the judge of probate
23 in any county in which any entity a party to the merger owned
24 real property, to be recorded without payment and without
25 collection by the judge of probate of any deed or other
26 transfer tax or fee. The judge of probate shall, however, be
27 entitled to collect the filing fees prescribed by Section

1 12-19-90. Any filing shall evidence chain of title, but lack
2 of filing does not affect the resulting entity's title to any
3 real property.

4 "(3) The surviving or resulting entity shall be
5 responsible and liable for all the liabilities and obligations
6 of the entities that are parties to the merger; however,
7 neither the rights of creditors nor any liens upon the
8 property of the entities that are parties to the merger shall
9 be impaired by the merger.

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

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

1 "(6) a. An owner of an entity with limited liability
2 protection remains liable, if at all, for an obligation
3 incurred prior to the merger by an entity that ceases to exist
4 as a result of the merger only to the extent, if any, that the
5 owner would have been liable under the laws applicable to
6 owners of the form of entity that ceased to exist if the
7 merger had not occurred.

8 "b. An owner with limited liability protection who,
9 as a result of the merger, becomes an owner without limited
10 liability protection of the surviving or resulting entity is
11 liable for an obligation of the surviving or resulting entity
12 incurred after merger to the extent provided for by the laws
13 applicable to the surviving or resulting entity.

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

22 "§10A-1-8.03.

23 ~~"This article is not exclusive but is cumulative to~~
24 ~~other laws and provisions of this title relating to mergers~~
25 ~~and conversion. Entities, including corporations, limited~~
26 ~~partnerships, limited liability companies, general~~
27 ~~partnerships, and real estate investment trusts, may be~~

1 ~~converted or merged in any other manner provided by law,~~
2 ~~including other provisions of this title. This article does~~
3 ~~not preclude any entity from being converted or merged under~~
4 ~~law other than this chapter.~~

5 Section 4. Section 10A-1-9.01 of the Code of Alabama
6 1975 is amended and renumbered to read as follows:

7 "~~§10A-1-9.01.~~ §10-1-9.02.

8 "In this article, the following terms have the
9 following meanings:

10 "(1) CLAIM. A right to payment, damages, or
11 property, whether liquidated or unliquidated, accrued or
12 contingent, matured or unmatured.

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

16 Section 5. Section 10A-1-9.01 is added to the Code
17 of Alabama 1975 as follows:

18 §10A-1-9.01.

19 This article does not apply to limited liability
20 companies, general partnerships, and limited partnerships.

21 Section 6. Sections 10A-1-9.21, 10A-1-9.22,
22 10A-5A-1.02, 10A-5A-1.06, 10A-9A-1.07, and 10A-17-1.02 of the
23 Code of Alabama 1975, are amended to read as follows:

24 "§10A-1-9.21.

25 "(a) A dissolved domestic entity, ~~except as~~
26 ~~otherwise provided in subsection (e),~~ may dispose of the known
27 claims against it by following the procedure described in ~~this~~

1 ~~section~~ subsection (b) at any time after the effective date of
2 the dissolution of that dissolved domestic entity.

3 "(b) ~~The A~~ dissolved domestic entity ~~shall notify~~
4 ~~its known claimants in writing~~ may give notice of the
5 dissolution ~~at any time after its effective date. The written~~
6 in a writing to the holder of any know claim. The notice must:

7 "(1) Identify the dissolved domestic entity;

8 "~~(1)~~ (2) Describe the information that must required
9 to be included in a claim;

10 "~~(2)~~ (3) Provide a mailing address where a to which
11 the claim may is to be sent;

12 "~~(3)~~ (4) State the deadline, which may not be fewer
13 than 120 days from the effective date of the written notice,
14 by which the terminated dissolved domestic entity must receive
15 the claim; and

16 "~~(4)~~ (5) State that if not sooner barred, the claim
17 will be barred if not received by the deadline.

18 "(c) Unless sooner barred by any other statute
19 limiting actions, a A claim against a dissolved domestic
20 entity is barred:

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

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

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

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

10 "§10A-1-9.22.

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

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

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

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

26 "(3) State that if not sooner barred, a claim
27 against the dissolved domestic entity will be barred unless a

1 proceeding to enforce the claim is commenced within two years
2 after the publication of the notice.

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

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

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

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

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

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

26 "(2) ~~If the assets have been distributed in~~
27 ~~liquidation, against an owner of the dissolved domestic entity~~

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

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

1 domestic entity but that, based on the facts known to the
2 dissolved domestic entity, are reasonably estimated to arise
3 after the effective date of the dissolution of the dissolved
4 domestic entity. Provision need not be made for any claim that
5 is or is reasonably anticipated to be barred under subsection
6 (c).

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

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

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

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

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

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

12 "§10A-5A-1.02.

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

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

20 "(b) "Constituent limited liability company" means a
21 constituent organization that is a limited liability company.

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

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

1 "(e) "Converting limited liability company" means a
2 converting organization that is a limited liability company.

3 "(f) "Converting organization" means an organization
4 that converts into another organization pursuant to Article
5 10.

6 "(g) "Disqualified person" means any person who is
7 not a qualified person.

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

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

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

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

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

1 reason of there being only one person who is a party to the
2 limited liability company agreement. The limited liability
3 company agreement includes any amendments to the limited
4 liability company agreement.

5 ~~"(l)~~ (m) "Member" means a person admitted under
6 Section 10A-5A-4.01 and not dissociated under Section
7 10A-5A-6.02.

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

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

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

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

25 "(3) for a limited liability company or foreign
26 limited liability company, its certificate of formation and

1 limited liability company agreement, or comparable writings as
2 provided in its governing statute;

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

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

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

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

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

26 "~~(e)~~ (p) "Qualified person," with respect to a
27 limited liability company rendering professional services in

1 this state, means a person authorized by this state or a
2 regulatory authority of this state to own a ~~transferrable~~
3 transferable interest in that limited liability company.

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

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

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

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

17 "§10A-5A-1.06.

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

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

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

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

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

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

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

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

25 "§10A-9A-1.07.

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

4 "(b) Unless displaced by particular provisions of
5 this chapter, the principles of law and equity supplement this
6 chapter.

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

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

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

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

1 7-9A-406 and 7-9A-408 of the Uniform Commercial Code, and all
2 successor statutes thereto.

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

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

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

11 "§10A-17-1.02.

12 "In this chapter:

13 "(1) "Member" means a person who, under the rules or
14 practices of a nonprofit association, may participate in the
15 selection of persons authorized to manage the affairs of the
16 nonprofit association or in the development of policy of the
17 nonprofit association.

18 "(2) "Nonprofit association" means an unincorporated
19 organization consisting of two or more members joined by
20 mutual consent as an association for a stated common,
21 nonprofit purpose, but does not include a limited liability
22 company, general partnership, or limited partnership. In
23 addition, ~~However,~~ joint tenancy, tenancy in common, or
24 tenancy by the entirety does not by itself establish a
25 nonprofit association, even if the co-owners share use of the
26 property for a nonprofit purpose.

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

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

9 Article 1. General Provisions.

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

14 §10A-8A-1.02. Definitions.

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

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

20 (2) "Disqualified person" means any person who is
21 not a qualified person.

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

26 (4) "Foreign limited liability partnership" means a
27 foreign partnership whose partners have limited liability for

1 the debts, obligations, or other liabilities of the foreign
2 partnership under a provision similar to Section
3 10A-8A-3.06(c).

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

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

14 (7) "Not for profit activity" includes every
15 undertaking not for profit.

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

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

20 (B) has not dissociated as a partner under Section
21 10A-8A-6.01.

22 (9) "Partnership" means an association of two or
23 more persons formed under Section 10A-8A-2.01, predecessor
24 statute, or comparable law of another jurisdiction or becomes
25 subject to the laws of this state pursuant to Section
26 10A-8A-1.06, to carry on any business or not for profit

1 activity, and includes, for all purposes of the laws of this
2 state, a limited liability partnership.

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

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

13 (12) "Person dissociated as a partner" means a
14 person dissociated as a partner of a partnership.

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

20 (14) "Required information" means the information
21 that a partnership is required to maintain under Section
22 10A-8A-1.11.

23 (15) "Statement" means a statement of partnership
24 under Section 10A-8A-2.02, a statement of not for profit
25 partnership under Section 10A-8A-2.02, a statement of
26 authority under Section 10A-8A-3.03, a statement of denial
27 under Section 10A-8A-3.04, a statement of dissociation under

1 Section 10A-8A-7.04, a statement of dissolution under Section
2 10A-8A-8.02 or under Section 10A-8A-8.03, a certificate of
3 reinstatement under Section 10A-8A-8.11, a statement of
4 limited liability partnership under Section 10A-8A-10.01, a
5 statement of cancellation under Section 10A-8A-10.01, or any
6 other document required or permitted to be delivered to the
7 Secretary of State for filing under this chapter, or an
8 amendment or cancellation of any of the foregoing.

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

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

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

17 §10A-8A-1.03. Knowledge and notice.

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

19 (1) has actual knowledge of it; or

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

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

23 (1) knows of it;

24 (2) receives notice of it;

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

1 (4) is deemed to have notice of the fact under
2 subsection (d).

3 (c) A person notifies or gives notice to another
4 person by taking steps reasonably required to inform the other
5 person in ordinary course, whether or not the other person
6 knows the fact.

7 (d) A person is deemed to have notice of a
8 partnership's:

9 (1) statement of partnership, 90 days after a
10 statement of partnership under Section 10A-8A-2.02 becomes
11 effective;

12 (2) statement of not for profit partnership, 90 days
13 after a statement of not for profit partnership under Section
14 10A-8A-2.02 becomes effective;

15 (3) statement of authority, with respect to

16 (i) authority not involving property and

17 (ii) property other than real property, 90 days
18 after a statement of authority under Section 10A-8A-3.03
19 becomes effective; and with respect to real property in
20 accordance with Section 10A-8A-3.03(g);

21 (4) statement of denial, with respect to property
22 other than real property, 90 days after a statement of denial
23 under Section 10A-8A-3.04 becomes effective;

24 (5) dissociation, 90 days after a statement of
25 dissociation under Section 10A-9A-7.04 becomes effective;

1 (6) dissolution, 90 days after a statement of
2 dissolution under Section 10A-9A-8.02 or Section 10A-9A-8.03
3 becomes effective;

4 (7) reinstatement, 90 days after a certificate of
5 reinstatement under Section 10A-9A-8.11 becomes effective;

6 (8) merger or conversion under Article 9 or under
7 Article 8 of Chapter 1, 90 days after the statement of merger
8 or conversion becomes effective;

9 (9) statement of limited liability partnership, 90
10 days after a statement of limited liability partnership under
11 Section 10A-8A-10.01 becomes effective; or

12 (10) statement of cancellation, 90 days after a
13 statement of cancellation under Section 10A-8A-10.01 becomes
14 effective.

15 (e) A partner's knowledge, notice, or receipt of
16 notice of a fact relating to the partnership is effective
17 immediately as knowledge of, notice to, or receipt of notice
18 by the partnership, except in the case of a fraud on the
19 partnership committed by or with the consent of that partner.

20 §10A-8A-1.04. Nature and purpose.

21 (a) A partnership is a separate legal entity. A
22 partnership's status for tax purposes shall not affect its
23 status as a separate legal entity formed under this chapter. A
24 partnership is the same entity regardless of whether the
25 partnership has a statement of limited liability partnership
26 under Section 10A-8A-10.01 stating that the partnership is a

1 limited liability partnership. A partner has no interest in
2 any specific property of a partnership.

3 (b) A partnership may carry on any lawful business
4 and may carry on any lawful not for profit activity if it
5 complies with Section 10A-8A-2.02(b).

6 §10A-8A-1.05. Powers; indemnification.

7 (a) A partnership shall possess and may exercise all
8 the powers and privileges granted and enumerated by Chapter 1
9 or by any other law or by its partnership agreement, together
10 with any powers incidental thereto, including those powers and
11 privileges necessary or convenient to the conduct, promotion,
12 or attainment of the business or not for profit activity of
13 the partnership and including the power to sue, be sued, and
14 defend in its own name and to maintain an action against a
15 partner for harm caused to the partnership by a breach of the
16 partnership agreement or violation of a duty to the
17 partnership.

18 (b) A partnership may indemnify and hold harmless a
19 partner or other person, pay in advance or reimburse expenses
20 incurred by a partner or other person, and purchase and
21 maintain insurance on behalf of a partner or other person.

22 §10A-8A-1.06. Governing law.

23 (a) Except as otherwise provided in subsections (b),
24 (c), and (d) of this section, the law of the jurisdiction in
25 which the partnership has its principal office governs the
26 partnership agreement and the relations among the partners and
27 between the partners and the partnership.

1 (b) The law of this state governs the (i) internal
2 affairs of a limited liability partnership, including the
3 relations among the partners and between the partners and the
4 partnership, (ii) the liability of a partner as a partner for
5 the debts, obligations, or other liabilities of a limited
6 liability partnership, and (iii) the authority of the partners
7 of a limited liability partnership.

8 (c) The law of the jurisdiction in which a foreign
9 limited liability partnership has filed its statement of
10 limited liability partnership or similar writing governs the
11 (i) internal affairs of that foreign limited liability
12 partnership, including the relations among the partners and
13 between the partners and the partnership, (ii) the liability
14 of a partner as a partner for the debts, obligations, or other
15 liabilities of a foreign limited liability partnership, and
16 (iii) the authority of the partners of a foreign limited
17 liability partnership.

18 (d) If (i) a partnership agreement provides for the
19 application of the laws of this state, and (ii) the
20 partnership delivers to the Secretary of State for filing a
21 statement of partnership in accordance with Section
22 10A-8A-2.02(a), a statement of not for profit partnership in
23 accordance with Section 10A-8A-2.02(b), or a statement of
24 limited liability partnership in accordance with Section
25 10A-8A-10.01, then the partnership agreement shall be governed
26 by and construed under the laws of this state.

1 §10A-8A-1.07. Supplemental principles of law; rate
2 of interest.

3 (a) It is the policy of this chapter and this state
4 to give maximum effect to the principles of freedom of
5 contract and to the enforceability of partnership agreements.

6 (b) Unless displaced by particular provisions of
7 this chapter, the principles of law and equity supplement this
8 chapter.

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

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

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

21 (f) Sections 7-9A-406 and 7-9A-408 of the Uniform
22 Commercial Code, and all successor statutes thereto, do not
23 apply to any interest in a partnership, including all rights,
24 powers, and interests arising under a partnership agreement or
25 this chapter. This provision prevails over Sections 7-9A-406
26 and 7-9A-408 of the Uniform Commercial Code, and all successor
27 statutes thereto, and is expressly intended to permit the

1 enforcement of the provisions of a partnership agreement that
2 would otherwise be ineffective under Sections 7-9A-406 and
3 7-9A-408 of the Uniform Commercial Code, and all successor
4 statutes thereto.

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

7 (h) The terms president, vice-president, secretary,
8 and treasurer as defined in Chapter 1 shall have no
9 application to this chapter.

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

12 §10A-8A-1.08. Effect of partnership agreement;
13 nonwaivable provisions.

14 (a) Except as otherwise provided in subsections (b)
15 and (c):

16 (1) the partnership agreement governs relations
17 among the partners as partners and between the partners and
18 the partnership; and

19 (2) to the extent the partnership agreement does not
20 otherwise provide for a matter described in subsection (a)(1),
21 this chapter governs the matter.

22 (b) (1) To the extent that, at law or in equity, a
23 partner or other person has duties, including fiduciary
24 duties, to a partnership or to another partner or to another
25 person that is a party to or is otherwise bound by a
26 partnership agreement, the partner's or other person's duties
27 may be expanded or restricted or eliminated by provisions in a

1 written partnership agreement, but the implied contractual
2 covenant of good faith and fair dealing may not be eliminated.

3 (2) A written partnership agreement may provide for
4 the limitation or elimination of any and all liabilities for
5 breach of contract and breach of duties, including fiduciary
6 duties, of a partner or other person to a partnership or to
7 another partner or to another person that is a party to or is
8 otherwise bound by a partnership agreement, but a partnership
9 agreement may not limit or eliminate liability for any act or
10 omission that constitutes a bad faith violation of the implied
11 contractual covenant of good faith and fair dealing.

12 (3) A partner or other person shall not be liable to
13 a partnership or to another partner or to another person that
14 is a party to or is otherwise bound by a partnership agreement
15 for breach of fiduciary duty for the partner's or other
16 person's good faith reliance on the partnership agreement.

17 (4) A partnership agreement may provide that:

18 (A) a partner or transferee who fails to perform in
19 accordance with, or to comply with the terms and conditions
20 of, the partnership agreement shall be subject to specified
21 penalties or specified consequences; and

22 (B) at the time or upon the happening of events
23 specified in the partnership agreement, a partner or
24 transferee may be subject to specified penalties or specified
25 consequences.

26 (5) A penalty or consequence that may be specified
27 under paragraph (4) of this subsection may include and take

1 the form of reducing or eliminating the defaulting partner's
2 or transferee's proportionate transferable interest in a
3 partnership, subordinating the partner's or transferee's
4 transferable interest to that of non-defaulting partners or
5 transferees, forcing a sale of that transferable interest,
6 forfeiting the defaulting partner's or transferee's
7 transferable interest, the lending by other partners or
8 transferees of the amount necessary to meet the defaulting
9 partner's or transferee's commitment, a fixing of the value of
10 the defaulting partner's or transferee's transferable interest
11 by appraisal or by formula and redemption or sale of the
12 transferable interest at that value, or other penalty or
13 consequence.

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

17 (c) A partnership agreement may not:

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

20 (2) vary a partnership's power under Section
21 10A-8A-1.05 to sue, be sued, and defend in its own name;

22 (3) vary the law applicable to a limited liability
23 partnership under Section 10A-8A-1.06;

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

26 (5) vary the requirements of Section 10A-8A-2.03;

1 (6) unreasonably restrict the right of access to
2 books and records under Section 10A-8A-4.10, but the
3 partnership agreement may impose reasonable restrictions on
4 the availability and use of information obtained under those
5 sections and may define appropriate remedies, including
6 liquidated damages, for a breach of any reasonable restriction
7 on use;

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

11 (8) eliminate or limit the liability of a partner or
12 other person for any act or omission that constitutes a bad
13 faith violation of the implied contractual covenant of good
14 faith and fair dealing as provided under Section
15 10A-8A-1.08(b) (2);

16 (9) waive the requirements of Section
17 10A-8A-4.04(e);

18 (10) reduce the limitations period specified under
19 Section 10A-8A-4.09(e) for an action commenced under other
20 applicable law;

21 (11) waive the prohibition on issuance of a
22 certificate of a transferable interest in bearer form under
23 Section 10A-8A-5.02(c);

24 (12) vary the power of a person to dissociate as a
25 partner under Section 10A-8A-6.02(a) except that the
26 partnership agreement may require that the notice under

1 Section 10A-8A-6.01(1) be in a writing or in a specific form
2 thereof;

3 (13) vary the right of a court to expel a partner in
4 the events specified in Section 10A-8A-6.01(5);

5 (14) vary the power of a court to decree dissolution
6 in the circumstances specified in Section 10A-9A-8.01(4) or
7 (5);

8 (15) vary the requirement to wind up the
9 partnership's business or not for profit activity as specified
10 in Section 10A-8A-8.01(4), (5), (6), or (7);

11 (16) vary the right of a partner to approve or
12 consent to the cancellation of a statement of limited
13 liability partnership as specified in Section 10A-8A-10.01(m);
14 or

15 (17) vary the rights of a partner under Section
16 10A-8A-9.10.

17 §10A-8A-1.09. Partnership agreement; effect on
18 partnership and persons admitted as partners.

19 (a) A partnership is bound by and may enforce the
20 partnership agreement, whether or not the partnership has
21 itself manifested assent to the partnership agreement.

22 (b) A person that is admitted as a partner of a
23 partnership becomes a party to and assents to the partnership
24 agreement except as provided in Section 10A-8A-5.02(g).

25 (c) Two or more persons intending to be the initial
26 partners of a partnership may make an agreement providing that

1 upon the formation of the partnership, the agreement will
2 become the partnership agreement.

3 §10A-8A-1.10. Partnership agreement; effect on third
4 parties and relationship to writings effective on behalf of
5 partnership.

6 (a) If a partnership agreement provides for the
7 manner in which it may be amended, including by requiring the
8 approval of a person who is not a party to the partnership
9 agreement or the satisfaction of conditions, it may be amended
10 only in that manner or as otherwise permitted by law, except
11 that the approval of any person may be waived by that person
12 and any conditions may be waived by all persons for whose
13 benefit those conditions were intended.

14 (b) A partnership agreement may provide rights to
15 any person, including a person who is not a party to the
16 partnership agreement, to the extent set forth in the
17 partnership agreement.

18 (c) The obligations of a partnership and its
19 partners to a person in the person's capacity as a transferee
20 or dissociated partner are governed by the partnership
21 agreement. A transferee and a dissociated partner are bound by
22 the partnership agreement.

23 (d) If a writing that has been delivered by a
24 partnership for filing in accordance with Chapter 1 and has
25 become effective conflicts with a provision of the partnership
26 agreement:

1 (1) the partnership agreement prevails as to
2 partners, dissociated partners, and transferees; and

3 (2) the writing prevails as to other persons to the
4 extent they reasonably rely on the writing.

5 §10A-8A-1.11. Required information.

6 A partnership shall maintain the following
7 information:

8 (1) A current list of the full name and last known
9 street and mailing address of each partner, in alphabetical
10 order.

11 (2) Copies of any filed statement.

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

15 (4) Copies of the then effective partnership
16 agreement and any amendment thereto, in each case to the
17 extent made in a writing.

18 (5) Copies of any financial statement of the
19 partnership for the three most recent years.

20 (6) Unless contained in a partnership agreement made
21 in a writing, a writing stating:

22 (A) the amount of cash, and a description and
23 statement of the agreed value of the other benefits,
24 contributed and agreed to be contributed by each partner;

25 (B) the times at which, or events on the happening
26 of which, any additional contributions agreed to be made by
27 each partner are to be made; and

1 (C) any events upon the happening of which the
2 partnership is to be dissolved and its business or not for
3 profit activity wound up.

4 §10A-8A-1.12. Transactions of partner with
5 partnership. A partner may lend money to and transact other
6 business or not for profit activity with the partnership and
7 has the same rights and obligations with respect to the loan
8 or other transaction as a person that is not a partner.

9 §10A-8A-1.13. Consent and proxies of partners.
10 Action requiring the consent of partners under this chapter
11 may be taken without a meeting, and a partner may appoint a
12 proxy to consent or otherwise act for the partner by signing a
13 writing of appointment, either personally or by the partner's
14 attorney in fact.

15 Article 2. Formation of Partnership; Property.

16 §10A-8A-2.01. Formation of partnership.

17 (a) Except as otherwise provided in subsection (b),
18 the association of two or more persons:

19 (i) to carry on as co-owners a business for profit
20 forms a partnership, whether or not the persons intend to form
21 a partnership; or

22 (ii) to carry on any not for profit activity, forms
23 a partnership when (A) the persons intend to form a
24 partnership and (B) the persons deliver to the Secretary of
25 State for filing a statement of not for profit partnership in
26 accordance with Section 10A-8A-2.02(b) setting forth their

1 intention to form a partnership to carry on a not for profit
2 activity.

3 (b) An association formed under a statute other than
4 this chapter, a predecessor statute, or a comparable statute
5 of another jurisdiction is not a partnership under this
6 chapter.

7 (c) In determining whether a partnership is formed
8 under Section 10A-8A-2.01(a)(i), the following rules apply:

9 (1) Joint tenancy, tenancy in common, tenancy by the
10 entireties, joint property, common property, or part ownership
11 does not by itself establish a partnership, even if the
12 co-owners share profits made by the use of the property.

13 (2) The sharing of gross returns does not by itself
14 establish a partnership, even if the persons sharing them have
15 a joint or common right or interest in property from which the
16 returns are derived.

17 (3) A person who receives a share of the profits of
18 a business is presumed to be a partner in the business, unless
19 the profits were received in payment:

20 (i) of a debt by installments or otherwise;

21 (ii) for services as an independent contractor or of
22 wages or other compensation to an employee;

23 (iii) of rent;

24 (iv) of an annuity or other retirement or health
25 benefit to a beneficiary, representative, or designee of a
26 deceased or retired partner;

1 (v) of interest or other charge on a loan, even if
2 the amount of payment varies with the profits of the business,
3 including a direct or indirect present or future ownership of
4 the collateral, or rights to income, proceeds, or increase in
5 value derived from the collateral; or

6 (vi) for the sale of the goodwill of a business or
7 other property by installments or otherwise.

8 §10A-8A-2.02. Statement of partnership; statement of
9 not for profit partnership.

10 (a) A partnership other than a partnership that has
11 an effective statement of not for profit partnership or an
12 effective statement of limited liability partnership on file
13 with the Secretary of State may deliver to the Secretary of
14 State for filing a statement of partnership for the purpose of
15 having its partnership agreement governed by the laws of this
16 state in accordance with Section 10A-8A-1.06(d) and providing
17 notice of its existence in accordance with Section
18 10A-8A-1.03(d) (1). A statement of partnership must contain all
19 of the following:

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

22 (2) the date that the partnership was formed
23 pursuant to, or became governed by, the laws of this state;

24 (3) the street and mailing address of its principal
25 office;

26 (4) the street and mailing address of a registered
27 office and the name of the registered agent at that office for

1 service of process in this state which the partnership shall
2 be required to maintain;

3 (5) a statement that the partnership was formed for
4 the purpose of carrying out a for profit business;

5 (6) a statement that the partnership has two or more
6 partners; and

7 (7) a statement that the partnership agreement is
8 governed by the laws of this state, and if the partnership
9 agreement is a written partnership agreement, a declaration
10 that the written partnership agreement has a provision stating
11 that the partnership agreement is governed by the laws of this
12 state.

13 (b) A partnership other than a partnership that has
14 an effective statement of partnership or an effective
15 statement of limited liability partnership on file with the
16 Secretary of State may deliver to the Secretary of State for
17 filing a statement of not for profit partnership for the
18 purpose of setting forth the partners' intention to form a
19 partnership to carry on a not for profit activity in
20 accordance with Section 10A-8A-2.01(a)(ii), having its
21 partnership agreement governed by the laws of this state in
22 accordance with Section 10A-8A-1.06(d), and providing notice
23 of its existence in accordance with Section 10A-8A-1.03(d)(2).
24 A statement of not for profit partnership must contain all of
25 the following:

26 (1) the name of the partnership which name must
27 comply with Article 5 of Chapter 1;

1 (2) the date that the partnership was formed
2 pursuant to, or became governed by, the laws of this state;

3 (3) the street and mailing address of its principal
4 office;

5 (4) the street and mailing address of a registered
6 office and the name of the registered agent at that office for
7 service of process in this state which the partnership shall
8 be required to maintain;

9 (5) a statement that the partnership was formed for
10 the purpose of carrying out a not for profit activity in
11 accordance with Section 10A-8A-2.01(a)(ii);

12 (6) a statement that the partnership has two or more
13 partners; and

14 (7) a statement that the partnership agreement is
15 governed by the laws of this state, and if the partnership
16 agreement is a written partnership agreement, a declaration
17 that the written partnership agreement has a provision stating
18 that the partnership agreement is governed by the laws of this
19 state.

20 (c) A statement of partnership and a statement of
21 not for profit partnership may be amended or restated from
22 time to time in accordance with Section 10A-1-4.26.

23 (d) A statement of partnership and a statement of
24 not for profit partnership shall be executed by two or more
25 partners authorized to execute the statement of partnership or
26 statement of not for profit partnership.

1 (e) A statement of partnership and a statement of
2 not for profit partnership shall be accompanied by a fee for
3 the Secretary of State in the amount prescribed by Section
4 10A-1-4.31.

5 (f) If a partnership complies with this section, the
6 Secretary of State shall file the statement of partnership or
7 the statement of not for profit partnership, as applicable.

8 (g) A statement of partnership or a statement of not
9 for profit partnership, as applicable, takes effect as
10 determined under Article 4 of Chapter 1.

11 (h) A partnership that has filed a statement of
12 partnership is for all purposes the same entity that existed
13 before the statement of partnership was filed and continues to
14 be a partnership under the laws of this state.

15 (i) A statement of partnership and a statement of
16 not for profit partnership are filing instruments for the
17 purposes of Chapter 1.

18 §10A-8A-2.03. Execution, filing, and recording of
19 statements.

20 (a) A statement may be delivered to the Secretary of
21 State for filing. A certified copy of a statement of authority
22 that was filed by the Secretary of State may be delivered to a
23 judge of probate for filing in accordance with Section
24 10A-8A-3.03(f) and (g). A certified copy of a statement that
25 is filed in an office in another jurisdiction may be delivered
26 to the Secretary of State for filing, and once filed by the
27 Secretary of State, may, in the case of a statement of

1 authority which is intended to have a similar effect to that
2 of a statement of authority under Section 10A-8A-3.03(f) or
3 (g), be delivered to the judge of probate for filing in
4 accordance with Section 10A-8A-3.03(f) or (g). Either filing
5 has the effect provided in this chapter with respect to
6 partnership property located in or transactions that occur in
7 this state.

8 (b) A certified copy of statement of authority filed
9 in the office of the Secretary of State and delivered to the
10 judge of probate for filing in the county or counties in which
11 the partnership has real property shall, without more, have
12 the effect of a recorded statement under this chapter with
13 respect to real property located in that county or those
14 counties. Any statement of authority recorded under the
15 preceding sentence that is not a certified copy of a statement
16 of authority filed in the office of the Secretary of State
17 does not have the effect provided for recorded statements of
18 authority in this chapter.

19 (c) Except as specifically provided otherwise in
20 this chapter, a statement filed by a partnership must be
21 executed by at least two partners. Other statements must be
22 executed by a partner or other person authorized by this
23 chapter. An individual who executes a statement as, or on
24 behalf of, a partner or other person named as a partner in a
25 statement shall personally declare under penalty of perjury
26 that the contents of the statement are accurate.

1 (d) Except as specifically provided otherwise in
2 this chapter, a person authorized by this chapter to file a
3 statement may amend or cancel the statement by filing an
4 amendment or cancellation that names the partnership,
5 identifies the statement, and states the substance of the
6 amendment or cancellation.

7 (e) A person who files a statement pursuant to this
8 section shall promptly send a copy of the statement to every
9 partner and to any other person named in the statement.
10 Failure to send a copy of a statement to a partner or other
11 person does not limit the effectiveness of the statement as to
12 a person not a partner.

13 (f) The Secretary of State may collect a fee for
14 filing or providing a certified copy of a statement in the
15 amount prescribed in Section 10A-1-4.31. The office of the
16 judge of probate may collect a fee for recording a certified
17 copy of statement in the amount prescribed in Section
18 10A-1-4.31.

19 (g) Each statement permitted or required under this
20 chapter to be delivered for filing to the Secretary of State
21 or judge of probate is a filing instrument.

22 §10A-8A-2.04. Partnership property. Property
23 acquired by a partnership is property of the partnership and
24 not of the partners individually.

25 §10A-8A-2.05. When property is partnership property.

26 (a) Property is partnership property if acquired in
27 the name of:

1 (1) the partnership; or

2 (2) one or more partners with an indication in the
3 instrument transferring title to the property of the person's
4 capacity as a partner or of the existence of a partnership but
5 without an indication of the name of the partnership.

6 (b) Property is acquired in the name of the
7 partnership by a transfer to:

8 (1) the partnership in its name; or

9 (2) one or more partners in their capacity as
10 partners in the partnership, if the name of the partnership is
11 indicated in the instrument transferring title to the
12 property.

13 (c) Property is presumed to be partnership property
14 if purchased with partnership assets, even if not acquired in
15 the name of the partnership or of one or more partners with an
16 indication in the instrument transferring title to the
17 property of the person's capacity as a partner or of the
18 existence of a partnership.

19 (d) Property acquired in the name of one or more of
20 the partners, without an indication in the instrument
21 transferring title to the property of the person's capacity as
22 a partner or of the existence of a partnership and without use
23 of partnership assets, is presumed to be separate property,
24 even if used for partnership purposes.

25 Article 3. Relations of Partners to Persons Dealing
26 with Partnership.

27 §10A-8A-3.01. Partner agent of partnership.

1 Subject to the effect of a statement of authority
2 under Section 10A-8A-3.03:

3 (1) Each partner is an agent of the partnership for
4 the purpose of its business or not for profit activity. An act
5 of a partner, including the execution of an instrument in the
6 partnership name, for apparently carrying on in the ordinary
7 course the partnership business or not for profit activity, or
8 business or not for profit activity of the kind carried on by
9 the partnership, binds the partnership, unless the partner had
10 no authority to act for the partnership in the particular
11 matter and the person with whom the partner was dealing knew
12 or had notice that the partner lacked authority.

13 (2) An act of a partner which is not apparently for
14 carrying on in the ordinary course the partnership business or
15 not for profit activity, or business or not for profit
16 activity of the kind carried on by the partnership, binds the
17 partnership only if the act was authorized by the other
18 partners.

19 §10A-8A-3.02. Transfer of partnership property.

20 (a) Partnership property may be transferred as
21 follows:

22 (1) Subject to the effect of a statement of
23 authority under Section 10A-8A-3.03, partnership property held
24 in the name of the partnership may be transferred by an
25 instrument of transfer executed by a partner in the
26 partnership name.

1 (2) Partnership property held in the name of one or
2 more partners with an indication in the instrument
3 transferring the property to them of their capacity as
4 partners or of the existence of a partnership, but without an
5 indication of the name of the partnership, may be transferred
6 by an instrument of transfer executed by the persons in whose
7 name the property is held.

8 (3) Partnership property held in the name of one or
9 more persons other than the partnership, without an indication
10 in the instrument transferring the property to them of their
11 capacity as partners or of the existence of a partnership, may
12 be transferred by an instrument of transfer executed by the
13 persons in whose name the property is held.

14 (b) A partnership may recover partnership property
15 from a transferee only if it proves that execution of the
16 instrument of initial transfer did not bind the partnership
17 under Section 10A-8A-3.01 and:

18 (1) as to a subsequent transferee who gave value for
19 property transferred under subsections (a)(1) and (2), proves
20 that the subsequent transferee knew or had received notice
21 that the person who executed the instrument of initial
22 transfer lacked authority to bind the partnership; or

23 (2) as to a transferee who gave value for property
24 transferred under subsection (a)(3), proves that the
25 transferee knew or had notice that the property was
26 partnership property and that the person who executed the

1 instrument of initial transfer lacked authority to bind the
2 partnership.

3 (c) A partnership may not recover partnership
4 property from a subsequent transferee if the partnership would
5 not have been entitled to recover the property, under
6 subsection (b), from any earlier transferee of the property.

7 §10A-8A-3.03. Statement of Authority.

8 (a) A partnership may deliver to the Secretary of
9 State for filing a statement of authority, which:

10 (1) must include the name of the partnership and:

11 (A) if the partnership has not filed a statement of
12 partnership, a statement of not for profit partnership, or a
13 statement of limited liability partnership, (i) the street and
14 mailing addresses of its principal office and (ii) if the
15 Secretary of State has assigned a unique identifying number or
16 other designation to the partnership, that number or
17 designation; or

18 (B) if the partnership has filed a statement of
19 partnership, a statement of not for profit partnership, or a
20 statement of limited liability partnership, (i) the street
21 address and mailing address of its principal office, (ii) the
22 name, street address, and mailing address of its registered
23 agent, and (iii) the unique identifying number or other
24 designation assigned to the partnership by the Secretary of
25 State.

26 (2) with respect to any position that exists in or
27 with respect to the partnership, may state the authority, or

1 limitations on the authority, of all persons holding the
2 position to:

3 (A) sign an instrument transferring real property
4 held in the name of the partnership; or

5 (B) enter into other transactions on behalf of, or
6 otherwise act for or bind, the partnership; and

7 (3) may state the authority, or limitations on the
8 authority, of a specific person to:

9 (A) sign an instrument transferring real property
10 held in the name of the partnership; or

11 (B) enter into other transactions on behalf of, or
12 otherwise act for or bind, the partnership.

13 (b) To amend or cancel a statement of authority
14 filed by the Secretary of State, a partnership must deliver to
15 the Secretary of State for filing an amendment or cancellation
16 stating:

17 (1) the name of the partnership;

18 (2) if the partnership has not filed a statement of
19 partnership, a statement of not for profit partnership, or a
20 statement of limited liability partnership, the street and
21 mailing addresses of the partnership's principal office;

22 (3) if the partnership has filed a statement of
23 partnership, a statement of not for profit partnership, or a
24 statement of limited liability partnership, the name and
25 street and mailing addresses of its registered agent;

26 (4) the date the statement of authority being
27 affected became effective; and

1 (5) the contents of the amendment or a declaration
2 that the statement of authority is canceled.

3 (c) A statement of authority affects only the power
4 of a person to bind a partnership to persons that are not
5 partners.

6 (d) Subject to subsection (c) and Section
7 10A-8A-1.03(d) (3) and except as otherwise provided in
8 subsections (f), (g), and (h), a limitation on the authority
9 of a person or a position contained in an effective statement
10 of authority is not by itself evidence of any person's
11 knowledge or notice of the limitation.

12 (e) Subject to subsection (c), a grant of authority
13 not pertaining to transfers of real property and contained in
14 an effective statement of authority is conclusive in favor of
15 a person that gives value in reliance on the grant, except to
16 the extent that when the person gives value:

17 (1) the person has knowledge to the contrary;

18 (2) the statement of authority has been canceled or
19 restrictively amended under subsection (b); or

20 (3) a limitation on the grant is contained in
21 another statement of authority that became effective after the
22 statement of authority containing the grant became effective.

23 (f) Subject to subsection (c), an effective
24 statement of authority that grants authority to transfer real
25 property held in the name of the partnership, a certified copy
26 of which statement of authority is recorded in the office of
27 the judge of probate in the county in which the real property

1 is located, is conclusive in favor of a person that gives
2 value in reliance on the grant without knowledge to the
3 contrary, except to the extent that when the person gives
4 value:

5 (1) the statement of authority has been canceled or
6 restrictively amended under subsection (b), and a certified
7 copy of the cancellation or restrictive amendment has been
8 recorded in the office of the judge of probate in the county
9 in which the real property is located; or

10 (2) a limitation on the grant is contained in
11 another statement of authority that became effective after the
12 statement of authority containing the grant became effective,
13 and a certified copy of the later-effective statement is
14 recorded in the office of the judge of probate in the county
15 in which the real property is located.

16 (g) Subject to subsection (c), if a certified copy
17 of an effective statement of authority containing a limitation
18 on the authority to transfer real property held in the name of
19 a partnership is recorded in the office of the judge of
20 probate in the county in which the real property is located,
21 all persons are deemed to know of the limitation with respect
22 to the real property located in that county.

23 (h) Subject to subsection (i), an effective
24 statement of dissolution is a cancellation of any filed
25 statement of authority for the purposes of subsection (f) and
26 is a limitation on authority for purposes of subsection (g).

1 (i) After a statement of dissolution becomes
2 effective, a partnership may deliver to the Secretary of State
3 for filing and, if appropriate, may record a statement of
4 authority that is designated as a post-dissolution statement
5 of authority. The statement operates as provided in
6 subsections (f) and (g).

7 (j) Unless canceled earlier, an effective statement
8 of authority is canceled by operation of law five years after
9 the date on which the statement, or its most recent amendment,
10 becomes effective. The cancellation is effective without
11 recording under subsection (f) or (g).

12 (k) An effective statement of denial operates as a
13 restrictive amendment under this section and may be recorded
14 by certified copy for purposes of subsection (f)(1).

15 §10A-8A-3.04. Statement of denial.

16 A person named in a filed statement of authority
17 granting that person authority may deliver to the Secretary of
18 State for filing a statement of denial that:

19 (1) provides the name of the partnership and the
20 caption of the statement of authority to which the statement
21 of denial pertains; and

22 (2) denies the grant of authority.

23 A statement of denial is a limitation on authority
24 as provided in Section 10A-8A-3.03.

25 §10A-8A-3.05. Partnership liable for partner's
26 actionable conduct.

1 (a) A partnership is liable for loss or injury
2 caused to a person, or for a penalty incurred, as a result of
3 a wrongful act or omission, or other actionable conduct, of a
4 partner acting in the ordinary course of business or not for
5 profit activity of the partnership or with authority of the
6 partnership.

7 (b) If, in the ordinary course of business or not
8 for profit activity of the partnership's business or not for
9 profit activity, or while acting with authority of the
10 partnership, a partner receives or causes the partnership to
11 receive money or property of a person not a partner, and the
12 money or property is misapplied by a partner, the partnership
13 is liable for the loss.

14 §10A-8A-3.06. Partner's liability.

15 (a) Except as otherwise provided in subsection (b)
16 or subsection (c), all partners are liable jointly and
17 severally for all obligations of the partnership unless
18 otherwise agreed by the claimant or provided by law.

19 (b) A person admitted as a partner into an existing
20 partnership is not personally liable for any partnership
21 obligation incurred before the person's admission as a
22 partner.

23 (c) Except as set forth in subsection (b) of Section
24 10A-8A-10.02, a debt, obligation, or other liability of a
25 partnership incurred while the partnership is a limited
26 liability partnership is solely the debt, obligation, or other
27 liability of the limited liability partnership. Except as set

1 forth in subsection (b) of Section 10A-8A-10.02, a partner in
2 a limited liability partnership is not personally liable or
3 accountable, directly or indirectly, including by way of
4 indemnification, contribution, assessment, or otherwise, for
5 debts, obligations, and liabilities of, or chargeable to, the
6 limited liability partnership, or another partner or partners,
7 whether arising in tort, contract, or otherwise, solely by
8 reason of being such a partner or acting, or omitting to act,
9 in such capacity, which such debts, obligations and
10 liabilities occur, are incurred or are assumed while the
11 partnership is a limited liability partnership. This
12 subsection applies (1) despite anything inconsistent in the
13 partnership agreement that existed immediately before the
14 partnership becomes a limited liability partnership and (2)
15 regardless of the dissolution of the limited liability
16 partnership.

17 (d) Subsection (c) of this section shall not affect
18 the liability of a limited liability partnership to the extent
19 of partnership assets for partnership debts, obligations and
20 liabilities.

21 (e) A partner in a limited liability partnership is
22 not a necessary or proper party to a proceeding by or against
23 a limited liability partnership, the object of which is to
24 recover any debts, obligations, or liabilities of, or
25 chargeable to, the limited liability partnership, unless the
26 partner is personally liable therefor under subsection (b) of
27 Section 10A-8A-10.02.

1 §10A-8A-3.07. Actions by and against partnership and
2 partners.

3 (a) A partnership may sue and be sued in the name of
4 the partnership.

5 (b) An action may be brought against the partnership
6 and, except as provided in Section 10A-8A-3.06, against any or
7 all of the partners in the same action or in separate actions.

8 (c) A judgment against a partnership is not by
9 itself a judgment against a partner. A judgment against a
10 partnership may not be satisfied from a partner's assets
11 unless there is also a judgment against the partner.

12 (d) A judgment creditor of a partner may not levy
13 execution against the assets of the partner to satisfy a
14 judgment based on a claim against the partnership unless the
15 claim is for a debt, obligation, or liability for which the
16 partner is personally liable as provided in Section
17 10A-8A-3.06 and either:

18 (1) a judgment based on the same claim has been
19 obtained against the partnership and a writ of execution on
20 the judgment has been returned unsatisfied in whole or in
21 part;

22 (2) the partnership is a debtor in bankruptcy;

23 (3) the partner has agreed that the creditor need
24 not exhaust partnership assets;

25 (4) a court grants permission to the judgment
26 creditor to levy execution against the assets of a partner
27 based on a finding that partnership assets subject to

1 execution are clearly insufficient to satisfy the judgment,
2 that exhaustion of partnership assets is excessively
3 burdensome, or that the grant of permission is an appropriate
4 exercise of the court's equitable powers; or

5 (5) liability is imposed on the partner by law or
6 contract independent of the existence of the partnership.

7 (e) This section applies to any partnership
8 liability or obligation resulting from a representation by a
9 partner or purported partner under Section 10A-8A-3.08.

10 §10A-8A-3.08. Liability of purported partner.

11 Except as provided in Section 10A-8A-3.06: (a) If a
12 person, by words or conduct, purports to be a partner, or
13 consents to being represented by another as a partner, in a
14 partnership or with one or more persons not partners, the
15 purported partner is liable to a person to whom the
16 representation is made, if that person, relying on the
17 representation, enters into a transaction with the actual or
18 purported partnership. If the representation, either by the
19 purported partner or by a person with the purported partner's
20 consent, is made in a public manner, the purported partner is
21 liable to a person who relies upon the purported partnership
22 even if the purported partner is not aware of being held out
23 as a partner to the claimant. If partnership liability
24 results, the purported partner is liable with respect to that
25 liability as if the purported partner were a partner. If no
26 partnership liability results, the purported partner is liable

1 with respect to that liability jointly and severally with any
2 other person consenting to the representation.

3 (b) If a person is thus represented to be a partner
4 in an existing partnership, or with one or more persons not
5 partners, the purported partner is an agent of persons
6 consenting to the representation to bind them to the same
7 extent and in the same manner as if the purported partner were
8 a partner, with respect to persons who enter into transactions
9 in reliance upon the representation. If all of the partners of
10 the existing partnership consent to the representation, a
11 partnership act or obligation results. If fewer than all of
12 the partners of the existing partnership consent to the
13 representation, the person acting and the partners consenting
14 to the representation are jointly and severally liable.

15 (c) A person is not liable as a partner merely
16 because the person is named by another in a statement of
17 authority.

18 (d) A person does not continue to be liable as a
19 partner merely because of a failure to file a statement of
20 dissociation or to amend a statement of authority to indicate
21 the partner's dissociation from the partnership.

22 (e) Except as otherwise provided in subsections (a)
23 and (b), persons who are not partners as to each other are not
24 liable as partners to other persons.

25 Article 4. Relations of Partners to Each Other and
26 to Partnership.

27 §10A-8A-4.01. Partner's rights and duties.

1 (a) Each partner is deemed to have an account that
2 is:

3 (1) credited with an amount equal to the money plus
4 the value of any other property, net of the amount of any
5 liabilities, the partner contributes to the partnership and
6 the partner's share of the partnership profits; and

7 (2) charged with an amount equal to the money plus
8 the value of any other property, net of the amount of any
9 liabilities, distributed by the partnership to the partner and
10 the partner's share of the partnership losses provided that a
11 partner shall not be charged with any share of partnership
12 loss attributable to a debt, obligation or liability for which
13 the partner is not personally liable under Section 10A-8A-3.06
14 unless the loss is satisfied out of partnership assets.

15 (b) Each partner is entitled to an equal share of
16 the partnership profits and, subject to the limitations in
17 subsection (a) (2) of this section, is chargeable with a share
18 of the partnership losses in proportion to the partner's share
19 of the profits.

20 (c) A partnership shall reimburse a partner for
21 payments made and indemnify a partner for liabilities incurred
22 by the partner in the ordinary course of the business or not
23 for profit activity of the partnership or for the preservation
24 of its business or not for profit activity or property;
25 provided, however, no partner in a limited liability
26 partnership shall be required as a consequence of the
27 indemnification to make any payment on behalf of the limited

1 liability partnership to any other partners to the extent that
2 the payment would be inconsistent with Sections 10A-8A-3.06,
3 10A-8A-8.06, or 10A-8A-8.07.

4 (d) A partnership shall reimburse a partner for an
5 advance beyond the amount of capital the partner agreed to
6 contribute.

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

11 (f) Each partner has equal rights in the management
12 and conduct of the partnership business or not for profit
13 activity.

14 (g) A partner may use or possess partnership
15 property only on behalf of the partnership.

16 (h) A partner is not entitled to remuneration for
17 services performed for the partnership, except for reasonable
18 compensation for services rendered in winding up the business
19 or not for profit activity of the partnership.

20 (i) A difference arising as to a matter in the
21 ordinary course of business or not for profit activity of a
22 partnership may be decided by a majority of the partners. An
23 act outside the ordinary course of business or not for profit
24 activity of a partnership and an amendment to the partnership
25 agreement may be undertaken only with the consent of all of
26 the partners.

1 (j) This section does not affect the obligations of
2 a partnership to other persons under Section 10A-8A-3.01.

3 §10A-8A-4.02. Admission of partner.

4 (a) The initial partners of a partnership are
5 admitted as partners upon the formation of the partnership.

6 (b) After formation, a person is admitted as a
7 partner of the partnership:

8 (1) as provided in the partnership agreement;

9 (2) as the result of a transaction effective under
10 Article 9 of this chapter or Article 8 of Chapter 1;

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

12 (4) as provided in Section 10A-8A-8.01(6) or
13 10A-8A-8.01(7).

14 (c) Each person to be admitted as a partner to a
15 partnership formed under either Section 10A-8A-2.01(a) (i) or
16 10A-8A-2.01(a) (ii) may be admitted as a partner without:

17 (1) acquiring a transferable interest; or

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

20 §10A-8A-4.03. Form of contribution. A contribution
21 by a partner may be made to a partnership as agreed by the
22 partners.

23 §10A-8A-4.04. Liability for contribution.

24 (a) A partner's obligation to make a contribution to
25 a partnership is not excused by the partner's death,
26 disability, or other inability to perform personally.

1 (b) If a partner does not make a contribution
2 required by an enforceable promise, the partner or the
3 partner's estate is obligated, at the election of the
4 partnership, to contribute money equal to the value of the
5 portion of the contribution that has not been made. The
6 foregoing election shall be in addition to, and not in lieu
7 of, any other rights, including the right to specific
8 performance, that the partnership may have under the
9 partnership agreement or applicable law.

10 (c) The obligation of a partner to make a
11 contribution to a partnership may be compromised only by
12 consent of all partners. A conditional obligation of a partner
13 to make a contribution to a partnership may not be enforced
14 unless the conditions of the obligation have been satisfied or
15 waived as to or by that partner. Conditional obligations
16 include contributions payable upon a discretionary call of a
17 partnership before the time the call occurs.

18 (d) A creditor of a limited liability partnership
19 which extends credit or otherwise acts in reliance on an
20 obligation described in subsection (a), without notice of any
21 compromise under this subsection, may enforce the original
22 obligation.

23 (e) A promise by a partner to make a contribution to
24 a partnership is not enforceable unless set forth in a writing
25 signed by the partner.

26 §10A-8A-4.05. Sharing of distributions before
27 dissolution. All partners shall share equally in any

1 distributions made by a partnership before its dissolution and
2 winding up.

3 §10A-8A-4.06. Interim distributions. Subject to
4 Section 10A-8A-7.01, a partner has a right to a distribution
5 before the dissolution and winding up of a partnership as
6 provided in the partnership agreement. A decision to make a
7 distribution before the dissolution and winding up of the
8 partnership is a decision in the ordinary course of the
9 business or not for profit activity of the partnership.

10 §10A-8A-4.07. Distribution in kind. A partner does
11 not have a right to demand and receive a distribution from a
12 partnership in any form other than money. Except as otherwise
13 provided in Section 10A-8A-8.07, a partnership may distribute
14 an asset in kind if each partner receives a percentage of the
15 asset in proportion to the partner's share of distributions.

16 §10A-8A-4.08. Right to distribution. If a partner
17 becomes entitled to receive a distribution, the partner has
18 the status of, and is entitled to all remedies available to, a
19 creditor of the partnership with respect to the distribution.
20 However, the partnership's obligation to make a distribution
21 is subject to offset for any amount owed to the partnership by
22 the partner or dissociated partner on whose account the
23 distribution is made.

24 §10A-8A-4.09. Limitations on distribution and
25 liability for improper distributions.

26 (a) A limited liability partnership shall not make a
27 distribution to a partner to the extent that at the time of

1 the distribution, after giving effect to the distribution, all
2 liabilities of the limited liability partnership, other than
3 liabilities to partners on account of their transferable
4 interests and liabilities for which the recourse of creditors
5 is limited to specific property of the limited liability
6 partnership, exceed the fair value of the assets of the
7 limited liability partnership, except that the fair value of
8 the property that is subject to a liability for which recourse
9 of creditors is limited shall be included in the assets of the
10 limited liability partnership only to the extent that the fair
11 value of the property exceeds that liability.

12 (b) A partner who consents to a distribution in
13 violation of subsection (a) or the partnership agreement, and
14 who knew at the time of the distribution that the distribution
15 violated subsection (a) or the partnership agreement, shall be
16 liable to the limited liability partnership for the amount of
17 that distribution.

18 (c) A partner who receives a distribution in
19 violation of subsection (a) or the partnership agreement, and
20 who knew at the time of the distribution that the distribution
21 violated subsection (a) or the partnership agreement, shall be
22 liable to the limited liability partnership for the amount of
23 the distribution received by that partner. A partner who
24 receives a distribution in violation of subsection (a) or the
25 partnership agreement, and who did not know at the time of the
26 distribution that the distribution violated subsection (a) or

1 the partnership agreement, shall not be liable for the amount
2 of the distribution received by that partner.

3 (d) Except as provided in subsection (e), this
4 section shall not affect any obligation or liability of a
5 partner under other applicable law for the amount of a
6 distribution.

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

10 (f) For purposes of subsection (a), "distribution"
11 does not include amounts constituting reasonable compensation
12 for present or past services or reasonable payments made in
13 the ordinary course of the limited liability partnership's
14 business or not for profit activity under a bona fide
15 retirement plan or other benefits program.

16 (g) This section shall not apply to distributions
17 made in accordance with Section 10A-8A-8.09.

18 §10A-8A-4.10. Right of partner and former partner to
19 information.

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

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

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

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

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

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

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

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

20 (3) it is determined that:

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

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

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

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

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

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

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

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

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

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

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

23 (2) keep confidential from the partners and any
24 other person, for such period of time as the partnership deems
25 reasonable, any information that the partnership reasonably
26 believes to be in the nature of trade secrets or other
27 information the disclosure of which the partnership in good

1 faith believes is not in the best interest of the partnership
2 or could damage the partnership or its business or not for
3 profit activity, or that the partnership is required by law or
4 by agreement with a third party to keep confidential.

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

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

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

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

22 (j) Any partner who, without reasonable cause,
23 refuses to allow any partner or person dissociated as a
24 partner, or their agent or attorney to inspect or copy any
25 records of the partnership to which such partner or person
26 dissociated as a partner is entitled under this section, shall
27 be personally liable to the partner or person dissociated as a

1 partner for a penalty in an amount not to exceed 10 percent of
2 the fair market value of the transferable interest of the
3 partner or person dissociated as a partner, in addition to any
4 other damages or remedy.

5 §10A-8A-4.11. General standards of partner's
6 conduct.

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

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

12 (1) to account to the partnership and to hold as
13 trustee for it any property, profit, or benefit derived by the
14 partner in the conduct or winding up of the partnership's
15 business or not for profit activity or derived from a use by
16 the partner of partnership property, including the
17 appropriation of a partnership opportunity;

18 (2) to refrain from dealing with the partnership in
19 the conduct or winding up of the partnership's business or not
20 for profit activity as or on behalf of a party having an
21 interest adverse to the partnership; and

22 (3) to refrain from competing with the partnership
23 in the conduct or winding up of the partnership's business or
24 not for profit activity.

25 (c) A partner's duty of care to the partnership and
26 to the other partners in the conduct or winding up of the
27 partnership's business or not for profit activity includes

1 refraining from engaging in grossly negligent or reckless
2 conduct, intentional misconduct, or a knowing violation of
3 law.

4 (d) A partner shall discharge the duties to the
5 partnership and to the other partners under this chapter and
6 under the partnership agreement and exercise any rights
7 consistently with the implied contractual covenant of good
8 faith and fair dealing.

9 (e) A partner does not violate a duty or obligation
10 under this chapter or under the partnership agreement merely
11 because the partner's conduct furthers the partner's own
12 interest.

13 §10A-8A-4.12. Reliance on reports and information. A
14 partner of a partnership shall be fully protected in relying
15 in good faith upon the records of the partnership and upon
16 information, opinions, reports, or statements presented by
17 another partner or agent of the partnership, or by any other
18 person as to matters the partner reasonably believes are
19 within that other person's professional or expert competence,
20 including information, opinions, reports, or statements as to
21 the value and amount of the assets, liabilities, profits, or
22 losses of the partnership, or the value and amount of assets
23 or reserves or contracts, agreements, or other undertakings
24 that would be sufficient to pay claims and obligations of the
25 partnership, or to make reasonable provision to pay those
26 claims and obligations, or any other facts pertinent to the

1 existence and amount of assets from which distributions to
2 partners or creditors might properly be paid.

3 §10A-8A-4.13. Actions by partnership and partners.

4 (a) Except as provided in Sections 10A-8A-3.06,
5 10A-8A-8.06, or 10A-8A-8.07, a partnership may maintain an
6 action against a partner for a breach of the partnership
7 agreement, or for the violation of a duty to the partnership,
8 causing harm to the partnership.

9 (b) Except as provided in Sections 10A-8A-3.06,
10 10A-8A-8.06, or 10A-8A-8.07, a partner may maintain an action
11 against the partnership or another partner for legal or
12 equitable relief, with or without an accounting as to
13 partnership business or not for profit activity, to:

14 (1) enforce the partner's rights under the
15 partnership agreement;

16 (2) enforce the partner's rights under this chapter,
17 including:

18 (i) the partner's rights under Sections 10A-8A-4.01,
19 10A-8A-4.03, or 10A-8A-4.04;

20 (ii) the partner's right on dissociation to have the
21 partner's transferable interest in the partnership purchased
22 pursuant to Section 10A-8A-7.01 or enforce any other right
23 under Article 6 or 7; or

24 (iii) the partner's right to compel a dissolution
25 and winding up of the partnership's business or not for profit
26 activity under Section 10A-8A-8.01 or enforce any other right
27 under Article 8; or

1 (3) enforce the rights and otherwise protect the
2 interests of the partner, including rights and interests
3 arising independently of the partnership relationship.

4 (c) The accrual of, and any time limitation on, a
5 right of action for a remedy under this section is governed by
6 other law. A right to an accounting upon a dissolution and
7 winding up does not revive a claim barred by law.

8 §10A-8A-4.14. Continuation of partnership beyond
9 definite term or particular undertaking.

10 (a) If a partnership for a definite term or
11 particular undertaking is continued, without an express
12 agreement, after the expiration of the term or completion of
13 the undertaking, the rights and duties of the partners remain
14 the same as they were at the expiration or completion, so far
15 as is consistent with a partnership at will.

16 (b) If the partners, or those of them who habitually
17 acted in the business or not for profit activity during the
18 term or undertaking, continue the business or not for profit
19 activity without any settlement or liquidation of the
20 partnership, they are presumed to have agreed that the
21 partnership will continue.

22 Article 5. Transferees and Creditors of Partners.

23 §10A-8A-5.01. Partner's transferable interest in
24 partnership. The only interest of a partner which is
25 transferable is the partner's transferable interest. A
26 transferable interest is personal property.

1 §10A-8A-5.02. Transfer of partner's transferable
2 interest.

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

5 (1) is permissible;

6 (2) does not by itself cause the partner's
7 dissociation;

8 (3) does not by itself cause a dissolution and
9 winding up of the partnership; and

10 (4) subject to Section 10A-8A-5.05, does not entitle
11 the transferee to:

12 (A) participate in the management or conduct of the
13 partnership's business or not for profit activity; or

14 (B) except as otherwise provided in subsection (d),
15 have access to required information, records, or other
16 information concerning the partnership's business or not for
17 profit activity.

18 (b) A transferee has a right:

19 (1) to receive, in accordance with the transfer,
20 distributions to which the transferor would otherwise be
21 entitled;

22 (2) to receive upon the dissolution and winding up
23 of the partnership, in accordance with the transfer, the net
24 amount otherwise distributable to the transferor; and

25 (3) to seek under Section 10A-8A-8.01(5) a judicial
26 determination that it is equitable to wind up the partnership
27 business or not for profit activity.

1 (c) A transferable interest may be evidenced by a
2 certificate of transferable interest issued by the
3 partnership. A partnership agreement may provide for the
4 transfer of the transferable interest represented by the
5 certificate and make other provisions with respect to the
6 certificate. No certificate of transferable interest shall be
7 issued in bearer form.

8 (d) In a dissolution and winding up, a transferee is
9 entitled to an account of the partnership's transactions only
10 from the date of dissolution.

11 (e) Except as otherwise provided in Sections
12 10A-8A-6.01(4), 10A-8A-6.01(11), and 10A-9A-6.01(12), when a
13 partner transfers a transferable interest, the transferor
14 retains the rights of a partner other than the right to
15 distributions transferred and retains all duties and
16 obligations of a partner.

17 (f) A partnership need not give effect to a
18 transferee's rights under this section until the partnership
19 has notice of the transfer.

20 (g) When a partner transfers a transferable interest
21 to a person that is admitted as a partner with respect to the
22 transferred interest, the transferee is liable for the
23 partner's obligations under Sections 10A-8A-4.04 and
24 10A-8A-4.09 to the extent that the obligations are known to
25 the transferee when the transferee voluntarily accepts
26 admission as a partner.

1 §10A-8A-5.03. Rights of creditor of partner or
2 transferee.

3 (a) On application to a court of competent
4 jurisdiction by any judgment creditor of a partner or
5 transferee, the court may charge the transferable interest of
6 the judgment debtor with payment of the unsatisfied amount of
7 the judgment with interest. To the extent so charged and after
8 the partnership has been served with the charging order, the
9 judgment creditor has only the right to receive any
10 distribution or distributions to which the judgment debtor
11 would otherwise be entitled in respect of the transferable
12 interest.

13 (b) The partnership, after being served with a
14 charging order and its terms, shall be entitled to pay or
15 deposit any distribution or distributions to which the
16 judgment debtor would otherwise be entitled in respect of the
17 charged transferable interest into the hands of the clerk of
18 the court so issuing the charging order, and the payment or
19 deposit shall discharge the partnership and the judgment
20 debtor from liability for the amount so paid or deposited and
21 any interest that might accrue thereon. Upon receipt of the
22 payment or deposit, the clerk of the court shall notify the
23 judgment creditor of the receipt of the payment or deposit.
24 The judgment creditor shall, after any payment or deposit into
25 the court, petition the court for payment of so much of the
26 amount paid or deposited as is held by the court as may be
27 necessary to pay the judgment creditor's judgment. To the

1 extent the court has excess amounts paid or deposited on hand
2 after the payment to the judgment creditor, the excess amounts
3 paid or deposited shall be distributed to the judgment debtor
4 and the charging order shall be extinguished. The court, may
5 in its discretion, order the clerk to deposit, pending the
6 judgment creditor's petition, any money paid or deposited with
7 the clerk, in an interest bearing account at a bank authorized
8 to receive deposits of public funds.

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

11 (d) Subject to subsection (c):

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

15 (2) a judgment debtor that is a transferee retains
16 the rights of a transferee and remains subject to all duties
17 and obligations of a transferee.

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

21 (f) This section provides the exclusive remedy by
22 which a judgment creditor of a partner or transferee may
23 satisfy a judgment out of the judgment debtor's transferable
24 interest and the judgment creditor shall have no right to
25 foreclose, under this chapter or any other law, upon the
26 charging order, the charging order lien, or the judgment
27 debtor's transferable interest. A judgment creditor of a

1 partner or transferee shall have no right to obtain possession
2 of, or otherwise exercise legal or equitable remedies with
3 respect to, the property of a partnership. Court orders for
4 actions or requests for accounts and inquiries that the
5 judgment debtor might have made, are not available to the
6 judgment creditor attempting to satisfy the judgment out of
7 the judgment debtor's transferable interest and may not be
8 ordered by a court.

9 §10A-8A-5.04. Power of personal representative of
10 deceased partner.

11 If a partner dies, the deceased partner's personal
12 representative or other legal representative may:

13 (a) for the period of time that the deceased
14 partner's personal representative or other legal
15 representative holds the deceased partner's transferable
16 interest:

17 (1) exercise the rights of a holder of transferable
18 interests under this chapter;

19 (2) exercise the rights of a transferee under
20 Section 10A-8A-5.02; and

21 (3) for purposes of settling the estate, exercise
22 the rights of a current partner under Section 10A-8A-4.10; and

23 (b) for the period of time that the deceased
24 partner's personal representative or other legal
25 representative does not hold the deceased partner's
26 transferable interest, for purposes of settling the estate,

1 exercise the rights of a person dissociated as a partner under
2 Section 10A-8A-4.10.

3 Article 6. Partner's Dissociation.

4 §10A-8A-6.01. Events causing partner's dissociation.

5 A person is dissociated from a partnership as a
6 partner upon the occurrence of any of the following events:

7 (1) the partnership has notice of the person's
8 express will to dissociate as a partner, except that if the
9 person specifies a dissociation date later than the date the
10 partnership had notice, then the person is dissociated as a
11 partner on that later date;

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

14 (3) the person is expelled as a partner pursuant to
15 the partnership agreement;

16 (4) the person is expelled as a partner by the
17 unanimous consent of the other partners if:

18 (A) it is unlawful to carry on the partnership's
19 business or not for profit activity with the person as a
20 partner;

21 (B) there has been a transfer of all of the person's
22 transferable interest in the partnership, other than a
23 transfer for security purposes;

24 (C) the person is an organization and, within 90
25 days after the partnership notifies the person that it will be
26 expelled as a partner because it has filed a statement of
27 dissolution or the equivalent, or its right to conduct

1 business or not for profit activity has been suspended by its
2 jurisdiction of formation, the statement of dissolution or the
3 equivalent has not been revoked or its right to conduct
4 business or not for profit activity has not been reinstated;
5 or

6 (D) the person is an organization and, within 90
7 days after the partnership notifies the person that it will be
8 expelled as a partner because the person has been dissolved
9 and its business or not for profit activity is being wound up,
10 the organization has not been reinstated or the dissolution
11 and winding up have not been revoked or cancelled;

12 (5) on application by the partnership, the person is
13 expelled as a partner by judicial order because the person:

14 (A) has engaged, or is engaging, in wrongful conduct
15 that has adversely and materially affected, or will adversely
16 and materially affect, the partnership's business or not for
17 profit activity;

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

22 (C) has engaged, or is engaging, in conduct relating
23 to the business or not for profit activity of the partnership
24 that makes it not reasonably practicable to carry on the
25 business or not for profit activity with the person as
26 partner;

1 (6) in the case of a person who is an individual,
2 the person dies, there is appointed a guardian or general
3 conservator for the person or there is a judicial
4 determination that the person has otherwise become incapable
5 of performing the person's duties as a partner under this
6 chapter or the partnership agreement;

7 (7) the person becomes a debtor in bankruptcy,
8 executes an assignment for the benefit of creditors, or seeks,
9 consents, or acquiesces to the appointment of a trustee,
10 receiver, or liquidator of the person or of all or
11 substantially all of the person's property;

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

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

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

26 (11) the transfer of a partner's entire remaining
27 transferable interest to another partner;

1 (12) the transfer of a partner's entire remaining
2 transferable interest to a transferee upon the transferee's
3 becoming a partner; or

4 (13) the partnership's participation in a conversion
5 or merger under Article 9, or Article 8 of Chapter 1 of this
6 title if the partnership:

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

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

11 §10A-8A-6.02. Partner's power to dissociate;
12 wrongful dissociation.

13 (a) A person has the power to dissociate as a
14 partner at any time, rightfully or wrongfully, by express will
15 pursuant to Section 10A-8A-6.01(1).

16 (b) A person's dissociation is wrongful only if:

17 (1) it is in breach of an express provision of the
18 partnership agreement; or

19 (2) in the case of a partnership for a definite term
20 or particular undertaking, before the expiration of the term
21 or the completion of the undertaking if any of the following
22 apply:

23 (A) the person dissociates as a partner by express
24 will, unless the dissociation follows not later than 90 days
25 after another person's dissociation by death or otherwise
26 under Section 10A-8A-6.01(6) through (10) or wrongful
27 dissociation under this subsection;

1 (B) the person is expelled as a partner by judicial
2 order under Section 10A-8A-6.01(5);

3 (C) the person is dissociated under Section
4 10A-8A-6.01(7); or

5 (D) in the case of a person that is not a trust
6 other than a business trust, an estate, or an individual, the
7 person is expelled or otherwise dissociated because it
8 willfully dissolved or terminated.

9 (c) A person that wrongfully dissociates as a
10 partner is liable to the partnership and to the other partners
11 for damages caused by the dissociation. The liability is in
12 addition to any debt, obligation, or other liability of the
13 partner to the partnership or the other partners.

14 §10A-8A-6.03. Effect of partner's dissociation.

15 (a) If a person's dissociation results in a
16 dissolution and winding up of the partnership business or not
17 for profit activity, Article 8 applies; otherwise, Article 7
18 applies.

19 (b) Upon a person's dissociation as a partner:

20 (1) the person's right to participate in the
21 management and conduct of the partnership business or not for
22 profit activity terminates, except as provided in Section
23 10A-8A-8.03;

24 (2) the person's duty of loyalty under Section
25 10A-8A-4.11 (b) (3) terminates; and

1 (3) the person's duty of loyalty under Section
2 10A-8A-4.11 (b) (1) and (2) and duty of care under Section 10A-8A-4.11

3 (c) continue only with regard to matters arising and
4 events occurring before the person's dissociation, unless the
5 partner participates in winding up the partnership's business
6 or not for profit activity pursuant to Section 10A-8A-.03.

7 Article 7. Person's Dissociation as a Partner when
8 Business or Not for Profit Activity Not Wound up.

9 §10A-8A-7.01. Purchase of transferable interest of a
10 person dissociated as a partner.

11 (a) If a person is dissociated as a partner from a
12 partnership without resulting in a dissolution and winding up
13 of the partnership business or not for profit activity under
14 Section 10A-8A-8.01, the partnership shall cause that person's
15 transferable interest in the partnership owned by that person
16 at the time of dissociation to be purchased for a buyout price
17 determined pursuant to subsection (b).

18 (b) The buyout price of the transferable interest
19 owned by the person at the time of dissociation as a partner
20 is an amount equal to the fair value of that person's
21 transferable interest as of the date of dissociation. Interest
22 on the buyout price must be paid from the date of dissociation
23 to the date of payment.

24 (c) Damages for wrongful dissociation under Sections
25 10A-8A-6.02 (b) and (c), and all other amounts owing, whether
26 or not presently due, from the person dissociated as a partner
27 to the partnership, must be offset against the buyout price.

1 Interest on damages for wrongful dissociation must be paid
2 from the date of the wrongful dissociation to the date of
3 payment. Interest on all other amounts, whether or not
4 presently due, must be paid from the date the amount owed
5 becomes due to the date of payment.

6 (d) A partnership shall indemnify a person
7 dissociated as a partner whose transferable interest is being
8 purchased against all partnership liabilities, whether
9 incurred before or after the dissociation, except liabilities
10 incurred by an act of the person dissociated as a partner
11 under Section 10A-8A-7.02.

12 (e) If no agreement for the purchase of the
13 transferable interests of a person dissociated as a partner is
14 reached within 120 days after a written demand for payment,
15 the partnership shall pay, or cause to be paid, in cash to the
16 person dissociated as a partner the amount the partnership
17 estimates to be the buyout price and accrued interest, reduced
18 by any offsets and accrued interest under subsection (c).

19 (f) If a deferred payment is authorized under
20 subsection (h), the partnership may tender a written offer to
21 pay the amount it estimates to be the buyout price and accrued
22 interest, reduced by any offsets under subsection (c), stating
23 the time of payment, the amount and type of security for
24 payment, and the other terms and conditions of the obligation.

25 (g) The payment or tender required by subsection (e)
26 or (f) must be accompanied by the following:

1 (1) a written statement of partnership assets and
2 liabilities as of the date of dissociation;

3 (2) the latest available partnership balance sheet
4 and income statement, if any;

5 (3) a written explanation of how the estimated
6 amount of the payment was calculated; and

7 (4) written notice which shall state that the
8 payment is in full satisfaction of the obligation to purchase
9 unless, within 120 days after the written notice, the person
10 dissociated as a partner commences an action to determine the
11 buyout price of that person's transferable interest, any
12 offsets under subsection (c), or other terms of the obligation
13 to purchase.

14 (h) A person that wrongfully dissociates as a
15 partner before the expiration of a definite term or the
16 completion of a particular undertaking is not entitled to
17 payment of any portion of the buyout price until the
18 expiration of the term or completion of the undertaking,
19 unless the person establishes to the satisfaction of the court
20 that earlier payment will not cause undue hardship to the
21 business or not for profit activity of the partnership. A
22 deferred payment under this subsection must bear interest and,
23 to the extent it would not cause undue hardship to the
24 business or not for profit activity of the partnership, be
25 adequately secured.

26 (i) A person dissociated as a partner may maintain
27 an action against the partnership, pursuant to Section

1 10A-8A-4.13(b) (2) (ii), to determine the buyout price of that
2 person's transferable interest under subsection (b), any
3 offsets under subsection (c), or other terms of the obligation
4 to purchase. The action must be commenced within 120 days
5 after the partnership has tendered payment or an offer to pay
6 or within one year after written demand for payment if no
7 payment or offer to pay is tendered. The court shall determine
8 the buyout price of that person's transferable interest under
9 subsection (b), any offset due under subsection (c), and
10 accrued interest, and enter judgment for any additional
11 payment or refund. If deferred payment is authorized under
12 subsection (h), the court shall also determine the security,
13 if any, for payment and other terms of the obligation to
14 purchase. The court may assess reasonable attorney's fees and
15 the fees and expenses of appraisers or other experts for a
16 party to the action, in amounts the court finds equitable,
17 against a party that the court finds acted arbitrarily,
18 vexatiously, or not in good faith. The finding may be based on
19 the partnership's failure to tender payment or an offer to pay
20 or to comply with subsection (g).

21 §10A-8A-7.02. Power to bind and liability of person
22 dissociated as a partner.

23 (a) For one year after a person dissociates as a
24 partner without resulting in a dissolution and winding up of
25 the partnership business or not for profit activity, the
26 partnership, including a surviving partnership or other
27 surviving entity under Article 9 of this chapter and Article 8

1 of Chapter 1, is bound by an act of the person dissociated as
2 a partner which would have bound the partnership under Section
3 10A-8A-3.01 before dissociation only if at the time of
4 entering into the transaction the other party:

5 (1) reasonably believed that the person dissociated
6 as a partner was then a partner and reasonably relied on such
7 belief in entering into the transaction;

8 (2) did not have notice of the person's dissociation
9 as a partner; and

10 (3) is not deemed to have had knowledge or notice
11 under Section 10A-8A-1.03.

12 (b) A person dissociated as a partner is liable to
13 the partnership for any damage caused to the partnership
14 arising from an obligation incurred by the person dissociated
15 as a partner after dissociation for which the partnership is
16 liable under subsection (a).

17 §10A-8A-7.03. Liability of person dissociated as a
18 partner to other persons.

19 (a) A person's dissociation as a partner does not of
20 itself discharge that person's liability for a partnership
21 obligation incurred before dissociation. A person dissociated
22 as a partner is not liable for a partnership obligation
23 incurred after dissociation, except as provided in subsection
24 (b).

25 (b) A person that dissociates as a partner without
26 resulting in a dissolution and winding up of the partnership
27 business or not for profit activity is liable as a partner to

1 the other party in a transaction entered into by the
2 partnership, or a surviving partnership or other surviving
3 entity under Article 9 of this chapter or Article 8 of Chapter
4 1, within one year after the partner's dissociation, only if
5 the partner is liable for the obligation under Section
6 10A-8A-3.06 and at the time of entering into the transaction
7 the other party:

8 (1) reasonably believed that the person dissociated
9 as a partner was then a partner and reasonably relied on such
10 belief in entering into the transaction;

11 (2) did not have notice of the person's
12 dissociation; and

13 (3) is not deemed to have had knowledge or notice
14 under Section 10A-8A-1.03 of the person's dissociation.

15 (c) By agreement with the partnership creditor and
16 the partners continuing the business or not for profit
17 activity, a person dissociated as a partner may be released
18 from liability for a partnership obligation.

19 (d) A person dissociated as a partner is released
20 from liability for a partnership obligation if a partnership
21 creditor, with notice of the person's dissociation but without
22 the person's consent, agrees to a material alteration in the
23 nature or time of payment of a partnership obligation.

24 §10A-8A-7.04. Statement of dissociation.

25 (a) A person dissociated as a partner or the
26 partnership may file a statement of dissociation stating the

1 name of the partnership and that the person is dissociated as
2 a partner from the partnership.

3 (b) A statement of dissociation is a limitation on
4 the authority of a person dissociated as a partner for the
5 purposes of Section 10A-8A-3.03.

6 §10A-8A-7.05. Continued use of partnership name.
7 Continued use of a partnership name, or a person's name that
8 is dissociated as a partner as part thereof, by partners
9 continuing the business or not for profit activity does not of
10 itself make the person dissociated as a partner liable for an
11 obligation of the partners or the partnership continuing the
12 business or not for profit activity.

13 Article 8. Dissolution and Winding Up.

14 §10A-8A-8.01. Events of dissolution.

15 A partnership is dissolved, and its business or not
16 for profit activity must be wound up, upon the occurrence of
17 the first of the following events:

18 (1) in a partnership at will, the partnership knows
19 or has notice of a person's express will to dissociate as a
20 partner, other than a partner that has dissociated under
21 Section 10A-8A-6.01(2) through (10), but, if the person has
22 specified a dissociation date later than the date the
23 partnership knew or had notice, on the later date;

24 (2) in a partnership for a definite term or
25 particular undertaking:

26 (i) within 90 days after a partner's dissociation by
27 death or otherwise under Section 10A-8A-6.01(6) through (10),

1 or a partner's wrongful dissociation under Section
2 10A-8A-6.02(b), at least half of the remaining partners
3 affirmatively consent to dissolve the partnership and wind up
4 the partnership business or not for profit activity, for which
5 purpose a partner's rightful dissociation pursuant to Section
6 10A-8A-6.02(b) (2) (A) constitutes the expression of that
7 partner's will to wind up the business or not for profit
8 activity of the partnership;

9 (ii) the consent of all of the partners to dissolve
10 and wind up the partnership's business or not for profit
11 activity; or

12 (iii) the expiration of the term or the completion
13 of the undertaking;

14 (3) an event or circumstance that the partnership
15 agreement states causes dissolution;

16 (4) on application by a partner, the entry of an
17 order by a court of competent jurisdiction dissolving the
18 partnership on the grounds that it is not reasonably
19 practicable to carry on the partnership's business or not for
20 profit activity in conformity with the partnership agreement;

21 (5) on application by a transferee of a partner's
22 transferable interest, a judicial determination that it is
23 equitable to wind up the partnership business or not for
24 profit activity:

25 (i) after the expiration of the term or completion
26 of the undertaking, if the partnership was for a definite term
27 or particular undertaking at the time of the transfer; or

1 (ii) at any time, if the partnership was a
2 partnership at will at the time of the transfer;

3 (6) the passage of 90 consecutive days during which
4 the partnership does not have at least two partners, unless
5 either of the following applies:

6 (i) The remaining partner agrees in writing within
7 90 days after the dissociation of the last partner, to
8 continue the business or not for profit activity of the
9 partnership and to admit one or more new partners; or

10 (ii) The business or not for profit activity of the
11 partnership is continued and one or more new partners are
12 admitted in the manner stated in the partnership agreement; or

13 (7) the passage of 90 consecutive days during which
14 the partnership does not have any remaining partners, unless
15 either of the following applies:

16 (i) The holders of all of the transferable interests
17 in the partnership agree in writing, within 90 days after the
18 dissociation of the last partner, to continue the business or
19 not for profit activity of the partnership and to admit two or
20 more new partners; or

21 (ii) The business or not for profit activity of the
22 partnership is continued and two or more new partners are
23 admitted in the manner stated in the partnership agreement.

24 §10A-8A-8.02. Effect of dissolution.

25 Notwithstanding Section 10A-1-9.12:

26 (a) A dissolved partnership continues its existence
27 as a partnership but may not carry on any business or not for

1 profit activity except as is appropriate to wind up and
2 liquidate its business or not for profit activity, including:

3 (1) collecting its assets;

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

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

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

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

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

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

16 (A) The name of the partnership;

17 (B) If the partnership has filed a statement of
18 partnership, a statement of not for profit partnership, a
19 statement of authority, or a statement of limited liability
20 partnership, the date of filing its statement of partnership,
21 statement of not for profit partnership, statement of
22 authority, or statement of limited liability partnership, and
23 all amendments and restatements thereof, and the office or
24 offices where filed;

25 (C) That the partnership has dissolved;

26 (D) The name, street address, and mailing address of
27 the partner who will be winding up the business or not for

1 profit activity of the partnership pursuant to Section
2 10A-8A-8.03(a), and if none, the name, street address, and
3 mailing address of the person appointed pursuant to Section
4 10A-8A-8.03(b) or (c) to wind up the business or not for
5 profit activity of the partnership;

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

11 (F) Any other information the partnership deems
12 appropriate;

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

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

17 (4) transfer the partnership's assets;

18 (5) resolve disputes by mediation or arbitration;

19 and

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

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

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

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

1 (3) terminate, abate or suspend a proceeding pending
2 by or against the partnership on the effective date of
3 dissolution;

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

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

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

10 §10A-8A-8.03. Right to wind up business or not for
11 profit activity.

12 (a) If a dissolved partnership has a partner or
13 partners that have not dissociated, that partner or those
14 partners shall wind up the business or not for profit activity
15 of the partnership and shall have the powers set forth in
16 Section 10A-8A-8.04. A person whose dissociation as a partner
17 resulted in the dissolution of the partnership may participate
18 in the winding up as if still a partner, unless the
19 dissociation was wrongful.

20 (b) If a dissolved partnership does not have a
21 partner and no person has the right to participate in winding
22 up under subsection (a), the personal or legal representative
23 of the last person to have been a partner may wind up the
24 partnership's business or not for profit activity. If the
25 representative does not exercise that right, a person to wind
26 up the partnership's business or not for profit activity may
27 be appointed by the affirmative vote or consent of transferees

1 owning a majority of the transferable interests at the time
2 the consent is to be effective.

3 (c) A court of competent jurisdiction may order
4 judicial supervision of the winding up of a dissolved
5 partnership, including the appointment of a person to wind up
6 the partnership's business or not for profit activity:

7 (1) on application of a partner or any person
8 entitled under the last sentence of subsection (a) to
9 participate in the winding up of the dissolved partnership, if
10 the applicant establishes good cause;

11 (2) on application of a transferee, if the
12 partnership does not have a partner and within a reasonable
13 time following the dissolution no person having the authority
14 to wind up the business or not for profit activity of the
15 partnership has been appointed pursuant to subsection (b);

16 (3) on application of a transferee, if the
17 partnership does not have a partner and within a reasonable
18 time following the dissolution the person appointed pursuant
19 to subsection (b) is not winding up the business or not for
20 profit activity of the partnership; or

21 (4) in connection with a proceeding under Section
22 10A-8A-8.01(4) or (5).

23 (d) A person appointed under subsection (b) or (c)
24 is not a partner but:

25 (1) has the powers of a partner under Section
26 10A-8A-8.04 but is not liable for the debts, liabilities, and
27 other obligations of the partnership solely by reason of

1 having or exercising those powers or otherwise acting to wind
2 up the business or not for profit activity of the dissolved
3 partnership; and

4 (2) shall promptly deliver to the Secretary of State
5 for filing a statement of dissolution setting forth the items
6 listed in Section 10A-8A-8.02(b)(1) and the following:

7 (A) that the partnership does not have a partner;

8 (B) the name, street address, and mailing address of
9 each person that has been appointed to wind up the business or
10 not for profit activity of the partnership;

11 (C) that each person has been appointed pursuant to
12 subsection (b) or (c), as applicable, to wind up the business
13 or not for profit activity of the partnership; and

14 (D) pursuant to this section, that each person has
15 the powers of a partner under Section 10A-8A-8.04 but is not
16 liable for the debts, liabilities, and other obligations of
17 the partnership solely by reason of having or exercising those
18 powers or otherwise acting to wind up the business or not for
19 profit activity of the dissolved partnership.

20 §10A-8A-8.04. Power to bind partnership after
21 dissolution.

22 (a) After dissolution, a partnership is bound by the
23 act of a partner or by the act of a dissociated partner acting
24 as a partner under Section 10A-8A-8.03(a) which:

25 (1) is appropriate for winding up the partnership's
26 business or not for profit activity; or

1 (2) would have bound the partnership under Section
2 10A-8A-3.01 before dissolution, if, at the time the other
3 party enters into the transaction, the other party does not
4 have notice of the dissolution.

5 (b) Subject to subsection (a), a person dissociated
6 as a partner binds a partnership through an act occurring
7 after dissolution only if:

8 (1) at the time the other party enters into the
9 transaction the other party does not have notice of the
10 dissociation and reasonably believes that the person is a
11 partner; and

12 (2) the act:

13 (A) is appropriate for winding up the partnership's
14 business or not for profit activity; or

15 (B) would have bound the partnership under Section
16 10A-8A-3.01 before dissolution and at the time the other party
17 enters into the transaction the other party does not have
18 notice of the dissolution.

19 §10A-8A-8.05. Liability after dissolution of partner
20 and person dissociated as partner; other partners, and persons
21 dissociated as partners.

22 (a) If a partner having knowledge of the dissolution
23 causes a partnership to incur an obligation under Section
24 10A-8A-8.04(a) by an act that is not appropriate for winding
25 up the partnership's business or not for profit activity, the
26 partner is liable:

1 (1) to the partnership for any damage caused to the
2 partnership arising from the obligation; and

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

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

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

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

16 (c) A person dissociated as a partner is not liable
17 under subsection (b) if:

18 (1) the last sentence of Section 10A-8A-8.03(a)
19 permits the person to participate in winding up; and

20 (2) the act that causes the partnership to be bound
21 under Section 10A-8A-8.04(b) is appropriate for winding up the
22 partnership's business or not for profit activity.

23 §10A-8A-8.06. Known claims against dissolved
24 partnership.

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

26 (a) A dissolved partnership may dispose of any known
27 claims against it by following the procedures described in

1 subsection (b) at any time after the effective date of the
2 dissolution of the partnership.

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

6 (1) identify the dissolved partnership;

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

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

11 (4) state the deadline, which may not be fewer than
12 120 days from the effective date of the notice, by which the
13 dissolved partnership must receive the claim;

14 (5) state that if not sooner barred, the claim will
15 be barred if not received by the deadline; and

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

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

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

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

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

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

12 §10A-8A-8.07. Other claims against dissolved
13 partnership.

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

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

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

20 (1) be published at least one time in a newspaper of
21 general circulation in the county in which the dissolved
22 partnership's principal place of business or not for profit
23 activity in this state is located, and if none, was last
24 located;

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

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

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

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

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

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

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

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

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

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

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

17 (e) A dissolved partnership that published a notice
18 under this section may file an application with a court of
19 competent jurisdiction for a determination of the amount and
20 form of security to be provided for payment of claims that are
21 contingent or have not been made known to the dissolved
22 partnership or that are based on an event occurring after the
23 effective date of the dissolution of the partnership but that,
24 based on the facts known to the dissolved partnership, are
25 reasonably estimated to arise after the effective date of the
26 dissolution of the partnership. Provision need not be made for

1 any claim that is or is reasonably anticipated to be barred
2 under subsection (c).

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

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

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

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

26 (j) If a claim has been satisfied, disposed of, or
27 barred under Section 10A-8A-8.06, this section, or other law,

1 the person or persons designated to wind up the business or
2 not for profit activity of a partnership, and the owners of
3 the transferable interests receiving assets from the
4 partnership, shall not be liable for that claim.

5 §10A-8A-8.08. Liability of partner and person
6 dissociated as partner when claim against partnership. If a
7 claim against a dissolved partnership is barred under Section
8 10A-8A-8.06 or 10A-8A-8.07, any corresponding claim under
9 Section 10A-8A-3.06, 10A-8A-7.03 and 10A-8A-8.05 is also
10 barred.

11 §10A-8A-8.09. Disposition of assets, when
12 contributions required.

13 Notwithstanding Section 10A-1-9.12, upon the winding
14 up of a partnership, the assets of the partnership, including
15 any obligation under Section 10A-8A-4.03, 10A-8A-4.04, and
16 10A-8A-4.09, and any contribution required by this section,
17 shall be applied as follows:

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

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

24 (1) first, to each person owning a transferable
25 interest that reflects contributions made on account of the
26 transferable interest and not previously returned, an amount

1 equal to the value of the person's unreturned contributions;
2 and

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

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

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

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

25 (2) If a person does not contribute the full amount
26 required under paragraph (1) with respect to an unsatisfied
27 obligation of the partnership, the other persons required to

1 contribute by paragraph (1) on account of the obligation shall
2 contribute the additional amount necessary to discharge the
3 obligation. The additional contribution due from each of those
4 other persons is in proportion to the right to receive
5 distributions in the capacity of partner in effect for each of
6 those other persons when the obligation was incurred.

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

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

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

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

25 §10A-8A-8.10. Reinstatement after dissolution.

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

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

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

9 (2) if the partnership agreement does not state the
10 consent required for reinstatement, sufficient for dissolution
11 under the partnership agreement; or

12 (3) if the partnership agreement neither states the
13 consent required for reinstatement nor for dissolution,
14 sufficient for dissolution under this chapter;

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

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

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

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

9 §10A-8A-8.11. Certificate of reinstatement.

10 A partnership that has dissolved, has filed a
11 statement of dissolution, and is seeking to reinstate in
12 accordance with Section 10A-8A-8.10, shall deliver to the
13 Secretary of State for filing a certificate of reinstatement
14 in accordance with the following:

15 (a) A certificate of reinstatement shall be
16 delivered to the Secretary of State for filing. The
17 certificate of reinstatement shall state:

18 (1) the name of the partnership before
19 reinstatement;

20 (2) the name of the partnership following
21 reinstatement, which partnership name shall comply with
22 Section 10A-8A-8.12;

23 (3) the date of formation of the partnership;

24 (4) the date of filing its statement of dissolution,
25 and all amendments and restatements thereof, and the office or
26 offices where filed;

1 (5) if the partnership has filed a statement of
2 partnership, a statement of not for profit partnership, a
3 statement of authority, or a statement of limited liability
4 partnership, the date of filing its statement of partnership,
5 statement of not for profit partnership, statement of
6 authority, or statement of limited liability partnership, and
7 all amendments and restatements thereof, and the office or
8 offices where filed;

9 (6) the date of dissolution of the partnership, if
10 known;

11 (7) a statement that all applicable conditions of
12 Section 10A-8A-8.10 have been satisfied; and

13 (8) the address of the registered office and the
14 name of the registered agent at that address in compliance
15 with Article 5 of Chapter 1.

16 (b) A partnership shall deliver to the Secretary of
17 State for filing a statement of dissolution prior to or
18 simultaneously with the certificate of reinstatement. If a
19 partnership has not filed a statement of partnership, a
20 statement of not for profit partnership, or a statement of
21 limited liability partnership prior to filing its statement of
22 dissolution, the partnership must also deliver to the
23 Secretary of State for filing a statement of partnership, a
24 statement of not for profit partnership, or a statement of
25 limited liability partnership, simultaneously with the
26 certificate of reinstatement.

1 (c) A certificate of reinstatement is a filing
2 instrument under Chapter 1.

3 §10A-8A-8.12. Partnership name upon reinstatement.

4 The name of a partnership following the filing of a
5 certificate of reinstatement shall be determined as follows:

6 (a) if the partnership is listed in the Secretary of
7 State's records as a partnership that has been dissolved, then
8 the name of a partnership following reinstatement shall be
9 that partnership name at the time of reinstatement if that
10 partnership name complies with Article 5 of Chapter 1 at the
11 time of reinstatement; and

12 (b) if that partnership name does not comply with
13 Article 5 of Chapter 1, the name of the partnership following
14 reinstatement shall be that partnership name followed by the
15 word "reinstated."

16 §10A-8A-8.13. Effect of reinstatement.

17 (a) Subject to subsection (b), upon reinstatement,
18 the partnership shall be deemed for all purposes to have
19 continued its business or not for profit activity as if
20 dissolution had never occurred; and each right inuring to, and
21 each debt, obligation, and liability incurred by, the
22 partnership after the dissolution shall be determined as if
23 the dissolution had never occurred.

24 (b) The rights of persons acting in reliance on the
25 dissolution before those persons had notice of the
26 reinstatement shall not be adversely affected by the
27 reinstatement.

1 Article 9. Conversions and Mergers.

2 §10A-8A-9.01. Definitions.

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

6 (1) "Constituent partnership" means a constituent
7 organization that is a partnership.

8 (2) "Constituent organization" means an organization
9 that is party to a merger under this article.

10 (3) "Converted organization" means the organization
11 into which a converting organization converts pursuant to this
12 article.

13 (4) "Converting partnership" means a converting
14 organization that is a partnership.

15 (5) "Converting organization" means an organization
16 that converts into another organization pursuant to this
17 article.

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

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

27 (8) "Organizational documents" means:

1 (A) (i) for a partnership, its partnership agreement
2 and, if applicable, its statement of partnership, statement of
3 not for profit partnership, or statement of limited liability
4 partnership; (ii) for a foreign partnership, its partnership
5 agreement and, if applicable, its statement of foreign limited
6 liability partnership;

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

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

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

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

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

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

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

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

14 §10A-8A-9.02. Conversion.

15 (a) An organization other than a partnership may
16 convert to a partnership, and a partnership may convert to an
17 organization other than a partnership pursuant to this
18 section, Sections 10A-8A-9.03 through 10A-8A-9.05, and a plan
19 of conversion, if:

20 (1) the governing statute of the organization that
21 is not a partnership authorizes the conversion;

22 (2) the law of the jurisdiction governing the
23 converting organization and the converted organization does
24 not prohibit the conversion; and

25 (3) the converting organization and the converted
26 organization each comply with the governing statute and

1 organizational documents applicable to that organization in
2 effecting the conversion.

3 (b) A plan of conversion must be in writing and must
4 include:

5 (1) the name, type of organization, and mailing
6 address of the principal office of the converting organization
7 before conversion;

8 (2) the name, type of organization, and mailing
9 address of the principal office of the converted organization
10 after conversion;

11 (3) the terms and conditions of the conversion,
12 including the manner and basis for converting interests in the
13 converting organization into any combination of money,
14 interests in the converted organization, and other
15 consideration allowed in Section 10A-8A-9.02(c); and

16 (4) the organizational documents of the converted
17 organization.

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

25 (d) If a partnership is the converting organization
26 and that partnership does not have an effective statement of
27 partnership, statement of not for profit partnership, or

1 statement of limited liability partnership on file with the
2 Secretary of State, then that partnership must, before
3 proceeding with a conversion deliver to the Secretary of State
4 for filing, a statement of partnership, statement of not for
5 profit partnership, or statement of limited liability
6 partnership simultaneously with the delivery to the Secretary
7 of State for filing, of a statement of conversion.

8 (e) If an organization is converting to a
9 partnership, the converting organization must deliver to the
10 Secretary of State for filing a statement of partnership,
11 statement of not for profit partnership, or a statement of
12 limited liability partnership in accordance with Section
13 10A-8A-9.04.

14 §10A-8A-9.03. Action on plan of conversion by
15 converting partnership.

16 (a) Subject to Section 10A-8A-9.10, a plan of
17 conversion must be consented to by all the partners of a
18 converting partnership.

19 (b) Subject to Section 10A-8A-9.10 and any
20 contractual rights, after a conversion is approved, and at any
21 time before a filing is made under Section 10A-8A-9.04, a
22 converting partnership may amend the plan or abandon the
23 planned conversion:

24 (1) as provided in the plan; and

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

1 §10A-8A-9.04. Filings required for conversion;
2 effective date.

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

4 (1) if the converting organization is an
5 organization formed under, or its internal affairs are
6 governed by, the laws of this state, the converting
7 organization shall file a statement of conversion in
8 accordance with subsection (c), which statement of conversion
9 must be signed in accordance with Section 10A-8A-2.03 and
10 which must include:

11 (A) the name of the converting organization;

12 (B) the date of the filing of the certificate of
13 formation of the converting organization, if any, and all
14 prior amendments and the filing office or offices, if any,
15 where such is filed;

16 (C) a statement that the converting organization has
17 been converted into the converted organization;

18 (D) the name and type of organization of the
19 converted organization and the jurisdiction of its governing
20 statute;

21 (E) the street and mailing address of the principal
22 office of the converted organization;

23 (F) the date the conversion is effective under the
24 governing statute of the converted organization;

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

1 (H) a statement that the conversion was approved as
2 required by the governing statute of the converted
3 organization; and

4 (I) if the converted organization is a foreign
5 organization not authorized to conduct business or not for
6 profit activity in this state, the street and mailing address
7 of an office for the purposes of Section 10A-8A-9.05(b); and

8 (2) if the converted organization is a partnership,
9 the converting organization shall deliver to the Secretary of
10 State for filing a statement of partnership, statement of not
11 for profit partnership, or statement of limited liability
12 partnership, as applicable, which statement of partnership,
13 statement of not for profit partnership, or statement of
14 limited liability partnership must include, in addition to the
15 information required by Section 10A-8A-2.02 or Section
16 10A-8A-10.01, as applicable:

17 (A) a statement that the partnership was converted
18 from the converting organization;

19 (B) the name and type of organization of the
20 converting organization and the jurisdiction of the converting
21 organization's governing statute; and

22 (C) a statement that the conversion was approved in
23 a manner that complied with the converting organization's
24 governing statute.

25 (3) if the converting organization is a partnership
26 and that partnership does not have an effective statement of
27 partnership, statement of not for profit partnership, or

1 statement of limited liability partnership on file with the
2 Secretary of State, then the converting organization must
3 deliver to the Secretary of State for filing, a statement of
4 partnership, statement of not for profit partnership, or
5 statement of limited liability partnership simultaneously with
6 the delivery to the Secretary of State for filing, of a
7 statement of conversion.

8 (b) A conversion becomes effective:

9 (1) if the converted organization is a partnership,
10 when the statement of partnership, statement of not for profit
11 partnership, or statement of limited liability partnership
12 takes effect; and

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

16 (c) If the converting organization is an
17 organization formed under, or its internal affairs are
18 governed by, the laws of this state, then the converting
19 organization shall file the statement of conversion required
20 under subsection (a) (1) and the statement, if any, required
21 under subsection (a) (3) with the Secretary of State in
22 accordance with Section 10A-1-4.02(c) (1).

23 (d) If the converted organization is a partnership,
24 then, notwithstanding Section 10A-1-4.02(b), the converting
25 organization shall file a statement of partnership, statement
26 of not for profit partnership, or statement of limited
27 liability partnership required under subsection (a) (2) with

1 the Secretary of State in accordance with Section
2 10A-1-4.02(c)(5), along with the fees specified in Section
3 10A-1-4.31 subject to subsections (f)(3) and (f)(4).

4 (e) If the converting organization is required to
5 file a statement of conversion and a statement of partnership,
6 statement of not for profit partnership, or statement of
7 limited liability partnership with the Secretary of State,
8 then the converting organization shall file the statement of
9 conversion and the statement of partnership, statement of not
10 for profit partnership, or statement of limited liability
11 partnership with the Secretary of State simultaneously.

12 (f) In the case of a statement of conversion that is
13 to be filed with the Secretary of State pursuant to subsection
14 (c):

15 (1) if the converting organization has a certificate
16 of formation filed with the judge of probate, the Secretary of
17 State shall within 10 days transmit a certified copy of the
18 statement of conversion to the office of the judge of probate
19 in the county in which the certificate of formation for such
20 converting organization was filed along with the proper fee
21 for the judge of probate.

22 (2) if the converting organization did not file its
23 certificate of formation with the judge of probate, but rather
24 in accordance with this title filed its certificate of
25 formation with the Secretary of State, the Secretary of State
26 shall not transmit a certified copy of the statement of

1 conversion to the office of the judge of probate and shall not
2 collect any fee for the judge of probate.

3 (3) if the converting organization is, immediately
4 prior to the conversion becoming effective, an organization
5 described in Section 10A-1-4.02(c)(4), but is not required
6 under this title to file its organizational documents with the
7 judge of probate, the Secretary of State shall not transmit a
8 certified copy of the statement of conversion to the office of
9 the judge of probate and shall not collect any fee for the
10 judge of probate.

11 (4) if the converting organization is a partnership,
12 the Secretary of State shall not transmit a certified copy of
13 the statement of conversion to the office of the judge of
14 probate and shall not collect any fee for the judge of
15 probate.

16 (g) In the case of a statement of partnership,
17 statement of not for profit partnership, or statement of
18 limited liability partnership that is to be filed with the
19 Secretary of State pursuant to subsection (d), the Secretary
20 of State shall not transmit a certified copy of the statement
21 of partnership, statement of not for profit partnership, or
22 statement of limited liability partnership to the office of
23 the judge of probate and shall not collect any fee for the
24 judge of probate, but shall collect the fee provided for the
25 Secretary of State in Section 10A-1-4.31(a)(1).

26 (h) After a conversion becomes effective, if the
27 converted organization is a partnership, then all filing

1 instruments required to be filed under this title regarding
2 that converted organization shall be filed with the Secretary
3 of State.

4 (i) If:

5 (1) the converting organization is a filing entity,
6 a partnership with an effective statement of partnership,
7 statement of not for profit partnership, or statement of
8 limited liability partnership on file with the Secretary of
9 State, a foreign filing entity registered to conduct business
10 or not for profit activity in this state or a qualified
11 foreign limited liability partnership;

12 (2) the converted organization will be a filing
13 entity, a partnership with an effective statement of
14 partnership, statement of not for profit partnership, or
15 statement of limited liability partnership on file with the
16 Secretary of State, a foreign filing entity registered to
17 conduct business or not for profit activity in this state or a
18 qualified foreign limited liability partnership;

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

22 (4) the name of the converted organization complies
23 with Division A of Article 5 of Chapter 1 or Section
24 10A-1-7.07, as the case may be; then notwithstanding Division
25 B of Article 5 of Chapter 1, no name reservation shall be
26 required and the converted organization shall for all purposes
27 of this title be entitled to utilize the name of the

1 converting organization without any further action by the
2 converting organization or the converted organization.

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

13 (k) A statement of conversion is a filing instrument
14 under Chapter 1.

15 (l) Except as set forth in subsections (f) (2),
16 (f) (3), and (f) (4), the filing fees for a statement of
17 conversion shall be the same fee as provided in Section
18 10A-1-4.31(a) (5).

19 §10A-8A-9.05. Effect of conversion.

20 (a) When a conversion takes effect:

21 (1) all property owned by the converting
22 organization remains vested in the converted organization
23 without reservation or impairment and the title to any
24 property vested by deed or otherwise in the converting
25 organization shall not revert or be in any way impaired by
26 reason of the conversion;

1 (2) all debts, obligations, or other liabilities of
2 the converting organization continue as debts, obligations, or
3 other liabilities of the converted organization and neither
4 the rights of creditors, nor the liens upon the property of
5 the converting organization shall be impaired by the
6 conversion;

7 (3) an action or proceeding pending by or against
8 the converting organization continues as if the conversion had
9 not occurred;

10 (4) except as prohibited by law other than this
11 chapter, all of the rights, privileges, immunities, powers,
12 and purposes of the converting organization remain vested in
13 the converted organization;

14 (5) except as otherwise provided in the plan of
15 conversion, the terms and conditions of the plan of conversion
16 take effect;

17 (6) except as otherwise agreed, for all purposes of
18 the laws of this state, the converting organization shall not
19 be required to wind up its business or not for profit activity
20 or pay its liabilities and distribute its assets, and the
21 conversion shall not be deemed to constitute a dissolution of
22 the converting organization;

23 (7) for all purposes of the laws of this state, the
24 rights, privileges, powers, interests in property, debts,
25 liabilities and duties of the converting organization, shall
26 be the rights, privileges, powers, interests in property,
27 debts, liabilities and duties of the converted organization,

1 and shall not be deemed as a consequence of the conversion, to
2 have been transferred to the converted organization;

3 (8) if the converted organization is a partnership,
4 for all purposes of the laws of this state, the partnership
5 shall be deemed to be the same organization as the converting
6 organization, and the conversion shall constitute a
7 continuation of the existence of the converting organization
8 in the form of a partnership;

9 (9) if the converted organization is a partnership,
10 the existence of the partnership shall be deemed to have
11 commenced on the date the converting organization commenced
12 its existence in the jurisdiction in which the converting
13 organization was first created, formed, organized,
14 incorporated, or otherwise came into being;

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

17 (11) If the Secretary of State has assigned a unique
18 identifying number or other designation to the converting
19 organization and

20 (i) the converted organization is formed pursuant
21 to, or governed by, the laws of this state or

22 (ii) the converted organization is, within 30 days
23 after the effective date of the conversion, registered to
24 transact business in this state, then that unique identifying
25 number or other designation shall continue to be assigned to
26 the converted organization.

1 (b) A converted organization that is a foreign
2 entity consents to the jurisdiction of the courts of this
3 state to enforce any debt, obligation or other liability for
4 which the converting partnership is liable if, before the
5 conversion, the converting partnership was subject to suit in
6 this state on the debt, obligation or other liability. If a
7 converted organization that is a foreign entity fails to
8 designate or maintain a registered agent, or the designated
9 registered agent cannot with reasonable diligence be served,
10 then service of process on that converted organization for the
11 purposes of enforcing a debt, obligation, or other liability
12 under this subsection may be made in the same manner and has
13 the same consequences as provided in Section 10A-1-5.35.

14 §10A-8A-9.06. Merger.

15 (a) A partnership may merge with one or more other
16 constituent organizations pursuant to this section, Sections
17 10A-8A-9.07 through 10A-8A-9.09, and a plan of merger, if:

18 (1) the governing statute of each of the other
19 organizations authorizes the merger;

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

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

24 (b) A plan of merger must be in writing and must
25 include:

1 (1) the name, type of organization, and mailing
2 address of the principal office of each constituent
3 organization;

4 (2) the name, type of organization, and mailing
5 address of the principal office of the surviving organization
6 and, if the surviving organization is to be created pursuant
7 to the merger, a statement to that effect;

8 (3) the terms and conditions of the merger,
9 including the manner and basis for converting the interests in
10 each constituent organization into any combination of money,
11 interests in the surviving organization, and other
12 consideration as allowed by subsection (c);

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

16 (5) if the surviving organization is not to be
17 created pursuant to the merger, any amendments to be made by
18 the merger to the surviving organization's organizational
19 documents.

20 (c) In connection with a merger, rights or
21 securities of or interests in a constituent organization may
22 be exchanged for or converted into cash, property, or rights
23 or securities of or interests in the surviving organization,
24 or, in addition to or in lieu thereof, may be exchanged for or
25 converted into cash, property, or rights or securities of or
26 interests in another organization or may be cancelled.

1 §10A-8A-9.07. Action on plan of merger by
2 constituent partnership.

3 (a) Subject to Section 10A-8A-9.10, a plan of merger
4 must be consented to by all the partners of a constituent
5 partnership.

6 (b) Subject to Section 10A-8A-9.10 and any
7 contractual rights, after a merger is approved, and at any
8 time before a filing is made under Section 10A-8A-9.08, a
9 constituent partnership may amend the plan or abandon the
10 merger:

11 (1) as provided in the plan; and

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

14 §10A-8A-9.08. Filings required for merger; effective
15 date.

16 (a) After each constituent organization has approved
17 the plan of merger, a statement of merger must be signed on
18 behalf of:

19 (1) each constituent partnership, as provided in
20 Section 10A-8A-2.03(a); and

21 (2) each other constituent organization, as provided
22 by its governing statute.

23 (b) A statement of merger under this section must
24 include:

25 (1) the name, type of organization, and mailing
26 address of the principal office of each constituent
27 organization and the jurisdiction of its governing statute;

1 (2) the name, type of organization, and mailing
2 address of the principal office of the surviving organization,
3 the jurisdiction of its governing statute, and, if the
4 surviving organization is created pursuant to the merger, a
5 statement to that effect;

6 (3) the date of the filing of the certificate of
7 formation, if any, and all prior amendments and the filing
8 office or offices, if any, and where such is filed of each
9 constituent organization which was formed under the laws of
10 this state;

11 (4) the date of the filing of the statement of
12 partnership, statement of not for profit partnership, or
13 statement of limited liability partnership, if any, and all
14 prior amendments and the filing office or offices, if any, and
15 where such is filed of each constituent organization which is
16 a partnership;

17 (5) the date the merger is effective under the
18 governing statute of the surviving organization;

19 (6) if the surviving organization is to be created
20 pursuant to the merger:

21 (A) if it will be a partnership, the partnership's
22 statement of partnership, statement of not for profit
23 partnership, or statement of limited liability partnership; or

24 (B) if it will be an organization other than a
25 partnership, any organizational document that creates the
26 organization that is required to be in a public writing;

1 (7) if the surviving organization exists before the
2 merger, any amendments provided for in the plan of merger for
3 the organizational document that are required to be in a
4 public writing;

5 (8) a statement as to each constituent organization
6 that the merger was approved as required by the organization's
7 governing statute;

8 (9) if the surviving organization is a foreign
9 organization not authorized to conduct business or not for
10 profit activity in this state, the street and mailing address
11 of an office for the purposes of Section 10A-8A-9.09(b); and

12 (10) any additional information required by the
13 governing statute of any constituent organization.

14 (c) Prior to the statement of merger being delivered
15 for filing to the Secretary of State in accordance subsection
16 (d), all constituent organizations that are partnerships,
17 other than a partnership that is created pursuant to the
18 merger, must have on file with the Secretary of State a
19 statement of partnership, statement of not for profit
20 partnership, or statement of limited liability partnership.

21 (d) The statement of merger shall be delivered for
22 filing to the Secretary of State in accordance with Section
23 10A-1-4.02(c)(1), along with the fees specified in Section
24 10A-1-4.31, subject to the last two sentences of this
25 subsection. For each constituent organization which is formed
26 under the laws of this state pursuant to a certificate of
27 formation and which is not, immediately prior to the merger

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

1 partnership, the Secretary of State shall not transmit a
2 certified copy of the statement of merger to the office of the
3 judge of probate and shall not collect any fee for the judge
4 of probate.

5 (e) A merger becomes effective under this article:

6 (1) if the surviving organization is a partnership,
7 upon the later of:

8 (A) the filing of the statement of merger with the
9 Secretary of State; or

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

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

14 (f) After a merger becomes effective, if the
15 surviving organization is a partnership, then all filing
16 instruments required to be filed under this title regarding
17 that surviving organization shall be filed with the Secretary
18 of State.

19 (g) A certified copy of the statement of merger
20 required to be filed under this section may be filed in the
21 real estate records in the office of the judge of probate in
22 any county in which any constituent organization owned real
23 property, without payment and without collection by the judge
24 of probate of any deed or other transfer tax or fee. The judge
25 of probate, however, shall be entitled to collect the filing
26 fee of five dollars (\$5). Any such filing shall evidence chain

1 of title, but lack of filing shall not affect the surviving
2 organization's title to such real property.

3 (h) A statement of merger is a filing instrument
4 under Chapter 1.

5 (i) Except as provided in the last two sentences of
6 subsection (d), the filing fees for a statement of merger
7 shall be the same fees as provided in Section
8 10A-1-4.31(a) (5).

9 §10A-8A-9.09. Effect of merger.

10 (a) When a merger becomes effective:

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

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

17 (3) all property owned by each constituent
18 organization that ceases to exist vests in the surviving
19 organization without reservation or impairment and the title
20 to any property vested by deed or otherwise in the surviving
21 organization shall not revert or be in any way impaired by
22 reason of the merger;

23 (4) all debts, obligations or other liabilities of
24 each constituent organization that ceases to exist continue as
25 debts, obligations or other liabilities of the surviving
26 organization and neither the rights of creditors, nor any

1 liens upon the property of any constituent organization, shall
2 be impaired by the merger;

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

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

10 (7) except as otherwise provided in the plan of
11 merger, the terms and conditions of the plan of merger take
12 effect;

13 (8) except as otherwise agreed, if a constituent
14 partnership ceases to exist, the merger does not dissolve the
15 partnership;

16 (9) if the surviving organization is created
17 pursuant to the merger:

18 (A) if it is a partnership, the statement of
19 partnership, statement of not for profit partnership or
20 statement of limited liability partnership becomes effective;
21 or

22 (B) if it is an organization other than a
23 partnership, the organizational document that creates the
24 organization becomes effective; and

25 (10) if the surviving organization existed before
26 the merger, any amendments provided for in the statement of

1 merger for the organizational document of that organization
2 become effective.

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

16 §10A-8A-9.10. Restrictions on approval of mergers,
17 conversions and on relinquishing LLP status.

18 (a) If a partner of a converting or constituent
19 partnership will have personal liability with respect to a
20 converted or surviving organization, approval and amendment of
21 a plan of conversion or plan of merger are ineffective without
22 that partner's consent to the plan.

23 (b) A statement of cancellation of the statement of
24 limited liability partnership filed in connection with a
25 conversion or merger is ineffective without each partner's
26 written consent to such amendment.

1 (c) A partner does not give the consent required by
2 subsection (a) or (b) merely by consenting to a provision of
3 the partnership agreement that permits the partnership
4 agreement to be amended with the consent of fewer than all the
5 partners.

6 §10A-8A-9.11. Liability of partner after conversion
7 or merger.

8 (a) A conversion or merger under this article does
9 not discharge any liability under Sections 10A-8A-3.06,
10 10A-8A-7.02, or 10A-8A-7.03 of a person that was a partner in
11 or dissociated as a partner from a converting or constituent
12 partnership, but:

13 (1) the provisions of this chapter pertaining to the
14 collection or discharge of the liability continue to apply to
15 the liability;

16 (2) for the purposes of applying those provisions,
17 the converted or surviving organization is deemed to be the
18 converting or constituent partnership; and

19 (3) if a person is required to pay any amount under
20 this subsection:

21 (A) the person has a right of contribution from each
22 other person that was liable as a partner under Section
23 10A-8A-3.06 when the obligation was incurred and has not been
24 released from the obligation under Sections 10A-8A-7.02 or
25 10A-8A-7.03; and

26 (B) the contribution due from each of those persons
27 is in proportion to the right to receive distributions in the

1 capacity of partner in effect for each of those persons when
2 the obligation was incurred.

3 (b) In addition to any other liability provided by
4 law:

5 (1) a person that immediately before a conversion or
6 merger became effective was a partner in a converting or
7 constituent partnership that was not a limited liability
8 partnership is personally liable for each obligation of the
9 converted or surviving organization arising from a transaction
10 with a third party after the conversion or merger becomes
11 effective, if, at the time the third party enters into the
12 transaction, the third party:

13 (A) does not have notice of the conversion or
14 merger; and

15 (B) reasonably believes that:

16 (i) the converted or surviving business is the
17 converting or constituent partnership;

18 (ii) the converting or constituent partnership is
19 not a limited liability partnership; and

20 (iii) the person is a partner in the converting or
21 constituent partnership; and

22 (2) a person that was dissociated as a partner from
23 a converting or constituent partnership before the conversion
24 or merger became effective is personally liable for each
25 obligation of the converted or surviving organization arising
26 from a transaction with a third party after the conversion or
27 merger becomes effective, if:

1 (A) immediately before the conversion or merger
2 became effective the converting or surviving partnership was
3 not a limited liability partnership; and

4 (B) at the time the third party enters into the
5 transaction the third party:

6 (i) does not have notice of the dissociation;

7 (ii) does not have notice of the conversion or
8 merger; and

9 (iii) reasonably believes that the converted or
10 surviving organization is the converting or constituent
11 partnership, the converting or constituent partnership is not
12 a limited liability partnership, and the person is a partner
13 in the converting or constituent partnership.

14 §10A-8A-9.12. Power of partners and persons
15 dissociated as partners to bind organization after conversion
16 or merger.

17 (a) An act of a person that immediately before a
18 conversion or merger became effective was a partner in a
19 converting or constituent partnership binds the converted or
20 surviving organization after the conversion or merger becomes
21 effective, if:

22 (1) before the conversion or merger became
23 effective, the act would have bound the converting or
24 constituent partnership under Section 10A-8A-3.01; and

25 (2) at the time the third party enters into the
26 transaction, the third party:

1 (A) does not have notice of the conversion or
2 merger; and

3 (B) reasonably believes that the converted or
4 surviving organization is the converting or constituent
5 partnership and that the person is a partner in the converting
6 or constituent partnership.

7 (b) An act of a person that before a conversion or
8 merger became effective was dissociated as a partner from a
9 converting or constituent partnership binds the converted or
10 surviving organization after the conversion or merger becomes
11 effective, if:

12 (1) before the conversion or merger became
13 effective, the act would have bound the converting or
14 constituent partnership under Section 10A-8A-3.01 if the
15 person had been a partner; and

16 (2) at the time the third party enters into the
17 transaction, the third party:

18 (A) does not have notice of the dissociation;

19 (B) does not have notice of the conversion or
20 merger; and

21 (C) reasonably believes that the converted or
22 surviving organization is the converting or constituent
23 partnership and that the person is a partner in the converting
24 or constituent partnership.

25 (c) If a person having knowledge of the conversion
26 or merger causes a converted or surviving organization to

1 incur an obligation under subsection (a) or (b), the person is
2 liable:

3 (1) to the converted or surviving organization for
4 any damage caused to the organization arising from the
5 obligation; and

6 (2) if another person is liable for the obligation,
7 to that other person for any damage caused to that other
8 person arising from the liability.

9 §10A-8A-9.13. Article not exclusive. This article is
10 not exclusive. This article does not preclude an entity from
11 being converted or merged under law other than this chapter.

12 Article 10. Limited Liability Partnership.

13 §10A-8A-10.01. Limited liability partnerships;
14 statements; cancellations.

15 (a) A partnership may be formed as, or may become, a
16 limited liability partnership pursuant to this section.

17 (b) In order to form a limited liability
18 partnership, the original partnership agreement of the
19 partnership shall state that the partnership is formed as a
20 limited liability partnership, and the partnership shall
21 deliver to the Secretary of State for filing a statement of
22 limited liability partnership in accordance with subsection
23 (d) of this section.

24 (c) In order for an existing partnership to become a
25 limited liability partnership, the terms and conditions on
26 which the partnership becomes a limited liability partnership
27 must be approved by the affirmative approval necessary to

1 amend the partnership agreement and, in the case of a
2 partnership agreement that expressly considers obligations to
3 contribute to the partnership, also the affirmative approval
4 necessary to amend those provisions, and after such approval,
5 the partnership shall deliver to the Secretary of State for
6 filing a statement of limited liability partnership in
7 accordance with subsection (d).

8 (d) A statement of limited liability partnership
9 must contain all of the following:

10 (1) the name of the limited liability partnership
11 which must comply with Article 5 of Chapter 1;

12 (2) the street, and mailing, if different, address
13 of its principal office.

14 (3) the street and mailing address of a registered
15 office and the name of the registered agent at that office for
16 service of process in this state which the partnership shall
17 be required to maintain;

18 (4) a statement that the partnership was formed as a
19 limited liability partnership in accordance with subsection
20 (b) or a statement that the statement of limited liability
21 partnership was approved in accordance with subsection (c);
22 and

23 (5) a statement that the partnership is a limited
24 liability partnership.

25 (e) A statement of limited liability partnership may
26 be amended or restated from time to time in accordance with
27 Section 10A-1-4.26.

1 (f) The statement of limited liability partnership
2 shall be executed by one or more partners authorized to
3 execute the statement of limited liability partnership.

4 (g) The statement of limited liability partnership
5 shall be accompanied by a fee for the Secretary of State in
6 the respective amounts prescribed by Section 10A-1-4.31.

7 (h) The Secretary of State shall file the statement
8 of limited liability partnership of any partnership as a
9 limited liability partnership that submits a completed
10 statement of limited liability partnership with the required
11 fees. The filing by the Secretary of State of a statement of
12 limited liability partnership is conclusive evidence that the
13 partnership has satisfied all conditions required to be a
14 limited liability partnership.

15 (i) The statement of limited liability partnership
16 is effective, and a partnership becomes a limited liability
17 partnership, immediately on the date the statement of limited
18 liability partnership is filed with the Secretary of State or
19 at any later date or time specified in the statement of
20 limited liability partnership in compliance with Article 4 of
21 Chapter 1. The status as a limited liability partnership
22 remains effective, regardless of changes in the partnership,
23 and partnership continues as a limited liability partnership
24 until a statement of cancellation is voluntarily filed in
25 accordance with subsection (m).

26 (j) The fact that a statement of limited liability
27 partnership is on file with the Secretary of State is notice

1 that the partnership is a limited liability partnership and as
2 notice of the facts required to be set forth in the statement
3 of limited liability partnership.

4 (k) A partnership that has filed a statement of
5 limited liability partnership as a limited liability
6 partnership is for all purposes, except as provided in Section
7 10A-8-3.06, the same entity that existed before the statement
8 of limited liability partnership was filed and continues to be
9 a partnership under the laws of this state subject to the
10 limited liability partnership provisions of this chapter. If a
11 limited liability partnership dissolves and its business or
12 not for profit activity, or a portion of its business or not
13 for profit activity is continued without the complete winding
14 up of partnership's business or not for profit activity, a
15 partnership which is a successor to the limited liability
16 partnership shall not be required to file a new statement of
17 limited liability partnership.

18 (l) The status of the partnership as a limited
19 liability partnership and the liability of a partner of the
20 limited liability partnership shall not be adversely affected
21 by error or subsequent changes in the information stated in
22 the statement of limited liability partnership under
23 subsection (d).

24 (m) The decision to file a statement of cancellation
25 shall require the approval of all of the partners of the
26 partnership. The statement of cancellation must be delivered

1 for filing to the Secretary of State and must contain the
2 following:

3 (1) the name of the limited liability partnership;

4 (2) the date and office or offices in which it filed
5 its statement of limited liability partnership, and all
6 amendments and restatements thereof;

7 (3) the street and mailing address of its principal
8 office;

9 (4) the street and mailing address of its registered
10 office and the name of the registered agent at that office for
11 service of process in this state which the partnership was
12 required to maintain;

13 (5) a statement that the statement of cancellation
14 was approved in accordance with this subsection; and

15 (6) any other information that the partners
16 determine to include.

17 (n) A statement of cancellation must be executed by one
18 or more partners authorized to execute the statement of
19 cancellation.

20 (o) The statement of cancellation is effective, and
21 a partnership ceases to be a limited liability partnership,
22 immediately on the date the statement of cancellation is
23 delivered to the Secretary of State for filing or at any later
24 date or time specified in the statement of cancellation in
25 compliance with Article 4 of Chapter 1. The statement of
26 cancellation shall not cause the dissolution of the
27 partnership.

1 (p) The filing of a statement of cancellation of a
2 limited liability partnership does not affect the limited
3 liability of partners for debts, obligations or liabilities of
4 the partnership which occur or were incurred prior to the
5 filing of the statement of cancellation.

6 (q) A dissolved limited liability partnership shall
7 continue its status as a limited liability partnership unless
8 a statement of cancellation is voluntarily filed in accordance
9 with subsection (m).

10 (r) The statement of limited liability partnership
11 and the statement of cancellation are filing instruments for
12 the purposes of Chapter 1.

13 §10A-8A-10.02. Special rules for limited liability
14 partnerships performing professional services.

15 (a) A limited liability partnership shall have the
16 power to render professional services if it complies with the
17 rules of the licensing authority for such profession.

18 (b) Every individual who renders professional
19 services as a partner or as an employee of a limited liability
20 partnership shall be liable for any negligent or wrongful act
21 or omission in which the individual personally participates to
22 the same extent the individual would be liable if the
23 individual rendered the services as a sole practitioner.

24 (c) Except as otherwise provided in subsection (b),
25 the personal liability of a partner of any limited liability
26 partnership engaged in providing professional services shall
27 be governed by Section 10A-8A-3.06.

1 (d) The personal liability of a partner or employee
2 of a foreign limited liability partnership engaged in
3 providing professional services shall be determined under the
4 law of the jurisdiction which governs the foreign limited
5 liability partnership.

6 (e) Nothing in this article shall restrict or limit
7 in any manner the authority or duty of a licensing authority
8 with respect to individuals rendering a professional service
9 within the jurisdiction of the licensing authority. Nothing in
10 this article shall restrict or limit any law, rule, or
11 regulation pertaining to standards of professional conduct.

12 (f) Nothing in this article shall limit the
13 authority of a licensing authority to impose requirements in
14 addition to those stated in this chapter on any limited
15 liability partnership or foreign limited liability partnership
16 rendering professional services within the jurisdiction of the
17 licensing authority.

18 (g) A partner's transferable interest in a limited
19 liability partnership organized to render professional
20 services may be voluntarily transferred only to a qualified
21 person.

22 §10A-8A-10.03. Death or disqualification of partner.

23 (a) In the case of a limited liability partnership
24 performing professional services, upon the death of a partner,
25 upon a partner becoming a disqualified person, or upon a
26 transferable interest being transferred by operation of law or
27 court decree to a disqualified person, the transferable

1 interest of the deceased partner or of the disqualified person
2 may be transferred to a qualified person and, if not so
3 transferred, subject to Section 10A-8A-4.09, shall be
4 purchased by the limited liability partnership as provided in
5 this section.

6 (b) If the price of the transferable interest is not
7 fixed by the partnership agreement, the limited liability
8 partnership, within six months after the death or 30 days
9 after the disqualification or transfer, as the case may be,
10 shall make a written offer to pay to the holder of the
11 transferable interest a specified price deemed by the limited
12 liability partnership to be the fair value of the transferable
13 interest as of the date of the death, disqualification or
14 transfer. The offer shall be given to the personal
15 representative of the estate of the deceased partner, the
16 disqualified person, or the transferee, as the case may be,
17 and shall be accompanied by a balance sheet of the limited
18 liability partnership, as of the latest available date and not
19 more than 12 months prior to the making of the offer, and a
20 profit and loss statement of the limited liability partnership
21 for the 12-month period ended on the date of the balance
22 sheet.

23 (c) If within 30 days after the date of the written
24 offer from the limited liability partnership the fair value of
25 the transferable interest is agreed upon between the personal
26 representative of the estate of the deceased partner, the
27 disqualified person, or the transferee, as the case may be,

1 and the limited liability partnership, payment therefor shall
2 be made within 90 days, or such other period as the parties
3 may agree, after the date of the offer. Upon payment of the
4 agreed value, the personal representative of the estate of the
5 deceased partner, the disqualified person, or the transferee,
6 as the case may, be shall cease to have any interest in, or
7 claim to, the transferable interest.

8 (d) If within 30 days from the date of the written
9 offer from the limited liability partnership, the personal
10 representative of the estate of the deceased partner, the
11 disqualified person, or the transferee, as the case may be,
12 and the limited liability partnership do not so agree as to
13 the fair value of the transferable interest, then either party
14 may commence a civil action in the circuit court in the county
15 in which the limited liability partnership's principal place
16 of business or not for profit activity within this state is
17 located, and if the limited liability partnership does not
18 have a principal place of business or not for profit activity
19 within this state, then the circuit court for the county in
20 which the limited liability partnership's most recent
21 registered office is located requesting that the fair value of
22 the transferable interest be found and determined. The
23 personal representative of the estate of the deceased partner,
24 the disqualified person, or the transferee, as the case may
25 be, wherever residing, shall be made a party to the proceeding
26 as an action against that person's transferable interest quasi
27 in rem. Service shall be made in accordance with the rules of

1 civil procedure. The personal representative of the estate of
2 the deceased partner, the disqualified person, or the
3 transferee, as the case may be, shall be entitled to a
4 judgment against the limited liability partnership for the
5 amount of the fair value of that person's transferable
6 interest as of the date of death, disqualification, or
7 transfer. The court may, in its discretion, order that the
8 judgment be paid in installments and with interest and on
9 terms as the court may determine. The court may, if it so
10 elects, appoint one or more persons as appraisers to receive
11 evidence and recommend a decision on the question of fair
12 value. The appraisers shall have the power and authority as
13 shall be specified in the order of their appointment or an
14 amendment thereof.

15 (e) The judgment shall include an allowance for
16 interest at the rate the court finds to be fair and equitable
17 in all the circumstances, from the date of death,
18 disqualification, or transfer.

19 (f) The costs and expenses of any proceeding shall
20 be determined by the court and shall be assessed against the
21 parties in a manner the court deems equitable.

22 (g) The expenses shall include reasonable
23 compensation for and reasonable expenses of the appraisers and
24 a reasonable attorney's fee but shall exclude the fees and
25 expenses of counsel for and of experts employed by any party;
26 but:

1 (1) if the fair value of the transferable interest
2 as determined materially exceeds the amount which the limited
3 liability partnership offered to pay therefor, or if no offer
4 was made by the limited liability partnership, the court in
5 its discretion may award to the personal representative of the
6 estate of the deceased partner, the disqualified person, or
7 the transferee, as the case may be, the sum the court
8 determines to be reasonable compensation to any expert or
9 experts employed by the personal representative of the estate
10 of the deceased partner, the disqualified person, or the
11 transferee, as the case may be, in the proceeding; and

12 (2) if the offer of the limited liability
13 partnership for the transferable interest materially exceeds
14 the amount of the fair value of the transferable interest as
15 determined, the court in its discretion may award to the
16 limited liability partnership the sum the court determines to
17 be reasonable compensation to any expert or experts employed
18 by the limited liability partnership, in the proceeding.

19 (h) If the purchase or transfer of the transferable
20 interest of a deceased partner, a disqualified person or a
21 transferee is not completed within 12 months after the death
22 of the deceased partner or 12 months after the
23 disqualification or transfer, as the case may be, the limited
24 liability partnership shall forthwith cancel the transferable
25 interest on its books and the personal representative of the
26 estate of the deceased partner, the disqualified person, or
27 the transferee, as the case may be, shall have no further

1 interest in the transferable interest other than that person's
2 right to payment for the transferable interest under this
3 section.

4 (i) This section shall not require a limited
5 liability partnership to purchase a transferable interest of a
6 disqualified person if the disqualification is for less than
7 12 months from the date of disqualification. A limited
8 liability partnership may require the disqualified person to
9 sell the disqualified person's transferable interest to the
10 limited liability partnership upon any disqualification.

11 (j) Any provision of a partnership agreement
12 regarding the purchase or transfer of a transferable interest
13 of a limited liability partnership performing professional
14 services shall be specifically enforceable in the courts of
15 Alabama.

16 (k) Nothing in this section shall prevent or relieve
17 a limited liability partnership from paying pension benefits
18 or other deferred compensation

19 Article 11. Transition Rules and Miscellaneous
20 Provisions.

21 §10A-8A-11.01. Application to existing
22 relationships.

23 (a) Beginning January 1, 2018, this chapter governs
24 all partnerships and all foreign partnerships.

25 (b) With respect to a partnership formed before
26 January 1, 2018, and governed by the laws of this state, the
27 following rules apply:

1 (1) a registration of a limited liability
2 partnership which is current and effective as of December 31,
3 2017, shall remain effective without further action on the
4 part of the limited liability partnership, and a partnership
5 having the status of a limited liability partnership, under
6 predecessor law, shall have the status of a limited liability
7 partnership under this chapter and to the extent such
8 partnership has not filed a statement of limited liability
9 partnership pursuant to this chapter, the registration or
10 latest annual notice filed by such partnership under
11 predecessor law shall constitute a statement of limited
12 liability partnership filed under this chapter;

13 (2) a partnership's partnership agreement existing
14 as of December 31, 2017, shall be deemed to be that
15 partnership's partnership agreement under this chapter;

16 (3) a statement of partnership authority is deemed
17 to be a statement of authority and each statement of
18 partnership authority existing as of December 31, 2017, shall
19 remain effective without further action on the part of the
20 partnership for the remainder of the period of time authorized
21 under predecessor law, unless earlier amended, in which case,
22 such statement of partnership authority shall comply with
23 Section 10A-8A-3.03;

24 (4) a statement of denial, statement of
25 dissociation, and statement of dissolution existing as of
26 December 31, 2017, shall be deemed to be a statement of

1 denial, statement of dissociation, and statement of
2 dissolution under this chapter respectively;

3 (5) a registration of a foreign limited liability
4 partnership which is current and effective as of December 31,
5 2017, shall remain effective without further action on the
6 part of the foreign limited liability partnership, and a
7 foreign limited liability partnership having the status of a
8 qualified foreign limited liability partnership, under
9 predecessor law, shall have the status of a qualified foreign
10 limited liability partnership under this chapter and to the
11 extent such partnership has not filed a statement of foreign
12 limited liability partnership pursuant to this chapter, the
13 registration or latest annual notice filed by such partnership
14 under predecessor law shall constitute a statement of foreign
15 limited liability partnership filed under this chapter; and

16 (6) if a limited liability partnership or foreign
17 limited liability partnership is using the phrase "registered
18 limited liability partnership" or the abbreviation "RLLP" or
19 "R.L.L.P.," in its name as of December 31, 2017, such phrase
20 or abbreviation shall continue to comply with Article 5 of
21 Chapter 1 unless and until it changes or amends, by whatever
22 means, its name on or after January 1, 2018, at which point it
23 may only use the term "limited liability partnership" or the
24 abbreviation "LLP" or "L.L.P.," in its name in compliance with
25 Article 5 of Chapter 1. No limited liability partnership which
26 is formed or elects to become a limited liability partnership
27 on or after January 1, 2018, and no foreign limited liability

1 partnership which delivers to the Secretary of State of
2 filing, a statement of foreign limited liability partnership,
3 may use the phrase "registered limited liability partnership"
4 or the abbreviation "RLLP" or "R.L.L.P.," in its name.

5 §10A-8A-11.02. Severability clause. If any provision
6 of this chapter or its application to any person or
7 circumstance is held invalid, the invalidity does not affect
8 other provisions or applications of this chapter which can be
9 given effect without the invalid provision or application, and
10 to this end the provisions of this chapter are severable.

11 §10A-8A-11.03. Relation to Electronic Signatures in
12 Global and National Commerce Act. This chapter modifies,
13 limits, or supersedes the federal Electronic Signatures in
14 Global and National Commerce Act, 15 U.S.C. Section 7001 et
15 seq., but this chapter does not modify, limit, or supersede
16 Section 101(c) of that act or authorize electronic delivery of
17 any of the notices described in Section 103(b) of that act.

18 §10A-8A-11.04. Effective date. This chapter takes
19 effect January 1, 2018.

20 §10A-8A-11.05. Repeals. Effective January 1, 2018,
21 the following parts of the Code of Alabama 1975, are repealed:
22 Sections 10A-1-5.07, 10A-1-7.33, and Sections 10A-8-1.01 to
23 10A-8-11.04, inclusive, as amended and in effect immediately
24 before the effective date of this act.

25 §10A-8A-11.06. Savings clause.

26 (a) Except as provided in subsection (b), the repeal
27 of a statute by this chapter does not affect:

1 (1) the operation of the statute or any action taken
2 under it before its repeal;

3 (2) any ratification, right, remedy, privilege,
4 obligation, or liability acquired, accrued, or incurred under
5 the statute before its repeal;

6 (3) any violation of the statute, or any penalty,
7 forfeiture, or punishment incurred because of the violation,
8 before its repeal; or

9 (4) any proceeding, reorganization, or dissolution
10 commenced under the statute before its repeal, and the
11 proceeding, reorganization, or dissolution may be completed in
12 accordance with the statute as if it had not been repealed.

13 (b) If a penalty or punishment imposed for violation
14 of a statute repealed by this chapter is reduced by this
15 chapter, the penalty or punishment if not already imposed
16 shall be imposed in accordance with this chapter.

17 §10A-8A-11.07. Composite returns. The Alabama
18 Department of Revenue shall promulgate rules and regulations
19 similar to those provided under Section 40-18-176, relating to
20 Alabama S corporations, to permit the filing of annual
21 composite income tax returns for one or more nonresident
22 partners, who are individuals, of a partnership, limited
23 liability partnership or foreign limited liability partnership
24 with an effective statement of foreign limited liability
25 partnership on file with the Secretary of State, as well as
26 one or more nonresident members, who are individuals, of a
27 limited liability company or foreign limited liability company

1 and one or more nonresident beneficiaries, who are
2 individuals, of a business trust, organized under or
3 recognized by the laws of this state.

4 §10A-8A-11.08. Taxation of limited liability
5 partnership. A limited liability partnership and a foreign
6 limited liability partnership shall be taxed as a partnership
7 in accordance with Section 40-18-24, as amended from time to
8 time, will file partnership returns as required by Section
9 40-18-28, as amended from time to time, and shall for all
10 other tax purposes be taxed as a partnership, all being
11 subject to the limited liability partnership and a foreign
12 limited liability partnership maintaining its status as a
13 partnership under federal income tax law.

14 §10A-8A-11.09. Reserved power of the state to alter
15 or repeal chapter. All provisions of this chapter may be
16 altered from time to time or repealed and all rights of
17 partners, partnerships, and agents are subject to this
18 reservation. Unless expressly stated to the contrary in this
19 chapter, all amendments of this chapter shall apply to
20 partners, partnerships, and agents whether or not existing as
21 such at the time of the enactment of any such amendment.

22 §10A-8A-11.10. Interstate application. A limited
23 liability partnership governed by this chapter may conduct its
24 business or not for profit activity, carry on its operations,
25 and have and exercise the powers granted by this chapter in
26 any state, foreign country, or other jurisdiction.

1 Section 8. This act shall become effective on
2 January 1, 2018.