

1 HB202  
2 204031-3  
3 By Representative Poole  
4 RFD: Fiscal Responsibility  
5 First Read: 11-FEB-20

ACT #2020 - 73



1  
2 ENROLLED, An Act,

3           Relating to the Alabama Business and Nonprofit  
4 Entities Code; to amend Sections 10A-1-1.02, 10A-1-1.03, and  
5 10A-1-1.08, as amended by Act 2019-94, 2019 Regular Session,  
6 Code of Alabama 1975; to add Sections 10A-1-3.07 and  
7 10A-1-3.08 to the Code of Alabama 1975; to amend Sections  
8 10A-1-3.32, as amended by Act 2019-94, 2019 Regular Session,  
9 10A-1-3.33, as amended by Act 2019-304, 2019 Regular Session,  
10 10A-1-3.42, 10A-1-4.01, and 10A-1-4.02, as amended by Act  
11 2019-94, 2019 Regular Session, and 10A-1-4.05, Code of Alabama  
12 1975; to add Section 10A-1-4.07 to the Code of Alabama 1975;  
13 to amend Sections 10A-1-4.11, as amended by Act 2019-94, 2019  
14 Regular Session, 10A-1-4.12, 10A-1-4.21 and 10A-1-4.31, as  
15 amended by Act 2019-94, 2019 Regular Session, and Sections  
16 10A-1-5.04 and 10A-1-5.11, Code of Alabama 1975; to add  
17 Section 10A-1-5.17 to the Code of Alabama 1975; to amend  
18 Sections 10A-1-6.02, 10A-1-8.01, and 10A-1-8.02, as amended by  
19 Act 2019-94, 2019 Regular Session, 10A-2A-1.40, 10A-2A-1.41,  
20 10A-2A-1.52, 10A-2A-2.02, 10A-2A-2.05, 10A-2A-3.04,  
21 10A-2A-7.03, 10A-2A-7.20, 10A-2A-7.24, 10A-2A-7.29,  
22 10A-2A-7.40, 10A-2A-8.09, 10A-2A-13.30, 10A-2A-14.01,  
23 10A-2A-14.03, 10A-2A-14.04, 10A-2A-14.07, 10A-2A-14.10,  
24 10A-2A-14.11, 10A-2A-16.04, 10A-2A-16.05, and 10A-2A-16.10, as  
25 added to the Code of Alabama 1975, by Act 2019-94, 2019

1 Regular Session; to add Sections 10A-2A-17.01, 10A-2A-17.02,  
2 10A-2A-17.03, 10A-2A-17.04, 10A-2A-17.05, and 10A-2A-17.06, to  
3 the Code of Alabama 1975; to amend and renumber existing  
4 Sections 10A-2A-17.01, 10A-2A-17.02, 10A-2A-17.03,  
5 10A-2A-17.04, 10A-2A-17.05, and 10A-2A-17.06 as added to the  
6 Code of Alabama 1975 by Act 2019-94, 2019 Regular Session, as  
7 Sections 10A-2A-18.01, 10A-2A-18.02, 10A-2A-18.03,  
8 10A-2A-18.04, 10A-2A-18.05, and 10A-2A-18.06, Code of Alabama  
9 1975; and to amend Sections 10A-3-2.14, 10A-3-3.01,  
10 10A-3-3.03, 10A-3-4.02, 10A-3-4.04, 10A-3-5.04, 10A-3-7.01,  
11 10A-3-7.04, 10A-3-7.05, 10A-3-7.06, 10A-3-7.07, 10A-3-7.08,  
12 10A-3-7.09, 10A-3-7.10, 10A-3-7.16, 10A-3-7.18, and  
13 10A-4-3.02, as added to the Code of Alabama 1975, by Act  
14 2019-94, 2019 Regular Session, Section 10A-4-4.01, as amended  
15 by Act 2019-94, 2019 Regular Session, Sections 10A-4-5.08,  
16 10A-5A-2.01, 10A-5A-2.02, 10A-5A-2.04, 10A-5A-2.05,  
17 10A-5A-2.06, 10A-5A-4.01, 10A-5A-7.01, 10A-5A-7.02,  
18 10A-5A-7.03, 10A-5A-7.05, 10A-5A-7.08, 10A-5A-8.02,  
19 10A-5A-11.09, 10A-5A-11.11, 10A-5A-11.13, 10A-8A-8.02,  
20 10A-8A-8.07, 10A-8A-8.11, 10A-8A-10.03, 10A-9A-2.01,  
21 10A-9A-2.02, 10A-9A-2.03, 10A-9A-2.04, 10A-9A-2.06,  
22 10A-9A-8.01, 10A-9A-8.02, 10A-9A-8.03, 10A-9A-8.07,  
23 10A-9A-8.11, 10A-10-1.07, and 10A-10-1.14, 10A-10-1.15, as  
24 amended by Act 2019-94, 2019 Regular Session, and Sections  
25 10A-16-1.05, 10A-17-1.06, 10A-17-1.11, 10A-20-1.08,

1 10A-20-2.01, 10A-20-6.02, 10A-20-6.06, 10A-20-7.02,  
2 10A-20-9.01, 10A-20-10.01, 10A-20-11.01, 10A-20-12.01,  
3 10A-20-16.01, and 10A-20-16.02, Code of Alabama 1975, to to  
4 allow business corporations to elect to become benefit  
5 corporations; to allow electronic filing of all entity  
6 filings; to update definitions to include terms applicable to  
7 the allowance of electronic and digital transactions and  
8 transmissions of filings, notices, and data; to establish  
9 certain basic standards for all filing instruments; to provide  
10 a mechanism to allow the Secretary of State to reject certain  
11 filing instruments which are not accompanied by full payment;  
12 to clarify the requirements of certificates of existence for  
13 entities; to remove certain outdated definitions and matters;  
14 and to clarify that volunteer partners, managers, members,  
15 governing persons, and other members of a governing authority  
16 are considered officers of a qualifying nonprofit entity,  
17 thereby recognizing that there are nonprofit partnerships,  
18 nonprofit limited partnerships, and non-profit limited  
19 liability companies.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. Sections 10A-1-1.02, 10A-1-1.03, and  
22 10A-1-1.08, as amended by Act 2019-94, 2019 Regular Session,  
23 Code of Alabama 1975, are amended to read as follows:

24 "§10A-1-1.02.

1           "(a) All provisions of this chapter shall apply to  
2 all entities formed pursuant to or governed by Chapters ~~2~~ 2A  
3 to 11, inclusive, ~~including Chapter 2A,~~ and Chapter 17, except  
4 to the extent, if any, that any provision of this chapter is  
5 inconsistent with or as otherwise provided by the provisions  
6 of this title or other statutory or constitutional provisions  
7 specifically applicable to the entity.

8           "(b) The provisions of this chapter shall apply to  
9 entities formed pursuant to or governed by Chapter 16, ~~Chapter~~  
10 ~~17,~~ Chapter 20, and Chapter 30 only as provided therein or  
11 expressly provided in this chapter.

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

16           "§10A-1-1.03.

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

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

1 sentence is a substantial beneficiary; a trust, estate,  
2 incompetent, conservatee, protected person, or minor of which  
3 the individual is a fiduciary; or an entity of which the  
4 individual is director, general partner, agent, employee or  
5 the governing authority or member of the governing authority.

6 "(2) ASSOCIATE. When used to indicate a relationship  
7 with:

8 "(A) a domestic or foreign entity ~~or organization~~  
9 for which the person is:

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

11 "(ii) a beneficial owner of 10 percent or more of a  
12 class of voting ownership interests or similar securities of  
13 the entity ~~or organization~~;

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

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

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

22 "(3) ASSOCIATION. Includes, but is not limited to,  
23 an unincorporated nonprofit association as defined in Chapter  
24 17 and an unincorporated professional association as defined  
25 in Article 1 of Chapter 30.

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

3           "~~(4)~~ (5) BUSINESS CORPORATION. A corporation or  
4 foreign corporation as defined in ~~Chapter 2~~ or Chapter 2A, ~~as~~  
5 ~~applicable~~. The term includes a benefit corporation as defined  
6 in Chapter 2A.

7           "~~(5)~~ (6) BUSINESS TRUST. A business trust as defined  
8 in Chapter 16.

9           "~~(6)~~ (7) CERTIFICATE OF DISSOLUTION. Any document  
10 such as a certificate of dissolution, statement of  
11 dissolution, or articles of dissolution, required or permitted  
12 to be filed publicly with respect to an entity's dissolution  
13 and winding up of its business, activity, activities, not for  
14 profit activity, or affairs.

15           "~~(7)~~ (8) CERTIFICATE OF FORMATION.

16           "(A) the document required to be filed publicly  
17 under ~~Article 3, Chapter 2A, Chapter 5A or Chapter 9A~~ this  
18 title to form a filing entity; and

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

22           "~~(8)~~ (9) CERTIFICATE OF OWNERSHIP. An instrument  
23 evidencing an ownership interest or membership interest in an  
24 entity.

1                   "~~(9)~~(10) CERTIFICATED OWNERSHIP INTEREST. An  
2 ownership interest of a domestic entity represented by a  
3 certificate.

4                   "~~(10)~~(11) CERTIFICATION or CERTIFIED. Duly  
5 authenticated by the proper officer or filing officer of the  
6 jurisdiction the laws of which govern the internal affairs of  
7 an entity.

8                   "~~(11)~~(12) CONTRIBUTION. A tangible or intangible  
9 benefit that a person transfers to an entity in consideration  
10 for an ownership interest in the entity or otherwise in the  
11 person's capacity as an owner or a member. A benefit that may  
12 constitute a contribution transferred in exchange for an  
13 ownership interest or transferred in the transferor's capacity  
14 as an owner or member may include cash, property, services  
15 rendered, a contract for services to be performed, a  
16 promissory note or other obligation of a person to pay cash or  
17 transfer property to the entity, or securities or other  
18 interests in or obligations of an entity. In either case, the  
19 benefit does not include cash or property received by the  
20 entity:

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

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



1           "~~(12)~~(13) CONVERSION. A conversion, whether referred  
2 to as a conversion, domestication, or otherwise, means:

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

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

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

9           "~~(13)~~(14) CONVERTED ENTITY. An entity resulting from  
10 a conversion.

11           "~~(14)~~(15) CONVERTING ENTITY. An entity as the entity  
12 existed before the entity's conversion.

13           "~~(15)~~(16) COOPERATIVE. Includes an employee  
14 cooperative as defined in Chapter 11.

15           "~~(16)~~(17) CORPORATION. Includes a domestic or  
16 foreign business corporation, including a benefit corporation,  
17 as defined in ~~Chapter 2~~ or Chapter 2A, as applicable, a  
18 domestic or foreign nonprofit corporation as defined in  
19 Chapter 3, a domestic or foreign professional corporation as  
20 defined in Chapter 4, and those entities specified in Chapter  
21 20 as corporate.

22           "~~(17)~~(18) COURT. ~~Every court and judge~~ The  
23 designated court, and if none, the circuit court specifically  
24 set forth in this title, and if none, any other court having  
25 jurisdiction in a case.

1           "~~(18)~~(19) DAY. When used in the computation of time  
2 excludes the first day and includes the last day of the period  
3 so computed, unless the last day is a Saturday, Sunday, or  
4 legal holiday, in which event the period runs until the end of  
5 the next day that is not a Saturday, a Sunday, or a legal  
6 holiday. When the period of time to be computed is less than 7  
7 days, intermediate Saturdays, Sundays, and legal holidays  
8 shall be excluded.

9           "~~(19)~~(20) DEBTOR IN BANKRUPTCY. A person who is the  
10 subject of:

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

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

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

1           "~~(20)~~(22) DIRECTOR. An individual who serves on the  
2 board of directors, by whatever name known, of a foreign or  
3 domestic corporation.

4           "~~(21)~~(23) DISTRIBUTION. A transfer of property,  
5 including cash, from an entity to an owner or member of the  
6 entity in the owner's or member's capacity as an owner or  
7 member. The term includes a dividend, a redemption or purchase  
8 of an ownership interest, or a liquidating distribution.

9           "~~(22)~~(24) DOMESTIC. With respect to an entity, ~~that~~  
10 ~~the entity is formed and exists pursuant to~~ means governed as  
11 to its internal affairs by this title.

12           "~~(23)~~(25) DOMESTIC ENTITY. An ~~organization formed~~  
13 ~~and existing pursuant to~~ entity governed as to its internal  
14 affairs by this title.

15           "~~(24)~~(26) EFFECTIVE DATE OF THIS TITLE. January 1,  
16 2011.

17           "~~(25)~~(27) ELECTRONIC. Relating to technology having  
18 electrical, digital, magnetic, wireless, optical,  
19 electromagnetic, or similar capabilities.

20           "~~(26)~~(28) ELECTRONIC SIGNATURE. An electronic  
21 signature as that term is defined in the Alabama Electronic  
22 Transactions Act, Chapter 1A of Title 8, or any successor  
23 statute.

24           "~~(27)~~(29) ELECTRONIC TRANSMISSION or ELECTRONICALLY  
25 TRANSMITTED. Any form or process of communication not directly

1 involving the physical transfer of paper or another tangible  
 2 medium, which (i) is suitable for the retention, retrieval,  
 3 and reproduction of information by the recipient, and (ii) is  
 4 retrievable in paper form by the recipient through an  
 5 automated process used in conventional commercial practice.

6 "~~(28)~~ (30) ELECTRONIC WRITING. Information that is  
 7 stored in an electronic or other nontangible medium and is  
 8 retrievable in paper form through an automated process used in  
 9 conventional commercial practice.

10 "~~(29)~~ (31) ENTITY. A domestic ~~entity~~ or foreign  
 11 ~~entity~~ organization.

12 "~~(30)~~ (32) FILING ENTITY. A domestic entity that is a  
 13 corporation, limited partnership, limited liability limited  
 14 partnership, limited liability company, professional  
 15 association, employee cooperative corporation, or real estate  
 16 investment trust.

17 "~~(31)~~ (33) FILING INSTRUMENT. An instrument,  
 18 document, or statement that is required or permitted by this  
 19 title to be delivered for filing by or for an entity to a  
 20 filing officer.

21 "~~(32)~~ (34) FILING OFFICER. ~~The~~ An officer of this  
 22 state with whom a filing instrument is required or permitted  
 23 to be delivered for filing pursuant to this title.

24 "~~(33)~~ (35) FOREIGN. With respect to an entity, ~~that~~  
 25 ~~the entity is formed and existing under~~ means governed as to

1 its internal affairs by the laws of a jurisdiction other than  
2 this state.

3 "~~(34)~~ (36) FOREIGN ENTITY. An ~~organization formed and~~  
4 ~~existing under~~ entity governed as to its internal affairs by  
5 the laws of a jurisdiction other than this state.

6 "~~(35)~~ (37) FOREIGN FILING ENTITY. A foreign entity  
7 that registers or is required to register as a foreign entity  
8 under Article 7.

9 "~~(36)~~ (38) FOREIGN GOVERNMENTAL AUTHORITY. A  
10 governmental official, agency, or instrumentality of a  
11 jurisdiction other than this state.

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

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

18 "~~(39)~~ ~~FOREIGN LIMITED PARTNERSHIP.~~ A foreign limited  
19 ~~partnership as defined in Chapter 9A.~~

20 "~~(40)~~ (39) FOREIGN NONFILING ENTITY. A foreign entity  
21 that is not a foreign filing entity.

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

25 "~~(42)~~ (40) GENERAL PARTNER.

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

2           "(B) a person who is admitted to a limited .

3 partnership as a general partner in accordance with the

4 governing documents of the limited partnership.

5           "~~(43)~~(41) GENERAL PARTNERSHIP. A partnership as  
6 defined in Chapter 8A. The term includes a limited liability  
7 partnership as defined in Chapter 8A.

8           "~~(44)~~(42) GOVERNING AUTHORITY. A person or group of  
9 persons who are entitled to manage and direct the affairs of  
10 an entity pursuant to this title and the governing documents  
11 of the entity, except that if the governing documents of the  
12 entity or this title divide the authority to manage and direct  
13 the affairs of the entity among different persons or groups of  
14 persons according to different matters, governing authority  
15 means the person or group of persons entitled to manage and  
16 direct the affairs of the entity with respect to a matter  
17 under the governing documents of the entity or this title. The  
18 term includes the board of directors of a corporation, by  
19 whatever name known, or other persons authorized to perform  
20 the functions of the board of directors of a corporation, the  
21 general partners of a general partnership or limited  
22 partnership, the persons who have direction and oversight of a  
23 limited liability company, and the trust managers of a real  
24 estate investment trust. The term does not include an officer  
25 who is acting in the capacity of an officer.

1                   "~~(45)~~(43) GOVERNING DOCUMENTS.

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

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

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

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

16                   "~~(46)~~(44) GOVERNING PERSON. A person serving as part  
17 of the governing authority of an entity.

18                   "~~(47)~~(45) INDIVIDUAL. A natural person and the  
19 estate of an incompetent or deceased natural person.

20                   "~~(48)~~(46) INSOLVENCY. The inability of a person to  
21 pay the person's debts as they become due in the usual course  
22 of business or affairs.

23                   "~~(49)~~(47) INSOLVENT. A person who is unable to pay  
24 the person's debts as they become due in the usual course of  
25 business or affairs.

1                   "~~(50)~~(48) JUDGE OF PROBATE. The judge of probate of  
2 the county in which ~~a domestic~~ an entity is required or  
3 permitted to deliver a filing instrument for filing pursuant  
4 to this title.

5                   "~~(51)~~(49) JURISDICTION OF FORMATION.

6                   "(A) in the case of a ~~domestic~~ filing entity, this  
7 state;

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

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

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

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



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

8           "(ii) if subparagraph (i) does not apply, the  
9           jurisdiction in which the entity has its principal ~~place of~~  
10          business office.

11          "~~(52)~~(50) LAW. Unless the context requires  
12          otherwise, both statutory and common law.

13          "~~(53)~~(51) LICENSE. A license, certificate of  
14          registration, or other legal authorization.

15          "~~(54)~~(52) LICENSING AUTHORITY. The state court,  
16          state regulatory licensing board, or other like agency which  
17          has the power to issue a license or other legal authorization  
18          to render professional services.

19          "~~(55)~~(53) LIMITED LIABILITY COMPANY. A limited  
20          liability company as defined in Chapter 5A.

21          "~~(56)~~(54) LIMITED LIABILITY LIMITED PARTNERSHIP. A  
22          limited liability limited partnership as defined in Chapter  
23          9A.

24          "~~(57)~~(55) LIMITED LIABILITY PARTNERSHIP. A limited  
25          liability partnership as defined in Chapter 8A.

1           "~~(58)~~(56) LIMITED PARTNER. A person who has been  
2 admitted to a limited partnership as a limited partner as  
3 provided by:

4           "(A) in the case of a domestic limited partnership,  
5 Chapter 9A; or

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

8           "~~(59)~~(57) LIMITED PARTNERSHIP. A limited partnership  
9 as defined in Chapter 9A. The term includes a limited  
10 liability limited partnership as defined in Chapter 9A.

11           "~~(60)~~(58) MANAGERIAL OFFICIAL. An officer or a  
12 governing person.

13           "~~(61)~~(59) MEMBER.

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

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

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

24           "(D) in the case of a nonprofit association, a  
25 person who, as provided in Chapter 17, may participate in the

1 selection of persons authorized to manage the affairs of the  
2 nonprofit association or in the development of its policy.

3 ~~"(62)~~ (60) MERGER. The combination of one or more  
4 domestic entities with one or more domestic entities or  
5 ~~non-code organizations~~ foreign entities resulting in:

6 "(A) one or more surviving domestic entities or  
7 ~~non-code organizations~~ foreign entities;

8 "(B) the creation of one or more new domestic  
9 entities or ~~non-code organizations~~ foreign entities, or one or  
10 more surviving domestic entities or ~~non-code organizations~~  
11 foreign entities; or

12 "(C) one or more surviving domestic entities or  
13 ~~non-code organizations~~ foreign entities and the creation of  
14 one or more new domestic entities or ~~non-code organizations~~  
15 foreign entities.

16 ~~"(63) NON-CODE ORGANIZATION: An organization other  
17 than a domestic entity.~~

18 ~~"(64)~~ (61) NONFILING ENTITY. A domestic entity that  
19 is not a filing entity. The term includes a domestic general  
20 partnership, a limited liability partnership, and a nonprofit  
21 association.

22 ~~"(65)~~ (62) NONPROFIT ASSOCIATION. An unincorporated  
23 nonprofit association as defined in Chapter 17. The term does  
24 not include a general partnership which has filed a statement  
25 of not for profit partnership in accordance with Chapter 8A, a

1 limited partnership which is carrying on a not for profit  
2 purpose, or a limited liability company which is carrying on a  
3 not for profit purpose.

4 "(66) (63) NONPROFIT CORPORATION. A domestic or  
5 foreign nonprofit corporation as defined in Chapter 3.

6 "(67) (64) NONPROFIT ENTITY. An entity that is a  
7 nonprofit corporation, nonprofit association, or other entity  
8 that is organized solely for one or more nonprofit purposes.

9 "(68) (65) OFFICER. An individual elected, appointed,  
10 or designated as an officer of an entity by the entity's  
11 governing authority or under the entity's governing documents.

12 "(69) (66) ORGANIZATION. A corporation, limited  
13 partnership, general partnership, limited liability company,  
14 business trust, real estate investment trust, joint venture,  
15 joint stock company, cooperative, association, ~~bank, insurance~~  
16 ~~company, credit union, savings and loan association,~~ or other  
17 organization, ~~regardless of whether the organization is~~  
18 including, regardless of its organizational form, a bank,  
19 insurance company, credit union, and savings and loan  
20 association, whether for profit, not for profit, nonprofit,  
21 domestic, or foreign.

22 "(70) (67) ORGANIZER. A person, who need not be an  
23 owner or member of the entity, who, having the capacity to  
24 contract, is authorized to execute documents in connection

1 with the formation of the entity. The term includes an  
2 incorporator.

3 "~~(71)~~ (68) OWNER.

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

7 "(B) with respect to a foreign or domestic  
8 partnership, a partner;

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

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

13 "~~(72)~~ (69) OWNERSHIP INTEREST. An owner's interest in  
14 an entity. The term includes the owner's share of profits and  
15 losses or similar items and the right to receive  
16 distributions. The term does not include an owner's right to  
17 participate in management or participate in the direction or  
18 oversight of the entity. An ownership interest is personal  
19 property.

20 "~~(73)~~ (70) PARENT or PARENT ENTITY ~~or PARENT~~  
21 ORGANIZATION. An entity ~~or organization~~ that:

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

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

1                   "~~(74)~~(71) PARTNER. A limited partner or general  
2 partner.

3                   "~~(75)~~(72) PARTNERSHIP. Includes a general  
4 partnership, a limited liability partnership, a foreign  
5 limited liability partnership, a limited partnership, a  
6 foreign limited partnership, a limited liability limited  
7 partnership, and a foreign limited liability limited  
8 partnership.

9                   "~~(76)~~(73) PARTNERSHIP AGREEMENT. Any agreement  
10 (whether referred to as a partnership agreement or otherwise),  
11 written, oral or implied, of the partners as to the activities  
12 and affairs of a general partnership or a limited partnership.  
13 The partnership agreement includes any amendments to the  
14 partnership agreement. In the case of limited partnerships  
15 formed prior to October 1, 1998, partnership agreement  
16 includes the certificate of partnership.

17                   "~~(77)~~(74) PARTY TO THE MERGER. A domestic entity or  
18 ~~non-code organization~~ foreign entity that under a plan of  
19 merger is combined by a merger. The term does not include a  
20 domestic entity or ~~non-code organization~~ foreign entity that  
21 is not to be combined into or with one or more domestic  
22 entities or ~~non-code organizations~~ foreign entities,  
23 regardless of whether ownership interests of the entity are to  
24 be issued under the plan of merger.

1           "~~(78)~~(75) PERSON. An individual, including the  
 2           estate of an incompetent or deceased individual, or an  
 3           ~~organization~~ entity, whether created by the laws of this state  
 4           or another state or foreign country, including, without  
 5           limitation, a general partnership, limited liability  
 6           partnership, limited partnership, limited liability limited  
 7           partnership, limited liability company, corporation,  
 8           professional corporation, nonprofit corporation, professional  
 9           association, trustee, personal representative, fiduciary, as  
 10          defined in Section 19-3-150 or person performing in any  
 11          similar capacity, business trust, estate, trust, association,  
 12          joint venture, government, governmental subdivision, agency,  
 13          or instrumentality, or any other legal or commercial entity.

14           "~~(79)~~(76) PRESIDENT.

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

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

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

1           "~~(80)~~(78) PROFESSIONAL ASSOCIATION. A professional  
2 association as defined in Chapter 30.

3           "~~(81)~~(79) PROFESSIONAL CORPORATION. A domestic or  
4 foreign professional corporation as defined in Chapter 4.

5           "~~(82)~~(80) PROFESSIONAL ENTITY. A professional  
6 association and a professional corporation.

7           "~~(83)~~(81) PROFESSIONAL SERVICE. Any type of service  
8 that may lawfully be performed only pursuant to a license  
9 issued by a state court, state regulatory licensing board, or  
10 other like agency pursuant to state laws.

11           "~~(84)~~(82) PROPERTY. Includes all property, whether  
12 real, personal, or mixed, or tangible or intangible, or any  
13 right or interest therein.

14           "~~(85)~~(83) REAL ESTATE INVESTMENT TRUST. An  
15 unincorporated trust, association, or other entity as defined  
16 in Chapter 10.

17           "~~(86)~~(84) SECRETARY.

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

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

23           "~~(87)~~(85) SECRETARY OF STATE. The Secretary of State  
24 of the State of Alabama.



1           "~~(88)~~(86) SIGN or SIGNATURE. With the present intent  
2 to authenticate or adopt a writing:

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

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

10           "~~(89)~~(87) 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           "~~(90)~~(88) 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           "~~(91)~~(89) 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           "~~(92)~~(90) SUBSIDIARY. An entity ~~or organization~~ at  
24 least 50 percent of:

1                   "(A) the ownership or membership interest of which  
2 is owned by a parent entity ~~or parent organization~~; or

3                   "(B) the voting power of which is possessed by a  
4 parent entity ~~or parent organization~~.

5                   "~~(93)~~(91) TREASURER.

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

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

11                   "~~(94)~~(92) TRUSTEE. A person who serves as a trustee  
12 of a trust, including a real estate investment trust.

13                   "~~(95)~~(93) UNCERTIFICATED OWNERSHIP INTEREST. An  
14 ownership interest in a domestic entity that is not  
15 represented by a certificate.

16                   "~~(96)~~(94) VICE PRESIDENT.

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

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

1           "~~(97)~~(95) WRITING or WRITTEN. Information that is  
2           inscribed on a tangible medium or that is stored in an  
3           electronic or other medium and is retrievable in perceivable  
4           form.

5           "§10A-1-1.08.

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

8           "(b) ~~Chapter 2 or Chapter 2A, as applicable,~~ and the  
9           provisions of Chapter 1 to the extent applicable to business  
10          corporations may be cited as the Alabama Business Corporation  
11          Law.

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

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

18          "(e) Chapter 5A and the provisions of Chapter 1 to  
19          the extent applicable to limited liability companies may be  
20          cited as the Alabama Limited Liability Company Law.

21          "(f) Chapter 8A and the provisions of Chapter 1 to  
22          the extent applicable to general partnerships may be cited as  
23          the Alabama Partnership Law.

1           "(g) Chapter 9A and the provisions of Chapter 1 to  
2 the extent applicable to limited partnerships may be cited as  
3 the Alabama Limited Partnership Law.

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

7           "(i) Chapter 11 and the provisions of ~~(A) Chapter 1~~  
8 and ~~(B) Chapter 2 or Chapter 2A, as applicable,~~ to the extent  
9 applicable to employee cooperative corporations may be cited  
10 as the Alabama Employee Cooperative Corporations Law.

11           "(j) Chapter 17 and the provisions of Chapter 1 to  
12 the extent applicable to unincorporated nonprofit associations  
13 may be cited as the Alabama Unincorporated Nonprofit  
14 Association Law.

15           Section 2. Sections 10A-1-3.07 and 10A-1-3.08 are  
16 added to the Code of Alabama 1975, to read as follows:

17           §10A-1-3.07. Certificate of existence or  
18 registration.

19           Unless provided otherwise in a chapter of this title  
20 governing an entity:

21           (a) The Secretary of State, upon request and payment  
22 of the requisite fee, shall furnish to any person a  
23 certificate of existence for a filing entity if the filing  
24 instruments filed with the Secretary of State show that the  
25 filing entity has been formed under the laws of this state. A

1 certificate of existence shall reflect only the information on  
2 file with the Secretary of State. A certificate of existence  
3 must state:

4 (1) the filing entity's name;

5 (2) that the filing entity was formed under the laws  
6 of this state and the date of formation;

7 (3) whether the filing entity has delivered to the  
8 Secretary of State for filing a certificate of dissolution;

9 (4) whether the filing entity has delivered to the  
10 Secretary of State for filing a certificate of reinstatement;

11 (5) the unique identifying number or other  
12 designation of the filing entity as assigned by the Secretary  
13 of State; and

14 (6) other facts of record in the office of the  
15 Secretary of State that are specified by the person requesting  
16 the certificate.

17 (b) The Secretary of State, upon request and payment  
18 of the requisite fee, shall furnish to any person a  
19 certificate of registration for a foreign entity if the filing  
20 instruments of that foreign entity filed with the Secretary of  
21 State show that the Secretary of State has filed an  
22 application for registration for authority to transact  
23 business in this state and the registration has not been  
24 revoked, withdrawn, or terminated. A certificate of  
25 registration must state:

1           (1) the foreign entity's name and any alternate name  
2 adopted for use in this state;

3           (2) that the foreign entity is authorized to  
4 transact business in this state;

5           (3) that the Secretary of State has not revoked the  
6 foreign entity's registration;

7           (4) that the foreign entity has not filed with the  
8 Secretary of State a certificate of withdrawal or otherwise  
9 terminated its registration;

10           (5) the unique identifying number or other  
11 designation of the foreign entity as assigned by the Secretary  
12 of State; and

13           (6) other facts of record in the office of the  
14 Secretary of State that are specified by the person requesting  
15 the certificate.

16           (c) Subject to any qualification stated in the  
17 certificate, a certificate of existence or certificate of  
18 registration issued by the Secretary of State is conclusive  
19 evidence that the filing entity is in existence or the foreign  
20 filing entity is authorized to transact business in this  
21 state.

22           (d) The Secretary of State shall not be required to  
23 issue a certificate of existence for a filing entity if the  
24 records of the Secretary of State do not show that the filing  
25 entity has been formed under the laws of this state. The

1 Secretary of State shall furnish a certificate of existence  
2 upon the filing entity delivering to the Secretary of State a  
3 certificate of information which must list and attach  
4 certified copies of all filing instruments as to the entity  
5 which (i) were previously filed with a filing officer other  
6 than the Secretary of State, (ii) are not in the records of  
7 the Secretary of State, and (iii) prove that the filing entity  
8 was formed under the laws of this state.

9 §10A-1-3.08. Filings before January 1, 2021.

10 (a) Filing instruments that (i) were required or  
11 permitted to be delivered for filing to a filing officer other  
12 than the Secretary of State prior to January 1, 2021, (ii)  
13 were delivered for filing to a filing officer other than the  
14 Secretary of State prior to January 1, 2021, (iii) were  
15 accepted by that filing officer and filed by that filing  
16 officer prior to January 1, 2021, and (iv) would, if they were  
17 delivered for filing on or after January 1, 2021, be required  
18 or permitted to be delivered to the Secretary of State for  
19 filing shall:

20 (1) remain in full force and effect until amended,  
21 restated, revoked, or otherwise altered by a filing instrument  
22 filed with the Secretary of State for that purpose; and

23 (2) not be affected as to their validity on or after  
24 January 1, 2021, solely by reason of the change of location of

1 filings for similar filing instruments on or after January 1,  
2 2021, to the office of the Secretary of State.

3 (b) A filing entity that has one or more filing  
4 instruments that are described in clauses (i) through (iv) of  
5 subsection (a) and that are not in the records of the  
6 Secretary of State, may, but is not required to, deliver to  
7 the Secretary of State for filing on or after January 1, 2021,  
8 a certificate of information listing and attaching certified  
9 copies of all of the above-described filing instruments of  
10 that entity.

11 Section 3. Sections 10A-1-3.32, as amended by Act  
12 2019-94, 2019 Regular Session, 10A-1-3.33, as amended by Act  
13 2019-304, 2019 Regular Session, 10A-1-3.42, 10A-1-4.01, and  
14 10A-1-4.02, as amended by Act 2019-94, 2019 Regular Session,  
15 and 10A-1-4.05 of the Code of Alabama 1975, are amended to  
16 read as follows:

17 "§10A-1-3.32.

18 "(a) This section applies to domestic entities other  
19 than (i) corporations formed pursuant to or governed by  
20 ~~Chapter 2,~~ Chapter 2A, or Chapter 4, and real estate  
21 investment trusts formed pursuant to or governed by Chapter  
22 10, each of which is governed by the separate recordkeeping  
23 requirements and record inspections provisions of ~~Chapter 2 or~~  
24 Chapter 2A, ~~as applicable,~~ and (ii) nonprofit corporations  
25 formed pursuant to or governed by Chapter 3, limited liability



1 companies formed pursuant to or governed by Chapter 5A,  
2 general partnerships formed pursuant to or governed by Chapter  
3 8A, and limited partnerships formed pursuant to or governed by  
4 Chapter 9A, each of which are governed by the separate  
5 recordkeeping requirements and record inspection provisions  
6 set forth in each entity's respective chapter governing that  
7 entity.

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

20 "(c) The governing documents of ~~the~~ a domestic  
21 entity may not unreasonably restrict an owner's or member's  
22 right to information or access to books and records.

23 "(d) Any agent or governing person of ~~an~~ a domestic  
24 entity who, without reasonable cause, refuses to allow any  
25 owner or member or the owner's or member's agent or legal

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

6 "§10A-1-3.33.

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

19 "(b) An entity ~~covered by Section 10A-1-3.32~~  
 20 described in subsection (e) shall furnish to a governing  
 21 person both of the following:

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

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

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

15                 "(1) The person is a governing person of the entity.

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

1           "(3) In the case of information as to the entity's  
2 business and affairs described in subdivision (b)(2), the  
3 person has made demand for the information.

4           "(4) The entity refused the person's access to the  
5 books and records or to furnish information as to the entity's  
6 business and affairs.

7           "(d) A court may award a governing person of an  
8 entity described in subsection (e) attorney fees and any other  
9 proper relief in a suit under subsection (c) to require an  
10 entity to open its books and records.

11           "~~(e) For purposes of this section only, corporations~~  
12 ~~formed pursuant to or governed by Chapter 2, professional~~  
13 ~~corporations formed pursuant to or governed by Chapter 4, and~~  
14 ~~real estate investment trusts formed pursuant to or governed~~  
15 ~~by Chapter 10 shall be deemed to be entities covered by~~  
16 ~~Section 10A-1-3.32 until midnight on December 31, 2020. This~~  
17 ~~section shall apply to domestic entities covered by Section~~  
18 ~~10A-1-3.32 and domestic entities formed pursuant to or~~  
19 ~~governed by Chapter 10.~~

20           "§10A-1-3.42.

21           "(a) A certificated ownership interest in a domestic  
22 entity may contain an impression of the seal of the entity, if  
23 any. A facsimile of the entity's seal may be printed or  
24 lithographed on the certificate.

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

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

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

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

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

21           "(2) the name of the person to whom the certificate  
22 is issued;

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

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

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

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

"Abbreviation:	Meaning:
"TEN COM	As tenants in common.
"JTWROS	As joint tenants with rights of survivorship and no tenants in common.
"JT TEN	As joint tenants with rights of survivorship and no tenants in common.

1 "CUSTODIAN FOR, As custodian for \_\_\_\_\_ (name of minor) under the Un  
2 UTMA Transfers to Minor Act.

3 "\$10A-1-4.01.

4 "(a) A filing instrument must be:

5 "(1) be typewritten, printed, or electronically  
6 transmitted. If a filing instrument is electronically  
7 transmitted, the filing instrument shall be in a format that  
8 can be retrieved or reproduced in typewritten or printed form.

9 "(2) be in the English language. A name may be in a  
10 language other than English if written in English letters or  
11 Arabic or Roman numerals. A filing instrument not in English  
12 shall be accompanied by an English translation reasonably  
13 authenticated to the satisfaction of the filing officer. If a  
14 filing instrument is not in English but is accompanied by an  
15 English translation authenticated to the satisfaction of the  
16 filing officer, then the filing instrument and the English  
17 translation shall collectively be considered one filing  
18 instrument, however, for all purposes of the laws of this  
19 state, the English translation shall govern.

20 "(1)(3) be signed by the person or persons required  
21 by this title or the applicable chapter to execute, and to  
22 verify, if required by the applicable chapter, the filing  
23 instrument; and

1           ~~"(2) delivered, together with one exact or conformed~~  
2 ~~copy and the additional exact or conformed copies as required~~  
3 ~~by Section 10A-1-4.02(b) or (e) or other provision of this~~  
4 ~~title, to the filing officer under the provisions of Section~~  
5 ~~10A-1-4.02, in person or by mail or courier, or, if permitted~~  
6 ~~by the respective filing officer, by facsimile or electronic~~  
7 ~~transmission or any other comparable form of delivery.~~

8           "(4) if delivered to the Secretary of State for  
9 filing, state the unique identifying number or other  
10 designation as assigned by the Secretary of State to the  
11 entity or entities referenced in the filing instrument if a  
12 unique identifying number or other designation has been  
13 assigned; and

14           "(5) be delivered to the filing officer for filing.  
15 Delivery may be made in person, by mail, by courier, or if  
16 delivered to the Secretary of State, by electronic  
17 transmission, and if delivered to a filing officer other than  
18 the Secretary of State, by electronic transmission if  
19 permitted by that filing officer. If the filing instrument is  
20 filed in typewritten or printed form and not transmitted  
21 electronically, the filing officer may require up to two exact  
22 or conformed copies be delivered with the filing instrument.

23           "(b) A filing instrument must comply with all  
24 provisions of this title.



1           "(c) A filing instrument that provides for the name  
 2           of an entity, the change of the name of an entity, the  
 3           reinstatement of an entity, or otherwise affects the name of  
 4           an entity, must comply with Article 5 of this chapter.

5           "~~(b)~~ (d) A person authorized by this title to sign a  
 6           filing instrument for an entity is not required to show  
 7           evidence of the person's authority as a requirement for  
 8           filing.

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

13           "~~(d)~~ (f) If a person required by this title to  
 14           ~~execute any filing instrument fails or refuses to sign a~~  
 15           writing or deliver a writing to a filing officer for filing  
 16           under this title does not do so, any other person who is  
 17           ~~adversely affected that is aggrieved by the that failure or~~  
 18           ~~refusal~~ may petition the circuit designated court ~~for the~~  
 19           ~~judicial circuit in which the county is located where,~~  
 20           ~~pursuant to this title the filing instrument would be filed,~~  
 21           ~~or if it would be filed with the Secretary of State, in, and~~  
 22           if none, the circuit court ~~in~~ for the county in which the  
 23           ~~registered agent~~ entity's principal office is located in this  
 24           ~~state,~~ and if no registered agent is required, in none in this  
 25           ~~state,~~ the circuit court ~~in~~ for the county in which the entity

1 ~~has its principal place of business in this state, and if the~~  
 2 ~~entity does not have a place of business in this state, in the~~  
 3 ~~Circuit Court of Montgomery County, to direct the execution of~~  
 4 ~~the filing instrument. If the court finds that it is proper~~  
 5 ~~for the filing instrument to be executed and that any person~~  
 6 ~~so designated has failed or refused to execute the filing~~  
 7 ~~instrument, it shall order the filing officer to record an~~  
 8 ~~appropriate filing instrument. entity's most recent registered~~  
 9 ~~office is located, to order:~~

10 "(1) the person to sign the writing;

11 "(2) the person to deliver the writing to the filing  
 12 officer for filing; or

13 "(3) the filing officer to file the writing  
 14 unsigned.

15 "(g) If a petitioner under subsection (f) is not the  
 16 entity to whom the writing pertains, the petitioner shall make  
 17 the entity a party to the action. A person aggrieved under  
 18 subsection (f) may seek the remedies provided in subsection  
 19 (f) in a separate action against the person required to sign  
 20 or deliver the writing, or as a part of any other action  
 21 concerning the entity in which the person required to sign or  
 22 deliver the writing, is made a party.

23 "(h) A writing filed unsigned pursuant to subsection  
 24 (f) is effective without being signed.

1           "(i) A court may award reasonable expenses,  
2           including reasonable attorneys' fees, to the party or parties  
3           who prevail, in whole or in part, with respect to any claim  
4           made under subsection (f).

5           "§10A-1-4.02.

6           "~~(a) The following filing instruments shall be~~  
7           ~~delivered to the judge of probate for filing, except as the~~  
8           ~~chapter applicable to an entity or other provision of this~~  
9           ~~title provides for filing by the Secretary of State or another~~  
10           ~~filing officer.~~

11           "~~(1) certificates of formation or any amendments or~~  
12           ~~restatements thereof;~~

13           "~~(2) certificates of dissolution, other than a~~  
14           ~~statement of dissolution of a general partnership or a~~  
15           ~~statement of cancellation by a limited liability partnership;~~

16           "~~(3) certificates of revocation;~~

17           "~~(4) certificates of correction to any filing~~  
18           ~~instrument required to be delivered to the office of the judge~~  
19           ~~of probate for filing; and~~

20           "~~(5) any other filing instrument required or~~  
21           ~~permitted pursuant to this title to be delivered to the judge~~  
22           ~~of probate for filing.~~

23           "~~(b) Any of the filing instruments delivered to the~~  
24           ~~office of the judge of probate for filing in accordance with~~  
25           ~~subsections (a) (1) through (a) (4) shall be accompanied by an~~

1 ~~additional exact or conformed copy to permit the judge of~~  
2 ~~probate to transmit to the Secretary of State a certified copy~~  
3 ~~thereof as required by subsection (e).~~

4 ~~"(c) The following filing instruments shall be~~  
5 ~~delivered to the Secretary of State for filing:~~

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

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

14 ~~"(3) the annual report of a business corporation,~~  
15 ~~which may be made as provided in Article 16 of Chapter 2, or~~  
16 ~~Article 16 of Chapter 2A, as applicable, by filing with the~~  
17 ~~Department of Revenue the public record information required~~  
18 ~~by Chapter 14A of Title 40, together with the prescribed fee~~  
19 ~~for the annual report;~~

20 ~~"(4) for (i) corporations created by an act of the~~  
21 ~~Legislature prior to the adoption of the Constitution of~~  
22 ~~Alabama of 1901, and (ii) entities or organizations which are~~  
23 ~~the converted or surviving entities or organizations of a~~  
24 ~~merger, share exchange, or conversion, all filing instruments~~  
25 ~~required by this title to be delivered to the judge of probate~~

1 ~~for filing shall be delivered to the Secretary of State for~~  
2 ~~filing, except for (i) certified copies of statements of~~  
3 ~~authority, denial, or cancellation thereof permitted to be~~  
4 ~~delivered to the judge of probate for filing pursuant to~~  
5 ~~Chapter 8A, (ii) any documents permitted to be delivered to~~  
6 ~~the judge of probate for filing pursuant to Chapter 17, and~~  
7 ~~(iii) certified copies of statements of merger or conversion~~  
8 ~~permitted to be delivered to the judge of probate for filing~~  
9 ~~pursuant to Chapter 1, Chapter 2A, Chapter 5A, Chapter 8A, or~~  
10 ~~Chapter 9A;~~

11 ~~"(5) all filing instruments and any other document~~  
12 ~~required or permitted to be delivered to the Secretary of~~  
13 ~~State for filing pursuant to Chapter 2 or Chapter 2A;~~

14 ~~"(6) statements and any other document required or~~  
15 ~~permitted to be delivered to the Secretary of State for filing~~  
16 ~~pursuant to Chapter 8A;~~

17 ~~"(7) any other filing instruments or document~~  
18 ~~required or permitted to be delivered to the Secretary of~~  
19 ~~State for filing pursuant to this title;~~

20 ~~"(8) articles of correction of any filing instrument~~  
21 ~~required or permitted to be delivered to the Secretary of~~  
22 ~~State for filing; and~~

23 ~~"(9) any other filing instrument or document~~  
24 ~~required or permitted to be filed pursuant to this title and~~  
25 ~~not expressly required or permitted to be delivered to the~~

1 ~~Secretary of State or judge of probate or other designated~~  
2 ~~filing office for filing.~~

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

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

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

13 "(d) If the filing officer finds that a filing  
14 instrument delivered under this section and Section 10A-1-4.01  
15 to the filing officer for filing substantially conforms to the  
16 provisions of this title that apply to the entity that filing  
17 instrument and that all required fees have been paid, and if,  
18 in the case of a certificate of formation or an amendment to a  
19 certificate of formation that would change the name of the  
20 entity, the filing officer finds that the name of the entity  
21 has been reserved under Article 5 of this chapter, the filing  
22 officer shall file it immediately upon delivery by:

23 "(1) endorsing recording that filing instrument as  
24 "filed," together with his or her the name and official title  
25 of the filing officer and the date and time of receipt on the

1 instrument and all copies required hereunder and on the  
2 receipt for the filing fee;

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

6 "(3) delivering a copy ~~thereof, endorsed as provided~~  
7 ~~in subdivision (1) of that filing instrument, indicating the~~  
8 date and time of the filing on the copy along with the filing  
9 fee receipt, ~~or acknowledgment of receipt of the instrument if~~  
10 ~~no filing fee is required,~~ to the entity or its  
11 representative.

12 "(e) ~~In the case of any of the filing instruments~~  
13 ~~described in subsection (b), the judge of probate shall within~~  
14 ~~10 days transmit a certified copy of the filing instrument to~~  
15 ~~the Secretary of State. The filing fee to be collected by the~~  
16 filing officer shall be paid or provision for payment shall be  
17 made in a manner permitted by the filing officer. The filing  
18 officer may accept payment of the correct amount due by check,  
19 credit card, charge card, or similar method. If the amount due  
20 is tendered by any method other than cash, the liability shall  
21 not be finally discharged until the filing officer receives  
22 final irrevocable full payment of immediately available funds.  
23 If after five consecutive calendar days prior notice by the  
24 filing officer to the entity or person who delivered a filing  
25 instrument for filing for which the filing fee was not

1 received in final irrevocable full payment of immediately  
 2 available funds, then the filing officer may declare the  
 3 filing instrument to be null and void and of no legal effect  
 4 as if it had never been filed and may remove the filing  
 5 instrument from the records of the filing officer.

6 "(f) If the filing officer refuses to file a filing  
 7 instrument, the filing officer shall return it to the ~~domestic~~  
 8 ~~or foreign~~ entity or its representative within ~~seven~~ five  
 9 consecutive calendar days after the filing instrument was  
 10 delivered to the filing officer for filing, together with a  
 11 brief, written explanation of the reason for the refusal.

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

20 "~~(g)~~ (h) The duty of the filing officer to file  
 21 filing instruments pursuant to this title is ministerial.  
 22 Filing or refusing to file a filing instrument by the filing  
 23 officer does not:

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



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

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

6           "~~(h)~~ (i) The Secretary of State shall keep:

7           "(1) an alphabetical list of all domestic entities  
8 and registered foreign entities~~;~~;

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

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

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

16           "(i) the delivery, acceptance, and filing by  
17 electronic transmission of all filing instruments authorized  
18 or required by this title to be delivered to the Secretary of  
19 State for filing;

20           "(ii) all filing instruments to be in a form that  
21 complies with this title but does not require the filing  
22 instruments to be in a form adopted by or otherwise required  
23 by the Secretary of State;

24           "(iii) the delivery, acceptance, and filing of  
25 filing instruments by electronic transmission to occur 24

1 hours a day, seven days a week, each day of the year including  
 2 holidays and weekends; and

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

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

18 "(i) file that filing instrument as of the date and  
 19 time of the receipt of that filing instrument;

20 "(ii) confirm that the filing instrument has been  
 21 delivered to, and accepted and filed by, the Secretary of  
 22 State with that confirmation to include the information  
 23 required in subsections (d) (1), (d) (2), and (d) (3), associated  
 24 with that filing instrument, clearly set forth on a copy of  
 25 that filing instrument; and

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

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

13           "§10A-1-4.05.

14           "(a) The Secretary of State may adopt forms for a  
15 filing instrument or a report authorized or required by this  
16 title to be filed with the ~~judge of probate or~~ Secretary of  
17 State.

18           "(b) A person is not required to use a form adopted  
19 by the Secretary of State ~~unless this title expressly requires~~  
20 ~~use of that form.~~

21           Section 4. Section 10A-1-4.07 is added to the Code  
22 of Alabama 1975, to read as follows:

23           §10A-1-4.07.

1           (a) Any communication from a filing officer to an  
2 entity may be accomplished by electronic transmission or by  
3 mail or courier to that entity's principal office address.

4           (b) If any law prohibits the disclosure by a filing  
5 officer of information contained in a filing instrument  
6 delivered for filing, the filing officer shall file the filing  
7 instrument if it otherwise complies with the applicable law,  
8 but the filing officer may redact such information so that it  
9 is not available to the public.

10           Section 5. Sections 10A-1-4.11, as amended by Act  
11 2019-94, 2019 Regular Session, 10A-1-4.12, 10A-1-4.21 and  
12 10A-1-4.31, as amended by Act 2019-94, 2019 Regular Session,  
13 and Sections 10A-1-5.04 and 10A-1-5.11 of the Code of Alabama  
14 1975, are amended to read as follows:

15           "§10A-1-4.11.

16           "A filing instrument submitted to the filing officer  
17 takes effect on the date and time of the actual receipt by the  
18 filing officer, except as permitted by Section 10A-1-4.12 or  
19 as provided by the provisions of this title which apply to the  
20 entity making the filing or other law.

21           "§10A-1-4.12.

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

1 take effect as provided by this title for the entity filing  
2 the instrument.

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

5 "(1) the date may not be later than the 90th day  
6 after the date the instrument is delivered to the filing  
7 officer for filing;

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

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

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

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

1                    "\$10A-1-4.21.

2                    "(a) A filing instrument that has been filed with  
3 ~~the~~ a filing officer that is an inaccurate record of the event  
4 or transaction evidenced in the instrument, that contains an  
5 inaccurate or erroneous statement, or that was defectively or  
6 erroneously signed, sealed, acknowledged, or verified may be  
7 corrected by filing a certificate of correction.

8                    "(b) A certificate of correction must be signed by  
9 the person authorized by this title to act on behalf of the  
10 entity.

11                   "\$10A-1-4.31.

12                   ~~"(a) The filing officer shall collect the following~~  
13 ~~fees when the filing instruments described in this title are~~  
14 ~~delivered to him or her for filing.~~

	<del>FEE FOR STATE OF</del>	<del>FEE FOR THE JUDGE</del>
15           " <del>FILING INSTRUMENT</del>	<del>ALABAMA</del>	<del>OF PROBATE</del>
16 <del>"(1) Certificate of for-</del>		
17 <del>mation and restated cer-</del>		
18 <del>tificate of formation</del>		
19 <del>(Except for filings pur-</del>		
20 <del>suant to Chapter 2 or</del>		
21 <del>Chapter 2A)</del>	<del>\$100</del>	<del>\$50</del>
22 <del>"(2) Amendments to cer-</del>		
23 <del>tificate of formation</del>	<del>\$50</del>	<del>\$25</del>

1	<del>(Except for filings pur-</del>		
2	<del>suant to Chapter 2 or</del>		
3	<del>Chapter 2A)</del>		
4	<del>"(3) Name reservations</del>		
5	<del>and notice of transfer</del>		
6	<del>of name reservation</del>	<del>\$25</del>	<del>No fee</del>
7	<del>"(4) Certificate, arti-</del>		
8	<del>cles, or statements of</del>		
9	<del>dissolution or cancella-</del>		
10	<del>tion (Except for filings</del>		
11	<del>pursuant to Chapter 2 or</del>		
12	<del>Chapter 2A or Chapter</del>		
13	<del>2A)</del>	<del>\$100</del>	<del>\$50</del>
14	<del>"(5) Foreign entity reg-</del>		
15	<del>istration including a</del>		
16	<del>statement of foreign</del>		
17	<del>limited liability part-</del>		
18	<del>nership</del>	<del>\$150</del>	<del>No fee</del>
19	<del>"(6) Certificate of ex-</del>		
20	<del>istence</del>	<del>\$25</del>	<del>No fee</del>
21	<del>"(7) Certificates, arti-</del>		
22	<del>cles, or statements, and</del>		
23	<del>any document required or</del>		
24	<del>permitted to be filed</del>	<del>\$100</del>	<del>No fee</del>

1 ~~with the Secretary of~~  
2 ~~State pursuant to Chap-~~  
3 ~~ter 2 or Chapter 2A~~

4 ~~"(8) Statements and any~~  
5 ~~document required or~~  
6 ~~permitted to be filed~~  
7 ~~with the Secretary of~~  
8 ~~State pursuant to Chap-~~  
9 ~~ter 8A~~

\$100

~~No fee~~

10 ~~"(9) Certified copy of~~  
11 ~~statements of authority,~~  
12 ~~denial, and cancellation~~  
13 ~~thereof, permitted to be~~  
14 ~~filed with the judge of~~  
15 ~~probate pursuant to~~  
16 ~~Chapter 8A~~

~~No fee~~

~~\$100~~

17 ~~"(10) Certificates, ar-~~  
18 ~~ticles, or statements of~~  
19 ~~merger, conversion, and~~  
20 ~~share exchange (Except~~  
21 ~~for filings pursuant to~~  
22 ~~Chapter 1, Chapter 2,~~  
23 ~~Chapter 2A, Chapter 5A,~~  
24 ~~Chapter 8A, and Chapter~~  
25 ~~9A)~~

\$100

~~\$50~~



1	<del>"(11) Certificates, ar-</del>		
2	<del>ticles, or statements of</del>		
3	<del>merger, conversion, and</del>		
4	<del>share exchange filed</del>		
5	<del>pursuant to Chapter 1,</del>		
6	<del>Chapter 2, Chapter 2A,</del>		
7	<del>Chapter 5A, Chapter 8A,</del>		
8	<del>and Chapter 9A</del>	<del>\$100</del>	<del>No fee</del>
9	<del>"(12) Certified copy of</del>		
10	<del>certificates, articles,</del>		
11	<del>or statements of merger</del>		
12	<del>and conversion filed</del>		
13	<del>pursuant to Chapter 1,</del>		
14	<del>Chapter 2A, Chapter 5A,</del>		
15	<del>Chapter 8A, or Chapter</del>		
16	<del>9A</del>	<del>No fee</del>	<del>\$5</del>
17	<del>"(13) Any other filing</del>		
18	<del>instrument required or</del>		
19	<del>permitted to be filed</del>		
20	<del>pursuant to this title</del>	<del>\$25</del>	<del>\$25</del>

21                   ~~"(b) When a filing instrument is to be delivered for~~  
 22 ~~filing only to the Secretary of State, that filing instrument~~  
 23 ~~shall be accompanied by a check payable to the State of~~

1 ~~Alabama. When a filing instrument is only to be delivered for~~  
2 ~~filing to the judge of probate, that filing instrument shall~~  
3 ~~be accompanied by a check payable to the judge of probate.~~  
4 ~~When a filing instrument is to be delivered for filing to the~~  
5 ~~judge of probate, and a copy is to be forwarded to the~~  
6 ~~Secretary of State for filing, two checks shall accompany that~~  
7 ~~filing instrument and copy, one payable to the judge of~~  
8 ~~probate covering all charges for the judge of probate, and one~~  
9 ~~payable to the State of Alabama covering all charges for the~~  
10 ~~Secretary of State, and the check payable to the State of~~  
11 ~~Alabama shall be forwarded by the judge of probate to the~~  
12 ~~Secretary of State.~~

13 "(a) The Secretary of State shall collect the  
14 following fees when a filing instrument described in this  
15 title is delivered to the Secretary of State for filing:

16 "(1) Certificate of formation for all entities: Two  
17 hundred dollars (\$200);

18 "(2) Amendment to a certificate of formation and a  
19 restated certificate of formation: One hundred dollars (\$100);

20 "(3) Name reservations and notice of transfer of  
21 name reservation: Twenty-five dollars (\$25);

22 "(4) Certificates, articles, or statements of  
23 dissolution or cancellation: One hundred dollars (\$100);

24 "

1           "(5) Foreign entity registration including a  
2           statement of foreign limited liability partnership: One  
3           hundred fifty dollars (\$150);

4           "(6) Certificate of existence: Twenty-five dollars  
5           (\$25);

6           "(7) Certificates, articles, or statements of  
7           merger, conversion, and share exchange: One hundred dollars  
8           (\$100); and

9           "(8) Any other filing instrument required or  
10           permitted to be delivered to the Secretary of State for filing  
11           pursuant to this title: One hundred dollars (\$100).

12           "(b) The judge of probate shall collect the  
13           following fees when a filing instrument described in this  
14           title is delivered to the judge of probate for filing:

15           "(1) Certified copy of statements of authority,  
16           denial, and cancellation thereof, permitted to be filed with  
17           the judge of probate: One hundred dollars (\$100);

18           "(2) Certified copy of certificates, articles, or  
19           statements of merger and conversion filed pursuant to this  
20           chapter, Chapter 2A, Chapter 5A, Chapter 8A, Chapter 9A, or  
21           Chapter 10: Five dollars (\$5); and

22           "(3) Any other filing instrument required or  
23           permitted to be delivered to the judge of probate for filing  
24           pursuant to this title: One hundred dollars (\$100).

1           "(c) There is hereby established in the State  
2 Treasury a fund to be known and designated as the Secretary of  
3 State Entity Fund. All funds, fees, charges, costs, and  
4 collections accruing to or collected by the Secretary of State  
5 under the foregoing provisions of this section or any other  
6 fees collected by the Secretary of State relating to entities  
7 shall be deposited into the State Treasury to the credit of  
8 the Secretary of State Entity Fund except as so provided in  
9 subsection (e).

10           "(d) ~~All~~ Except as set forth in subsection (e)(1),  
11 all funds now or hereafter deposited in the State Treasury to  
12 the credit of the Secretary of State Entity Fund shall not be  
13 expended for any purpose whatsoever unless the same shall have  
14 been allotted and budgeted in accordance with the provisions  
15 of Article 4 of Chapter 4 of Title 41, and only in the amounts  
16 and for the purposes provided by the Legislature in the  
17 general appropriation bill or this section.

18           "(e)(1) From the two hundred dollar (\$200) fee  
19 collected by the Secretary of State for the filing of a  
20 certificate of formation in final irrevocable full payment of  
21 immediately available funds, the Secretary of State shall pay  
22 the sum of one hundred dollars (\$100) to the county treasurer  
23 for the county in which the office of the initial registered  
24 agent for that entity is located, which sum shall constitute

1 the entire fee due to that county for the formation of that  
2 entity.

3 "(2) After the payment of the amounts set forth in  
4 subsection (e) (1) have been paid, 70 ~~Seventy~~ percent of ,the  
5 remaining funds collected by the Secretary of State in final  
6 irrevocable full payment of immediately available funds in  
7 relation to entities during the fiscal year shall be deposited  
8 to the credit of the State General Fund.

9 "(f) The fees (1) herein imposed for the office of  
10 the judge of probate or (2) required to be paid by the  
11 Secretary of State to the county treasurer pursuant to  
12 subsection (e) (1) shall be charged and paid into the  
13 appropriate county treasury or to the judge of probate as may  
14 be authorized or required by law.

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

18 "(1) Two dollars (\$2) a page for copying; and

19 "(2) Ten dollars (\$10) for the certificate.

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

23 "(1) Two dollars (\$2) a page for copying; and

24 "(2) Ten dollars (\$10) for the certificate.

1           ~~"(i) For requests of immediate expedition of~~  
2 ~~document filings, certifications, and certificates to be~~  
3 ~~obtained in less than 24 hours from the Secretary of State,~~  
4 ~~other than documents which may be delivered to, or obtained~~  
5 ~~from, the Secretary of State electronically, in addition to~~  
6 ~~required fees, a one hundred dollar (\$100) surcharge shall be~~  
7 ~~imposed.~~

8           "\$10A-1-5.04.

9           "(a) The name of a corporation or foreign  
10 corporation ~~registered to transact business in this state~~ must  
11 contain:

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

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

14           "(b) Subsection (a) does not apply to a nonprofit  
15 corporation or foreign nonprofit corporation, or to banks,  
16 trust companies, savings and loan associations, or insurance  
17 companies.

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

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

23           "(e) For a corporation that elects to be a benefit  
24 corporation under the Alabama Business Corporation Law, the  
25 name of that benefit corporation must contain the words

1 "benefit corporation," the abbreviation "B.C.," or the  
2 designation "BC" and may not use the word "incorporated" or an  
3 abbreviation thereof.

4 §10A-1-5.11.

5 "(a) To reserve the exclusive use of an entity name,  
6 including a fictitious name for a foreign entity whose name is  
7 not available, a person must deliver an application to the  
8 Secretary of State for filing. Any person may file an  
9 application with the Secretary of State to reserve the  
10 exclusive use of a name under this article.

11 "(b) The application must set forth the name and  
12 address of the applicant and the name proposed to be reserved  
13 and must be:

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

15 "(2) signed by the applicant or by the agent or  
16 attorney of the applicant.

17 "(c) The name may also be reserved, renewed,  
18 withdrawn, and transferred by electronic means, ~~subject to the~~  
19 ~~requirements as the Secretary of State may establish for~~  
20 ~~reservation of names by any means, including requirements for~~  
21 ~~payment of the fee for name reservation~~ as set forth in  
22 Section 10A-1-5.17.

23 Section 6. Section 10A-1-5.17 is added to the Code  
24 of Alabama 1975, to read as follows:

25 §10A-1-5.17. Electronic name reservation.

1           The Secretary of State shall establish and maintain  
2           an automated electronic name reservation system that enables  
3           (i) the reservation of a name, (ii) the renewal of that  
4           reserved name, (iii) the withdrawal of that reserved name,  
5           (iv) the transfer of that reserved name, and (v) the payment  
6           of the fees associated therewith, in order to provide for an  
7           immediate reservation, renewal, withdrawal, or transfer of the  
8           reserved name 24 hours a day, seven days a week, each day of  
9           the year, including holidays and weekends.

10           Section 7. Sections 10A-1-6.02, 10A-1-8.01, and  
11           10A-1-8.02, as amended by Act 2019-94, 2019 Regular Session,  
12           10A-2A-1.40, 10A-2A-1.41, 10A-2A-1.52, 10A-2A-2.02,  
13           10A-2A-2.05, 10A-2A-3.04, 10A-2A-7.03, 10A-2A-7.20,  
14           10A-2A-7.24, 10A-2A-7.29, 10A-2A-7.40, 10A-2A-8.09,  
15           10A-2A-13.30, 10A-2A-14.01, 10A-2A-14.03, 10A-2A-14.04,  
16           10A-2A-14.07, 10A-2A-14.10, 10A-2A-14.11, 10A-2A-16.04,  
17           10A-2A-16.05, and 10A-2A-16.10, as added to the Code of  
18           Alabama 1975, by Act 2019-94, 2019 Regular Session, are  
19           amended to read as follows:

20           "§10A-1-6.02.

21           "This article does not apply to: general  
22           partnerships, limited liability partnerships, limited  
23           liability companies, limited partnerships, limited liability  
24           limited partnerships, nonprofit corporations, professional  
25           corporations, and business corporations.



1           "§10A-1-8.01.

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

4           "(1) CORPORATIONS.

5           "a. The terms and conditions of a plan of conversion  
6 of a corporation, other than a nonprofit corporation, must be  
7 approved: ~~(i) for corporations governed by Chapter 2, by all~~  
8 ~~of the corporation's stockholders or as otherwise provided in~~  
9 ~~the corporation's governing documents (but in no case may the~~  
10 ~~vote required for stockholder approval be set at less than a~~  
11 ~~majority of the votes entitled to be cast by each voting group~~  
12 ~~entitled by law to vote separately on the conversion); or (ii)~~  
13 ~~for corporations governed by Chapter 2A,~~ in accordance with  
14 the procedures and by the stockholder vote required by Article  
15 9 of Chapter 2A. If the governing documents provide for  
16 approval of a conversion by less than all of a corporation's  
17 stockholders, approval of the conversion shall constitute  
18 corporate action subject to ~~dissenter's rights pursuant to~~  
19 ~~Article 13 of Chapter 2 or appraisal rights pursuant to~~  
20 ~~Article 13 of Chapter 2A, as applicable, of the Alabama~~  
21 ~~Business Corporation Law~~. No conversion of a corporation to a  
22 general or limited partnership may be effected without the  
23 consent in writing of each stockholder who will have personal  
24 liability with respect to the converted entity,  
25 notwithstanding any provision in the governing documents of

1 the converting corporation providing for less than unanimous  
2 stockholder approval for the conversion.

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

18 "(2) LIMITED PARTNERSHIPS, INCLUDING LIMITED  
19 LIABILITY LIMITED PARTNERSHIPS. The terms and conditions of a  
20 plan of conversion of a limited partnership must be approved  
21 by all of the partners or as otherwise provided in the  
22 partnership agreement. No conversion of a limited partnership  
23 to a general partnership may be effected without the consent  
24 in writing of each limited partner who will have personal  
25 liability with respect to the converted entity,

1       notwithstanding any provision in the limited partnership  
2       agreement of the converting limited partnership providing for  
3       approval of the conversion by less than all partners.

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

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

1 less than unanimous partner approval for the conversion. If a  
2 general partnership is the converting ~~organization~~ entity and  
3 that general partnership does not have an effective statement  
4 of partnership, statement of not for profit partnership, or  
5 statement of limited liability partnership on file with the  
6 Secretary of State, then that general partnership must, before  
7 proceeding with a conversion deliver to the Secretary of State  
8 for filing, a statement of partnership, statement of not for  
9 profit partnership, or statement of limited liability  
10 partnership simultaneously with the delivery to the Secretary  
11 of State for filing, of a statement of conversion.

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

1           "(6) OTHER ENTITY. The terms and conditions of a  
2 plan of conversion of any entity not specified above must be  
3 approved by all owners of the converting entity. No conversion  
4 of any entity shall be effected without the consent in writing  
5 of any owner of the converting entity who has limited  
6 liability and who shall become an owner without limited  
7 liability protection of the converted entity.

8           "(7) ENTITY WITHOUT OWNERS. If the converting entity  
9 does not have owners, the terms and conditions of the plan of  
10 conversion must be unanimously approved by the governing  
11 authority of the converting entity.

12           "(b) The plan of conversion must be in writing, and:

13           "(1) must include the following:

14           "a. the name, type of entity, and mailing address of  
15 the principal office of the converting entity, and its unique  
16 identifying number or other designation as assigned by the  
17 Secretary of State, if any, before conversion;

18           "b. the name, type of entity, and mailing address of  
19 the principal office of the converted entity after conversion;

20           "c. the terms and conditions of the conversion,  
21 including the manner and basis for converting interests in the  
22 converting entity into any combination of money, interests in  
23 the converted entity, and other consideration allowed in  
24 subsection (c); and

1            "d. the organizational documents of the converted  
2 entity; and

3            "(2) may include other provisions relating to the  
4 conversion not prohibited by law.

5            "(c) In connection with a conversion, rights or  
6 securities of or interests in a converting entity may be  
7 exchanged for or converted into cash, property, or rights or  
8 securities of or interests in the converted entity, or, in  
9 addition to or in lieu thereof, may be exchanged for or  
10 converted into cash, property, or rights or securities of or  
11 interests in another entity or may be cancelled.

12            "(d) After a plan of conversion is approved and  
13 before the conversion takes effect, the plan may be amended or  
14 abandoned as provided in the plan, or if the plan does not  
15 provide for amendment or abandonment, in the same manner as  
16 required for the approval of the plan of conversion  
17 originally.

18            "(e) After the conversion is approved pursuant to  
19 subsection (a):

20            "(1) if the converting entity is a domestic entity,  
21 the converting entity shall deliver to the Secretary of State  
22 for filing, a statement of conversion, which must include:

23            "a. the name, type of entity, and mailing address of  
24 the principal office of the converting entity, and its unique

1 identifying number or other designation as assigned by the  
2 Secretary of State, if any, before conversion;

3 "b. the date of the filing of the certificate of  
4 formation of the converting entity, if any, and all prior  
5 amendments and the filing office or offices, if any, where  
6 such is filed;

7 "c. a statement that the converting entity has been  
8 converted into the converted entity;

9 "d. the name and type of entity of the converted  
10 entity and the jurisdiction of its governing statute;

11 "e. the street and mailing address of the principal  
12 office of the converted entity;

13 "f. the date the conversion is effective under the  
14 governing statute of the converted entity;

15 "g. a statement that the conversion was approved as  
16 required by this chapter;

17 "h. a statement that the conversion was approved as  
18 required by the governing statute of the converted entity;

19 "i. a statement that a copy of the plan of  
20 conversion will be furnished by the converted entity, on  
21 request and without cost, to any owner of the converted or  
22 converting entity; and

23 "j. if the converted entity is a foreign entity not  
24 authorized to conduct activities and affairs in this state,

1 the street and mailing address of an office for the purposes  
2 of Section 10A-1-8.04(b); and

3 "(2) if the converted entity is (I) a ~~domestic~~  
4 filing entity, the converting entity shall deliver to the  
5 Secretary of State for filing a certificate of formation or  
6 (II) a general partnership, the converting entity shall  
7 deliver to the Secretary of State for filing a statement of  
8 partnership, a statement of not for profit partnership, or a  
9 statement of limited liability partnership, as applicable,  
10 which certificate of formation or statement of partnership,  
11 statement of not for profit partnership, or statement of  
12 limited liability partnership, as applicable, must include, in  
13 addition to the information required in the chapter governing  
14 the certificate of formation of the converted entity, the  
15 following:

16 "a. The name, mailing address of the principal  
17 office of, type of entity, and the jurisdiction of the  
18 governing statute of the converting entity and its unique  
19 identifying number or other designation as assigned by the  
20 Secretary of State, if any, before conversion;

21 "b. A statement that the converting entity has been  
22 converted into the converted entity;

23 "c. The filing office where the certificate of  
24 formation, if any, of the converting entity is filed and the  
25 date of the filing thereof;



1           "d. If the converted entity is one in which one or  
2 more owners lack limited liability protection, a statement  
3 that each owner of the converting entity who is to become an  
4 owner without limited liability protection of the converted  
5 entity has consented in writing to the conversion as required  
6 by this section; and

7           "e. A statement that the conversion was approved  
8 pursuant to this section and, if the converting entity is a  
9 foreign entity, that the conversion was approved as required  
10 by the governing statute of such foreign entity;

11           "(3) if the converting entity is required pursuant  
12 to ~~subdivisions~~ subsections (e) (2) and (3) to deliver to the  
13 Secretary of State for filing both (I) a statement of  
14 conversion and (II) (A) a certificate of formation, or (B) a  
15 statement of partnership, statement of not for profit  
16 partnership, or statement of limited liability partnership, as  
17 applicable, then the converting entity shall deliver the  
18 statement of conversion and the certificate of formation or  
19 the statement of partnership, statement of not for profit  
20 partnership, or statement of limited liability partnership, as  
21 applicable, to the Secretary of State simultaneously; and

22           "(4) if the converting entity is a general  
23 partnership and that partnership does not have an effective  
24 statement of partnership, statement of not for profit  
25 partnership, or statement of limited liability partnership on

1 file with the Secretary of State, then the converting  
2 ~~organization~~ entity must deliver to the Secretary of State for  
3 filing, a statement of partnership, statement of not for  
4 profit partnership, or statement of limited liability  
5 partnership simultaneously with the delivery to the Secretary  
6 of State for filing, of a statement of conversion.

7 "(f) A conversion becomes effective:

8 "(1) if the converted entity is a domestic filing  
9 entity, the effective date determined in accordance with  
10 Article 4 of this chapter; and

11 "(2) if the converted entity is not a domestic  
12 filing entity, as provided by the governing statute of the  
13 converted entity.

14 ~~"(g) After the conversion has become effective in~~  
15 ~~accordance with subsection (f), then, except for (i) certified~~  
16 ~~copies of statements of authority, denial, or cancellation~~  
17 ~~thereof permitted to be delivered to the judge of probate for~~  
18 ~~filing pursuant to Chapter 8A, (ii) any document permitted to~~  
19 ~~be delivered to the judge of probate for filing pursuant to~~  
20 ~~Chapter 17, and (iii) certified copies of statements of merger~~  
21 ~~or conversion permitted to be delivered to the judge of~~  
22 ~~probate for filing pursuant to Chapter 1, Chapter 2A, Chapter~~  
23 ~~5A, Chapter 8A, or Chapter 9A, all filing instruments with~~  
24 ~~respect to the converted entity that would otherwise be~~  
25 ~~required by this title to be delivered to the judge of probate~~

1 ~~for filing shall instead be delivered to the Secretary of~~  
2 ~~State for filing.~~

3 "~~(h)~~ (g) When a conversion becomes effective:

4 "(1) all property and contract rights owned by the  
5 converting entity remain vested in the converted entity  
6 without transfer, reversion, or impairment, and the title to  
7 any property vested by deed or otherwise in the converting  
8 entity shall not revert or be in any way impaired by reason of  
9 the conversion;

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

15 "(3) an action or proceeding pending by or against  
16 the converting entity continues as if the conversion had not  
17 occurred and the name of the converted entity may, but need  
18 not, be substituted for the name of the converting entity in  
19 any pending action or proceeding;

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

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

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

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

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

22           "(9) if the converting entity is a domestic entity,  
23 the existence of the converted entity shall be deemed to have  
24 commenced on the date the converting entity commenced its  
25 existence in the jurisdiction in which the converting entity

1 was first created, formed, organized, incorporated, or  
2 otherwise came into being;

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

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

13 "(12)a. An owner with limited liability protection  
14 remains liable, if at all, for an obligation incurred by the  
15 converting entity before the conversion takes effect only to  
16 the extent, if any, the owner would have been liable if the  
17 conversion had not occurred.

18 "b. An owner with limited liability protection who  
19 becomes an owner without limited liability protection is  
20 liable for an obligation of the converted entity incurred  
21 after conversion to the extent provided for by the laws  
22 applicable to the converted entity.

23 "(13) An owner without limited liability protection  
24 who as a result of a conversion becomes an owner of a  
25 converted entity with limited liability protection remains

1       liable for an obligation incurred by the converting entity  
2       before the conversion takes effect only to the extent, if any,  
3       the owner would have been liable if the conversion had not  
4       occurred.

5               "(i) If:

6               "(1) the converting entity is a filing entity, a  
7       general partnership with an effective statement of  
8       partnership, statement of not for profit partnership, or  
9       statement of limited liability partnership on file with the  
10      Secretary of State, a foreign filing entity registered to  
11      transact business or not for profit activity in this state, or  
12      a qualified foreign limited liability partnership;

13              "(2) the converted entity will be a filing entity, a  
14      general partnership with an effective statement of  
15      partnership, statement of not for profit partnership, or  
16      statement of limited liability partnership on file with the  
17      Secretary of State, a foreign filing entity registered to  
18      transact business or not for profit activity in this state, or  
19      a qualified foreign limited liability partnership;

20              "(3) the name of the converting entity and the  
21      converted entity are to be the same, other than words,  
22      phrases, or abbreviations indicating the type of entity; and

23              "(4) the name of the converted entity complies with  
24      Division A of Article 5 or Section 10A-1-7.07, as the case may  
25      be;

1           "then, notwithstanding Division B of Article 5, no  
2 name reservation shall be required and the converted entity  
3 shall for all purposes of this title be entitled to utilize  
4 the name of the converting entity without any further action  
5 by the converting entity or the converted entity.

6           "(j) A certified copy of the statement of conversion  
7 may be delivered to the office of the judge of probate in any  
8 county in which the converting entity owned real property, to  
9 be recorded without payment and without collection by the  
10 judge of probate of any deed or other transfer tax or fee. The  
11 judge of probate shall, however, be entitled to collect a  
12 filing fee of five dollars (\$5). Any filing shall evidence  
13 chain of title, but lack of filing shall not affect the  
14 converted entity's title to the real property.

15           "§10A-1-8.02.

16           "(a) A merger of two or more entities, whether the  
17 other entity or entities are the same or another form of  
18 entity, may be accomplished as provided in this section.

19           "(1) CORPORATIONS.

20           "a. In the case of a corporation, other than a  
21 nonprofit corporation, that is a party to a merger, a plan of  
22 merger must be approved in accordance with the procedures and  
23 by the stockholder vote required by ~~Article 11 of Chapter 2 or~~  
24 ~~Article 11 of Chapter 2A, as applicable.~~ If the governing  
25 documents of the corporation provide for approval of a merger

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

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



1 for approval by less than a majority of the board of  
2 directors.

3 "(2) LIMITED PARTNERSHIPS. In the case of a limited  
4 partnership that is a party to the merger, a plan of merger  
5 must be approved in writing by all of the partners or as  
6 otherwise provided in the partnership agreement. No merger of  
7 a limited partnership with a general partnership in which the  
8 general partnership is the surviving entity may be effected  
9 without the consent in writing of each limited partner who  
10 will have personal liability with respect to the surviving  
11 entity, notwithstanding any provision in the limited  
12 partnership agreement of the merging limited partnership  
13 providing for approval of the merger by less than all  
14 partners.

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

1 documents of the merging limited liability company providing  
2 for less than unanimous member approval for a merger.

3 "(4) GENERAL PARTNERSHIPS, INCLUDING LIMITED  
4 LIABILITY PARTNERSHIPS. In the case of a general partnership  
5 that is a party to the merger, a plan of merger must be  
6 approved in writing by all of the partners or as otherwise  
7 provided in the partnership agreement. No merger of a limited  
8 liability partnership into a general or limited partnership  
9 may be effected without the consent in writing of each partner  
10 who will have personal liability with respect to the surviving  
11 entity, notwithstanding any provision in the partnership  
12 agreement of the limited liability partnership providing for  
13 less than unanimous partner approval for a merger. All general  
14 partnerships, other than a general partnership that is created  
15 pursuant to the merger, that are parties to a merger must have  
16 on file with the Secretary of State a statement of  
17 partnership, statement of not for profit partnership, or  
18 statement of limited liability partnership prior to delivering  
19 the statement of merger to the Secretary of State for filing.

20 "(5) REAL ESTATE INVESTMENT TRUST. In the case of a  
21 real estate investment trust that is a party to the merger, a  
22 plan of merger must be approved in writing by all of the  
23 trust's shareholders or as otherwise provided in the trust's  
24 declaration of trust, but in no case may the vote required for  
25 shareholder approval be set at less than a majority of all the

1 votes entitled to be cast. No merger of a real estate  
 2 investment trust with a general or limited partnership that is  
 3 to be the surviving entity may be effected without the consent  
 4 in writing of each shareholder who will have personal  
 5 liability with respect to the surviving entity,  
 6 notwithstanding any provision in the declaration of trust of  
 7 the converting real estate investment trust providing for less  
 8 than unanimous shareholder approval for the merger.

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

18 "(b) The plan of merger must be in writing, and:

19 "(1) must include the following:

20 "a. the name, type of entity, and mailing address of  
 21 the principal office of each entity that is a party to the  
 22 merger, the jurisdiction of the governing statute of each  
 23 entity that is a party to the merger, and the respective  
 24 unique identifying number or other designation as assigned by

1 the Secretary of State, if any, of each entity that is a party  
2 to the merger;

3 "b. the name, type of entity, and mailing address of  
4 the principal office of the surviving entity and, if the  
5 surviving entity is to be created pursuant to the merger, the  
6 surviving entity's organizational documents;

7 "c. the terms and conditions of the merger,  
8 including the manner and basis for converting the interests in  
9 each entity that is a party to the merger into any combination  
10 of money, interests in the surviving entity, and other  
11 consideration as allowed by subsection (c); and

12 "d. if the surviving entity is not to be created  
13 pursuant to the merger, any amendments to be made by the  
14 merger to the surviving entity's organizational documents; and

15 "(2) may include other provisions relating to the  
16 merger not prohibited by law.

17 "(c) In connection with a merger, rights or  
18 securities of or interests in a merged entity may be exchanged  
19 for or converted into cash, property, or rights or securities  
20 of or interests in the surviving entity, or, in addition to or  
21 in lieu thereof, may be exchanged for or converted into cash,  
22 property, or rights or securities of or interests in another  
23 entity or may be cancelled.

24 "(d) After a plan of merger is approved and before  
25 the merger takes effect, the plan may be amended or abandoned

1 as provided in the plan, or if the plan does not provide for  
 2 amendment or abandonment, in the same manner as required for  
 3 the approval of the plan of merger originally.

4 "(e) After each entity has approved the plan of  
 5 merger, the entities must deliver to the Secretary of State  
 6 for filing a statement of merger signed on behalf of each  
 7 entity as provided by its governing statute which must  
 8 include:

9 "(1) the name, type of entity, and mailing address  
 10 of the principal office of each entity that is a party to the  
 11 merger, the jurisdiction of the governing statute of each  
 12 entity that is a party to the merger, and the respective  
 13 unique identifying number or other designation as assigned by  
 14 the Secretary of State, if any, of each entity that is a party  
 15 to the merger;

16 "(2) the name, type of entity, and mailing address  
 17 of the principal office of the surviving entity, the unique  
 18 identifying number or other designation as assigned by the  
 19 Secretary of State, if any, of the surviving entity, the  
 20 jurisdiction of the governing statute of the surviving entity,  
 21 and, if the surviving entity is created pursuant to the  
 22 merger, a statement to that effect;

23 "(3) for each entity other than a general  
 24 partnership, the date of the filing of the certificate of

1 formation, if any, and all prior amendments and the filing  
2 office or offices, if any, where such is filed;

3 "(4) for each general partnership, the date of the  
4 filing of the statement of partnership, statement of not for  
5 profit partnership, or statement of limited liability  
6 partnership, if any, and all prior amendments and the filing  
7 office or offices, if any, where such is filed;

8 "(5) the date the merger is effective under the  
9 governing statute of the surviving entity;

10 "(6) if the surviving entity is to be created  
11 pursuant to the merger, (i) if it will be a filing entity, its  
12 certificate of formation; or (ii) if it will be a non-filing  
13 entity, any document that creates the entity that is required  
14 to be in a public writing or in the case of a general  
15 partnership, its statement of partnership, statement of not  
16 for profit partnership, or statement of limited liability  
17 partnership, as applicable;

18 "(7) if the surviving entity is a domestic entity  
19 that exists before the merger, any amendments provided for in  
20 the plan of merger for the organizational documents that  
21 created the domestic entity that are required to be in a  
22 public writing, or in the case of a general partnership, its  
23 statement of partnership, statement of not for profit  
24 partnership, or statement of limited liability partnership, as  
25 applicable;

1           "(8) a statement as to each entity that the merger  
2 was approved as required by the entity's governing statute;

3           "(9) a statement that a copy of the plan of merger  
4 will be furnished by the surviving entity, on request and  
5 without cost, to any owner of any entity which is a party to  
6 the merger;

7           "(10) if the surviving entity is a foreign entity  
8 not authorized to conduct activities and affairs in this  
9 state, the street and mailing address of an office for the  
10 purposes of Section 10A-1-8.04; and

11           "(11) any additional information required by the  
12 governing statute of any entity that is a party to the merger.

13           "(f) Prior to the statement of merger being  
14 delivered for filing to the Secretary of State in accordance  
15 subsection (e), all parties to the merger that are general  
16 partnerships, other than a general partnership that is created  
17 pursuant to the merger, must have on file with the Secretary,  
18 of State a statement of partnership, statement of not for  
19 profit partnership, or statement of limited liability  
20 partnership.

21           "(g) If all of the entities that are parties to the  
22 merger are domestic entities, the merger becomes effective on  
23 the effective date determined in accordance with Article 4. If  
24 one or more parties to the merger is a foreign entity, or a

1 foreign entity created by the merger is the surviving entity,  
2 the merger shall become effective at the later of:

3 "(1) when all documents required to be filed in  
4 foreign jurisdictions to effect the merger have become  
5 effective, or

6 "(2) the effective date determined in accordance  
7 with Article 4.

8 ~~"(h) After the merger has become effective in  
9 accordance with subsection (g), then, except for (i) copies of  
10 certified statements of authority, denial, or cancellation  
11 thereof permitted to be delivered to the judge of probate for  
12 filing pursuant to Chapter 8A, (ii) any documents permitted to  
13 be delivered to the judge of probate for filing pursuant to  
14 Chapter 17, and (iii) certified copies of statements of merger  
15 or conversion permitted to be delivered to the judge of  
16 probate for filing pursuant to Chapter 1, Chapter 2A, Chapter  
17 5A, Chapter 8A, or Chapter 9A, all filing instruments with  
18 respect to the surviving entity that would otherwise be  
19 required by this title to be delivered to the judge of probate  
20 for filing shall instead be delivered to the Secretary of  
21 State for filing.~~

22 ~~"(i)(h)~~ When a merger becomes effective:

23 "(1) the surviving entity continues or, in the case  
24 of a surviving entity created pursuant to the merger, comes  
25 into existence;



1           "(2) each entity that merges into the surviving  
2 entity ceases to exist as a separate entity;

3           "(3) except as provided in the plan of merger, all  
4 property owned by, and every contract right possessed by, each  
5 merging entity that ceases to exist vests in the surviving  
6 entity without transfer, reversion, or impairment and the  
7 title to any property and contract rights vested by deed or  
8 otherwise in the surviving entity shall not revert, be in any  
9 way impaired, or be deemed to be a transfer by reason of the  
10 merger;

11           "(4) all debts, obligations, and other liabilities  
12 of each merging entity, other than the surviving entity, are  
13 debts, obligations, and liabilities of the surviving entity,  
14 and neither the rights of creditors, nor any liens upon the  
15 property of any entity that is a party to the merger, shall be  
16 impaired by the merger;

17           "(5) an action or proceeding, pending by or against  
18 any merging entity that ceases to exist continues as if the  
19 merger had not occurred and the name of the surviving entity  
20 may, but need not be substituted in any pending proceeding for  
21 the name of any merging entity whose separate existence ceased  
22 in the merger;

23           "(6) except as prohibited by law other than this  
24 chapter or as provided in the plan of merger, all the rights,  
25 privileges, franchises, immunities, powers, and purposes of

1 each merging entity, other than the surviving entity, vest in  
2 the surviving entity;

3 "(7) except as otherwise provided in the plan of  
4 merger, the terms and conditions of the plan of merger take  
5 effect;

6 "(8) except as otherwise agreed, if a merged entity  
7 ceases to exist, the merger does not dissolve the merged  
8 entity;

9 "(9) if the surviving entity is created pursuant to  
10 the merger:

11 "(i) if it is a general partnership, the statement  
12 of partnership, statement of not for profit partnership, or  
13 statement of limited liability partnership becomes effective;  
14 or

15 "(ii) if it is an ~~organization~~ entity other than a  
16 partnership, the organizational documents that create the  
17 entity become effective;

18 "(10) the interests in a merging entity that are to  
19 be converted in accordance with the terms of the merger into  
20 interests, obligations, rights to acquire interests, cash,  
21 other property, or any combination of the foregoing, are  
22 converted as provided in the plan of merger, and the former  
23 holders of interests are entitled only to the rights provided  
24 to them by those terms or to any appraisal or dissenters'

1 rights they may have under the governing statute governing the  
2 merging entity;

3 "(11) if the surviving entity exists before the  
4 merger:

5 "(i) except as provided in the plan of merger, all  
6 the property and contract rights of the surviving entity  
7 remain its property and contract rights without transfer,  
8 reversion, or impairment;

9 "(ii) the surviving entity remains subject to all  
10 its debts, obligations, and other liabilities; and

11 "(iii) except as provided by law other than this  
12 chapter or the plan of merger, the surviving entity continues  
13 to hold all of its rights, privileges, franchises, immunities,  
14 powers and purposes.

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

1 manner similar to the procedure provided by the Alabama Rules  
2 of Civil Procedure for the service of process.

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

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

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

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

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

8 "§10A-2A-1.40.

9 "Notwithstanding Section 10A-1-1.03, as used in this  
 10 chapter, unless otherwise specified or unless the context  
 11 otherwise requires, the following terms have the following  
 12 meanings:

13 "(1) ~~"Authorized stock"~~ AUTHORIZED STOCK means the  
 14 stock of all classes and series a corporation or foreign  
 15 corporation is authorized to issue.

16 "(2) ~~"Beneficial stockholder"~~ BENEFICIAL STOCKHOLDER  
 17 means a person who owns the beneficial interest in stock,  
 18 which ~~may be~~ is either a record stockholder or a person on  
 19 whose behalf shares of stock are registered in the name of an  
 20 intermediary or nominee.

21 "(3) ~~"Certificate of incorporation"~~ CERTIFICATE OF  
 22 INCORPORATION means the certificate of incorporation described  
 23 in Section 10A-2A-2.02, all amendments to the certificate of  
 24 incorporation, and any other documents permitted or required  
 25 to be delivered for filing by a corporation with the Secretary

1 of State under this chapter or Chapter 1 that modify, amend,  
2 supplement, restate, or replace the certificate of  
3 incorporation. After an amendment of the certificate of  
4 incorporation or any other document filed under this chapter  
5 or Chapter 1 that restates the certificate of incorporation in  
6 its entirety, the certificate of incorporation shall not  
7 include any prior documents. When used with respect to a  
8 corporation incorporated and existing on December 31, 2019,  
9 under a predecessor law of this state, the term "certificate  
10 of incorporation" means articles of incorporation, charter, or  
11 similar incorporating document, and all amendments and  
12 restatements to the certificate of incorporation, charter, or  
13 similar incorporating document. When used with respect to a  
14 foreign corporation, a nonprofit corporation, or a foreign  
15 nonprofit corporation, the "certificate of incorporation" of  
16 such an entity means the document of such entity that is  
17 equivalent to the certificate of incorporation of a  
18 corporation. The term "certificate of incorporation" as used  
19 in this chapter is synonymous to the term "certificate of  
20 formation" used in Chapter 1.

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

24 "(5) ~~"Deliver" or "delivery"~~ DELIVER or DELIVERY  
25 means any method of delivery used in conventional commercial

1 practice, including delivery by hand, mail, commercial  
2 delivery, and, if authorized in accordance with Section  
3 10A-2A-1.41, by electronic transmission.

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

12 "(7) ~~"Document"~~ DOCUMENT means a writing as defined  
13 in Chapter 1.

14 "(8) ~~"Effective date,"~~ EFFECTIVE DATE when referring  
15 to a document accepted for filing by the Secretary of State,  
16 means the time and date determined in accordance with Article  
17 4 of Chapter 1.

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

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

8           "~~(9)~~ "Eligible entity" (11) ELIGIBLE ENTITY means an  
9           unincorporated entity, foreign unincorporated entity,  
10          nonprofit corporation, or foreign nonprofit corporation.

11          "~~(10)~~ "Eligible interests" (12) ELIGIBLE INTERESTS  
12          means interests or memberships.

13          "~~(11)~~ "Employee" (13) EMPLOYEE includes an officer,  
14          but not a director. A director may accept duties that make the  
15          director also an employee.

16          "~~(12)~~ "Entity" (14) ENTITY includes corporation;  
17          foreign corporation; nonprofit corporation; foreign nonprofit  
18          corporation; estate; trust; unincorporated entity; foreign  
19          unincorporated entity; and state, United States, and foreign  
20          government.

21          "~~(13)~~ "Expenses" (15) EXPENSES means reasonable  
22          expenses of any kind that are incurred in connection with a  
23          matter.

24          "~~(14)~~ "Filing entity" (16) FILING ENTITY means an  
25          unincorporated entity, other than a limited liability



1 partnership, that is of a type that is created by filing a  
2 public organic record or is required to file a public organic  
3 record that evidences its creation.

4 ~~"(15) "Foreign corporation"~~ (17) FOREIGN CORPORATION  
5 means a corporation incorporated under a law other than the  
6 law of this state which would be a corporation if incorporated  
7 under the law of this state.

8 ~~"(16) "Foreign nonprofit corporation"~~ (18) FOREIGN  
9 NONPROFIT CORPORATION means a corporation incorporated under a  
10 law other than the law of this state which would be a  
11 nonprofit corporation if incorporated under the law of this  
12 state.

13 ~~"(17) "Governing statute"~~ (19) GOVERNING STATUTE  
14 means the statute governing the internal affairs of a  
15 corporation, foreign corporation, nonprofit corporation,  
16 foreign nonprofit corporation, unincorporated entity, or  
17 foreign unincorporated entity.

18 ~~"(18) "Governmental subdivision"~~ (20) GOVERNMENTAL  
19 SUBDIVISION includes authority, county, district, and  
20 municipality.

21 ~~"(19) "Includes" and "including"~~ (21) INCLUDES and  
22 INCLUDING denote a partial definition or a nonexclusive list.

23 ~~"(20) "Interest"~~ (22) INTEREST means either or both  
24 of the following rights under the governing statute governing  
25 an unincorporated entity:

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

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

7           "~~(21) "Interest holder"~~ (23) INTEREST HOLDER means a  
8 person who holds of record an interest.

9           "~~(22) "Knowledge"~~ (24) KNOWLEDGE is determined as  
10 follows:

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

12           "(1) has actual knowledge of it; or

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

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

16           "(1) knows of it;

17           "(2) receives notification of it in accordance with  
18 Section 10A-2A-1.41;

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

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

23           "(c) A person notifies another of a fact by taking  
24 steps reasonably required to inform the other person in

1 ordinary course in accordance with Section 10A-2A-1.41,  
2 whether or not the other person knows the fact.

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

5 "(1) matters included in the certificate of  
6 incorporation upon filing;

7 "(2) dissolution, 90 days after a certificate of  
8 dissolution under Section 10A-2A-14.03 becomes effective;

9 "(3) conversion, merger, or interest exchange under  
10 Article 9 or Article 11, 90 days after a statement of  
11 conversion, or statement of merger or interest exchange  
12 becomes effective;

13 "(4) conversion or merger under Article 8 of Chapter  
14 1, 90 days after a statement of conversion or statement of  
15 merger becomes effective; and

16 "(5) revocation of dissolution and reinstatement, 90  
17 days after certificate of revocation of dissolution and  
18 reinstatement under Section 10A-2A-14.04 becomes effective.

19 "(e) A stockholder's knowledge, notice, or receipt  
20 of a notification of a fact relating to the corporation is not  
21 knowledge, notice, or receipt of a notification of a fact by  
22 the corporation solely by reason of the stockholder's capacity  
23 as a stockholder.

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

4           "~~(23) "Means"~~ (25) MEANS denotes an exhaustive  
5 definition.

6           "~~(24) "Membership"~~ (26) MEMBERSHIP means the rights  
7 of a member in a nonprofit corporation or foreign nonprofit  
8 corporation.

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

11           "~~(26) "Organizational documents"~~ (28) ORGANIZATIONAL  
12 DOCUMENTS means the public organic record and private  
13 organizational documents of a corporation, foreign  
14 corporation, or eligible entity.

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

19           "~~(28) "Private organizational documents"~~ (30)  
20 PRIVATE ORGANIZATIONAL DOCUMENTS means (i) the bylaws of a  
21 corporation, foreign corporation, nonprofit corporation, or  
22 foreign nonprofit corporation, or (ii) the rules, regardless  
23 of whether in writing, that govern the internal affairs of an  
24 unincorporated entity or foreign unincorporated entity, are  
25 binding on all its interest holders, and are not part of its

1 public organic record, if any. Where private organizational  
2 documents have been amended or restated, the term means the  
3 private organizational documents as last amended or restated.

4 ~~"(29) "Proceeding"~~ (31) PROCEEDING includes any  
5 civil suit and criminal, administrative, and investigatory  
6 action.

7 ~~"(30) "Public organic record"~~ (32) PUBLIC ORGANIC  
8 RECORD means (i) the certificate of incorporation of a  
9 corporation, foreign corporation, nonprofit corporation, or  
10 foreign nonprofit corporation, or (ii) the document, if any,  
11 the filing of which is required to create an unincorporated  
12 entity or foreign unincorporated entity, or which creates the  
13 unincorporated entity or foreign unincorporated entity and is  
14 required to be filed. Where a public organic record has been  
15 amended or restated, the term means the public organic record  
16 as last amended or restated.

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

24 ~~"(32) "Record stockholder"~~ (34) RECORD STOCKHOLDER  
25 means (i) the person in whose name shares of stock are

1 registered in the records of the corporation, or (ii) the  
 2 person identified as the beneficial owner of stock in a  
 3 beneficial ownership certificate pursuant to Section  
 4 10A-2A-7.23 on file with the corporation to the extent of the  
 5 rights granted by such certificate.

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

12 ~~"(34) "Stock exchange"~~ (36) STOCK EXCHANGE means a  
 13 transaction pursuant to Section 10A-2A-11.03.

14 ~~"(35) "Stockholder"~~ (37) STOCKHOLDER means a record  
 15 stockholder.

16 ~~"(36) "Stock"~~ (38) STOCK means the units into which  
 17 the proprietary interests in a corporation or foreign  
 18 corporation are divided.

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

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

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

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

20                   "~~(41) "Voting group"~~ (43) VOTING GROUP means all  
21    stock of one or more classes or series that under the  
22    certificate of incorporation or this chapter are entitled to  
23    vote and be counted together collectively on a matter at a  
24    meeting of stockholders. All stock entitled by the certificate

1 of incorporation or this chapter to vote generally on the  
2 matter is for that purpose a single voting group.

3 "~~(42) "Voting power"~~ (44) VOTING POWER means the  
4 current power to vote in the election of directors.

5 "~~(43) "Voting trust beneficial owner"~~ (45) VOTING  
6 TRUST BENEFICIAL OWNER means an owner of a beneficial interest  
7 in stock of the corporation held in a voting trust established  
8 pursuant to Section 10A-2A-7.30(a).

9 "§10A-2A-1.41.

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

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



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

9           "(d) A notice or other communications to a  
10 stockholder from the corporation may be delivered by  
11 electronic ~~transmission~~ mail to that stockholder at the  
12 electronic mail address for that stockholder as reflected in  
13 the books and records of the corporation, unless that  
14 stockholder has previously notified the corporation in writing  
15 that the stockholder objects to receiving notices and other  
16 communications by electronic mail. Any such notice or  
17 communication may be delivered by electronic transmission  
18 other than electronic mail if consented to by the ~~recipient~~  
19 stockholder or if authorized by subsection (j), and any other  
20 notice or communication may be delivered by electronic  
21 transmission if consented to by the recipient or if authorized  
22 by subsection (j).

23           "(e) Any consent under subsection (d) may be revoked  
24 by the person who consented by written or electronic notice to  
25 the person to whom the consent was delivered. ~~Any consent is~~

1 ~~deemed revoked~~ Authority to deliver notice or other  
 2 communications to a stockholder by electronic mail or by  
 3 electronic transmission pursuant to subsection (d) shall cease  
 4 if (i) the corporation is unable to deliver two consecutive  
 5 electronic transmissions ~~given by the corporation to that~~  
 6 stockholder in accordance with ~~that consent~~ subsection (d),  
 7 and (ii) the inability becomes known to the secretary or an  
 8 assistant secretary or to the transfer agent, or other person  
 9 responsible for the giving of notice or other communications;  
 10 provided, however, the inadvertent failure to treat that  
 11 inability as a ~~revocation~~ cessation of authority shall not  
 12 invalidate any meeting or other action.

13           "(f) Unless otherwise agreed between the sender and  
 14 the recipient, an electronic transmission is received when:

15           "(1) it enters an information processing system that  
 16 the recipient has designated or uses for the purposes of  
 17 receiving electronic transmissions or information of the type  
 18 sent, and from which the recipient is able to retrieve the  
 19 electronic transmission; and

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

22           "(g) Receipt of an electronic acknowledgement from  
 23 an information processing system described in subsection  
 24 (f) (1) establishes that an electronic transmission was

1 received but, by itself, does not establish that the content  
2 sent corresponds to the content received.

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

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

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

10 "(i) a stockholder's address shown on the  
11 corporation's record of stockholders maintained by the  
12 corporation under Section 10A-2A-16.01(d);

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

15 "(iii) the corporation's principal office;

16 "(2) if mailed postage prepaid and correctly  
17 addressed to a stockholder, upon deposit in the United States  
18 mail;

19 "(3) if mailed by United States mail postage prepaid  
20 and correctly addressed to a recipient other than a  
21 stockholder, the earliest of when it is actually received, or:

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

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

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

8           "~~(4)~~(5) if an electronic transmission, when it is  
9 received as provided in subsection (f); and

10          "~~(5)~~(6) if oral, when communicated.

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

19          "(k) If this chapter prescribes requirements for  
20 notices or other communications in particular circumstances,  
21 those requirements govern. If the certificate of incorporation  
22 or bylaws prescribe requirements for notices or other  
23 communications, not inconsistent with this section or other  
24 provisions of this chapter, those requirements govern. The  
25 certificate of incorporation or bylaws may authorize or

1 require delivery of notices of meetings of directors by  
 2 electronic transmission.

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

9 "§10A-2A-1.52.

10 "(a) Upon application by the corporation, any  
 11 successor entity to the corporation, a director of the  
 12 corporation, any stockholder, beneficial stockholder or  
 13 unrestricted voting trust beneficial owner of the corporation,  
 14 including any stockholder, beneficial stockholder or  
 15 unrestricted voting trust beneficial owner as of the date of  
 16 the defective corporate action ratified under Section  
 17 10A-2A-1.47, or any other person claiming to be substantially  
 18 and adversely affected by a ratification under Section  
 19 10A-2A-1.47, the designated court, and if none, the circuit  
 20 court ~~of~~ for the county ~~where~~ in which the corporation's  
 21 principal office, ~~or,~~ is located in this state, and if none in  
 22 this state, ~~its~~ the circuit court for the county in which the  
 23 corporation's most recent registered office, is located, may:

24 "(1) determine the validity and effectiveness of any  
 25 corporate action or defective corporate action;

1           "(2) determine the validity and effectiveness of any  
2 ratification under Section 10A-2A-1.47;

3           "(3) determine the validity of any putative stock;  
4 and

5           "(4) modify or waive any of the procedures specified  
6 in Section 10A-2A-1.47 or Section 10A-2A-1.48 to ratify a  
7 defective corporate action.

8           "(b) In connection with an action under this  
9 section, the court may make such findings or orders, and take  
10 into account any factors or considerations, regarding such  
11 matters as it deems proper under the circumstances.

12           "(c) Service of process of the application under  
13 subsection (a) on the corporation may be made in any manner  
14 provided by statute of this state or by rule of the applicable  
15 court for service on the corporation, and no other party need  
16 be joined in order for the court to adjudicate the matter. In  
17 an action filed by the corporation, the court may require  
18 notice of the action be provided to other persons specified by  
19 the court and permit such other persons to intervene in the  
20 action.

21           "(d) Notwithstanding any other provision of this  
22 section or otherwise under applicable law, any action  
23 asserting that the ratification of any defective corporate  
24 action and any putative stock issued as a result of a  
25 defective corporate action should not be effective, or should

1 be effective only on certain conditions, shall be brought  
2 within 120 days of the validation effective time.

3 "§10A-2A-2.02.

4 "Notwithstanding Section 10A-1-3.05:

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

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

9 "(2) the number of shares of stock the corporation  
10 is authorized to issue;

11 "(3) the street and mailing addresses of the  
12 corporation's initial registered office, the county within  
13 this state in which the street and mailing address is located,  
14 and the name of the corporation's initial registered agent at  
15 that office as required by Article 5 of Chapter 1; and

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

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

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

20 "(2) provisions not inconsistent with law regarding:

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

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

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

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

5           "(v) subject to subsection (f), a provision imposing  
6 personal liability for the debts of the corporation on its  
7 stockholders to a specified extent and upon specified  
8 conditions; otherwise, the stockholders of a corporation shall  
9 not be personally liable for the payment of the corporation's  
10 debts, except as they may be liable by reason of their own  
11 conduct or acts;

12           "(3) any provision that under this chapter is  
13 permitted to be set forth in the certificate of incorporation  
14 or required or permitted to be set forth in the bylaws;

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

24           "(5) a provision permitting or making obligatory  
25 indemnification of a director for liability as defined in



1 Section 10A-2A-8.50 to any person for any action taken, or any  
 2 failure to take any action, as a director, except liability  
 3 for (i) receipt of a financial benefit to which the director  
 4 is not entitled, (ii) an intentional infliction of harm on the  
 5 corporation or its stockholders, (iii) a violation of Section  
 6 10A-2A-8.32, or (iv) an intentional violation of criminal law;  
 7 and

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

20 "(c) The certificate of incorporation need not set  
 21 forth any of the corporate powers enumerated in Sections  
 22 10A-1-2.11, 10A-1-2.12, and 10A-1-2.13.

23 "(d) Provisions of the certificate of incorporation  
 24 may be made dependent upon facts objectively ascertainable

1 outside the certificate of incorporation in accordance with  
2 Section 10A-2A-1.20(c).

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

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

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

13 "§10A-2A-2.05.

14 "(a) The incorporators or board of directors of a  
15 corporation shall adopt initial bylaws for the corporation.

16 "(b) The bylaws of a corporation may contain any  
17 provision that is not inconsistent with law or the certificate  
18 of incorporation.

19 "(c) The bylaws may contain one or both of the  
20 following provisions:

21 "(1) a requirement that if the corporation solicits  
22 proxies or consents with respect to an election of directors,  
23 the corporation include in its proxy statement and any form of  
24 its proxy or consent, to the extent and subject to any  
25 procedures or conditions as are provided in the bylaws, one or

1 more individuals nominated by a stockholder in addition to  
2 individuals nominated by the board of directors; and

3 "(2) a requirement that the corporation reimburse  
4 the expenses incurred by a stockholder in soliciting proxies  
5 or consents in connection with an election of directors, to  
6 the extent and subject to any procedures and conditions as are  
7 provided in the bylaws, provided that no provision so adopted  
8 shall apply to elections for which any record date precedes  
9 its adoption.

10 "(d) Notwithstanding Section 10A-2A-10.20(b)(2), the  
11 stockholders in amending, repealing, or adopting a provision  
12 described in subsection (c) may not limit the authority of the  
13 board of directors to amend or repeal any condition or  
14 procedure set forth in or to add any procedure or condition to  
15 a provision to provide for a reasonable, practical, and  
16 orderly process.

17 "(e) The bylaws are part of a binding contract  
18 between the corporation and the stockholders, subject to the  
19 provisions of this chapter.

20 "§10A-2A-3.04.

21 "(a) Except as provided in subsection (b), the  
22 validity of corporate action may not be challenged on the  
23 ground that the corporation lacks or lacked power to act.

24 "(b) A corporation's power to act may be challenged:

1           "(1) in a proceeding by a stockholder against the  
2 corporation to enjoin the act;

3           "(2) in a proceeding by the corporation, directly,  
4 derivatively, or through a receiver, trustee, or other legal  
5 representative, against an incumbent or former director,  
6 officer, employee, or agent of the corporation; or

7           "(3) in a proceeding by the Attorney General under  
8 Section 10A-2A-14.10.

9           "(c) In a stockholder's proceeding under subsection  
10 (b) (1) to enjoin an unauthorized corporate act, the court may  
11 enjoin or set aside the act, if equitable and if all affected  
12 persons are parties to the proceeding, and may award damages  
13 for loss (other than anticipated profits) suffered by the  
14 corporation or another party because of enjoining the  
15 unauthorized act.

16           "(d) Proceedings under subsection (b) shall be  
17 brought in the designated court, and if none, in the circuit  
18 court for the county in which the corporation's principal  
19 office is located in this state, and if none in this state, in  
20 the circuit court for the county in which the corporation's  
21 most recent registered office is located.

22           "§10A-2A-7.03.

23           "(a) The designated court, and if none, the circuit  
24 court of for the county where a in which the corporation's  
25 principal office is located in this state, and, if none in

1 this state, ~~its~~ the circuit court for the county in which the  
2 corporation's most recent registered office is located may  
3 summarily order a meeting to be held:

4 "(1) on application of any stockholder of the  
5 corporation entitled to participate in an annual meeting if an  
6 annual meeting was not held or action by written consent in  
7 lieu of an annual meeting did not become effective within the  
8 earlier of 12 months after the end of the corporation's fiscal  
9 year or 15 months after its last annual meeting; or

10 "(2) on application of one or more stockholders who  
11 signed a demand for a special meeting valid under Section  
12 10A-2A-7.02, if:

13 "(i) notice of the special meeting was not given  
14 within 30 days after the first day on which the requisite  
15 number of demands have been delivered to the corporation; or

16 "(ii) the special meeting was not held in accordance  
17 with the notice.

18 "(b) The court may fix the time and place of the  
19 meeting, determine the stock entitled to participate in the  
20 meeting, specify a record date or dates for determining  
21 stockholders entitled to notice of and to vote at the meeting,  
22 prescribe the form and content of the meeting notice, fix the  
23 quorum required for specific matters to be considered at the  
24 meeting (or direct that the stock represented at the meeting  
25 constitute a quorum for action on those matters), and enter

1 other orders necessary to accomplish the purpose or purposes  
2 of the meeting.

3 "(c) For purposes of subsection (a)(1),  
4 "stockholder" means a record stockholder, a beneficial  
5 stockholder, and an unrestricted voting trust beneficial  
6 owner.

7 "§10A-2A-7.20.

8 "(a) After fixing a record date for a meeting, a  
9 corporation shall prepare an alphabetical list of the names of  
10 all its stockholders who are entitled to notice of a  
11 stockholders' meeting. If the board of directors fixes a  
12 different record date under Section 10A-2A-7.07(e) to  
13 determine the stockholders entitled to vote at the meeting, a  
14 corporation also shall prepare an alphabetical list of the  
15 names of all its stockholders who are entitled to vote at the  
16 meeting. A list must be arranged by voting group (and within  
17 each voting group by class or series of stock) and show the  
18 address of and number of shares of stock held by each  
19 stockholder. ~~Nothing contained in this subsection shall~~  
20 ~~require~~ If the corporation has an electronic mail address for  
21 a stockholder and the corporation uses that electronic mail  
22 address to send notices and other communications to that  
23 stockholder, then the corporation ~~to~~ shall include that  
24 electronic mail address on ~~that list the electronic mail~~

1 ~~address or other electronic contact information of a~~  
 2 ~~stockholder~~ the stockholders' list.

3           "(b) The stockholders' list for notice shall be  
 4 available for inspection by any stockholder, beginning two  
 5 business days after notice of the meeting is given for which  
 6 the list was prepared and continuing through the meeting, (i)  
 7 at the corporation's principal office or at a place identified  
 8 in the meeting notice in the city where the meeting will be  
 9 held or (ii) on a reasonably accessible electronic network,  
 10 provided that the information required to gain access to such  
 11 list is provided with the notice of the meeting. In the event  
 12 that the corporation determines to make the list available on  
 13 an electronic network, the corporation may take reasonable  
 14 steps to ensure that such information is available only to  
 15 stockholders of the corporation. A stockholders' list for  
 16 voting shall be similarly available for inspection promptly  
 17 after the record date for voting. A stockholder, or the  
 18 stockholder's agent or attorney, is entitled on written demand  
 19 to inspect and, subject to the requirements of Section  
 20 10A-2A-16.02(c), to copy a list, during regular business hours  
 21 and at the stockholder's expense, during the period it is  
 22 available for inspection.

23           "(c) If the meeting is to be held at a place, the  
 24 corporation shall make the list of stockholders entitled to  
 25 vote available at the meeting, and any stockholder, or the

1 stockholder's agent or attorney, is entitled to inspect the  
2 list at any time during the meeting or any adjournment. If the  
3 meeting is to be held solely by means of remote communication,  
4 then such list shall also be open to such inspection during  
5 the meeting on a reasonably accessible electronic network, and  
6 the information required to access such list shall be provided  
7 with the notice of the meeting.

8 "(d) If the corporation refuses to allow a  
9 stockholder, or the stockholder's agent or attorney, to  
10 inspect a stockholders' list before or at the meeting (or copy  
11 a list as permitted by subsection (b)), the designated court,  
12 and if none, the circuit court of for the county where in  
13 which the corporation's principal office, ~~or,~~ is located in  
14 this state, and if none in this state, ~~its~~ the circuit court  
15 for the county in which the corporation's most recent  
16 registered office, is located, on application of the  
17 stockholder, may summarily order the inspection or copying at  
18 the corporation's expense and may postpone the meeting for  
19 which the list was prepared until the inspection or copying is  
20 complete.

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

24 "(f) The stock transfer records of the corporation  
25 shall be prima facie evidence as to who are the stockholders



1 entitled to examine the stockholders' list or transfer records  
2 or to vote at any meeting of stockholders.

3 "§10A-2A-7.24.

4 "(a) If the name signed on a vote, ballot, consent,  
5 waiver, stockholder demand, or proxy appointment corresponds  
6 to the name of a stockholder, the corporation, if acting in  
7 good faith, is entitled to accept the vote, ballot, consent,  
8 waiver, stockholder demand, or proxy appointment and give it  
9 effect as the act of the stockholder.

10 "(b) If the name signed on a vote, ballot, consent,  
11 waiver, stockholder demand, or proxy appointment does not  
12 correspond to the name of its stockholder, the corporation, if  
13 acting in good faith, is nevertheless entitled to accept the  
14 vote, ballot, consent, waiver, stockholder demand, or proxy  
15 appointment and give it effect as the act of the stockholder  
16 if:

17 "(1) the stockholder is an entity and the name  
18 signed purports to be that of an officer or agent of the  
19 entity;

20 "(2) the name signed purports to be that of an  
21 administrator, executor, guardian, or conservator representing  
22 the stockholder and, if the corporation requests, evidence of  
23 fiduciary status acceptable to the corporation has been  
24 presented with respect to the vote, ballot, consent, waiver,  
25 stockholder demand, or proxy appointment;

1           "(3) the name signed purports to be that of a  
2 receiver or trustee in bankruptcy of the stockholder and, if  
3 the corporation requests, evidence of this status acceptable  
4 to the corporation has been presented with respect to the  
5 vote, ballot, consent, waiver, stockholder demand, or proxy  
6 appointment;

7           "(4) the name signed purports to be that of a  
8 pledgee, beneficial owner, or attorney-in-fact of the  
9 stockholder and, if the corporation requests, evidence  
10 acceptable to the corporation of the signatory's authority to  
11 sign for the stockholder has been presented with respect to  
12 the vote, ballot, consent, waiver, stockholder demand, or  
13 proxy appointment; or

14           "(5) two or more persons are the stockholder as  
15 co-tenants or fiduciaries and the name signed purports to be  
16 the name of at least one of the co-owners and the person  
17 signing appears to be acting on behalf of all the co-owners.

18           "(c) The corporation is entitled to reject a vote,  
19 ballot, consent, waiver, stockholder demand, or proxy  
20 appointment if the person authorized to accept or reject that  
21 instrument, acting in good faith, has reasonable basis for  
22 doubt about the validity of the signature on it or about the  
23 signatory's authority to sign for the stockholder.

24           "(d) Neither the corporation or any person  
25 authorized by it, nor an inspector of election appointed under

1 Section 10A-2A-7.29, that accepts or rejects a vote, ballot,  
2 consent, waiver, stockholder demand, or proxy appointment in  
3 good faith and in accordance with the standards of this  
4 Section 10A-2A-7.24 or Section 10A-2A-7.22(b) is liable in  
5 damages to the stockholder for the consequences of the  
6 acceptance or rejection.

7 "(e) Corporate action based on the acceptance or  
8 rejection of a vote, ballot, consent, waiver, stockholder  
9 demand, or proxy appointment under this section is valid  
10 unless ~~a court of competent jurisdiction~~ the designated court,  
11 and if none, the circuit court for the county in which the  
12 corporation's principal office is located in this state, and  
13 if none in this state, the circuit court for the county in  
14 which the corporation's most recent registered office is  
15 located, determines otherwise.

16 "(f) If an inspector of election has been appointed  
17 under Section 10A-2A-7.29, the inspector of election also has  
18 the authority to request information and make determinations  
19 under subsections (a), (b), and (c). Any determination made by  
20 the inspector of election under those subsections is  
21 controlling.

22 "§10A-2A-7.29.

23 "(a) The corporation shall, in advance of any  
24 meeting of stockholders, appoint one or more inspectors to act  
25 at the meeting and make a written report thereof. The

1 corporation may designate one or more persons as alternate  
2 inspectors to replace any inspector who fails to act. If no  
3 inspector or alternate is able to act at a meeting of  
4 stockholders, the person presiding at the meeting shall  
5 appoint one or more inspectors to act at the meeting. Each  
6 inspector, before entering upon the discharge of the duties of  
7 inspector, shall take and sign an oath faithfully to execute  
8 the duties of inspector with strict impartiality and according  
9 to the best of the inspector's ability.

10 "(b) The inspectors shall:

11 "(1) Ascertain the number of shares of stock  
12 outstanding and the voting power of each;

13 "(2) Determine the shares of stock represented at a  
14 meeting and the validity of proxies and ballots;

15 "(3) Count all votes and ballots;

16 "(4) Determine and retain for a reasonable period a  
17 record of the disposition of any challenges made to any  
18 determination by the inspectors; and

19 "(5) Certify their determination of the number of  
20 shares represented at the meeting, and their count of all  
21 votes and ballots. The inspectors may appoint or retain other  
22 persons or entities to assist the inspectors in the  
23 performance of the duties of the inspectors.

24 "(c) The date and time of the opening and the  
25 closing of the polls for each matter upon which the

1 stockholders will vote at a meeting shall be announced at the  
2 meeting. No ballot, proxies or votes, nor any revocations  
3 thereof or changes thereto, shall be accepted by the  
4 inspectors after the closing of the polls unless a ~~court of~~  
5 ~~competent jurisdiction~~ the designated court, and if none, the  
6 circuit court for the county in which the corporation's  
7 principal office is located in this state, and if none in this  
8 state, in the circuit court for the county in which the  
9 corporation's most recent registered office is located, upon  
10 application by a stockholder shall determine otherwise.

11 "(d) In determining the validity and counting of  
12 proxies and ballots, the inspectors shall be limited to an  
13 examination of the proxies, any envelopes submitted with those  
14 proxies, any information provided in accordance with Section  
15 10A-2A-7.22, or any information provided pursuant to Section  
16 10A-2A-7.09(b), ballots and the regular books and records of  
17 the corporation, except that the inspectors may consider other  
18 reliable information for the limited purpose of reconciling  
19 proxies and ballots submitted by or on behalf of banks,  
20 brokers, their nominees, or similar persons which represent  
21 more votes than the holder of a proxy is authorized by the  
22 record owner to cast or more votes than the stockholder holds  
23 of record. If the inspectors consider other reliable  
24 information for the limited purpose permitted herein, the  
25 inspectors at the time they make their certification pursuant

1 to subsection (b) (5) of this section shall specify the precise  
2 information considered by them including the person or persons  
3 from whom they obtained the information, when the information  
4 was obtained, the means by which the information was obtained  
5 and the basis for the inspectors' belief that the information  
6 is accurate and reliable.

7 "(e) Unless otherwise provided in the certificate of  
8 incorporation or bylaws, this section shall not apply to a  
9 corporation that does not have a class of voting stock that  
10 is:

11 "(1) Listed on a national securities exchange;

12 "(2) Authorized for quotation on an interdealer  
13 quotation system of a registered national securities  
14 association; or

15 "(3) Held of record by more than 2,000 stockholders.

16 "§10A-2A-7.40.

17 "In this division:

18 "(1) COURT means the designated court, and if none,  
19 the circuit court for the county in which the corporation's  
20 principal office is located in this state, and if none in this  
21 state, the circuit court for the county in which the  
22 corporation's most recent registered office is located.

23 "~~(1) "Derivative proceeding"~~ (2) DERIVATIVE ACTION  
24 means a civil suit in the right of a corporation or, to the

1 extent provided in Section 10A-2A-7.48, in the right of a  
2 foreign corporation.

3 "~~(2) "Stockholder"~~ (3) STOCKHOLDER means a record  
4 stockholder, a beneficial stockholder, and an unrestricted  
5 voting trust beneficial owner.

6 "§10A-2A-8.09.

7 "(a) The designated court, and if none, the circuit  
8 court ~~of~~ for the county ~~where~~ in which the corporation's  
9 principal office, ~~or~~ is located in this state, and if none in  
10 this state, ~~its~~ the circuit court for the county in which the  
11 corporation's most recent registered office, is located may  
12 remove a director from office or may order other relief,  
13 including barring the director from reelection for a period  
14 prescribed by the court, in a proceeding commenced by or in  
15 the right of the corporation if the court finds that (i) the  
16 director engaged in fraudulent conduct with respect to the  
17 corporation or its stockholders, grossly abused the position  
18 of director, or intentionally inflicted harm on the  
19 corporation; and (ii) considering the director's course of  
20 conduct and the inadequacy of other available remedies,  
21 removal or such other relief would be in the best interest of  
22 the corporation.

23 "(b) A stockholder proceeding on behalf of the  
24 corporation under subsection (a) shall comply with all of the

1 requirements of Division D of Article 7, except clause (2) of  
2 Section 10A-2A-7.42.

3 "§10A-2A-13.30.

4 "(a) If a stockholder makes demand for payment under  
5 Section 10A-2A-13.26 which remains unsettled, the corporation  
6 shall commence a proceeding within 60 days after receiving the  
7 payment demand and petition the court to determine the fair  
8 value of the stock and accrued interest. If the corporation  
9 does not commence the proceeding within the 60-day period, it  
10 shall pay in cash to each stockholder the amount the  
11 stockholder demanded pursuant to Section 10A-2A-13.26 plus  
12 interest.

13 "(b) The corporation shall commence the proceeding  
14 in the designated court, and if none, the circuit court of for  
15 the county where in which the corporation's principal office,  
16 or, is located in this state, and if none in this state, its  
17 in the circuit court for the county in which the corporation's  
18 most recent registered office, is located.

19 (c) The corporation shall make all stockholders  
20 (regardless of whether they are residents of this state) whose  
21 demands remain unsettled parties to the proceeding as in an  
22 action against their stock, and all parties shall be served  
23 with a copy of the petition. Nonresidents may be served by  
24 registered or certified mail or by publication as provided by  
25 law.



1           "(d) The jurisdiction of the court in which the  
2 proceeding is commenced under subsection (b) is plenary and  
3 exclusive. The court may appoint one or more persons as  
4 appraisers to receive evidence and recommend a decision on the  
5 question of fair value. The appraisers shall have the powers  
6 described in the order appointing them, or in any amendment to  
7 it. The stockholders demanding appraisal rights are entitled  
8 to the same discovery rights as parties in other civil  
9 proceedings. There shall be no right to a jury trial.

10           "(e) Each stockholder made a party to the proceeding  
11 is entitled to judgment (i) for the amount, if any, by which  
12 the court finds the fair value of the stockholder's stock  
13 exceeds the amount paid by the corporation to the stockholder  
14 for the stock, plus interest, or (ii) for the fair value, plus  
15 interest, of the stockholder's stock for which the corporation  
16 elected to withhold payment under Section 10A-2A-13.25.

17           "§10A-2A-14.01.

18           "A majority of the incorporators or initial  
19 directors of a corporation that has not issued stock or has  
20 not commenced business may dissolve the corporation by  
21 delivering to the Secretary of State for filing a certificate  
22 of dissolution that sets forth:

23           "(a) the name of the corporation;

24           "(b) the date of its incorporation;

1           "(c) either (i) that none of the corporation's stock  
2 has been issued, or (ii) that the corporation has not  
3 commenced business;

4           "(d) that no debt of the corporation remains unpaid;

5           "(e) that the net assets of the corporation  
6 remaining after winding up have been distributed to the  
7 stockholders, if stock was issued; ~~and~~

8           "(f) that a majority of the incorporators or initial  
9 directors authorized the dissolution; and

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

12           "§10A-2A-14.03.

13           "(a) At any time after dissolution is authorized,  
14 the corporation may dissolve by delivering to the Secretary of  
15 State for filing a certificate of dissolution setting forth:

16           "(1) the name of the corporation;

17           "(2) the date that dissolution was authorized; ~~and~~

18           "(3) if dissolution was approved by the  
19 stockholders, a statement that the proposal to dissolve was  
20 duly approved by the stockholders in the manner required by  
21 this chapter and by the certificate of incorporation; and

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

24           "(b) The certificate of dissolution shall take  
25 effect at the effective date determined in accordance with

1 Article 4 of Chapter 1. A corporation is dissolved upon the  
2 effective date of its certificate of dissolution.

3 "(c) For purposes of this Division A of this Article  
4 14, "dissolved corporation" means a corporation whose  
5 certificate of dissolution has become effective and includes a  
6 successor entity to which the remaining assets of the  
7 corporation are transferred subject to its liabilities for  
8 purposes of liquidation.

9 "§10A-2A-14.04.

10 "(a) A corporation may revoke its dissolution within  
11 120 days after its effective date and be reinstated.

12 "(b) Revocation of dissolution and reinstatement  
13 shall be authorized in the same manner as the dissolution was  
14 authorized unless that authorization permitted revocation and  
15 reinstatement by action of the board of directors alone, in  
16 which event the board of directors may revoke the dissolution  
17 and effect the reinstatement without stockholder action.

18 "(c) After the revocation of dissolution and  
19 reinstatement is authorized, the corporation may revoke the  
20 dissolution and effect the reinstatement by delivering to the  
21 Secretary of State for filing a certificate of revocation of  
22 dissolution and reinstatement, together with a copy of its  
23 certificate of dissolution, that sets forth:

24 "(1) the name of the corporation;

1                   "(2) the effective date of the dissolution that was  
2                   revoked;

3                   "(3) the date that the revocation of dissolution and  
4                   reinstatement was authorized;

5                   "(4) if the corporation's board of directors (or  
6                   incorporators) revoked the dissolution and effected the  
7                   reinstatement, a statement to that effect;

8                   "(5) if the corporation's board of directors revoked  
9                   a dissolution and effected the reinstatement as authorized by  
10                  the stockholders, a statement that revocation and  
11                  reinstatement was permitted by action by the board of  
12                  directors alone pursuant to that authorization; ~~and~~

13                  "(6) if stockholder action was required to revoke  
14                  the dissolution and effect the reinstatement, a statement that  
15                  the revocation and reinstatement was duly approved by the  
16                  stockholders in the manner required by this chapter and by the  
17                  certificate of incorporation; and

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

20                  "(d) The certificate of revocation of dissolution  
21                  and reinstatement shall take effect at the effective date  
22                  determined in accordance with Article 4 of Chapter 1.  
23                  Revocation of dissolution and reinstatement is effective upon  
24                  the effective date of the certificate of revocation of  
25                  dissolution and reinstatement.

1           "(e) (1) Subject to subsection (e) (2), upon  
 2           revocation and reinstatement, the corporation shall be deemed  
 3           for all purposes to have continued its business as if  
 4           dissolution had never occurred; and each right inuring to, and  
 5           each debt, obligation, and liability incurred by, the  
 6           corporation after the dissolution shall be determined as if  
 7           the dissolution had never occurred.

8           "(2) The rights of persons acting in reliance on the  
 9           dissolution before those persons had notice of the revocation  
 10          and reinstatement shall not be adversely affected by the  
 11          revocation and reinstatement.

12          "(f) If the corporation is listed in the Secretary  
 13          of State's records as a corporation that has been dissolved,  
 14          then the name of the corporation following revocation and  
 15          reinstatement shall be that corporation name at the time of  
 16          revocation and reinstatement if that corporation name complies  
 17          with Article 5 of Chapter 1 at the time of revocation and  
 18          reinstatement. If that corporation name does not comply with  
 19          Article 5 of Chapter 1, the name of the corporation following  
 20          revocation and reinstatement shall be that corporation name  
 21          followed by the word "reinstated."

22          "§10A-2A-14.07.

23          "(a) A dissolved corporation may publish notice of  
 24          its dissolution and request that persons with claims against

1 the dissolved corporation present them in accordance with the  
2 notice.

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

4 "(1) be published at least one time in a newspaper  
5 of general circulation in the county in which the dissolved  
6 corporation's principal office is located or, if it has none  
7 in this state, in the county in which the corporation's most  
8 recent registered office is ~~or was last~~ located;

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

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

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

23 "(1) a claimant who was not given notice under  
24 Section 10A-2A-14.06;

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

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

8           "(d) A claim that is not barred under this section,  
9 any other statute limiting actions, or Section 10A-2A-14.06  
10 may be enforced:

11           "(1) against a dissolved corporation, to the extent  
12 of its undistributed assets; and

13           "(2) except as provided in subsection (h), if the  
14 assets of a dissolved corporation have been distributed after  
15 dissolution, against each stockholder to the extent of the  
16 stockholder's proportionate share of the claim or of the  
17 assets distributed to that stockholder after dissolution,  
18 whichever is less, but a stockholder's total liability for all  
19 claims under subsection (d) may not exceed the total amount of  
20 assets distributed to that stockholder after dissolution of  
21 the corporation.

22           "(e) A dissolved corporation that published a notice  
23 under this section may file an application with the circuit  
24 court ~~in~~ for the county in which the dissolved corporation's  
25 principal ~~place of business~~ office is located in this state

1 and if the corporation does not have a principal ~~place of~~  
 2 ~~business office~~ within this state, in with the circuit court  
 3 for the county in which the dissolved corporation's most  
 4 recent registered office is located, for a determination of  
 5 the amount and form of security to be provided for payment of  
 6 claims that are contingent or have not been made known to the  
 7 dissolved corporation or that are based on an event occurring  
 8 after the effective date of the dissolution of the corporation  
 9 but that, based on the facts known to the dissolved  
 10 corporation, are reasonably estimated to arise after the  
 11 effective date of the dissolution of the corporation.

12 Provision need not be made for any claim that is or is  
 13 reasonably anticipated to be barred under subsection (c).

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

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

24 "(h) Provision by the dissolved corporation for  
 25 security in the amount and the form ordered by the circuit



1 court under subsection (e) shall satisfy the dissolved  
 2 corporation's obligation with respect to claims that are  
 3 contingent, have not been made known to the dissolved  
 4 corporation, or are based on an event occurring after the  
 5 effective date of the dissolution of the corporation, and  
 6 those claims may not be enforced against a stockholder to whom  
 7 assets have been distributed by the dissolved corporation  
 8 after the effective date of the dissolution of the  
 9 corporation.

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

12 "(j) If a claim has been satisfied, disposed of, or  
 13 barred under Section 10A-2A-14.06, this section, or other law,  
 14 the person or persons designated to wind up the affairs of a  
 15 corporation, and the stockholders receiving assets from the  
 16 dissolved corporation, shall not be liable for that claim.

17 "§10A-2A-14.10.

18 "(a) The circuit court ~~of~~ for the county ~~where~~ in  
 19 which the corporation's principal office, ~~or~~ is located in  
 20 this state, and if none in this state, ~~its~~ the circuit court  
 21 for the county in which the corporation's most recent  
 22 registered office, is located may dissolve a corporation:

23 "(1) in a proceeding by the Attorney General if it  
 24 is established that:

1           "(i) the corporation obtained its certificate of  
2 incorporation through fraud; or

3           "(ii) the corporation has continued to exceed or  
4 abuse the authority conferred upon it by law;

5           "(2) in a proceeding by a stockholder if it is  
6 established that:

7           "(i) the directors are deadlocked in the management  
8 of the corporate affairs, the stockholders are unable to break  
9 the deadlock, and irreparable injury to the corporation is  
10 threatened or being suffered, or the business and affairs of  
11 the corporation can no longer be conducted to the advantage of  
12 the stockholders generally, because of the deadlock;

13           "(ii) the directors or those in control of the  
14 corporation have acted, are acting, or will act in a manner  
15 that is illegal, oppressive, or fraudulent;

16           "(iii) the stockholders are deadlocked in voting  
17 power and have failed, for a period that includes at least two  
18 consecutive annual meeting dates, to elect successors to  
19 directors whose terms have expired; or

20           "(iv) the corporate assets are being misapplied or  
21 wasted;

22           "(3) in a proceeding by a creditor if it is  
23 established that:

1           "(i) the creditor's claim has been reduced to  
2 judgment, the execution on the judgment returned unsatisfied,  
3 and the corporation is insolvent; or

4           "(ii) the corporation has admitted in writing that  
5 the creditor's claim is due and owing and the corporation is  
6 insolvent;

7           "(4) in a proceeding by the corporation to have its  
8 voluntary dissolution continued under court supervision; or

9           "(5) in a proceeding by a stockholder if the  
10 corporation has abandoned its business and has failed within a  
11 reasonable time to liquidate and distribute its assets and  
12 dissolve.

13           "(b) Subsection (a) (2) shall not apply in the case  
14 of a corporation that, on the date of the filing of the  
15 proceeding, has a class or series of stock which is:

16           "(1) a covered security under Section 18(b) (1) (A) or  
17 (B) of the Securities Act of 1933; or

18           "(2) not a covered security, but is held by at least  
19 2,000 stockholders.

20           "(c) In subsection (a), "stockholder" means a record  
21 stockholder, a beneficial stockholder, and an unrestricted  
22 voting trust beneficial owner, and in subsection (b),  
23 "stockholder" means a record stockholder, a beneficial  
24 stockholder, and a voting trust beneficial owner.

25           "§10A-2A-14.11.

1           "(a) Venue for a proceeding by the attorney general  
2 to dissolve a corporation lies in circuit court ~~of~~ for the  
3 county ~~where~~ in which the corporation's principal office, ~~or~~  
4 is located in this state, and if none in this state, ~~its~~ in  
5 the circuit court for the county in which the corporation's  
6 most recent registered office, is located. Venue for a  
7 proceeding brought by any other party named in Section  
8 10A-2A-14.10(a) lies in circuit court ~~of~~ for the county ~~where~~  
9 in which the corporation's principal office, ~~or~~ is located in  
10 this state, and if none in this state, ~~its~~ in the circuit  
11 court for the county in which the corporation's most recent  
12 registered office, is located.

13           "(b) It is not necessary to make stockholders  
14 parties to a proceeding to dissolve a corporation unless  
15 relief is sought against them individually.

16           "(c) A court in a proceeding brought to dissolve a  
17 corporation may issue injunctions, appoint a receiver or  
18 custodian during the proceeding with all powers and duties the  
19 court directs, take other action required to preserve the  
20 corporate assets wherever located, and carry on the business  
21 of the corporation until a full hearing can be held.

22           "(d) Within 10 days of the commencement of a  
23 proceeding to dissolve a corporation under Section  
24 10A-2A-14.10(a)(2), the corporation shall deliver to all  
25 stockholders, other than the petitioner, a notice stating that

1 the stockholders are entitled to avoid the dissolution of the  
 2 corporation by electing to purchase the petitioner's stock  
 3 under Section 10A-2A-14.14 and accompanied by a copy of  
 4 Section 10A-2A-14.14.

5 "§10A-2A-16.04.

6 "(a) If a corporation does not allow a stockholder  
 7 who complies with Section 10A-2A-16.02(a) to inspect and copy  
 8 any records required by that section to be available for  
 9 inspection, the designated court, and if none, the circuit  
 10 court of for the county where in which the corporation's  
 11 principal office, or, is located in this state, and if none in  
 12 this state, its the circuit court for the county in which the  
 13 corporation's most recent registered office, is located may  
 14 summarily order inspection and copying of the records demanded  
 15 at the corporation's expense upon application of the  
 16 stockholder.

17 "(b) If a corporation does not within a reasonable  
 18 time allow a stockholder who complies with Section  
 19 10A-2A-16.02(b) to inspect and copy the records required by  
 20 that section, the stockholder who complies with Section  
 21 10A-2A-16.02(c) may apply to the designated court, and if  
 22 none, the circuit court of for the county where in which the  
 23 corporation's principal office, or, is located in this state,  
 24 and if none in this state, its the circuit court for the  
 25 county in which the corporation's most recent registered

1 office, is located for an order to permit inspection and  
2 copying of the records demanded. The court shall dispose of an  
3 application under this subsection on an expedited basis.

4 "(c) If the court orders inspection and copying of  
5 the records demanded under Section 10A-2A-16.02(b), it may  
6 impose reasonable restrictions on their confidentiality, use,  
7 or distribution by the demanding stockholder and it shall also  
8 order the corporation to pay the stockholder's expenses  
9 incurred to obtain the order unless the corporation  
10 establishes that it refused inspection in good faith because  
11 the corporation had:

12 "(1) a reasonable basis for doubt about the right of  
13 the stockholder to inspect the records demanded; or

14 "(2) required reasonable restrictions on the  
15 confidentiality, use, or distribution of the records demanded  
16 to which the demanding stockholder had been unwilling to  
17 agree.

18 "§10A-2A-16.05.

19 "(a) A director of a corporation is entitled to  
20 inspect and copy the books, records, and documents of the  
21 corporation at any reasonable time to the extent reasonably  
22 related to the performance of the director's duties as a  
23 director, including duties as a member of a board committee,  
24 but not for any other purpose or in any manner that would  
25 violate any duty to the corporation.

1           "(b) The designated court, and if none, the circuit  
2 court ~~of~~ for the county ~~where~~ in which the corporation's  
3 principal office, ~~or,~~ is located in this state, and if none in  
4 this state, ~~its~~ the circuit court for the county in which the  
5 corporation's most recent registered office, ~~is located~~ may  
6 order inspection and copying of the books, records and  
7 documents at the corporation's expense, upon application of a  
8 director who has been refused inspection rights, unless the  
9 corporation establishes that the director is not entitled to  
10 inspection rights. The court shall dispose of an application  
11 under this subsection on an expedited basis.

12           "(c) If an order is issued, the court may include  
13 provisions protecting the corporation from undue burden or  
14 expense, and prohibiting the director from using information  
15 obtained upon exercise of the inspection rights in a manner  
16 that would violate a duty to the corporation, and may also  
17 order the corporation to reimburse the director for the  
18 director's expenses incurred in connection with the  
19 application.

20           "§10A-2A-16.10.

21           "(a) Upon the written request of a stockholder, a  
22 corporation shall deliver or make available to the requesting  
23 stockholder by posting on its website or by other generally  
24 recognized means annual financial statements for the most  
25 recent fiscal year of the corporation for which annual

1 financial statements have been prepared for the corporation.  
2 If financial statements have been prepared for the corporation  
3 on the basis of generally accepted accounting principles for  
4 that specified period, the corporation shall deliver or make  
5 available those financial statements to the requesting  
6 stockholder. If the annual financial statements to be  
7 delivered or made available to the requesting stockholder are  
8 audited or otherwise reported upon by a public accountant, the  
9 report shall also be delivered or made available to the  
10 requesting stockholder.

11 "(b) A corporation shall deliver, or make available  
12 and provide written notice of availability of, the financial  
13 statements required under subsection (a) to the requesting  
14 stockholder within five business days of delivery of the  
15 written request to the corporation.

16 "(c) A corporation may fulfill its responsibilities  
17 under this section by delivering the specified financial  
18 statements, or otherwise making them available, in any manner  
19 permitted by the applicable rules and regulations of the  
20 United States Securities and Exchange Commission.

21 "(d) Notwithstanding the provisions of subsections  
22 (a), (b), and (c) of this section:

23 "(1) as a condition to delivering or making  
24 available financial statements to a requesting stockholder,  
25 the corporation may require the requesting stockholder to



1 agree to reasonable restrictions on the confidentiality, use,  
2 and distribution of the financial statements; and

3 "(2) the corporation may, if it reasonably  
4 determines that the stockholder's request is not made in good  
5 faith or for a proper purpose, decline to deliver or make  
6 available the financial statements to that stockholder.

7 "(e) If a corporation does not respond to a  
8 stockholder's request for annual financial statements pursuant  
9 to this section in accordance with subsection (b) within five  
10 business days of delivery of the request to the corporation:

11 "(1) The requesting stockholder may apply to the  
12 designated court, and if none, the circuit court of for the  
13 county where in which the corporation's principal office, ~~or,~~  
14 is located in this state, and if none in this state, its the  
15 circuit court for the county in which the corporation's most  
16 recent registered office, is located for an order requiring  
17 delivery of or access to the requested financial statements.  
18 The court shall dispose of an application under this  
19 subsection on an expedited basis.

20 "(2) If the court orders delivery or access to the  
21 requested financial statements, it may impose reasonable  
22 restrictions on their confidentiality, use, or distribution.

23 "(3) In the proceeding, if the corporation has  
24 declined to deliver or make available the financial statements  
25 because the stockholder had been unwilling to agree to

1 restrictions proposed by the corporation on the  
2 confidentiality, use, and distribution of the financial  
3 statements, the corporation shall have the burden of  
4 demonstrating that the restrictions proposed by the  
5 corporation were reasonable.

6 "(4) In the proceeding, if the corporation has  
7 declined to deliver or make available the financial statements  
8 pursuant to Section 10A-2A-16.10(d)(2), the corporation shall  
9 have the burden of demonstrating that it had reasonably  
10 determined that the stockholder's request was not made in good  
11 faith or for a proper purpose.

12 "(5) If the court orders delivery or access to the  
13 requested financial statements it shall order the corporation  
14 to pay the stockholder's expenses incurred to obtain the order  
15 unless the corporation establishes that it had refused  
16 delivery or access to the requested financial statements  
17 because the stockholder had refused to agree to reasonable  
18 restrictions on the confidentiality, use or distribution of  
19 the financial statements or that the corporation had  
20 reasonably determined that the stockholder's request was not  
21 made in good faith or for a proper purpose.

22 Section 8. Sections 10A-2A-17.01, 10A-2A-17.02,  
23 10A-2A-17.03, 10A-2A-17.04, 10A-2A-17.05, and 10A-2A-17.06,  
24 are added to the Code of Alabama 1975, to read as follows:

1                   §10-2A-17.01. Application of Article 17;

2           Definitions.

3                   (a) A corporation electing to become a benefit  
4           corporation under this article in the manner prescribed in  
5           this article is subject in all respects to the provisions of  
6           this chapter, except to the extent this article imposes  
7           additional or different requirements, in which case those  
8           requirements apply. The inclusion of a provision in this  
9           article does not imply that a contrary or different rule of  
10          law applies to a corporation that is not a benefit  
11          corporation. This article does not affect a statute or rule of  
12          law that applies to a corporation that is not a benefit  
13          corporation.

14                   (b) As used in this article:

15                   (1) BENEFIT CORPORATION means a corporation that  
16           includes in its certificate of incorporation a statement that  
17           the corporation is subject to this article.

18                   (2) PUBLIC BENEFIT means a positive effect, or  
19           reduction of negative effects, on one or more communities or  
20           categories of persons (other than stockholders solely in their  
21           capacity as stockholders) or on the environment, including  
22           effects of an artistic, charitable, economic, educational,  
23           cultural, literary, medical, religious, social, ecological, or  
24           scientific nature.

1           (3) PUBLIC BENEFIT PROVISION means a provision in  
2 the certificate of incorporation which states that the  
3 corporation shall pursue one or more identified public  
4 benefits.

5           (4) RESPONSIBLE AND SUSTAINABLE MANNER means a  
6 manner that:

7           (i) pursues through the business of the corporation  
8 the creation of a positive effect on society and the  
9 environment, taken as a whole, that is material taking into  
10 consideration the corporation's size and the nature of its  
11 business; and

12           (ii) considers, in addition to the interests of  
13 stockholders generally, the separate interests of stakeholders  
14 known to be affected by the conduct of the business of the  
15 corporation.

16           §10A-2A-17.02. Name; stock certificates.

17           (a) The name of a benefit corporation must comply  
18 with Section 10A-1-5.04(e).

19           (b) Any stock certificate issued by a benefit  
20 corporation, and any information statement delivered by a  
21 benefit corporation pursuant to Section 10A-2A-6.26(b), must  
22 note conspicuously that the corporation is a benefit  
23 corporation subject to this chapter.

24           §10A-2A-17.03. Certain amendments and transactions;  
25 votes required.

1           (a) Unless the certificate of incorporation requires  
 2 a greater vote, in addition to any other approval of  
 3 stockholders required under this chapter, the approval of at  
 4 least two-thirds of the votes entitled to be cast thereon,  
 5 and, if any class or series of stock is entitled to vote as a  
 6 separate group thereon, the approval of at least two-thirds of  
 7 the votes entitled to be cast by that voting group, shall be  
 8 required for a corporation that is not a benefit corporation  
 9 to:

10           (1) amend its certificate of incorporation to  
 11 include a statement that it is subject to this article; or

12           (2) (i) merge with or into another entity, or effect  
 13 a conversion, if, as a result of the merger or conversion, the  
 14 stock of any voting group would become, or be converted into  
 15 or exchanged for the right to receive, stock of a benefit  
 16 corporation or stock or interests in an entity subject to  
 17 provisions of organic law analogous to those in this article;  
 18 provided, however, that in the case of this subsection

19           (a) (2) (i), if the stock of one or more, but not all, voting  
 20 groups are so affected, then only the stock in the voting  
 21 groups so affected shall be entitled to cast votes under this  
 22 subsection (a).

23           (ii) enter into a stock exchange with another  
 24 corporation or foreign corporation, if, as a result of the  
 25 stock exchange, the stock of any voting group would become, or

1 be converted into or exchanged for the right to receive, stock  
 2 of a benefit corporation or a foreign benefit corporation  
 3 subject to provisions of organic law analogous to those in  
 4 this article; provided, however, that in the case of this  
 5 subsection (a)(2)(ii), if the stock of one or more, but not  
 6 all, voting groups are so affected, then only the stock in the  
 7 voting groups so affected shall be entitled to cast votes  
 8 under this subsection (a).

9 (b) Unless the certificate of incorporation requires  
 10 a greater vote, in addition to any other approval of  
 11 stockholders required under this chapter, the approval of at  
 12 least two-thirds of the votes entitled to be cast thereon,  
 13 and, if any class or series of stock entitled to vote as a  
 14 separate group thereon, the approval of at least two-thirds of  
 15 the votes entitled to be cast by that voting group, shall be  
 16 required for a benefit corporation to:

17 (1) amend its certificate of incorporation to  
 18 eliminate a statement that the corporation is subject to this  
 19 article; or

20 (2) (i) merge with or into, another entity, or effect  
 21 a conversion if, as a result of the merger or conversion, the  
 22 stock of any voting group would become, or be converted into  
 23 or exchanged for the right to receive, stock or interests in  
 24 an entity that is neither a benefit corporation nor an entity  
 25 subject to provisions of organic law analogous to those in

1 this article; provided, however, that in the case of this  
2 subsection (b)(2)(i), if the stock of one or more, but not  
3 all, voting groups are so affected, then only the stock in the  
4 voting groups so affected shall be entitled to cast votes  
5 under this subsection (b).

6 (ii) enter into a stock exchange with another  
7 corporation or foreign corporation if, as a result of the  
8 stock exchange, the stock of any voting group would become, or  
9 be converted into or exchanged for the right to receive, stock  
10 or interests in a corporation or foreign corporation that is  
11 neither a benefit corporation nor a foreign benefit  
12 corporation subject to provisions of organic law analogous to  
13 those in this article; provided, however, that in the case of  
14 this subsection (b)(2)(ii), if the stock of one or more, but  
15 not all, voting groups are so affected, then only the stock in  
16 the voting groups so affected shall be entitled to cast votes  
17 under this subsection (b).

18 §10A-2A-17.04. Duties of directors.

19 (a) Each member of the board of directors of a  
20 benefit corporation, when discharging the duties of a  
21 director, shall act: (i) in a responsible and sustainable  
22 manner, and (ii) in a manner that pursues the public benefit  
23 or benefits identified in any public benefit provision.

24 (b) In fulfilling the duties under subsection (a), a  
25 director shall consider, to the extent affected, in addition

1 to the interests of stockholders generally, the separate  
2 interests of stakeholders known to be affected by the business  
3 of the corporation including:

4 (1) the employees and work forces of the  
5 corporation, its subsidiaries, and its suppliers;

6 (2) customers;

7 (3) communities or society, including those of each  
8 community in which offices or facilities of the corporation,  
9 its subsidiaries, or its suppliers are located; and

10 (4) the local and global environment.

11 (c) A director of a benefit corporation shall not,  
12 by virtue of the duties imposed by subsections (a) and (b),  
13 owe any duty to a person other than the benefit corporation  
14 due to any interest of the person in the status of the  
15 corporation as a benefit corporation or in any public benefit  
16 provision.

17 (d) Unless otherwise provided in the certificate of  
18 incorporation, the violation by a director of the duties  
19 imposed by subsections (a) and (b) shall not constitute an  
20 intentional infliction of harm on the corporation or the  
21 stockholders for purposes of Sections 10A-2A-2.02(b)(4) and  
22 (5).

23 §10A-2A-17.05. Annual benefit report.

24 (a) No less than annually, a benefit corporation  
25 shall prepare a benefit report addressing the efforts of the



1 corporation during the preceding year to operate in a  
2 responsible and sustainable manner, to pursue any public  
3 benefit or benefits identified in any public benefit  
4 provision, and to consider the interests described in Section  
5 10A-2A-17.04(b). The annual benefit report must include:

6 (1) the objectives that the board of directors has  
7 established for the corporation to operate in a responsible  
8 and sustainable manner, to pursue the public benefit or  
9 benefits identified in any public benefit provision, and to  
10 consider the interests described in Section 10A-2A-17.04(b);

11 (2) the standards the board of directors has adopted  
12 to measure the corporation's progress in operating in a  
13 responsible and sustainable manner, in pursuing the public  
14 benefit or benefits identified in any public benefit  
15 provision, and in considering the interests described in  
16 Section 10A-2A-17.04(b);

17 (3) if the certificate of incorporation or bylaws  
18 require that the corporation use an independent third-party  
19 standard in reporting on the corporation's progress in  
20 operating in a responsible and sustainable manner, in pursuing  
21 the public benefit or benefits identified in any public  
22 benefit provision, or in considering the interests described  
23 in Section 10A-2A-17.04(b), or if the board of directors has  
24 chosen to use such a standard, the applicable standard so  
25 required or chosen; and

1           (4) an assessment of the corporation's success in  
2 meeting the objectives and standards identified in subsections  
3 (a)(1) and (a)(2) and, if applicable, subsection (a)(3), and  
4 the basis for that assessment.

5           (b) The benefit corporation shall deliver to each  
6 stockholder, or make available and provide written notice to  
7 each stockholder of the availability of, the annual benefit  
8 report required by subsection (a) on or before the earlier of:

9           (1) 120 days following the end of the fiscal year of  
10 the benefit corporation; or

11           (2) the time that the benefit corporation delivers  
12 any other annual reports or annual financial statements to its  
13 stockholders.

14           (c) Any stockholder that has not received or been  
15 given access to an annual benefit report within the time  
16 required by subsection (b) may make a written request that the  
17 corporation deliver or make available the annual benefit  
18 report to the stockholder. If a benefit corporation does not  
19 deliver or make available an annual benefit report to the  
20 stockholder within five business days of receiving such  
21 request, the requesting stockholder may apply to the  
22 designated court, and if none, to the circuit court of the  
23 county where the corporation's principal office is located in  
24 this state, and if none in this state, the circuit court for  
25 the county in which the corporation's most recent registered

1 office is located for an order requiring delivery of or access  
2 to the annual benefit report. The court shall dispose of an  
3 action under this subsection (c) on an expedited basis.

4 (d) A benefit corporation shall post all of its  
5 annual benefit reports on the public portion of its website,  
6 if any. If a benefit corporation does not have a website, the  
7 benefit corporation shall provide a copy of its most recent  
8 annual benefit report, without charge, to any person that  
9 requests a copy in writing.

10 §10A-2A-17.06. Rights of action.

11 (a) Except in a proceeding authorized under Section  
12 10A-2A-17.05(c) or this section, no person other than the  
13 corporation, or a stockholder in the right of the corporation  
14 pursuant to subsection (b), may bring an action or assert a  
15 claim with respect to the violation of any duty applicable to  
16 a benefit corporation or any of its directors under this  
17 article.

18 (b) Except for a proceeding brought under Section  
19 10A-2A-17.05(c), a proceeding by a stockholder of a benefit  
20 corporation claiming violation of any duty applicable to a  
21 benefit corporation or any of its directors under this  
22 article:

23 (1) must be brought in a derivative proceeding  
24 pursuant to Division D of Article 7 of this chapter; and

1           (2) may be brought only by a stockholder of the  
 2 benefit corporation that at the time of the act or omission  
 3 complained of either individually, or together with other  
 4 stockholders bringing such action collectively, owned directly  
 5 or indirectly at least five percent of a class of the  
 6 corporation's outstanding stock or, in the case of a  
 7 corporation with stock traded on an organized market as  
 8 described in Section 10A-2A-13.02(b)(1)(i), either that  
 9 percentage of shares of stock or shares of stock with a market  
 10 value of at least \$5 million at the time the proceeding is  
 11 commenced.

12           (c) A suit under subsection (b) may not be  
 13 maintained if, during the pendency of the suit, the  
 14 stockholder individually fails, or the stockholders  
 15 collectively fail, to continue to own directly or indirectly  
 16 the lesser of (i) the number of shares of stock at the time  
 17 the proceeding is commenced, (ii) a number of shares of stock  
 18 representing five percent of a class of the corporation's  
 19 stock, or (iii) a number of shares of stock with a market  
 20 value of at least \$5 million.

21           Section 9. Sections 10A-2A-17.01, 10A-2A-17.02,  
 22 10A-2A-17.03, 10A-2A-17.04, 10A-2A-17.05, and 10A-2A-17.06, as  
 23 added to the Code of Alabama 1975 by Act 2019-94, 2019 Regular  
 24 Session, are amended and renumbered to read as follows:

25           "~~§10A-2A-17.01~~ §10A-2A-18.01.

1                   "(a) Before January 1, 2021, this chapter governs  
2 only:

3                   "(1) a corporation incorporated on or after January  
4 1, 2020; and

5                   "(2) a corporation incorporated before January 1,  
6 2020, which elects, by amending or restating that  
7 corporation's certificate of incorporation, to be governed by  
8 this chapter.

9                   "(b) On and after January 1, 2021, this chapter  
10 governs all existing corporations incorporated under:

11                   "(1) any general or special law of this state  
12 providing for the incorporation of corporations for a purpose  
13 or purposes for which a corporation might be incorporated  
14 under this chapter, where the power has been reserved to  
15 amend, repeal, or modify the law under which the corporation  
16 was incorporated; and

17                   "(2) any predecessor statute hereto.

18                   "(c) For purposes of applying this chapter to a  
19 corporation incorporated before January 1, 2020:

20                   "(1) the corporation's incorporation document,  
21 whether a certificate of incorporation, certificate of  
22 formation, charter, or articles of incorporation is deemed to  
23 be the corporation's certificate of incorporation;

24                   "(2) the corporation's bylaws are deemed to be the  
25 corporation's bylaws;

1           "(3) any amendment or restatement of a corporation's  
2 certificate of incorporation or bylaws on or after January 1,  
3 2020, shall conform with this chapter; and

4           "(4) all filing instruments to be delivered for  
5 filing by or on behalf of a corporation on or after January 1,  
6 2020, shall conform with this chapter and shall be delivered  
7 for filing to the filing officer in accordance with Article 4,  
8 commencing with Section 10A-1-4.01, of Chapter 1.

9           "(d) No corporation may be incorporated after  
10 December 31, 2019, pursuant to Sections 10A-2-1.01 to  
11 10A-2-17.02, inclusive, of the Code of Alabama 1975.

12           ~~"§10A-2A-17.02~~ §10A-2A-18.02.

13           "A foreign corporation registered or authorized to  
14 transact business in this state on January 1, 2020, is subject  
15 to this chapter and is deemed to be registered to transact  
16 business in this state, and is not required to renew its  
17 registration to transact business under Article 7, commencing  
18 with Section 10A-1-7.01, of Chapter 1, except as Article 7,  
19 commencing with Section 10A-1-7.01, of Chapter 1 requires.

20           ~~"§10A-2A-17.03~~ §10A-2A-18.03.

21           "(a) Except as provided in subsection (b), the  
22 repeal of a statute by this chapter does not affect:

23           "(1) the operation of the statute or any action  
24 taken under it before its repeal;

1           "(2) any ratification, right, remedy, privilege,  
2           obligation, or liability acquired, accrued, or incurred under  
3           the statute before its repeal;

4           "(3) any violation of the statute, or any penalty,  
5           forfeiture, or punishment incurred because of the violation,  
6           before its repeal; or

7           "(4) any proceeding, reorganization, or dissolution  
8           commenced under the statute before its repeal, and the  
9           proceeding, reorganization, or dissolution may be completed in  
10          accordance with the statute as if it had not been repealed.

11          "(b) If a penalty or punishment imposed for  
12          violation of a statute repealed by this chapter is reduced by  
13          this chapter, the penalty or punishment if not already imposed  
14          shall be imposed in accordance with this chapter.

15          "~~§10A-2A-17.03~~ §10A-2A-18.03.

16          "(a) Except as provided in subsection (b), the  
17          repeal of a statute by this chapter does not affect:

18                 "(1) the operation of the statute or any action  
19                 taken under it before its repeal;

20                 "(2) any ratification, right, remedy, privilege,  
21                 obligation, or liability acquired, accrued, or incurred under  
22                 the statute before its repeal;

23                 "(3) any violation of the statute, or any penalty,  
24                 forfeiture, or punishment incurred because of the violation,  
25                 before its repeal; or

1           "(4) any proceeding, reorganization, or dissolution  
2 commenced under the statute before its repeal, and the  
3 proceeding, reorganization, or dissolution may be completed in  
4 accordance with the statute as if it had not been repealed.

5           "(b) If a penalty or punishment imposed for  
6 violation of a statute repealed by this chapter is reduced by  
7 this chapter, the penalty or punishment if not already imposed  
8 shall be imposed in accordance with this chapter.

9           "~~§10A-2A-17.04~~ §10A-2A-18.04.

10           "If any provision of this chapter or its application  
11 to any person or circumstance is held invalid by a court of  
12 competent jurisdiction, the invalidity does not affect other  
13 provisions or applications of this chapter that can be given  
14 effect without the invalid provision or application, and to  
15 this end the provisions of this chapter are severable.

16           "~~§10A-2A-17.05~~ §10A-2A-18.05.

17           "This chapter modifies, limits, and supersedes the  
18 federal Electronic Signatures in Global and National Commerce  
19 Act, 15 U.S.C. Section 7001 et seq., but does not modify,  
20 limit, or supersede Section 101(c) of that act, 15 U.S.C.  
21 Section 7001(c), or authorize electronic delivery of any of  
22 the notices described in Section 103(b) of that act, 15 U.S.C.  
23 Section 7003(b).

24           "~~§10A-2A-17.06~~ §10A-2A-18.06.



1            "A corporation formed and existing under this  
 2 chapter may conduct its business and affairs, carry on its  
 3 operations, and have and exercise the powers granted by this  
 4 chapter in any state, foreign country, or other jurisdiction."

5            Section 10. Sections 10A-3-2.14, 10A-3-3.01,  
 6 10A-3-3.03, 10A-3-4.02, 10A-3-4.04, 10A-3-5.04, 10A-3-7.01,  
 7 10A-3-7.04, 10A-3-7.05, 10A-3-7.06, 10A-3-7.07, 10A-3-7.08,  
 8 10A-3-7.09, 10A-3-7.10, 10A-3-7.16, 10A-3-7.18, and  
 9 10A-4-3.02, as added to the Code of Alabama 1975, by Act  
 10 2019-94, 2019 Regular Session, Section 10A-4-4.01, as amended  
 11 by Act 2019-94, 2019 Regular Session, Sections 10A-4-5.08,  
 12 10A-5A-2.01, 10A-5A-2.02, 10A-5A-2.04, 10A-5A-2.05,  
 13 10A-5A-2.06, 10A-5A-4.01, 10A-5A-7.01, 10A-5A-7.02,  
 14 10A-5A-7.03, 10A-5A-7.05, 10A-5A-7.08, 10A-5A-8.02,  
 15 10A-5A-11.09, 10A-5A-11.11, 10A-5A-11.13, 10A-8A-8.02,  
 16 10A-8A-8.07, 10A-8A-8.11, 10A-8A-10.03, 10A-9A-2.01,  
 17 10A-9A-2.02, 10A-9A-2.03, 10A-9A-2.04, 10A-9A-2.06,  
 18 10A-9A-8.01, 10A-9A-8.02, 10A-9A-8.03, 10A-9A-8.07,  
 19 10A-9A-8.11, 10A-10-1.07, and 10A-10-1.14, 10A-10-1.15, as  
 20 amended by Act 2019-94, 2019 Regular Session, and Sections  
 21 10A-16-1.05, 10A-17-1.06, 10A-17-1.11, 10A-20-1.08,  
 22 10A-20-2.01, 10A-20-6.02, 10A-20-6.06, 10A-20-7.02,  
 23 10A-20-9.01, 10A-20-10.01, 10A-20-11.01, 10A-20-12.01,  
 24 10A-20-16.01, and 10A-20-16.02 of the Code of Alabama 1975,  
 25 are amended to read as follows:

1           "§10A-3-2.14.

2           "Any action required by this title or this chapter  
3 to be taken at a meeting of the members or directors of a  
4 nonprofit corporation or any action which may be taken at a  
5 meeting of the members or directors or of a committee of  
6 directors may be taken without a meeting if a consent in  
7 writing, setting forth the action so taken, is signed by all  
8 of the members entitled to vote with respect to the subject  
9 matter thereof, all of the directors or all of the members of  
10 the committee of directors, as the case may be. The consent  
11 shall have the same force and effect as a unanimous vote and  
12 may be stated as such in any filing instrument filed with  
13 ~~either the judge of probate or~~ Secretary of State.

14           "§10A-3-3.01.

15           "One or more persons, partnerships, domestic  
16 corporations or foreign corporations, whether profit or  
17 nonprofit, may act as incorporator or incorporators of a  
18 nonprofit corporation by signing the certificate of formation  
19 and delivering the same to the ~~judge of probate of the county~~  
20 ~~in which the nonprofit corporation is to have its initial~~  
21 ~~registered office~~ Secretary of State for filing.

22           "§10A-3-3.03.

23           "Upon the effectiveness under Sections 10A-1-4.11  
24 and 10A-1-4.12 of the filing of the certificate of formation  
25 with the ~~judge of probate~~ Secretary of State, the corporate

1 existence shall begin. The ~~judge of probate's~~ Secretary of  
 2 State filing of the certificate of formation shall be  
 3 conclusive evidence that the corporation has been incorporated  
 4 under this chapter, except as against the State of Alabama in  
 5 a proceeding to cancel or revoke the incorporation or for  
 6 involuntary dissolution of the corporation.

7 "§10A-3-4.02.

8 "The certificate of amendment of a nonprofit  
 9 corporation shall be executed for the nonprofit corporation by  
 10 its president or a vice president, and by its secretary or an  
 11 assistant secretary, and verified by one of the officers  
 12 signing the articles<sup>7</sup>. The certificate of amendment shall be  
 13 delivered to the Secretary of State for filing. The  
 14 certificate of amendment shall set forth the information  
 15 required by Section 10A-1-3.13 for certificates of amendment,  
 16 and in addition shall set forth:

17 "(1) If there are members entitled to vote thereon,  
 18 (i) a statement setting forth the date of the meeting of  
 19 members at which the amendment was adopted, that a quorum was  
 20 present at the meeting, and that the amendment received at  
 21 least two-thirds of the votes entitled to be cast by members  
 22 present or represented by proxy at the meeting, or (ii) a  
 23 statement that the amendment was adopted by a consent in  
 24 writing signed by all members entitled to vote with respect  
 25 thereto.

1           "(2) If there are no members, or no members entitled  
2 to vote thereon, a statement of the fact, the date of the  
3 meeting of the board of directors at which the amendment was  
4 adopted, and a statement of the fact that the amendment  
5 received the vote of a majority of the directors in office.

6           "§10A-3-4.04.

7           "(a) A domestic nonprofit corporation may at any  
8 time restate its certificate of formation as theretofore  
9 amended, in the following manner:

10           "(1) If there are members entitled to vote thereon,  
11 the board of directors shall adopt a resolution setting forth  
12 the proposed restated certificate of formation and directing  
13 that they be submitted to a vote at a meeting of members  
14 entitled to vote thereon, which may be either an annual or a  
15 special meeting.

16           "(2) Written notice setting forth the proposed  
17 restated articles or a summary of the provisions thereof shall  
18 be given to each member entitled to vote thereon, within the  
19 time and in the manner provided in this chapter for the giving  
20 of notice of meetings of members. If the meeting is an annual  
21 meeting, the proposed restated articles or a summary of the  
22 provisions thereof may be included in the notice of the annual  
23 meeting.

24           "(3) At the meeting a vote of the members entitled  
25 to vote thereon shall be taken on the proposed restated

1 articles, which shall be adopted upon receiving the  
2 affirmative vote of a majority of the votes entitled to be  
3 cast by members present or represented by proxy at the  
4 meeting.

5 "(4) If there are no members, or no members entitled  
6 to vote thereon, or if the only amendments to the original  
7 certificate of formation or to the most recent restated  
8 certificate of formation are amendments that do not require  
9 member action under Section 10A-1-3.12(a), the proposed  
10 restated articles shall be adopted at a meeting of the board  
11 of directors upon receiving the affirmative vote of a majority  
12 of the directors in office.

13 "(b) Upon the approval, a restated certificate of  
14 formation shall be executed for the nonprofit corporation, by  
15 its president or vice president, and by its secretary or  
16 assistant secretary, and verified by one of the officers  
17 signing the articles, and shall set forth:

18 "(1) The information required by Section 10A-1-3.05,  
19 as supplemented by Section 10A-3-3.02.

20 "(2) A statement that the restated certificate of  
21 formation shall state that they correctly set forth the  
22 provisions of the certificate of formation as theretofore  
23 amended, that they have been duly adopted as required by law  
24 and that they supersede the original certificate of formation  
25 and all amendments thereto.

1           "(c) The restated certificate of formation shall be  
2 delivered to the ~~judge of probate~~ Secretary of State for  
3 filing ~~pursuant to Section 10A-1-4.02.~~

4           "(d) Upon the filing of the restated certificate of  
5 formation, the restated certificate of formation shall become  
6 effective and shall supersede the original certificate of  
7 formation and all amendments thereto.

8           "~~§~~10A-3-5.04.

9           "(a) Upon the approval, articles of merger or  
10 articles of consolidation shall be executed for each nonprofit  
11 corporation by its president or a vice president, and by its  
12 secretary or an assistant secretary, and verified by one of  
13 the officers signing the articles, and shall set forth:

14           "(1) The plan of merger or the plan of  
15 consolidation~~;~~

16           "(2) If the members of any merging or consolidating  
17 nonprofit corporation are entitled to vote thereon, then as to  
18 each the nonprofit corporation (i) a statement setting forth  
19 the date of the meeting of members at which the plan was  
20 adopted, that a quorum was present at the meeting, and that  
21 the plan received at least two-thirds of the votes entitled to  
22 be cast by members present or represented by proxy at the  
23 meeting, or (ii) a statement that the amendment was adopted by  
24 a consent in writing signed by all members entitled to vote  
25 with respect thereto~~;~~ and

1           "(3) If any merging or consolidating nonprofit  
2 corporation has no members, or no members entitled to vote  
3 thereon, then as to each nonprofit corporation a statement of  
4 the fact, the date of the meeting of the board of directors at  
5 which the plan was adopted and a statement of the fact that  
6 the plan received the vote of a majority of the directors in  
7 office.

8           ~~"(4) As to each nonprofit corporation incorporated  
9 under the law of Alabama, the county in which its certificate  
10 of formation or other comparable charter document is filed.~~

11           "(b) The articles of merger or articles of  
12 consolidation ~~and the additional number of copies as may be  
13 required for purposes of Section 10A-1-4.02~~ shall be delivered  
14 to the Secretary of State for filing ~~pursuant to Section  
15 10A-1-4.02.~~

16           "§10A-3-7.01.

17           "(a) A nonprofit corporation may dissolve and wind  
18 up its affairs in the following manner:

19           "(1) If there are members entitled to vote thereon,  
20 the board of directors shall adopt a resolution recommending  
21 that the nonprofit corporation be dissolved, and directing  
22 that the question of the dissolution be submitted to a vote at  
23 a meeting of members entitled to vote thereon, which may be  
24 either an annual or a special meeting. Written notice stating  
25 that the purpose, or one of the purposes, of the meeting is to

1 consider the advisability of dissolving the nonprofit  
2 corporation, shall be given to each member entitled to vote at  
3 the meeting, within the time and in the manner provided in  
4 this chapter for the giving of notice of meetings of members.  
5 A resolution to dissolve the nonprofit corporation shall be  
6 adopted upon receiving at least two-thirds of the votes  
7 entitled to be cast by members present or represented by proxy  
8 at the meeting.

9 "(2) If there are no members, or no members entitled  
10 to vote thereon, the dissolution of the corporation shall be  
11 authorized at a meeting of the board of directors upon the  
12 adoption of a resolution to dissolve by the vote of a majority  
13 of the directors in office.

14 "(b) Upon the adoption of the resolution by the  
15 members, or by the board of directors if there are no members  
16 or no members entitled to vote thereon, a statement of intent  
17 to dissolve shall be executed for the nonprofit corporation by  
18 its president or a vice president, and by its secretary or an  
19 assistant secretary, and verified by one of the officers  
20 signing the statement, which statement shall set forth:

21 "(1) The name of the nonprofit corporation.

22 "(2) The names and respective addresses of its  
23 officers.

24 "(3) The names and respective addresses of its  
25 directors.



1           "(4) If there are members entitled to vote thereon,  
2           (i) a statement setting forth the date of the meeting of  
3           members at which the resolution to dissolve was adopted, that  
4           a quorum was present at the meeting, and that the resolution  
5           received at least two-thirds of the votes entitled to be cast  
6           by members present or represented by proxy at the meeting, or  
7           (ii) a statement that the resolution was adopted by a consent  
8           in writing signed by all members entitled to vote with respect  
9           thereto.

10           "(5) If there are no members, or no members entitled  
11           to vote thereon, a statement of the fact, the date of the  
12           meeting of the board of directors at which the resolution to  
13           dissolve was adopted and a statement of the fact that the  
14           resolution received the vote of a majority of the directors in  
15           office.

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

18           "(c) The statement of intent to dissolve shall be  
19           delivered to the ~~judge of probate. If the judge of probate~~  
20           ~~finds that the statement conforms to law, the judge of probate~~  
21           ~~shall, when all fees prescribed in this title have been paid:~~  
22           Secretary of State for filing.

23           "~~(1) Endorse on the statement of intent to dissolve~~  
24           ~~the word "filed," and the hour, day, month and year of the~~  
25           ~~filing thereof.~~

1           ~~"(2) File the statement of intent to dissolve in his~~  
2           ~~or her office.~~

3           "(d) Upon the filing of a statement of intent to  
4           dissolve, the nonprofit corporation shall cease to conduct its  
5           affairs except insofar as may be necessary for the winding up  
6           thereof, and shall proceed to collect its assets and apply and  
7           distribute them as provided in this chapter.

8           "§10A-3-7.04.

9           "(a) A nonprofit corporation may, at any time prior  
10          to the ~~issuance of a certificate of dissolution by the judge~~  
11          ~~of probate~~ delivery of the articles of dissolution to the  
12          Secretary of State for filing, revoke the action theretofore  
13          taken to dissolve the nonprofit corporation, in the following  
14          manner:

15                 "(1) If there are members entitled to vote thereon,  
16                 the board of directors shall adopt a resolution recommending  
17                 that the voluntary dissolution proceedings be revoked, and  
18                 directing that the question of the revocation be submitted to  
19                 a vote at a meeting of members entitled to vote thereon, which  
20                 may be either an annual or a special meeting. Written notice  
21                 stating that the purpose, or one of the purposes, of the  
22                 meeting is to consider the advisability of revoking the  
23                 voluntary dissolution proceedings, shall be given to each  
24                 member entitled to vote at the meeting, within the time and in  
25                 the manner provided in this chapter for the giving of notice

1 of meetings of members. A resolution to revoke the voluntary  
2 dissolution proceedings shall be adopted upon receiving at  
3 least two-thirds of the votes entitled to be cast by members  
4 present or represented by proxy at the meeting.

5 "(2) If there are no members, or no members entitled  
6 to vote thereon, a resolution to revoke the voluntary  
7 dissolution proceedings shall be adopted at a meeting of the  
8 board of directors upon receiving the vote of a majority of  
9 the directors in office.

10 "(b) Upon the adoption of the resolution by the  
11 members, or by the board of directors where there are no  
12 members or no members entitled to vote thereon, a statement of  
13 revocation of voluntary dissolution proceedings shall be  
14 executed for the nonprofit corporation by its president or a  
15 vice president, and by its secretary or an assistant  
16 secretary, and verified by one of the officers signing the  
17 statement, which statement shall set forth:

18 "(1) The name of the nonprofit corporation.

19 "(2) The names and respective addresses of its  
20 officers.

21 "(3) The names and respective addresses of its  
22 directors.

23 "(4) If there are members entitled to vote thereon,  
24 (i) a statement setting forth the date of the meeting of  
25 members at which the resolution to revoke the voluntary

1 dissolution proceedings was adopted, that a quorum was present  
2 at the meeting, and that the resolution received at least  
3 two-thirds of the votes entitled to be cast by members present  
4 or represented by proxy at the meeting, or (ii) a statement  
5 that the resolution was adopted by a consent in writing signed  
6 by all members entitled to vote with respect thereto.

7 "(5) If there are no members, or no members entitled  
8 to vote thereon, a statement of the fact, the date of the  
9 meeting of the board of directors at which the resolution to  
10 revoke the voluntary dissolution proceedings was adopted and a  
11 statement of the fact that the resolution received the vote of  
12 a majority of the directors in office.

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

15 "(c) The statement of revocation of voluntary  
16 dissolution proceedings shall be delivered to the ~~judge of~~  
17 ~~probate. If the judge of probate finds that the statement~~  
18 ~~conforms to law, the judge of probate shall, when all fees~~  
19 ~~prescribed in this title have been paid:~~ Secretary of State  
20 for filing.

21 "~~(1) Endorse on the statement of revocation of~~  
22 ~~voluntary dissolution proceedings the word "filed," and the~~  
23 ~~hour, day, month, and year of the filing thereof.~~

24 "~~(2) File the statement of revocation of voluntary~~  
25 ~~dissolution proceedings in the office of the judge of probate.~~

1           "(d) Upon the filing of a statement of revocation of  
2 voluntary dissolution proceedings, the nonprofit corporation  
3 may thereupon again conduct its affairs.

4           "§10A-3-7.05.

5           "If voluntary dissolution proceedings have not been  
6 revoked, then when all debts, liabilities and obligations of  
7 the corporation shall have been paid and discharged, or  
8 adequate provision shall have been made therefor, and all of  
9 the remaining property and assets of the nonprofit corporation  
10 shall have been transferred, conveyed, or distributed in  
11 accordance with the provisions of this chapter, articles of  
12 dissolution shall be executed for the nonprofit corporation by  
13 its president or a vice president, and by its secretary or an  
14 assistant secretary, and verified by one of the officers  
15 signing the articles, which statement shall set forth:

16           "(1) The name of the nonprofit corporation.

17           "(2) That a statement of intent to dissolve the  
18 nonprofit corporation has theretofore been filed, and the date  
19 on which the statement was filed.

20           "(3) That all debts, obligations, and liabilities of  
21 the nonprofit corporation have been paid and discharged or  
22 that adequate provision has been made therefor.

23           "(4) A copy of the plan of distribution, if any, as  
24 adopted by the nonprofit corporation, or a statement that no  
25 plan was so adopted.

1           "(5) That all the remaining property and assets of  
2 the nonprofit corporation have been transferred, conveyed, or  
3 distributed in accordance with the provisions of this chapter.

4           "(6) That there are no suits pending against the  
5 nonprofit corporation in any court, or that adequate provision  
6 has been made for the satisfaction of any judgment, order, or  
7 decree which may be entered against it in any pending suit.

8           "(7) The unique identifying number or other  
9 designation as assigned by the Secretary of State.

10           "§10A-3-7.06.

11           "(a) The articles of dissolution ~~and two copies~~  
12 ~~thereof shall be delivered to the judge of probate. If the~~  
13 ~~judge of probate finds that the articles of dissolution~~  
14 ~~conform to law, the judge of probate shall, when all fees~~  
15 ~~prescribed in this title have been paid: Secretary of State~~  
16 for filing.

17           "~~(1) Endorse on the articles of dissolution and on~~  
18 ~~each of the copies the word "filed," and the hour, day, month,~~  
19 ~~and year of the filing thereof.~~

20           "~~(2) File the articles of dissolution in the office~~  
21 ~~of the judge of probate and certify the two copies thereof.~~

22           "~~(3) Issue a certificate of dissolution to which the~~  
23 ~~judge of probate shall affix a certified copy of the articles~~  
24 ~~of dissolution, and return the certificate of dissolution with~~  
25 ~~a certified copy of the articles of dissolution affixed~~

1 ~~thereto to the representative of the dissolved nonprofit~~  
 2 ~~corporation.~~

3 ~~"(4) Within 10 days after the issuance of the~~  
 4 ~~certificate of dissolution, transmit to the Secretary of State~~  
 5 ~~a certificate of dissolution with a certified copy of the~~  
 6 ~~articles of dissolution attached thereto, indicating thereon~~  
 7 ~~the place, date, and time of filing of the statement.~~

8 ~~"(b) For failure of the judge of probate to comply~~  
 9 ~~with the requirements of subsection (a)(4), the judge of~~  
 10 ~~probate shall forfeit fifty dollars (\$50) to the State of~~  
 11 ~~Alabama to be recovered in an action by the State of Alabama.~~

12 ~~"(c)(b) Upon the issuance filing of the certificate~~  
 13 ~~articles of dissolution, the existence of the nonprofit~~  
 14 ~~corporation shall cease, except for the purpose of suits,~~  
 15 ~~other proceedings, and appropriate corporate action by~~  
 16 ~~members, directors, and officers as provided in this chapter~~  
 17 ~~or otherwise in this title.~~

18 "§10A-3-7.07.

19 "A nonprofit corporation may be dissolved  
 20 involuntarily by an order of the circuit court of the county  
 21 in which the principal office of the nonprofit corporation in  
 22 this state is located, and if none is located in this state,  
 23 the circuit court for the county in which the most recent  
 24 registered office of the nonprofit corporation is situated is

1        located in an action filed by the Attorney General when it is  
2        established that:

3                "(1) The nonprofit corporation procured its  
4        certificate of formation through fraud;

5                "(2) The nonprofit corporation has continued to  
6        exceed or abuse the authority conferred upon it by law;

7                "(3) The nonprofit corporation has failed for 90  
8        days to appoint and maintain a registered agent in Alabama; or

9                "(4) The nonprofit corporation has failed for 90  
10       days after change of its registered agent to file in the  
11       office of the ~~judge of probate~~ Secretary of State a statement  
12       of the change.

13                "§10A-3-7.08.

14                "The Secretary of State shall certify to the  
15       Attorney General, from time to time, the names of all  
16       nonprofit corporations which have given cause for dissolution  
17       as provided in this chapter, together with the facts pertinent  
18       thereto. Whenever the Secretary of State shall certify the  
19       name of a nonprofit corporation to the Attorney General as  
20       having given any cause for dissolution, the Secretary of State  
21       shall concurrently mail to the nonprofit corporation at its  
22       registered office a notice that the certification has been  
23       made. Upon the receipt of the certification, the Attorney  
24       General shall, no sooner than 30 days nor more than 90 days  
25       after the receipt, file an action in the name of the State of



1 Alabama against the nonprofit corporation for its dissolution.  
2 If, before an action is filed, the nonprofit corporation shall  
3 appoint or maintain a registered agent as provided in this  
4 title, or shall file with the ~~judge of probate~~ Secretary of  
5 State the required statement of change of registered agent,  
6 the fact shall be forthwith certified by the Secretary of  
7 State to the Attorney General and he or she shall not file an  
8 action against the nonprofit corporation for the cause. If,  
9 after an action is filed, the nonprofit corporation shall  
10 appoint or maintain a registered agent as provided in this  
11 title, or shall file with the ~~judge of probate~~ Secretary of  
12 State the required statement of change of registered agent,  
13 and shall pay the costs of the action, the action for the  
14 cause shall abate.

15 "§10A-3-7.09.

16 "Every action for the involuntary dissolution of a  
17 nonprofit corporation shall be commenced by the Attorney  
18 General in the circuit court ~~of~~ for the county in which the  
19 nonprofit corporation's principal office is located in this  
20 state, and if none in this state, in the circuit court for the  
21 county in which the nonprofit corporation's most recent  
22 registered office ~~of the nonprofit corporation is situated~~ is  
23 located. Summons shall issue and be served as in other civil  
24 actions. If process is returned not found, the Attorney  
25 General shall cause publication to be made as in other civil

1 cases in some newspaper published in the county ~~where the~~ in  
2 which the nonprofit corporation's principal office is located  
3 in this state, and if none in this state, in the county in  
4 which the nonprofit corporation's most recent registered  
5 office ~~of the nonprofit corporation is situated~~ is located,  
6 containing a notice of the pendency of the action, the title  
7 of the court, the title of the action, and the date on or  
8 after which default may be entered. The Attorney General may  
9 include in one notice the names of any number of nonprofit  
10 corporations against which actions are then pending in the  
11 same court. The Attorney General shall cause a copy of the  
12 notice to be mailed to the nonprofit corporation at its  
13 registered office within 10 days after the first publication  
14 thereof. The certificate of the Attorney General of the  
15 mailing of the notice shall be prima facie evidence thereof.  
16 The notice shall be published once each week for two  
17 successive weeks, and the first publication thereof may begin  
18 at any time after the summons has been returned. Unless a  
19 nonprofit corporation shall have been served with summons, no  
20 default shall be taken against it earlier than 30 days after  
21 the last publication of the notice.

22 "§10A-3-7.10.

23 "(a) The circuit court of the county in which the  
24 nonprofit corporation's principal office is located in this  
25 state, and if none in this state, the circuit court for the

1       county in which the nonprofit corporation's most recent  
2       registered office ~~of the nonprofit corporation is situated~~ is  
3       located shall have full power to liquidate the assets and  
4       affairs of a nonprofit corporation:

5               "(1) In an action by a member or director when it is  
6       established:

7               "a. That the directors are deadlocked in the  
8       management of the corporate affairs and that irreparable  
9       injury to the nonprofit corporation is being suffered or is  
10      threatened by reason thereof, and either that the members are  
11      unable to break the deadlock or there are no members having  
12      voting rights;

13              "b. That the acts of the directors or those in  
14      control of the nonprofit corporation are illegal, oppressive  
15      or fraudulent;

16              "c. That the members entitled to vote in the  
17      election of directors are deadlocked in voting power and have  
18      failed for at least two years to elect successors to directors  
19      whose terms have expired or would have expired upon the  
20      election of their successors;

21              "d. That the corporate assets are being misapplied  
22      or wasted; or

23              "e. That the nonprofit corporation is unable to  
24      carry out its purposes.

25              "(2) In an action by a creditor:

1           "a. When the claim of the creditor has been reduced  
2 to judgment and an execution thereon has been returned  
3 unsatisfied and it is established that the nonprofit  
4 corporation is insolvent; or

5           "b. When the nonprofit corporation has admitted in  
6 writing that the claim of the creditor is due and owing and it  
7 is established that the nonprofit corporation is insolvent.

8           "(3) Upon application by a nonprofit corporation to  
9 have its dissolution continued under the supervision of the  
10 court.

11           "(4) When an action has been filed by the Attorney  
12 General to dissolve a nonprofit corporation and it is  
13 established that liquidation of its affairs should precede the  
14 entry of an order of dissolution.

15           "(b) Proceedings under this section shall be brought  
16 in the circuit court for the county in which the nonprofit  
17 corporation's principal office is located in this state, and  
18 if none in this state, in the circuit court for the county in  
19 which the nonprofit corporation's most recent registered  
20 office of the nonprofit corporation is situated is located.

21           "(c) It shall not be necessary to make directors or  
22 members parties to any action or proceedings unless relief is  
23 sought against them personally.

24           "§10A-3-7.16.

1            "In case the court shall enter an order dissolving a  
2 nonprofit corporation, it shall be the duty of the court to  
3 cause a certified copy of the order to be ~~filed with the judge~~  
4 ~~of probate in the county in which the certificate of formation~~  
5 ~~was filed and with~~ delivered to the Secretary of State for  
6 filing. No fee shall be charged by ~~the judge of probate or the~~  
7 Secretary of State for the filing thereof.

8            "§10A-3-7.18.

9            "The dissolution of a nonprofit corporation either  
10 (1) by the ~~issuance of a certificate of~~ filing of the articles  
11 of dissolution by the ~~judge of probate~~ Secretary of State, or  
12 (2) by an order of court when the court has not liquidated the  
13 assets and affairs of the corporation as provided in this  
14 chapter, or (3) by operation of law, or (4) by expiration of  
15 its period of duration, shall not take away or impair any  
16 remedy available to or against the nonprofit corporation, its  
17 directors, officers, or members, for any right or claim  
18 existing, or any liability incurred, prior to the dissolution  
19 if action or other proceeding thereon is commenced within two  
20 years after the date of the dissolution. Any action or  
21 proceeding by or against the nonprofit corporation may be  
22 prosecuted or defended by the nonprofit corporation in its  
23 corporate name. The members, directors, and officers shall  
24 have power to take the corporate or other action as shall be  
25 appropriate to protect the remedy, right, or claim. If the

1 nonprofit corporation was dissolved by the expiration of its  
2 period of duration, the nonprofit corporation may amend its  
3 certificate of formation at any time during the period of two  
4 years so as to extend its period of duration.

5 "§10A-4-3.02.

6 "(a) Upon the death of a shareholder of a domestic  
7 professional corporation or if a shareholder of a domestic  
8 professional corporation becomes a disqualified person or if  
9 shares of a domestic professional corporation are transferred  
10 by operation of law or court decree to a disqualified person,  
11 the shares of the deceased shareholder or of the disqualified  
12 person may be transferred to a qualified person and, if not so  
13 transferred, shall be purchased or redeemed by the domestic  
14 professional corporation to the extent of funds which may be  
15 legally made available for the purchase.

16 "(b) If the price for the shares is not fixed by the  
17 governing documents of the domestic professional corporation  
18 or by private agreement, the domestic professional  
19 corporation, within six months after the death or 30 days  
20 after the disqualification or transfer, as the case may be,  
21 shall make a written offer to pay for the shares at a  
22 specified price deemed by the domestic professional  
23 corporation to be the fair value thereof as of the date of the  
24 death, disqualification or transfer. The offer shall be given  
25 to the executor or administrator of the estate of a deceased

1 shareholder or to the disqualified shareholder or transferee  
2 and shall be accompanied by a balance sheet of the domestic  
3 professional corporation, as of the latest available date and  
4 not more than 12 months prior to the making of the offer, and  
5 a profit and loss statement of the domestic professional  
6 corporation for the 12 months' period ended on the date of the  
7 balance sheet.

8 "(c) If within 30 days after the date of the written  
9 offer from the domestic professional corporation the fair  
10 value of the shares is agreed upon between the disqualified  
11 person and the domestic professional corporation, payment  
12 therefor shall be made within 90 days, or other period as the  
13 parties may fix by agreement, after the date of the offer,  
14 upon surrender of the certificate or certificates representing  
15 the shares. Upon payment of the agreed value the disqualified  
16 persons shall cease to have any interest in the shares.

17 "(d) If within 30 days from the date of the written  
18 offer from the domestic professional corporation, the  
19 disqualified person and the domestic professional corporation  
20 do not so agree, then either party may commence a civil action  
21 in the circuit court ~~in~~ for the county in ~~Alabama~~ where which  
22 the domestic professional corporation's principal office is  
23 located in this state, and if none in this state, in the  
24 circuit court for the county in which the domestic  
25 professional corporation's most recent registered office of

1 ~~the domestic professional corporation~~ is located requesting  
2 that the fair value of the shares be found and determined. The  
3 disqualified person, wherever residing, shall be made a party  
4 to the proceeding as an action against his or her shares quasi  
5 in rem. Service shall be made in accordance with the rules of  
6 civil procedure. The disqualified person shall be entitled to  
7 judgment against the domestic professional corporation for the  
8 amount of the fair value of his or her shares as of the date  
9 of death, disqualification, or transfer upon surrender to the  
10 domestic professional corporation of the certificate or  
11 certificates representing the shares. The court may, in its  
12 discretion, order that the judgment be paid in installments  
13 and with interest and on terms as the court may determine. The  
14 court may, if it so elects, appoint one or more persons as  
15 appraisers to receive evidence and recommend a decision on the  
16 question of fair value. The appraisers shall have the power  
17 and authority as shall be specified in the order of their  
18 appointment or an amendment thereof.

19           "(e) The judgment shall include an allowance for  
20 interest at the rate the court finds to be fair and equitable  
21 in all the circumstances, from the date of death,  
22 disqualification, or transfer.

23           "(f) The costs and expenses of any proceeding shall  
24 be determined by the court and shall be assessed against the  
25 domestic professional corporation, but all or any part of the



1 costs and expenses may be apportioned and assessed as the  
2 court may deem equitable against the disqualified person if  
3 the court shall find that the action of the disqualified  
4 person in failing to accept the offer was arbitrary or  
5 vexatious or not in good faith. The expenses shall include  
6 reasonable compensation for and reasonable expenses of the  
7 appraisers and a reasonable attorney's fee but shall exclude  
8 the fees and expenses of counsel for and of experts employed  
9 by any party; but if the fair value of the shares as  
10 determined materially exceeds the amount which the domestic  
11 professional corporation offered to pay therefor, or if no  
12 offer was made, the court in its discretion may award to the  
13 disqualified person the sum the court determines to be  
14 reasonable compensation to any expert or experts employed by  
15 the disqualified person in the proceeding.

16 "(g) If a purchase, redemption, or transfer of the  
17 shares of a deceased or disqualified shareholder or of a  
18 transferee who is a disqualified person is not completed  
19 within 12 months after the death of the deceased shareholder  
20 or 12 months after the disqualification or transfer, as the  
21 case may be, the domestic professional corporation shall  
22 forthwith cancel the shares on its books and the disqualified  
23 person shall have no further interest as a shareholder in the  
24 domestic professional corporation other than his or her right  
25 to payment for the shares under this section.

1           "(h) Shares acquired by a domestic professional  
2 corporation pursuant to payment of the agreed value therefor  
3 or to payment of the judgment entered therefor, as in this  
4 section provided, may be held, cancelled, or disposed of by  
5 the domestic professional corporation as in the case of other  
6 treasury shares.

7           "(i) This section shall not be deemed to require the  
8 purchase of shares of a disqualified person where the period  
9 of the disqualification is for less than 12 months from the  
10 date of disqualification or transfer.

11           "(j) Any provision regarding purchase, redemption,  
12 or transfer of shares of a domestic professional corporation  
13 contained in the certificate of formation, bylaws, or any  
14 private agreement shall be specifically enforceable in the  
15 courts of Alabama.

16           "(k) Nothing herein contained shall prevent or  
17 relieve a domestic professional corporation from paying  
18 pension benefits or other deferred compensation for services  
19 rendered to or on behalf of a former shareholder as otherwise  
20 permitted by law.

21           "(l) A domestic professional corporation may  
22 purchase its own shares from a disqualified person without  
23 regard to the availability of capital or surplus for the  
24 purchase; however, no purchase of or payment for the shares  
25 shall be made at a time when the domestic professional

1 corporation is insolvent or when the purchase or payment would  
2 make it insolvent.

3 "(m) The foregoing provisions of this section shall  
4 not apply to a domestic nonprofit professional corporation.  
5 Any member of a corporation who becomes a disqualified person  
6 must cease being a member not more than 12 months after the  
7 date of disqualification, if he or she is then a disqualified  
8 person.

9 "§10A-4-4.01.

10 "Administrators, executors, guardians, conservators,  
11 or receivers of the estates of shareholders of a domestic  
12 professional corporation who hold all of the outstanding  
13 shares of the corporation may amend the certificate of  
14 formation by signing a written consent to the amendment and  
15 delivering the amendment for filing to the ~~judge of probate of~~  
16 ~~the county in which the corporation's certificate of formation~~  
17 ~~was filed in accordance with Article 4 of Chapter 1~~ Secretary  
18 of State. The certificate of amendment shall set forth, in  
19 addition to the information required to be included in the  
20 certificate of amendment by the Alabama Business Corporation  
21 Law, a statement that the administrators, executors,  
22 guardians, conservators, or receivers own all the outstanding  
23 shares.

24 "§10A-4-5.08.

1           "(a) The provisions of this chapter shall apply to  
2 all existing corporations organized under the statute formerly  
3 codified as Article 11 of Chapter 4, Title 10 and repealed by  
4 Acts 1983, No. 83-514, effective January 1, 1984; provided,  
5 that any professional corporation, or nonprofit corporation,  
6 in existence on December 31, 1983, in which duly licensed  
7 medical and dental professionals are shareholders, or in the  
8 case of a nonprofit professional corporation, render medical  
9 and dental services, shall be deemed to be in compliance with  
10 Sections 10A-4-2.01 and 10A-4-2.03, as amended, and other  
11 applicable provisions of this chapter. The repeal of a prior  
12 act by this chapter shall not impair, or otherwise affect, the  
13 organization or continued existence of an existing domestic  
14 professional corporation nor the right of any foreign  
15 professional corporation presently qualified to render  
16 professional services in Alabama to continue to do so without  
17 again qualifying to render professional services in Alabama.

18           "(b) Any unincorporated professional association  
19 organized under Section 10A-30-1.01 may become subject to the  
20 provisions of this chapter by amending its certificate of  
21 association as a certificate of formation in compliance with  
22 this chapter, and ~~filing duly executed duplicate originals of~~  
23 ~~the certificate of formation with the judge of probate of the~~  
24 ~~county in which its certificate of formation was filed~~

1 delivering its certificate of formation to the Secretary of  
2 State for filing.

3 "(c) Any domestic nonprofit corporation rendering  
4 professional services may become subject to the provisions of  
5 this chapter by amending its certificate of formation in  
6 compliance with this chapter and ~~filing duly executed~~  
7 ~~duplicate originals of the certificate with the judge of~~  
8 ~~probate of the county in which its certificate of formation~~  
9 ~~was filed~~ delivering the amendment to its certificate of  
10 formation to the Secretary of State for filing.

11 "(d) The provisions of this chapter shall not apply  
12 to any unincorporated professional association now in  
13 existence under Section 10A-30-1.01, or to any domestic  
14 nonprofit corporation rendering professional services unless  
15 the association or nonprofit corporation voluntarily becomes  
16 subject to this chapter as herein provided, and nothing  
17 contained in this chapter shall alter or affect any existing  
18 or future right or privilege permitting or not prohibiting  
19 performance of professional services through the use of any  
20 other form of business organization.

21 "§10A-5A-2.01.

22 "(a) In order to form a limited liability company,  
23 one or more organizers must execute a certificate of formation  
24 and deliver it for filing to the filing officer provided for

1 in subsection (e). Notwithstanding Section 10A-1-3.05, the  
2 certificate of formation shall set forth:

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

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

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

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

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

13 "(6) any other matters the members determine to  
14 include therein.

15 "(b) A limited liability company is formed when its  
16 certificate of formation becomes effective in accordance with  
17 Article 4 of Chapter 1.

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

23 "(d) A limited liability company agreement shall be  
24 entered into either before, after, or at the time of the  
25 filing of the certificate of formation and, whether entered

1 into before, after, or at the time of the filing, may be made  
2 effective as of the filing of the certificate of formation or  
3 at any other time or date provided in the limited liability  
4 company agreement.

5 "(e) A certificate of formation shall be delivered  
6 for filing to the ~~judge of probate of the county in which the~~  
7 ~~initial registered office of the limited liability company is~~  
8 ~~located pursuant to Article 4 of Chapter 1 unless the~~  
9 ~~certificate of formation is required to be delivered for~~  
10 ~~filing to a different filing officer under Article 10 of this~~  
11 ~~chapter~~ Secretary of State.

12 "§10A-5A-2.02.

13 "Notwithstanding Division B of Article 3 of Chapter  
14 1:

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

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

19 "(c) To amend its certificate of formation, a  
20 limited liability company must deliver a certificate of  
21 amendment for filing to the ~~filing officer provided for in~~  
22 ~~subsection (g)~~ Secretary of State which certificate of  
23 amendment shall state:

24 "(1) the name of the limited liability company;

1           "~~(2) the date of filing of its certificate of~~  
2 ~~formation, and of all prior amendments and the filing office~~  
3 ~~or offices where filed~~ unique identifying number or other  
4 designation as assigned by the Secretary of State; and

5           "(3) the changes the amendment makes to the  
6 certificate of formation as most recently amended or restated.

7           "(d) To restate its certificate of formation, a  
8 limited liability company must deliver a restated certificate  
9 of formation for filing to the ~~filing officer provided for in~~  
10 ~~subsection (g)~~ Secretary of State. A restated certificate of  
11 formation must:

12                 "(1) be designated as such in the heading;

13                 "(2) state the limited liability company's name;

14                 "~~(3) state the date of the filing of its certificate~~  
15 ~~of formation, and of all prior amendments and the filing~~  
16 ~~office or offices where filed~~ unique identifying number or  
17 other designation as assigned by the Secretary of State; and

18                 "(4) set forth any amendment or change effected in  
19 connection with the restatement of the certificate of  
20 formation.

21           "Any such restatement that effects an amendment  
22 shall be subject to any other provision of this chapter, not  
23 inconsistent with this section, which would apply if a  
24 separate certificate of amendment were filed to effect the  
25 amendment or change.



1           "(e) The original certificate of formation, as  
2           theretofore amended, shall be superseded by the restated  
3           certificate of formation and thenceforth, the restated  
4           certificate of formation, including any further amendment or  
5           changes made thereby, shall be the certificate of formation of  
6           the limited liability company, but the original effective date  
7           of formation shall remain unchanged.

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

13          ~~"(g) If a limited liability company is not an  
14          organization described in Section 10A-1-4.02(c)(4), then that  
15          limited liability company shall deliver the certificate of  
16          amendment or the restated certificate of formation for filing  
17          with the judge of probate in whose office the original  
18          certificate of formation is filed. If a limited liability  
19          company is an organization described in  
20          Section 10A-1-4.02(c)(4), then that limited liability company  
21          shall deliver the certificate of amendment or the restated  
22          certificate of formation for filing with the Secretary of  
23          State.~~

24                "§10A-5A-2.04.

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

4           "(1) A limited liability company's initial  
5           certificate of formation must be signed by at least one  
6           organizer.

7           "(2) A writing signed on behalf of a limited  
8           liability company must be signed by a person authorized by the  
9           limited liability company.

10          "(3) A writing filed on behalf of a dissolved  
11          limited liability company that has no members must be signed  
12          by the person winding up the limited liability company's  
13          activities and affairs under Section 10A-5A-7.03 or a person  
14          appointed or designated under Section 10A-5A-7.03 to wind up  
15          those activities and affairs.

16          "(4) Any other writing must be signed by the person  
17          on whose behalf the writing is delivered to the ~~filing officer~~  
18          Secretary of State.

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

23          "§10A-5A-2.05.

24          "(a) If a person required by this chapter to sign a  
25          writing or deliver a writing to a filing officer for filing

1 under this chapter does not do so, any other person that is  
 2 aggrieved by that failure may petition the designated court,  
 3 and if none, the circuit court in for the county in which the  
 4 limited liability company's principal ~~place of business~~ office  
 5 within this state is located, and if the limited liability  
 6 company does not have a principal ~~place of business~~ office  
 7 within this state then the circuit court for the county in  
 8 which the limited liability company's most recent registered  
 9 office is located, to order:

10           "(1) the person to sign the writing;

11           "(2) the person to deliver the writing to the filing  
 12 officer for filing; or

13           "(3) the filing officer to file the writing  
 14 unsigned.

15           "(b) If a petitioner under subsection (a) is not the  
 16 limited liability company or foreign limited liability company  
 17 to whom the writing pertains, the petitioner shall make the  
 18 limited liability company or foreign limited liability company  
 19 a party to the action. A person aggrieved under subsection (a)  
 20 may seek the remedies provided in subsection (a) in a separate  
 21 action against the person required to sign or deliver the  
 22 writing or as a part of any other action concerning the  
 23 limited liability company or foreign limited liability company  
 24 in which the person required to sign or deliver the writing is  
 25 made a party.

1           "(c) A writing filed unsigned pursuant to this  
2 section is effective without being signed.

3           "(d) A court may award reasonable expenses,  
4 including reasonable attorneys' fees, to the party or parties  
5 who prevail, in whole or in part, with respect to any claim  
6 made under subsection (a).

7           "§10A-5A-2.06.

8           "(a) The Secretary of State, upon request and  
9 payment of the requisite fee, shall furnish to any person a  
10 certificate of existence for a limited liability company if  
11 the writings filed in the Office of the Secretary of State  
12 show that the limited liability company has been formed under  
13 the laws of this state. A certificate of existence shall  
14 reflect only the information on file with the Secretary of  
15 State. A certificate of existence must state:

16           "(1) the limited liability company's name;

17           "(2) that the limited liability company was formed  
18 under the laws of this state, the date of formation, and the  
19 filing office in which the certificate of formation was filed;

20           "(3) whether the limited liability company has  
21 delivered to the Secretary of State for filing a statement of  
22 dissolution;

23           "(4) whether the limited liability company has  
24 delivered to the Secretary of State for filing a certificate  
25 of reinstatement; ~~and~~

1           "(5) the unique identifying number or other  
2           designation as assigned by the Secretary of State; and

3           "~~(5)~~(6) other facts of record in the Office of the  
4           Secretary of State that are specified by the person requesting  
5           the certificate.

6           "(b) The Secretary of State, upon request and  
7           payment of the requisite fee, shall furnish to any person a  
8           certificate of qualification for a foreign limited liability  
9           company if the writings filed in the Office of the Secretary  
10          of State show that the Secretary of State has filed an  
11          application for registration for authority to conduct  
12          activities and affairs in this state and the registration has  
13          not been revoked, withdrawn, or terminated. A certificate of  
14          qualification must state:

15                 "(1) the foreign limited liability company's name  
16                 and any alternate name adopted for use in this state;

17                 "(2) that the foreign limited liability company is  
18                 authorized to conduct activities and affairs in this state;

19                 "(3) that the Secretary of State has not revoked the  
20                 foreign limited liability company's registration;

21                 "(4) that the foreign limited liability company has  
22                 not filed with the Secretary of State a certificate of  
23                 withdrawal or otherwise terminated its registration; ~~and~~

24                 "(5) the unique identifying number or other  
25                 designation as assigned by the Secretary of State; and

1           "~~(5)~~(6) other facts of record in the ~~Office~~ office  
2 of the Secretary of State that are specified by the person  
3 requesting the certificate.

4           "(c) Subject to any qualification stated in the  
5 certificate, a certificate of existence or certificate of  
6 qualification issued by the Secretary of State is conclusive  
7 evidence that the limited liability company is in existence or  
8 the foreign limited liability company is authorized to conduct  
9 activities and affairs in this state.

10           "§10A-5A-4.01.

11           "(a) The initial member or members of a limited  
12 liability company are admitted as a member or members upon the  
13 formation of the limited liability company.

14           "(b) After formation of a limited liability company,  
15 a person is admitted as a member of the limited liability  
16 company:

17           "(1) as provided in the limited liability company  
18 agreement;

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

21           "(3) with the consent of all the members; or

22           "(4) as provided in Section 10A-5A-7.01(c) (1) or  
23 (c) (2).

24           "(c) A person may be admitted as a member without  
25 acquiring a transferable interest and without making or being

1 obligated to make a contribution to the limited liability  
2 company. A person may be admitted as the sole member without  
3 acquiring a transferable interest and without making or being  
4 obligated to make a contribution to the limited liability  
5 company.

6 §10A-5A-7.01.

7 "A limited liability company is dissolved and its  
8 affairs shall be wound up upon the occurrence of the first of  
9 the following events:

10 "(a) An event or circumstance that the limited  
11 liability company agreement states causes dissolution.

12 "(b) Consent of all members to dissolve.

13 "(c) When there is no remaining member, unless  
14 either of the following applies:

15 "(1) The holders of all the transferable interests  
16 in the limited liability company agree in writing, within 90  
17 days after the dissociation of the last member, to continue  
18 the activities and affairs of the limited liability company  
19 and to appoint one or more new members.

20 "(2) The activities and affairs of the limited  
21 liability company are continued and one or more new members  
22 are appointed in the manner stated in the limited liability  
23 company agreement.

24 "(d) On application by a member, the entry of an  
25 order dissolving the limited liability company on the grounds

1 that it is not reasonably practicable to carry on the limited  
 2 liability company's activities and affairs in conformity with  
 3 the limited liability company agreement, which order is  
 4 entered by the designated court, and if none, the circuit  
 5 court for the county in which the limited liability company's  
 6 principal ~~place of business~~ office within this state is  
 7 located, and if the limited liability company does not have a  
 8 principal ~~place of business~~ office within this state then by  
 9 the circuit court for the county in which the limited  
 10 liability company's most recent registered office is located.

11 "§10A-5A-7.02.

12 "Notwithstanding Section 10A-1-9.12:

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

17 "(1) collecting its assets;

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

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

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

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



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

3           "(1) deliver for filing a statement of dissolution  
4 to the ~~filing officer provided for in subsection (e)~~ Secretary  
5 of State setting forth:

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

7           "(B) The ~~date of filing its certificate of~~  
8 ~~formation, and all amendments and restatements thereof, and~~  
9 ~~the office or offices where filed~~ unique identifying number or  
10 other designation as assigned by the Secretary of State.

11           "(C) That the limited liability company has  
12 dissolved.

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

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

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

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

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

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

1           "(c) The dissolution of a limited liability company  
2 does not:

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

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

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

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

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

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

17           ~~"(e) If a limited liability company is not an  
18 organization described in Section 10A-1-4.02(c)(4), then that  
19 limited liability company shall deliver the statement of  
20 dissolution for filing to the judge of probate in whose office  
21 the original certificate of formation is filed. If a limited  
22 liability company is an organization described in  
23 Section 10A-1-4.02(c)(4), then that limited liability company  
24 shall deliver the statement of dissolution for filing to the  
25 Secretary of State.~~

1           "§10A-5A-7.03.

2           "(a) The person or persons designated in the limited  
 3 liability company agreement to wind up the activities and  
 4 affairs of the dissolved limited liability company shall wind  
 5 up the activities and affairs of the limited liability company  
 6 in accordance with Section 10A-5A-7.02. If no person or  
 7 persons are designated in the limited liability company  
 8 agreement to wind up the activities and affairs of the  
 9 dissolved limited liability company, then the remaining  
 10 members of the dissolved limited liability company shall wind  
 11 up the activities and affairs of the limited liability company  
 12 in accordance with Section 10A-5A-7.02. If no person or  
 13 persons are designated in the limited liability company  
 14 agreement to wind up the activities and affairs of the  
 15 dissolved limited liability company and there are no remaining  
 16 members of the dissolved limited liability company, then all  
 17 of the holders of the transferable interests of the limited  
 18 liability company, or their designee, shall wind up the  
 19 activities and affairs of the limited liability company in  
 20 accordance with Section 10A-5A-7.02.

21           "(b) The designated court, and if none, the circuit  
 22 court for the county in which the limited liability company's  
 23 principal ~~place of business~~ office within this state is  
 24 located, and if the limited liability company does not have a  
 25 principal ~~place of business~~ office within this state then the

1 circuit court for the county in which the limited liability  
2 company's most recent registered office is located, may order  
3 judicial supervision of the winding up of a dissolved limited  
4 liability company, including the appointment of a person to  
5 wind up the limited liability company's activities and  
6 affairs:

7 "(1) on application of a member, if the applicant  
8 establishes good cause;

9 "(2) on application of a transferee, if:

10 "(A) the limited liability company does not have any  
11 members; and

12 "(B) within a reasonable time following the  
13 dissolution no person having the authority to wind up the  
14 activities and affairs of the limited liability company  
15 pursuant to subsection (a) is winding up the activities and  
16 affairs of the limited liability company; or

17 "(3) in connection with a proceeding under Section  
18 10A-5A-7.01(d).

19 "§10A-5A-7.05.

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

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

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

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

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

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

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

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

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

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

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

11           "(1) against a dissolved limited liability company,  
12 to the extent of its undistributed assets; and

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

23           "(e) A dissolved limited liability company that  
24 published a notice under this section may file an application  
25 with the circuit court ~~in~~ for the county in which the

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

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

22 "(g) The circuit court under subsection (e) may  
23 appoint a guardian ad litem to represent all claimants whose  
24 identities are unknown in any proceeding brought under this  
25 section. The reasonable fees and expenses of the guardian,

1 including all reasonable expert witness fees, shall be paid by  
 2 the dissolved limited liability company.

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

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

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

23 "§10A-5A-7.08.

24 "(a) In order to reinstate a limited liability  
 25 company under this article, a certificate of reinstatement



1 shall be delivered for filing to the ~~filing officer provided~~  
2 ~~for in subsection (d)~~ Secretary of State which certificate of  
3 reinstatement shall have attached thereto a true and complete  
4 copy of the limited liability company's certificate of  
5 formation. The certificate of reinstatement shall state:

6 "(1) the name of the limited liability company  
7 before reinstatement;

8 "(2) the name of the limited liability company  
9 following reinstatement, which limited liability company name  
10 shall comply with Section 10A-5A-7.09;

11 "(3) the date of formation of the limited liability  
12 company;

13 "(4) the date of dissolution of the limited  
14 liability company, if known;

15 "(5) a statement that all applicable conditions of  
16 Section 10A-5A-7.07 have been satisfied; ~~and~~

17 "(6) the address of the registered office and the  
18 name of the registered agent at that address in compliance  
19 with Article 5 of Chapter 1~~7~~ ; and

20 "(7) The unique identifying number or other  
21 designation as assigned by the Secretary of State.

22 "(b) A limited liability company shall not be  
23 required to file a statement of dissolution in order to file a  
24 certificate of reinstatement.

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

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

12           "§10A-5A-8.02.

13           "(a) In the case of a limited liability company  
14 performing professional services, upon the death of a member,  
15 upon a member becoming a disqualified person, or upon a  
16 transferable interest being transferred by operation of law or  
17 court decree to a disqualified person, the transferable  
18 interest of the deceased member or of the disqualified person  
19 may be transferred to a qualified person and, if not so  
20 transferred, subject to Section 10A-5A-4.06, shall be  
21 purchased by the limited liability company as provided in this  
22 section.

23           "(b) If the price of the transferable interest is  
24 not fixed by the limited liability company agreement, the  
25 limited liability company, within six months after the death

1 or 30 days after the disqualification or transfer, as the case  
2 may be, shall make a written offer to pay to the holder of the  
3 transferable interest a specified price deemed by the limited  
4 liability company to be the fair value of the transferable  
5 interest as of the date of the death, disqualification, or  
6 transfer. The offer shall be given to the personal  
7 representative of the estate of the deceased member, the  
8 disqualified person, or the transferee, as the case may be,  
9 and shall be accompanied by a balance sheet of the limited  
10 liability company, as of the latest available date and not  
11 more than 12 months prior to the making of the offer, and a  
12 profit and loss statement of the limited liability company for  
13 the 12 months' period ended on the date of the balance sheet.

14 "(c) If within 30 days after the date of the written  
15 offer from the limited liability company the fair value of the  
16 transferable interest is agreed upon between the personal  
17 representative of the estate of the deceased member, the  
18 disqualified person, or the transferee, as the case may be,  
19 and the limited liability company, payment therefor shall be  
20 made within 90 days, or such other period as the parties may  
21 agree, after the date of the offer. Upon payment of the agreed  
22 value, the personal representative of the estate of the  
23 deceased member, the disqualified person, or the transferee,  
24 as the case may be, shall cease to have any interest in, or  
25 claim to, the transferable interest.

1           "(d) If within 30 days from the date of the written  
2 offer from the limited liability company, the personal  
3 representative of the estate of the deceased member, the  
4 disqualified person, or the transferee, as the case may be,  
5 and the limited liability company do not so agree as to the  
6 fair value of the transferable interest, then either party may  
7 commence a civil action in the designated court, and if none,  
8 in the circuit court in for the county in which the limited  
9 liability company's principal ~~place of business~~ office within  
10 this state is located, and if the limited liability company  
11 does not have a principal ~~place of business~~ office within this  
12 state, then in the circuit court for the county in which the  
13 limited liability company's most recent registered office is  
14 located requesting that the fair value of the transferable  
15 interest be found and determined. The personal representative  
16 of the estate of the deceased member, the disqualified person,  
17 or the transferee, as the case may be, wherever residing,  
18 shall be made a party to the proceeding as an action against  
19 that person's transferable interest quasi in rem. Service  
20 shall be made in accordance with the rules of civil procedure.  
21 The personal representative of the estate of the deceased  
22 member, the disqualified person, or the transferee, as the  
23 case may be, shall be entitled to a judgment against the  
24 limited liability company for the amount of the fair value of  
25 that person's transferable interest as of the date of death,

1 disqualification, or transfer. The court, in its discretion,  
2 may order that the judgment be paid in installments and with  
3 interest and on terms as the court may determine. The court,  
4 if it so elects, may appoint one or more persons as appraisers  
5 to receive evidence and recommend a decision on the question  
6 of fair value. The appraisers shall have the power and  
7 authority as shall be specified in the order of their  
8 appointment or an amendment thereof.

9 "(e) The judgment shall include an allowance for  
10 interest at the rate the court finds to be fair and equitable  
11 in all the circumstances, from the date of death,  
12 disqualification, or transfer.

13 "(f) The costs and expenses of any proceeding shall  
14 be determined by the court and shall be assessed against the  
15 parties in a manner the court deems equitable.

16 "(g) The expenses shall include reasonable  
17 compensation for and reasonable expenses of the appraisers and  
18 a reasonable attorney's fee but shall exclude the fees and  
19 expenses of counsel for and of experts employed by any party;  
20 but: (1) if the fair value of the transferable interest as  
21 determined materially exceeds the amount which the limited  
22 liability company offered to pay therefor, or if no offer was  
23 made by the limited liability company, the court in its  
24 discretion may award to the personal representative of the  
25 estate of the deceased member, the disqualified person, or the

1 transferee, as the case may be, the sum the court determines  
2 to be reasonable compensation to any expert or experts  
3 employed by the personal representative of the estate of the  
4 deceased member, the disqualified person, or the transferee,  
5 as the case may be, in the proceeding; and (2) if the offer of  
6 the limited liability company for the transferable interest  
7 materially exceeds the amount of the fair value of the  
8 transferable interest as determined, the court in its  
9 discretion may award to the limited liability company the sum  
10 the court determines to be reasonable compensation to any  
11 expert or experts employed by the limited liability company,  
12 in the proceeding.

13 "(h) If the purchase or transfer of the transferable  
14 interest of a deceased member, a disqualified person, or a  
15 transferee is not completed within 12 months after the death  
16 of the deceased member or 12 months after the disqualification  
17 or transfer, as the case may be, the limited liability company  
18 shall forthwith cancel the transferable interest on its books  
19 and the personal representative of the estate of the deceased  
20 member, the disqualified person, or the transferee, as the  
21 case may be, shall have no further interest in the  
22 transferable interest other than that person's right to  
23 payment for the transferable interest under this section.

24 "(i) This section shall not require a limited  
25 liability company to purchase a transferable interest of a

1 disqualified person if the disqualification is for less than  
2 12 months from the date of disqualification. A limited  
3 liability company may require the disqualified person to sell  
4 the disqualified person's transferable interest to the limited  
5 liability company upon any disqualification.

6 "(j) Any provision of a limited liability company  
7 agreement regarding the purchase or transfer of a transferable  
8 interest of a limited liability company performing  
9 professional services shall be specifically enforceable in the  
10 courts of Alabama.

11 "(k) Nothing in this section shall prevent or  
12 relieve a limited liability company from paying pension  
13 benefits or other deferred compensation.

14 "§10A-5A-11.09.

15 "A series is dissolved and its activities and  
16 affairs shall be wound up upon the first to occur of the  
17 following:

18 "(a) the dissolution of the limited liability  
19 company under Section 10A-5A-7.01;

20 "(b) an event or circumstance that the limited  
21 liability company agreement states causes dissolution of the  
22 series;

23 "(c) the consent of all of the members associated  
24 with the series;

1           "(d) the passage of 90 days after the occurrence of  
2 the dissociation of the last remaining member associated with  
3 the series; or

4           "(e) on application by a member associated with the  
5 series, an order dissolving the series on the grounds that it  
6 is not reasonably practicable to carry on the series'  
7 activities and affairs in conformity with the limited  
8 liability company agreement which order is entered by the  
9 designated court, and if none, by the circuit court for the  
10 county in which the limited liability company's principal  
11 ~~place of business~~ office within this state is located, and if  
12 the limited liability company does not have a principal ~~place~~  
13 ~~of business~~ office within this state then by the circuit court  
14 for the county in which the limited liability company's most  
15 recent registered office is located.

16           "§10A-5A-11.11.

17           "(a) The person or persons designated in the limited  
18 liability company agreement to wind up the activities and  
19 affairs of the dissolved series shall wind up the activities  
20 and affairs of the dissolved series in accordance with Section  
21 10A-5A-11.10. If no person or persons are designated in the  
22 limited liability company agreement to wind up the activities  
23 and affairs of the dissolved series, then the remaining  
24 members associated with the dissolved series shall wind up the  
25 activities and affairs of the dissolved series in accordance



1 with Section 10A-5A-11.10. If no person or persons are  
2 designated in the limited liability company agreement to wind  
3 up the activities and affairs of the dissolved series and  
4 there are no remaining members associated with the dissolved  
5 series, then all of the holders of the transferable interests  
6 associated with the series, or their designee, shall wind up  
7 the activities and affairs of the dissolved series in  
8 accordance with Section 10A-5A-11.10.

9           "(b) The designated court, and if none, the circuit  
10 court for the county in which the limited liability company's  
11 principal ~~place of business~~ office within this state is  
12 located, and if the limited liability company does not have a  
13 principal ~~place of business~~ office within this state then the  
14 circuit court for the county in which the limited liability  
15 company's most recent registered office is located may order  
16 judicial supervision of the winding up of a dissolved series,  
17 including the appointment of a person to wind up the series'  
18 activities and affairs:

19           "(1) on application of a member associated with the  
20 series, if the applicant establishes good cause;

21           "(2) on the application of a transferee associated  
22 with a series, if:

23           "(A) there are no members associated with the  
24 series; and

1           "(B) within a reasonable time following the  
2 dissolution a person has not been appointed pursuant to  
3 subsection (a); or

4           "(3) in connection with a proceeding under Section  
5 10A-5A-11.09(e).

6           "§10A-5A-11.13.

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

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

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

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

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

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

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

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

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

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

16           "(d) A claim that is not barred under this section,  
17 any other statute limiting actions, or Section 10A-5A-11.12  
18 may be enforced:

19           "(1) against a dissolved series, to the extent of  
20 its undistributed assets associated with the series; and

21           "(2) except as provided in subsection (h), if the  
22 assets of a dissolved series have been distributed after  
23 dissolution, against the person or persons owning the  
24 transferable interests associated with the series to the  
25 extent of that person's proportionate share of the claim or of

1 the assets of the series distributed to that person after  
 2 dissolution, whichever is less, but a person's total liability  
 3 for all claims under this subsection may not exceed the total  
 4 amount of assets of the series distributed to that person  
 5 after dissolution of the series.

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

23 "(f) Within 10 days after the filing of the  
 24 application provided for in subsection (e), notice of the

1 proceeding shall be given by the dissolved series to each  
2 potential claimant as described in subsection (e).

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

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

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

21 "(j) If a claim has been satisfied, disposed of, or  
22 barred under Section 10A-5A-11.12, this section or other law,  
23 the person or persons designated to wind up the affairs of a  
24 limited liability company, and the owners of the transferable

1 interests receiving assets from the limited liability company,  
2 shall not be liable for that claim.

3 "§10A-8A-8.02.

4 "Notwithstanding Section 10A-1-9.12:

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

9 "(1) collecting its assets;

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

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

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

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

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

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

22 "(A) The name of the partnership;

23 "(B) If the partnership has filed a statement of  
24 partnership, a statement of not for profit partnership, a  
25 statement of authority, or a statement of limited liability

1 ~~partnership, the date of filing its statement of partnership,~~  
2 ~~statement of not for profit partnership, statement of~~  
3 ~~authority, or statement of limited liability partnership, and~~  
4 ~~all amendments and restatements thereof, and the office or~~  
5 ~~offices where filed unique identifying number or other~~  
6 ~~designation as assigned by the Secretary of State;~~

7 "(C) That the partnership has dissolved;

8 "(D) The name, street address, and mailing address  
9 of the partner who will be winding up the business or not for  
10 profit activity of the partnership pursuant to Section  
11 10A-8A-8.03(a), and if none, the name, street address, and  
12 mailing address of the person appointed pursuant to Section  
13 10A-8A-8.03(b) or (c) to wind up the business or not for  
14 profit activity of the partnership;

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

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

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

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

1           "(4) transfer the partnership's assets;

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

3           and

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

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

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

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

10           "(3) terminate, abate or suspend a proceeding  
11 pending by or against the partnership on the effective date of  
12 dissolution;

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

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

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

19           "§10A-8A-8.07.

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

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

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



1           "(1) be published at least one time in a newspaper  
2 of general circulation in the county in which the dissolved  
3 partnership's principal ~~place of business or not for profit~~  
4 ~~activity~~ office in this state is located, and if none, was  
5 last located;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23           "(h) Provision by the dissolved partnership for  
24 security in the amount and the form ordered by the court under  
25 subsection (e) shall satisfy the dissolved partnership's

1 obligation with respect to claims that are contingent, have  
 2 not been made known to the dissolved partnership, or are based  
 3 on an event occurring after the effective date of the  
 4 dissolution of the partnership, and those claims may not be  
 5 enforced against a person owning a transferable interest to  
 6 whom assets have been distributed by the dissolved partnership  
 7 after the effective date of the dissolution of the  
 8 partnership.

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

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

17           "§10A-8A-8.11.

18           "A partnership that has dissolved, has filed a  
 19 statement of dissolution, and is seeking to reinstate in  
 20 accordance with Section 10A-8A-8.10, shall deliver to the  
 21 Secretary of State for filing a certificate of reinstatement  
 22 in accordance with the following:

23           "(a) A certificate of reinstatement shall be  
 24 delivered to the Secretary of State for filing. The  
 25 certificate of reinstatement shall state:

1                   "(1) the name of the partnership before  
2 reinstatement;

3                   "(2) the name of the partnership following  
4 reinstatement, which partnership name shall comply with  
5 Section 10A-8A-8.12;

6                   "(3) the date of formation of the partnership;

7                   "(4) the date of filing its statement of  
8 dissolution, and all amendments and restatements thereof, and  
9 the office or offices where filed;

10                   "(5) if the partnership has filed a statement of  
11 partnership, a statement of not for profit partnership, a  
12 statement of authority, or a statement of limited liability  
13 partnership, ~~the date of filing its statement of partnership,~~  
14 ~~statement of not for profit partnership, statement of~~  
15 ~~authority, or statement of limited liability partnership, and~~  
16 ~~all amendments and restatements thereof, and the office or~~  
17 ~~offices where filed~~ unique identifying number or other  
18 designation as assigned by the Secretary of State;

19                   "(6) the date of dissolution of the partnership, if  
20 known;

21                   "(7) a statement that all applicable conditions of  
22 Section 10A-8A-8.10 have been satisfied; and

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

1           "(b) A partnership shall deliver to the Secretary of  
2 State for filing a statement of dissolution prior to or  
3 simultaneously with the certificate of reinstatement. If a  
4 partnership has not filed a statement of partnership, a  
5 statement of not for profit partnership, or a statement of  
6 limited liability partnership prior to filing its statement of  
7 dissolution, the partnership must also deliver to the  
8 Secretary of State for filing a statement of partnership, a  
9 statement of not for profit partnership, or a statement of  
10 limited liability partnership, simultaneously with the  
11 certificate of reinstatement.

12           "(c) A certificate of reinstatement is a filing  
13 instrument under Chapter 1.

14           "§10A-8A-10.03.

15           "(a) In the case of a limited liability partnership  
16 performing professional services, upon the death of a partner,  
17 upon a partner becoming a disqualified person, or upon a  
18 transferable interest being transferred by operation of law or  
19 court decree to a disqualified person, the transferable  
20 interest of the deceased partner or of the disqualified person  
21 may be transferred to a qualified person and, if not so  
22 transferred, subject to Section 10A-8A-4.09, shall be  
23 purchased by the limited liability partnership as provided in  
24 this section.

1           "(b) If the price of the transferable interest is  
2 not fixed by the partnership agreement, the limited liability  
3 partnership, within six months after the death or 30 days  
4 after the disqualification or transfer, as the case may be,  
5 shall make a written offer to pay to the holder of the  
6 transferable interest a specified price deemed by the limited  
7 liability partnership to be the fair value of the transferable  
8 interest as of the date of the death, disqualification, or  
9 transfer. The offer shall be given to 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 shall be accompanied by a balance sheet of the limited  
13 liability partnership, as of the latest available date and not  
14 more than 12 months prior to the making of the offer, and a  
15 profit and loss statement of the limited liability partnership  
16 for the 12-month period ended on the date of the balance  
17 sheet.

18           "(c) If within 30 days after the date of the written  
19 offer from the limited liability partnership the fair value of  
20 the transferable interest is agreed upon between the personal  
21 representative of the estate of the deceased partner, the  
22 disqualified person, or the transferee, as the case may be,  
23 and the limited liability partnership, payment therefor shall  
24 be made within 90 days, or such other period as the parties  
25 may agree, after the date of the offer. Upon payment of the

1       agreed value, the personal representative of the estate of the  
2       deceased partner, the disqualified person, or the transferee,  
3       as the case may be, shall cease to have any interest in, or  
4       claim to, the transferable interest.

5               "(d) If within 30 days from the date of the written  
6       offer from the limited liability partnership, the personal  
7       representative of the estate of the deceased partner, the  
8       disqualified person, or the transferee, as the case may be,  
9       and the limited liability partnership do not so agree as to  
10      the fair value of the transferable interest, then either party  
11      may commence a civil action in the designated court, and if  
12      none, in the circuit court ~~in~~ for the county in which the  
13      limited liability partnership's principal ~~place of business or~~  
14      ~~not for profit activity~~ office within this state is located,  
15      and if the limited liability partnership does not have a  
16      principal ~~place of business or not for profit activity~~ office  
17      within this state, then the circuit court for the county in  
18      which the limited liability partnership's most recent  
19      registered office is located requesting that the fair value of  
20      the transferable interest be found and determined. The  
21      personal representative of the estate of the deceased partner,  
22      the disqualified person, or the transferee, as the case may  
23      be, wherever residing, shall be made a party to the proceeding  
24      as an action against that person's transferable interest quasi  
25      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 order that the judgment be paid in  
 8 installments and with interest and on terms as the court may  
 9 determine. The court may appoint one or more persons as  
 10 appraisers to receive evidence and recommend a decision on the  
 11 question of fair value. The appraisers shall have the power  
 12 and authority as shall be specified in the order of their  
 13 appointment or an amendment thereof.

14 "(e) The judgment shall include an allowance for  
 15 interest at the rate the court finds to be fair and equitable  
 16 in all the circumstances, from the date of death,  
 17 disqualification, or transfer.

18 "(f) The costs and expenses of any proceeding shall  
 19 be determined by the court and shall be assessed against the  
 20 parties in a manner the court deems equitable.

21 "(g) The expenses shall include reasonable  
 22 compensation for and reasonable expenses of the appraisers and  
 23 a reasonable attorney's fee but shall exclude the fees and  
 24 expenses of counsel for and of experts employed by any party;  
 25 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

1 estate of the deceased partner, the disqualified person, or  
 2 the transferee, as the case may be, shall have no further  
 3 interest in the transferable interest other than that person's  
 4 right to payment for the transferable interest under this  
 5 section.

6 "(i) This section shall not require a limited  
 7 liability partnership to purchase a transferable interest of a  
 8 disqualified person if the disqualification is for less than  
 9 12 months from the date of disqualification. A limited  
 10 liability partnership may require the disqualified person to  
 11 sell the disqualified person's transferable interest to the  
 12 limited liability partnership upon any disqualification.

13 "(j) Any provision of a partnership agreement  
 14 regarding the purchase or transfer of a transferable interest  
 15 of a limited liability partnership performing professional  
 16 services shall be specifically enforceable in the courts of  
 17 Alabama.

18 "(k) Nothing in this section shall prevent or  
 19 relieve a limited liability partnership from paying pension  
 20 benefits or other deferred compensation.

21 "§10A-9A-2.01.

22 "(a) In order to form a limited partnership, a  
 23 person must deliver a certificate of formation for filing to  
 24 the ~~filing officer as provided in subsection (e)~~ Secretary of

1        State. Notwithstanding Section 10A-1-3.05, the certificate of  
2        formation shall set forth:

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

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

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

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

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

13               "(6) any additional information required by Article  
14       8 of Chapter 1 or by Article 10 of this chapter; and

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

17               "(b) A limited partnership is formed when the  
18       certificate of formation becomes effective in accordance with  
19       Article 4 of Chapter 1.

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

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

7           ~~"(e) A certificate of formation shall be delivered  
8 for filing to the judge of probate of the county in which the  
9 initial registered office of the limited partnership is  
10 located pursuant to Article 4 of Chapter 1 unless the  
11 certificate of formation is required to be delivered for  
12 filing to a different filing officer under Article 8 of  
13 Chapter 1 or Article 10 of this chapter.~~

14           "\$10A-9A-2.02.

15           "Notwithstanding Division B of Article 3 of Chapter  
16 1:

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

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

21           "(c) To amend its certificate of formation, a  
22 limited partnership must deliver a certificate of amendment  
23 for filing to the ~~filing officer provided for in subsection~~  
24 ~~(j)~~ Secretary of State which certificate of amendment shall  
25 state:

1           "(1) the name of the limited partnership;

2           "~~(2) the date of filing of its certificate of~~  
3 ~~formation, and of all prior amendments and the office or~~  
4 ~~offices where filed~~ unique identifying number or other  
5 designation as assigned by the Secretary of State; and

6           "(3) the changes the amendment makes to the  
7 certificate of formation as most recently amended or restated.

8           "(d) Prior to a statement of dissolution being  
9 delivered to the ~~filing officer~~ Secretary of State for filing,  
10 a limited partnership shall promptly deliver a certificate of  
11 amendment for filing with the ~~filing officer provided for in~~  
12 ~~subsection (j)~~ Secretary of State to reflect:

13           "(1) the admission of a new general partner; or

14           "(2) the dissociation of a person as a general  
15 partner.

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

24           "(1) cause the certificate of formation to be  
25 amended; or

1           "(2) if appropriate, deliver for filing with the  
2 ~~filing officer provided for in subsection (j) a statement of~~  
3 ~~change in accordance with Division D of Article 4 of Chapter 1~~  
4 ~~or a statement~~ Secretary of State a certificate of correction  
5 in accordance with ~~Division C of Article 5 of Chapter 1.~~

6           "(f) A certificate of formation may be amended at  
7 any time pursuant to this section for any other proper purpose  
8 as determined by the limited partnership. A certificate of  
9 formation may also be amended in a statement of merger  
10 pursuant to Article 8 of Chapter 1 or Article 10 of this  
11 chapter.

12           "(g) In order to restate its certificate of  
13 formation, a limited partnership must deliver a restated  
14 certificate of formation for filing with the ~~filing officer~~  
15 ~~provided for in subsection (j)~~ Secretary of State. A restated  
16 certificate of formation must:

17           "(1) be designated as such in the heading;

18           "(2) state the name of the limited partnership;

19           "~~(3) state the date of filing of its certificate of~~  
20 ~~formation, and of all prior amendments and the filing office~~  
21 ~~or offices where filed; and~~ unique identifying number or other  
22 designation as assigned by the Secretary of State;

23           "(4) set forth any amendment or change effected in  
24 connection with the restatement of the certificate of  
25 formation. Any such restatement that effects an amendment

1 shall be subject to any other provision of this chapter not  
 2 inconsistent with this section, which would apply if a  
 3 separate certificate of amendment were filed to effect the  
 4 amendment or change;

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

7 "(6) state that the restated certificate of  
 8 formation consolidates all amendments into a single document.

9 "(h) The original certificate of formation, as  
 10 theretofore amended, shall be superseded by the restated  
 11 certificate of formation and thenceforth, the restated  
 12 certificate of formation, including any further amendment or  
 13 changes made thereby, shall be the certificate of formation of  
 14 the limited partnership, but the original effective date of  
 15 formation shall remain unchanged.

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

21 ~~"(j) If a limited partnership is not an organization~~  
 22 ~~described in Section 10A-1-4.02(c)(4), then that limited~~  
 23 ~~partnership shall deliver the certificate of amendment or~~  
 24 ~~restated certificate of formation for filing with the judge of~~  
 25 ~~probate in whose office the original certificate of formation~~



1 ~~is filed. If a limited partnership is an organization~~  
2 ~~described in Section 10A-1-4.02(c)(4), then that limited~~  
3 ~~partnership shall deliver the certificate of amendment or~~  
4 ~~restated certificate of formation for filing with the~~  
5 ~~Secretary of State.~~

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

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

12           "§10A-9A-2.03.

13           "(a) A writing delivered to a ~~filing officer~~  
14 Secretary of State for filing pursuant to this chapter must be  
15 signed as provided by this section.

16           "(1) A limited partnership's initial certificate of  
17 formation must be signed by all general partners listed in the  
18 certificate of formation.

19           "(2) An amendment adding or deleting a statement  
20 that the limited partnership is a limited liability limited  
21 partnership must be signed by all general partners listed in  
22 the certificate of formation.

23           "(3) An amendment designating as general partner a  
24 person admitted under Section 10A-9A-8.01(c) following the

1 dissociation of a limited partnership's last general partner  
2 must be signed by the person or persons so designated.

3 "(4) Any other amendment must be signed by:

4 "(A) at least one general partner; and

5 "(B) each other person designated in the amendment  
6 as a new general partner.

7 "(5) A restated certificate of formation must be  
8 signed by at least one general partner and, to the extent the  
9 restated certificate of formation effects a change under any  
10 other paragraph of this subsection, the restated certificate  
11 of formation must be signed in a manner that satisfies that  
12 paragraph.

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

17 "(7) A statement of conversion must be signed by  
18 each general partner of the limited partnership.

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

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

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

1           "(11) A writing delivered on behalf of a foreign  
2 limited partnership to the Secretary of State for filing must  
3 be signed by at least one general partner of the foreign  
4 limited partnership.

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

7           "(b) Any writing to be filed under this chapter may  
8 be signed by an agent, including an attorney-in-fact. Powers  
9 of attorney relating to the signing of the writing need not be  
10 delivered to the ~~filing officer~~ Secretary of State.

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

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

16           "(2) who has previously delivered for filing with  
17 the ~~filing officer pursuant to Article 4 of Chapter 1~~  
18 Secretary of State a statement of dissociation or withdrawal.

19           "§10A-9A-2.04.

20           "(a) If a person required by this chapter to sign a  
21 writing or deliver a writing to a ~~filing officer~~ the Secretary  
22 of State for filing under this chapter does not do so, any  
23 other person that is aggrieved by that failure may petition  
24 the designated court, and if none, the circuit court in for  
25 the county in which the limited partnership's principal place

1 ~~of business office~~ within this state is located, and if the  
2 limited partnership does not have a principal ~~place of~~  
3 ~~business office~~ within this state then the circuit court for  
4 the county in which the limited partnership's most recent  
5 registered office is located, to order:

6           "(1) the person to sign the writing;

7           "(2) the person to deliver the writing to the ~~filing~~  
8 ~~officer~~ Secretary of State for filing; or

9           "(3) the ~~filing officer~~ Secretary of State to file  
10 the writing unsigned.

11           "(b) If a petitioner under subsection (a) is not the  
12 limited partnership or foreign limited partnership to whom the  
13 writing pertains, the petitioner shall make the limited  
14 partnership or foreign limited partnership a party to the  
15 action. A person aggrieved under subsection (a) may seek the  
16 remedies provided in subsection (a) in a separate action  
17 against the person required to sign or deliver the writing or  
18 as a part of any other action concerning the limited  
19 partnership or foreign limited partnership in which the person  
20 required to sign or deliver the writing is made a party.

21           "(c) A writing filed unsigned pursuant to this  
22 section is effective without being signed.

23           "(d) A court may award reasonable expenses,  
24 including reasonable attorneys' fees, to the party or parties

1 who prevail, in whole or in part, with respect to any claim  
2 made under subsection (a).

3 "§10A-9A-2.06.

4 "(a) The Secretary of State, upon request and  
5 payment of the requisite fee, shall furnish to any person a  
6 certificate of existence for a limited partnership if the  
7 writings filed in the office of the Secretary of State show  
8 that the limited partnership has been formed under the laws of  
9 this state. A certificate of existence shall reflect only the  
10 information on file with the Secretary of State. To the extent  
11 writings have been delivered to the Secretary of State, the  
12 certificate of existence must state:

13 "(1) the limited partnership's name;

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

17 "(3) whether a statement of dissolution of the  
18 limited partnership has been delivered to the Secretary of  
19 State for filing;

20 "(4) whether the limited partnership has delivered  
21 to the Secretary of State for filing a certificate of  
22 reinstatement; ~~and~~

23 "(5) the unique identifying number or other  
24 designation as assigned by the Secretary of State; and

1           "~~(5)~~(6) other facts of record in the office of the  
2 Secretary of State which may be requested by the applicant.

3           "(b) The Secretary of State, upon request and  
4 payment of the requisite fee, shall furnish to any person a  
5 certificate of authorization for a foreign limited partnership  
6 if the writings filed in the office of the Secretary of State  
7 show that the Secretary of State has filed a certificate of  
8 authority, has not revoked the certificate of authority, and  
9 has not filed a notice of cancellation. A certificate of  
10 authorization must state:

11           "(1) the foreign limited partnership's name and any  
12 alternate name for use in this state under Article 5 of  
13 Chapter 1;

14           "(2) that the foreign limited partnership is  
15 authorized to conduct activities and affairs in this state;

16           "(3) that the Secretary of State has not revoked the  
17 foreign limited partnership's certificate of authority;

18           "(4) that the foreign limited partnership has not  
19 filed with the Secretary of State a certificate of withdrawal,  
20 a notice of cancellation, or otherwise terminated its  
21 certificate of authority; and

22           "(5) the unique identifying number or other  
23 designation as assigned by the Secretary of State; and

24           "~~(5)~~(6) other facts of record in the office of the  
25 Secretary of State which may be requested by the applicant.

1           "(c) Subject to any qualification stated in the  
2 certificate, a certificate of existence or authorization  
3 issued by the Secretary of State may be relied upon as  
4 conclusive evidence that the limited partnership or foreign  
5 limited partnership is in existence or is authorized to  
6 transact activities and affairs in this state.

7           "(d) The Secretary of State shall not be required to  
8 issue a certificate of existence for a limited partnership if  
9 its certificate of formation was filed prior to January 1,  
10 2011; provided, however, that the Secretary of State shall  
11 issue a certificate of existence upon the filing by the  
12 limited partnership of a certificate of information with the  
13 Secretary of State which must:

14           "(1) state all information required in Section  
15 10A-9A-2.01(a)(1), (a)(2), (a)(3), (a)(4), (a)(5), and (a)(6);  
16 and

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

19           "§10A-9A-8.01.

20           "A limited partnership is dissolved and its  
21 activities and affairs shall be wound up upon the occurrence  
22 of the first of the following events:

23           "(a) An event or circumstance that the partnership  
24 agreement states causes dissolution.

25           "(b) Consent of all partners to dissolve.

1           "(c)When there is no remaining general partner,  
2 unless either of the following applies:

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

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

11           "(d) When there is no remaining limited partner,  
12 unless either of the following applies:

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

17           "(2) The activities and affairs of the limited  
18 partnership are continued and one or more new limited partners  
19 are admitted in the manner stated in the partnership  
20 agreement.

21           "(e) When there are no remaining partners, unless  
22 either of the following applies:

23           "(1) The holders of all of the transferable  
24 interests in the limited partnership agree in writing, within  
25 90 days after the dissociation of the last general partner, to



1 continue the activities and affairs of the limited partnership  
 2 and to admit one or more new general partners and one or more  
 3 new limited partners.

4 "(2) The activities and affairs of the limited  
 5 partnership are continued and one or more new general partners  
 6 and one or more new limited partners are admitted in the  
 7 manner stated in the partnership agreement.

8 "(f) On application by a partner, the entry of an  
 9 order dissolving the limited partnership on the grounds that  
 10 it is not reasonably practicable to carry on the limited  
 11 partnership's activities and affairs in conformity with the  
 12 partnership agreement, which order is entered by the  
 13 designated court, and if none, the circuit court for the  
 14 county in which the limited partnership's principal ~~place of~~  
 15 ~~business~~ office within this state is located, and if the  
 16 limited partnership does not have a principal ~~place of~~  
 17 ~~business~~ office within this state then by the circuit court  
 18 for the county in which the limited partnership's most recent  
 19 registered office is located.

20 "§10A-9A-8.02.

21 "Notwithstanding Section 10A-1-9.12:

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

1           "(1) collecting its assets;

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

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

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

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

10           "(b) In winding up its activities and affairs, a  
11 limited partnership may:

12           "(1) deliver for filing a statement of dissolution  
13 to the ~~filing officer provided for in subsection (e)~~ Secretary  
14 of State setting forth:

15           "(A) The name of the limited partnership;

16           "~~(B) The date of filing its certificate of~~  
17 ~~formation, and all amendments and restatements thereof, and~~  
18 ~~the office or offices where filed~~ unique identifying number or  
19 other designation as assigned by the Secretary of State;

20           "(C) That the limited partnership has dissolved;

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

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

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

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

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

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

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

12 and

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

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

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

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

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

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

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

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

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

16                   "§10A-9A-8.03.

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

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

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

3           "(c) The designated court, and if none, the circuit  
 4 court for the county in which the limited partnership's  
 5 principal ~~place of business~~ office within this state is  
 6 located, and if the limited partnership does not have a  
 7 principal ~~place of business~~ office within this state then the  
 8 circuit court for the county in which the limited  
 9 partnership's most recent registered office is located, may  
 10 order judicial supervision of the winding up of a dissolved  
 11 limited partnership, including the appointment of a person to  
 12 wind up the limited partnership's activities and affairs:

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

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

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

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

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

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

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

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

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

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

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

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

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

15 "§10A-9A-8.07.

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

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

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

22 "(1) be published at least one time in a newspaper  
23 of general circulation in the county in which the dissolved  
24 limited partnership's principal place of business office is  
25 located ~~or, if it has~~ in this state, and if none in this

1 state, in the county in which the limited partnership's most  
2 recent registered office is ~~or was last~~ located;

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

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

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

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

23 "(1) a claimant who was not given notice under  
24 Section 10A-9A-8.06;



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

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

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

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

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

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

1           "(e) A dissolved limited partnership that published  
2 a notice under this section may file an application with the  
3 designated court, and if none the circuit court in for the  
4 county in which the dissolved limited partnership's principal  
5 ~~place of business~~ office is located in this state and if the  
6 dissolved limited partnership does not have a principal ~~place~~  
7 ~~of business~~ office within this state, in the circuit court for  
8 the county in which the dissolved limited partnership's most  
9 recent registered office is located, for a determination of  
10 the amount and form of security to be provided for payment of  
11 claims that are contingent or have not been made known to the  
12 dissolved limited partnership or that are based on an event  
13 occurring after the effective date of the dissolution of the  
14 limited partnership but that, based on the facts known to the  
15 dissolved limited partnership, are reasonably estimated to  
16 arise after the effective date of the dissolution of the  
17 limited partnership. Provision need not be made for any claim  
18 that is or is reasonably anticipated to be barred under  
19 subsection (c).

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

24           "(g) The circuit court under subsection (e) may  
25 appoint a guardian ad litem to represent all claimants whose

1 identities are unknown in any proceeding brought under this  
2 section. The reasonable fees and expenses of the guardian,  
3 including all reasonable expert witness fees, shall be paid by  
4 the dissolved limited partnership.

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

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

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

24 "§10A-9A-8.11.

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

8           "(1) the name of the limited partnership before  
9 reinstatement;

10           "(2) the name of the limited partnership following  
11 reinstatement, which limited partnership name shall comply  
12 with Section 10A-9A-8.12;

13           "(3) the date of formation of the limited  
14 partnership;

15           "(4) the date of dissolution of the limited  
16 partnership, if known;

17           "(5) a statement that all applicable conditions of  
18 Section 10A-9A-8.10 have been satisfied; ~~and~~

19           "(6) the address of the registered office and the  
20 name of the registered agent at that address in compliance  
21 with Article 5 of Chapter 1-; and

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

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

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

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

14           "§10A-10-1.07.

15           "(a) A real estate investment trust may provide by  
16 its declaration of trust any of the following:

17           "(1) That any specified class of shares is preferred  
18 over another class as to its distributive share of the assets  
19 on voluntary or involuntary liquidation of the real estate  
20 investment trust and the amount of the preference.

21           "(2) That any specified class of shares may be  
22 redeemed at the option of the real estate investment trust or  
23 of the holders of the shares and the terms and conditions of  
24 redemption, including the time and price of redemption.

1           "(3) That any specified class of shares is  
2 convertible into shares of one or more classes and the terms  
3 and conditions of conversion.

4           "(4) That the holders of any specified securities  
5 issued or to be issued by the real estate investment trust  
6 have any voting or other rights which, by law, are or may be  
7 conferred on shareholders.

8           "(5) For any other preferences, rights,  
9 restrictions, including restrictions on transferability and  
10 qualifications not inconsistent with law.

11           "(6) That the board of trustees may classify or  
12 reclassify any unissued shares, from time to time, by setting  
13 or changing the preferences, conversion, or other rights,  
14 voting powers, restrictions, limitations as to dividends,  
15 qualifications, or terms or conditions of redemption of the  
16 shares.

17           "(7) That the board of trustees may amend the  
18 declaration of trust to increase or decrease the aggregate  
19 number of shares or the number of shares of any class that the  
20 trust has authority to issue.

21           "(b) If, under a power contained in the declaration  
22 of trust, the board of trustees classifies or reclassifies any  
23 unissued shares by setting or changing the preferences,  
24 conversion, or other rights, voting powers, restrictions,  
25 limitations as to dividends or distributions, qualifications

1 or terms or conditions of redemption, the board, before  
 2 issuing any of the shares, shall ~~file~~ deliver articles  
 3 supplementary for record ~~with the judge of probate in the~~  
 4 ~~county in which its principal place of business is located, in~~  
 5 ~~the manner and as provided by Article 4 of Chapter 1~~ to the  
 6 Secretary of State for filing, which shall include both of the  
 7 following:

8 "(1) A description of the shares, including the  
 9 preferences, conversion, and other rights, voting powers,  
 10 restrictions, limitations as to dividends, qualifications, and  
 11 terms and conditions of redemption, as set or changed by the  
 12 board of trustees.

13 "(2) A statement that the shares have been  
 14 classified or reclassified by the board of trustees under the  
 15 authority contained in the declaration of trust.

16 "(c) (1) For purposes of this subsection, "facts"  
 17 include the occurrence of any event, including a determination  
 18 or action by any person or body, including the real estate  
 19 investment trust.

20 "(2) Any of the preferences, conversion, or other  
 21 rights, voting powers, restrictions, limitations as to  
 22 dividends or distributions, qualifications, or terms or  
 23 conditions of redemption of any class or series of shares may  
 24 be made dependent upon facts ascertainable outside the  
 25 declaration of trust and may vary among holders of the shares,

1 provided, that the manner in which the facts or variations  
2 will operate upon the preferences, conversion, or other  
3 rights, voting powers, restrictions, limitations as to  
4 dividends or distributions, qualifications, or terms or  
5 conditions of redemption of the class or series of shares is  
6 clearly and expressly set forth in the declaration of trust.

7 "(d) If the real estate investment trust has  
8 authority to issue shares of more than one class, the  
9 certificate evidencing the shares shall contain on its face or  
10 back a full statement or summary of:

11 "(1) The designations and any preferences,  
12 conversion, and other rights, voting powers, restrictions,  
13 limitations as to dividends or distributions, qualifications,  
14 and terms and conditions of redemption of the shares of each  
15 class which the real estate investment trust is authorized to  
16 issue.

17 "(2) If the real estate investment trust is  
18 authorized to issue any preferred or special class in series  
19 both of the following:

20 "a. The differences in the relative rights and  
21 preferences between the shares of each series to the extent  
22 they have been set.

23 "b. The authority of the board of trustees to set  
24 the relative rights and preferences of subsequent series.



1           "(e) (1) A summary of the information required by  
 2 subsection (d), as included in a registration statement  
 3 permitted to become effective under the Federal Securities Act  
 4 of 1933, is an acceptable summary for the purposes of this  
 5 section.

6           "(2) Instead of a full statement or summary, the  
 7 certificate may state that the real estate investment trust  
 8 will furnish a full statement of the information required by  
 9 subsection (d) to any holder of shares on request and without  
 10 charge.

11           "(f) Unless the declaration of trust provides  
 12 otherwise, the trustees of a real estate investment trust may  
 13 authorize the issue of some of the shares of any or all of its  
 14 classes or series without certificates. The authorization does  
 15 not affect shares already represented by certificates until  
 16 they are surrendered to the real estate investment trust. At  
 17 the time of issuance or transfer of any shares without  
 18 certificates, the real estate investment trust shall send the  
 19 shareholder a written statement of the information required on  
 20 certificates by subsection (d) or (e).

21           "§10A-10-1.14.

22           "(a) Except as provided in subsection (c) of Section  
 23 10A-10-1.06 or subdivision (7) of subsection (a) of Section  
 24 10A-10-1.07, a declaration of trust may be amended only as  
 25 provided in this section.

1           "(b) The board of trustees of a real estate  
2 investment trust proposing an amendment to its declaration of  
3 trust shall:

4           "(1) Adopt a resolution which sets forth the  
5 proposed amendment and declares that it is advisable.

6           "(2) Direct that the proposed amendment be submitted  
7 for consideration at either an annual or special meeting of  
8 the shareholders.

9           "(c) Notice which states that a purpose of the  
10 meeting will be to act upon the proposed amendment shall be  
11 given by the real estate investment trust in the manner  
12 provided in the declaration of trust or bylaws to:

13           "(1) Each shareholder entitled to vote on the  
14 proposed amendment.

15           "(2) Each shareholder not entitled to vote on the  
16 proposed amendment if the contract rights of the shareholder's  
17 shares, as expressly set forth in the declaration of trust,  
18 would be altered by the amendment.

19           "(3) The notice shall include a copy of the  
20 amendment or a summary of the changes it will affect.

21           "(d) The proposed amendment shall be approved by the  
22 shareholders of the real estate investment trust by the  
23 affirmative vote of two-thirds of all the votes entitled to be  
24 cast in the matter.

1           "(e) A declaration of trust may permit the trustees  
2 by a two-thirds vote to amend provisions of the declaration of  
3 trust, from time to time, to qualify as a real estate  
4 investment trust under the Internal Revenue Code or under this  
5 chapter.

6           "(f) A certificate of amendment setting forth the  
7 amendment and stating the manner in which it was adopted shall  
8 be signed and acknowledged by at least a majority of the  
9 trustees or an officer duly authorized by at least a majority  
10 of the trustees ~~and filed with the judge of probate in the~~  
11 ~~county in which its declaration of trust is filed~~ and deliver  
12 the certificate of amendment to the Secretary of State for  
13 filing.

14           "§10A-10-1.15.

15           "(a) For purposes of this section, the following  
16 words shall have the respective meanings ascribed to them:

17           "(1) ALABAMA REAL ESTATE INVESTMENT TRUST. A real  
18 estate investment trust organized in compliance with the  
19 provisions of this chapter.

20           "(2) BUSINESS TRUST.

21           "a. An entity described in Section 10A-16-1.01.

22           "b. An unincorporated trust or association,  
23 including an Alabama real estate investment trust, a  
24 common-law trust, or a Massachusetts trust, which is engaged  
25 in business and in which property is acquired, held, managed,

1 administered, controlled, invested, or disposed of for the  
 2 benefit and profit of any person who may become a holder of a  
 3 transferable unit of beneficial interest in the trust.

4 "(3) DOMESTIC LIMITED LIABILITY COMPANY. A limited  
 5 liability company ~~formed as defined~~ under the ~~laws of this~~  
 6 state Alabama Limited Liability Company Law.

7 "(4) DOMESTIC LIMITED PARTNERSHIP. A limited  
 8 ~~partnership formed by two or more persons under the laws of~~  
 9 ~~the state and having one or more general partners and one or~~  
 10 ~~more limited partners~~ as defined under the Alabama Limited  
 11 Partnership Law.

12 "(5) FOREIGN BUSINESS TRUST. A business trust  
 13 organized under the laws of the United States, another state  
 14 of the United States, or a territory, possession, or district  
 15 of the United States.

16 "(6) FOREIGN LIMITED LIABILITY COMPANY. A limited  
 17 liability company formed under the laws of any state other  
 18 than the State of Alabama or under the laws of a foreign  
 19 country or other foreign jurisdiction and denominated as such  
 20 under the laws of such state, foreign country, or other  
 21 foreign jurisdiction.

22 "(7) FOREIGN LIMITED PARTNERSHIP. A limited  
 23 partnership formed under the laws of any state other than the  
 24 State of Alabama or under the laws of a foreign country ~~and~~  
 25 ~~having as partners one or more general partners and one or~~

1 ~~more limited partners~~ or other foreign jurisdiction and  
2 denominated as such under the laws of such state, foreign  
3 country, or other foreign jurisdiction.

4 "(b) Unless the declaration of trust provides  
5 otherwise, an Alabama real estate investment trust may merge  
6 into an Alabama or foreign business trust, into an Alabama or  
7 foreign corporation having capital stock, or into a domestic  
8 or foreign limited partnership or limited liability company;  
9 or one or more business trusts, corporations, domestic or  
10 foreign limited partnerships, or limited liability companies  
11 may merge into an Alabama real estate investment trust.

12 "(c) A merger shall be approved in the manner  
13 provided by this section, except that:

14 "(1) A foreign business trust, an Alabama business  
15 trust, other than an Alabama real estate investment trust, a  
16 corporation, a domestic or foreign limited partnership, or a  
17 domestic or foreign limited liability company party to the  
18 merger shall have the merger advised, authorized, and approved  
19 in the manner and by the vote required by its declaration of  
20 trust, charter, or partnership agreement, and the laws of the  
21 place where it is organized.

22 "(2) A merger needs to be approved by an Alabama  
23 real estate investment trust successor only by a majority of  
24 its entire board of trustees if:

1           "a. The merger does not reclassify or change its  
2 outstanding shares or otherwise amend its declaration of  
3 trust.

4           "b. The number of shares to be issued or delivered  
5 in the merger is not more than 15 percent of the number of its  
6 shares of the same class or series outstanding immediately  
7 before the merger becomes effective.

8           "(d) The board of trustees of each Alabama real  
9 estate investment trust proposing to merge shall:

10           "(1) Adopt a resolution that declares the proposed  
11 transaction is advisable in substantially the terms and  
12 conditions set forth or referred to in the resolution.

13           "(2) Direct that the proposed transaction be  
14 submitted for consideration at either an annual or special  
15 meeting of shareholders.

16           "(e) Notice which states that a purpose of a meeting  
17 will be to act upon the proposed merger shall be given by each  
18 Alabama real estate investment trust in the manner provided  
19 for corporations by the Alabama Business Corporation Law, to:

20           "(1) Each of its shareholders entitled to vote on  
21 the proposed transaction.

22           "(2) Each of its shareholders not entitled to vote  
23 on the proposed transaction, except the shareholders of a  
24 successor in a merger if the merger does not alter the

1 contract rights of their shares as expressly set forth in the  
2 declaration of trust.

3 "(f) Except as provided in subsection (c) of Section  
4 10A-10-1.06, the proposed merger shall be approved by the  
5 shareholders of each Alabama real estate investment trust by  
6 the affirmative vote of two-thirds of all the votes entitled  
7 to be cast on the matter.

8 "(g) Articles of merger containing the information  
9 required by the Alabama Business Corporation Law, and the  
10 other provisions as permitted by that section shall be:

11 "(1) Executed for each party to the articles of  
12 merger in the manner required by the Alabama Business  
13 Corporation Law.

14 "(2) Filed for the record in the Office of the  
15 Secretary of State in accordance with the provisions of  
16 Article 4 of Chapter 1.

17 "(h) (1) A proposed merger may be abandoned before  
18 the effective date of the articles of merger:

19 "a. If the articles of merger so provide, by  
20 majority vote of the entire board of trustees of any one  
21 business trust party to the articles or by a majority of the  
22 entire board of directors of any one corporation party to the  
23 articles.

1            "b. Unless the articles of merger provide otherwise  
2 by a majority vote of the entire board of trustees of each  
3 Alabama real estate investment trust party to the articles.

4            "c. By unanimous consent of the members of a limited  
5 liability company party to the articles of merger.

6            "d. By unanimous consent of the partners of a  
7 limited partnership party to the articles of merger.

8            "(2) If the articles of merger have been filed in  
9 the Office of the Secretary of State, notice of the  
10 abandonment shall be given promptly to the Secretary of State.

11           " (3)a. If the proposed merger is abandoned as  
12 provided in this subsection, no legal liability arises under  
13 the articles of merger.

14           "b. An abandonment does not prejudice the rights of  
15 any person under any other contract made by a business trust,  
16 corporation, limited partnership, or limited liability company  
17 party to the proposed articles of merger in connection with  
18 the proposed merger.

19           "c. Each shareholder of an Alabama real estate  
20 investment trust objecting to a merger of the Alabama real  
21 estate investment trust shall have the same rights as a  
22 stockholder of an Alabama corporation under Article 13 of  
23 Chapter 2A and under the same procedures.

24           "(i) The Secretary of State shall prepare  
25 certificates of merger that specify:



1                   "(1) The name of each party to the articles of  
2 merger.

3                   "(2) The name of the successor and the location of  
4 its principal office in this state or, if it has none, its  
5 principal place of business.

6                   "(3) The time the articles of merger are accepted  
7 for record by the Secretary of State.

8                   "(j) If the successor in a merger is an Alabama real  
9 estate investment trust, a merger is effective as of the later  
10 of:

11                   "(1) The time the Secretary of State accepts the  
12 articles of merger for record.

13                   "(2) The time established under the articles of  
14 merger, not to exceed 30 days after the articles are accepted  
15 for record.

16                   "(k) (1) If the successor in a merger is a foreign  
17 corporation, a foreign limited partnership, a foreign limited  
18 liability company, or an Alabama or foreign business trust,  
19 other than an Alabama real estate investment trust, the merger  
20 is effective as of the later of:

21                   "a. The time specified by the law of the place where  
22 the successor is organized.

23                   "b. The time the Secretary of State accepts the  
24 articles of merger for record.

1           "(2) A foreign successor in a merger may ~~file for~~  
2 ~~record with the judge of probate~~ deliver for filing to the  
3 Secretary of State a certificate ~~from the place where it is~~  
4 ~~organized~~ which certifies the date the articles of merger were  
5 filed. However, the failure to file this certificate does not  
6 invalidate the merger.

7           "(1) (1) Consummation of a merger has the effects  
8 provided in this subsection.

9           "(2) The separate existence of each business trust,  
10 corporation, limited partnership, or limited liability company  
11 party to the articles of merger, except the successor, ceases.

12           "(3) The shares of each business trust party to the  
13 articles of merger which are to be converted or exchanged  
14 under the terms of the articles cease to exist, subject to the  
15 rights of an objecting shareholder under this section.

16           "(4) In addition to any other purposes and powers  
17 set forth in the articles, if the articles of merger provide,  
18 the successor has the purposes and powers of each party to the  
19 articles.

20           "(5)a. The assets of each party to the articles of  
21 merger, including any legacies which it would have been  
22 capable of taking, ~~transfer to,~~ vest in, and devolve on the  
23 successor without further act or deed.

24           "b. Confirmatory deeds, assignments, or similar  
25 instruments to evidence the ~~transfer~~ merger may be executed

1 and delivered at any time in the name of ~~the transferring~~  
2 either party to the articles of merger by its last acting  
3 officers or trustees or by the appropriate officers or  
4 trustees of the successor. A certified copy of any document  
5 required to be filed under this section may be filed in the  
6 real estate records in the office of the judge of probate in  
7 any county in which the nonsuccessor party owned real  
8 property, without payment and without collection by the judge  
9 of probate of any deed or other transfer tax or fee. The judge  
10 of probate, however, may collect a filing fee of five dollars  
11 (\$5). Any such filing shall evidence chain of title, but lack  
12 of filing shall not affect the converted entity's title to the  
13 real property.

14 "(6)a. The successor is liable for all the debts and  
15 obligations of each nonsurviving party to the articles of  
16 merger. An existing claim, action, or proceeding pending by or  
17 against any nonsurviving party to the articles of merger may  
18 be prosecuted to judgment as if the merger had not taken  
19 place, or, on motion of the successor or any party, the  
20 successor may be substituted as a party and the judgment  
21 against the nonsurviving party to the articles of merger  
22 constitutes a lien on the property of the successor.

23 "b. A merger does not impair the rights of creditors  
24 or any liens on the property of any business trust,

1 corporation, limited partnership, or limited liability company  
 2 which is a party to the articles of merger.

3 "(m) This section is not exclusive. Real estate  
 4 investment trusts may merge or exchange their shares in any  
 5 other manner provided by law, including pursuant to the  
 6 provisions of Article 8 of Chapter 1.

7 "§10A-16-1.05.

8 "(a) The written declaration of trust may provide  
 9 for the election of successor trustees in the event of the  
 10 death, resignation, and removal of a trustee and may provide  
 11 for the amendment of the declaration of trust. The declaration  
 12 of trust may also contain other provisions regarding the  
 13 operation and administration of the business trust as may be  
 14 necessary or desirable.

15 "(b) ~~Two copies of the~~ The declaration of trust  
 16 shall be delivered to the ~~judge of probate in the county in~~  
 17 ~~which its principal place of business is located~~ Secretary of  
 18 State for filing, accompanied by the filing fees ~~for the State~~  
 19 ~~of Alabama and for the judge of probate in the amounts~~ fee in  
 20 the amount prescribed by ~~Section 10A-1-4.31~~ Chapter 1 for a  
 21 certificate of formation. ~~The judge of probate shall file one~~  
 22 ~~copy in his or her office and certify the other copy, which~~  
 23 ~~shall be forwarded to the Secretary of State, together with~~  
 24 ~~the fee collected for the State of Alabama.~~

25 "§10A-17-1.06.

1           "(a) A nonprofit association shall execute and  
2 record a statement of authority to transfer an estate or  
3 interest in real property in the name of the nonprofit  
4 association.

5           "(b) An estate or interest in real property in the  
6 name of a nonprofit association may be transferred by a person  
7 so authorized in a statement of authority recorded in the  
8 office of the judge of probate of the county in which the real  
9 property is located.

10           "(c) A statement of authority shall set forth:

11           "(1) The name of the nonprofit association;

12           "(2) The address in Alabama, including the street  
13 address, if any, of the nonprofit association, or, if the  
14 nonprofit association does not have an address in Alabama, its  
15 address out of state;

16           "(3) The name or title of a person authorized to  
17 transfer an estate or interest in real property held in the  
18 name of the nonprofit association; and

19           "(4) The action, procedure, or vote of the nonprofit  
20 association which authorizes the person to transfer the real  
21 property of the nonprofit association and which authorizes the  
22 person to execute the statement of authority.

23           "(d) A statement of authority shall be executed and  
24 recorded in the same manner as a deed by a person who is not  
25 the person authorized to transfer the estate or interest.

1           "(e) The judge of probate ~~may~~ shall collect a fee  
 2 for recording a statement of authority ~~in the amount~~  
 3 ~~authorized to be collected by and for the judge of probate~~  
 4 ~~pursuant to Section 10A-1-4.31 for filing a certificate of~~  
 5 ~~formation~~ in accordance with Article 4 of Chapter 1.

6           "(f) An amendment, including a cancellation, of a  
 7 statement of authority shall meet the requirements for  
 8 execution and recording, and be accompanied by payment of the  
 9 same recording fee payable to and for the judge of probate, of  
 10 an original statement. Unless cancelled earlier, a recorded  
 11 statement of authority as amended is cancelled by operation of  
 12 law five years after the date of the most recent amended  
 13 statement of authority.

14           "(g) If the record title to real property is in the  
 15 name of a nonprofit association and the statement of authority  
 16 is recorded in the office of the judge of probate of the  
 17 county in which the real property is located, the authority of  
 18 the person named in a statement of authority is conclusive in  
 19 favor of a person who gives value without notice that the  
 20 person lacks authority.

21           "§10A-17-1.11.

22           "(a) A nonprofit association may ~~file in the office~~  
 23 ~~of the judge of probate of the county where the association~~  
 24 ~~has its principal office~~ deliver to the Secretary of State for

1 filing a statement appointing an agent authorized to receive  
2 service of process.

3 "(b) A statement appointing an agent shall set  
4 forth:

5 "(1) The name of the nonprofit association;

6 "(2) The address in Alabama, including the street  
7 address, if any, of the nonprofit association, or, if the  
8 nonprofit association does not have an address in Alabama, its  
9 address out of state; and

10 "(3) The name of the person in Alabama authorized to  
11 receive service of process and the person's address, including  
12 the street address, in Alabama.

13 "(c) A statement appointing an agent shall be signed  
14 and acknowledged by a person authorized to manage the affairs  
15 of the nonprofit association. The statement shall also be  
16 signed and acknowledged by the person appointed agent, who  
17 thereby accepts appointment. ~~The statement and one copy~~  
18 ~~thereof shall be delivered to the judge of probate, who will~~  
19 ~~transmit a certified copy to the Secretary of State. If the~~  
20 ~~judge of probate finds that the statement conforms to~~  
21 ~~provisions of this section, he or she shall file the statement~~  
22 ~~in his or her office, and upon the filing, the statement~~  
23 ~~becomes effective.~~

24 "(d) The appointed agent may resign by delivering to  
25 the Secretary of State for filing a resignation ~~and one copy~~

1 ~~thereof with the judge of probate~~, and by giving notice to the  
 2 nonprofit association. ~~The judge of probate shall transmit a~~  
 3 ~~certified copy to the Secretary of State.~~ The appointment of  
 4 the agent shall terminate upon the expiration of 30 days after  
 5 ~~receipt of the notice by the judge of probate~~ the Secretary of  
 6 State has filed the resignation.

7           "(e) The ~~judge of probate~~ Secretary of State may  
 8 collect a fee for filing a statement appointing an agent to  
 9 receive service of process, an amendment, or a resignation in  
 10 the amount charged for filing similar documents for nonprofit  
 11 corporations.

12           "(f) An amendment to a statement appointing an agent  
 13 to receive service of process shall meet the requirements for  
 14 execution of an original statement.

15           "§10A-20-1.08.

16           "Upon the presentation to the Secretary of State of  
 17 any application provided for in this article, the applicant  
 18 ~~shall not be required to pay any fee to or for the judge of~~  
 19 ~~probate but~~ shall pay to the Secretary of State the fee  
 20 prescribed to be paid to the Secretary of State by ~~Section~~  
 21 ~~10A-1-4.31~~ Chapter 1 as follows:

22           "(1) for the filing of an application under Section  
 23 10A-20-1.02 to become a corporation sole, the fee prescribed  
 24 for filing a certificate of formation;



1           "(2) for the filing of an application under Section  
2 10A-20-1.05 for a certificate of succession, the fee  
3 prescribed for filing a certificate of formation;

4           "(3) for the filing of an application under Section  
5 10A-20-1.06 for appointment of an administrator, the fee  
6 prescribed for filing a certificate of formation; and

7           "(4) for the filing of an application to dissolve  
8 under Section 10A-20-1.07, the fee prescribed for filing  
9 statement or articles of dissolution.

10           "§10A-20-2.01.

11           "(a) The members of any church, conference of  
12 churches, religious society, educational society, benevolent,  
13 monument, or burial society, patriotic society, societies for  
14 the purpose of nature study or scientific research, society  
15 for establishing public parks or places of public recreation,  
16 societies for promoting knowledge, promoting arts, or  
17 promoting sciences, societies for purposes of like kind or the  
18 owners of a graveyard, or the trustees of any of the foregoing  
19 churches, conferences, institutions, or societies elected by  
20 the organization, or organizations, of the church,  
21 conferences, institution, association, or society desiring to  
22 become incorporated, shall adopt a resolution signifying the  
23 intention and elect not less than three trustees.

24           "(b) The trustees shall, within 30 days after their  
25 election, ~~file in the office of the judge of probate of the~~

1 ~~county in which the corporation is to exercise its functions,~~  
2 ~~or part of its functions~~ deliver to the Secretary of State for  
3 filing, a certificate stating the corporate name selected, the  
4 names of the trustees, and the length of time for which they  
5 are elected, ~~which certificate shall be subscribed by them and~~  
6 ~~recorded and~~ shall pay to the ~~judge of probate~~ Secretary of  
7 State the filing fee ~~required to be paid for the benefit of~~  
8 ~~the judge of probate~~ under ~~Section 10A-1-4.31~~ Chapter 1 for  
9 filing a certificate of formation. The members of the society,  
10 their associates and successors are, from the filing of the  
11 certificate, incorporated by the name specified.

12 "§10A-20-6.02.

13 "(a) The incorporators of any corporation to be  
14 governed by this article shall prepare and ~~file in the office~~  
15 ~~of the judge of probate of the county in which the corporation~~  
16 ~~is to have its principal place of business~~ deliver to the  
17 Secretary of State for filing a certificate of formation  
18 stating an intention to become a corporation, which  
19 certificate of formation shall be signed by each of the  
20 incorporators and shall set forth:

21 "(1) The name of the proposed corporation;

22 "(2) The objects and purposes for which the  
23 corporation is organized;

24 "(3) The location of the principal office of the  
25 corporation in this state; and

1           "(4) The name and post office address of each  
2 incorporator, not less than three in number.

3           "(b) The certificate of formation may also contain  
4 any other provisions, not inconsistent with the provisions of  
5 this article, which the incorporators may desire to insert for  
6 the regulation of the business or affairs of the corporation  
7 or which would be permitted nonprofit corporations by the  
8 Alabama Nonprofit Corporation Law. The filing of the  
9 certificate of formation shall be accompanied with payment of  
10 the filing fee payable to ~~and for the benefit of the judge of~~  
11 ~~probate provided for filing~~ the Secretary of State in the  
12 amount prescribed by Chapter 1 for certificates of formation  
13 under Section 10A-1-4.31. The filing ~~in the probate office~~ of  
14 the certificate of formation by the Secretary of State effects  
15 the creation of a corporation for the purpose of establishing,  
16 maintaining, and operating a health care service plan as  
17 provided for in this article.

18           "§10A-20-6.06.

19           "The corporation may change its corporate name, the  
20 location of its principal ~~place of business~~ office, or make  
21 other alteration, amendment, or change in its certificate of  
22 formation, as may be desired in the following manner:

23           "(1) Its board of directors by a majority vote  
24 thereof, either in person or by proxy, at any regular meeting  
25 of the board, or at any special meeting called for the

1 purpose, shall adopt a resolution or resolutions setting forth  
 2 the respect or respects in which the certificate of formation  
 3 of the corporation shall be altered, amended, or changed;

4 "(2) The report thereof, certified by the president  
 5 or the secretary of the corporation under corporate seal, if  
 6 any, shall be ~~filed and recorded in the office of the judge of~~  
 7 ~~probate of the county in which the corporation was organized~~  
 8 delivered to the Secretary of State for filing; and

9 "(3) Upon the filing of same, its certificate of  
 10 formation shall be deemed to be altered, amended, or changed;  
 11 provided, that the certificate of alteration, amendment, or  
 12 change shall contain only the provisions as would be lawful  
 13 and proper to insert in an original certificate of formation  
 14 made at the time of making the amendment.

15 "§10A-20-7.02.

16 "(a) Five or more financial institutions or persons,  
 17 a majority of whom shall be residents of this state, who may  
 18 desire to create an industrial development corporation under  
 19 the provisions of this article for the purpose of promoting,  
 20 developing, and advancing the prosperity and economic welfare  
 21 of the state and, to that end, to exercise the powers and  
 22 privileges provided in this article may be incorporated by  
 23 delivering to the Secretary of State for filing ~~in the office~~  
 24 ~~of the Secretary of State, as provided in this section,~~ a  
 25 certificate of formation. The filing of the certificate shall

1 be accompanied by a filing fee in the amount prescribed to be  
2 paid to the Secretary of State under Section 10A-1-4.31 in  
3 connection with the filing of a certificate of formation. The  
4 certificate of formation shall contain:

5 "(1) The name of the corporation which shall include  
6 the words "industrial development corporation of Alabama."

7 "(2) The location of the principal office of the  
8 corporation, but the corporation may have offices in other  
9 places within the state as may be fixed by the board of  
10 directors.

11 "(3) The purposes for which the corporation is  
12 founded, which shall be to promote, stimulate, develop, and  
13 advance the business prosperity and economic welfare of  
14 Alabama and its citizens, to encourage and assist through  
15 loans, investments, or other business transactions in the  
16 location of new business and industry in this state, to  
17 rehabilitate and assist existing business and industry, to  
18 stimulate and assist in the expansion of all kinds of business  
19 activity which will tend to promote the business development  
20 and maintain the economic stability of this state, to provide  
21 maximum opportunities for employment, encourage thrift, and  
22 improve the standard of living of the citizens of this state,  
23 to cooperate and act in conjunction with other organizations,  
24 public or private, in the promotion and advancement of  
25 industrial, commercial, agricultural, and recreational

1 developments in this state, and to provide financing for the  
2 promotion, development, and conduct of all kinds of business  
3 activity in this state.

4 "(4) The names and post office addresses of the  
5 members of the first board of directors, who, unless otherwise  
6 provided by the governing documents, shall hold office for the  
7 first year of existence of the corporation or until their  
8 successors are elected and have qualified.

9 "(5) Any provision which the incorporators may  
10 choose to insert for the regulation of the business and for  
11 the conduct of the affairs of the corporation and any  
12 provision creating, dividing, limiting, and regulating the  
13 powers of the corporation, the directors, stockholders or any  
14 class of the stockholders, including, but not limited to, a  
15 list of the officers and provisions governing the issuance of  
16 stock certificates to replace lost or destroyed certificates;  
17 provided, that no provision shall be contained for cumulative  
18 voting for directors.

19 "(6) The amount of authorized capital stock and the  
20 number of shares into which it is divided, the par value of  
21 each share and the amount of the capital with which it will  
22 commence business and, if there is more than one class of  
23 stock, a description of the different classes, the names and  
24 post office addresses of the subscribers of stock and the  
25 number of shares subscribed by each. The aggregate of the

1 subscription shall be the minimum amount of the capital with  
2 which the corporation shall commence business, which shall be  
3 not less than one hundred thousand dollars (\$100,000). The  
4 certificate of formation may also contain any provision  
5 consistent with the laws of this state for the regulation of  
6 the affairs of the corporation.

7 "(7) The certificate of formation shall be in  
8 writing, subscribed by not less than three natural persons  
9 competent to contract, acknowledged by each of the subscribers  
10 before an officer authorized to take acknowledgments, and  
11 filed in the office of the Secretary of State for approval. A  
12 duplicate copy so subscribed and acknowledged may also be  
13 filed.

14 "(8) The certificate of formation shall recite that  
15 the corporation is organized under this article.

16 "(b) The Secretary of State shall not approve the  
17 certificate of formation for a corporation organized under  
18 this article until a total of at least five national banks,  
19 state banks, mortgage banks, federal savings and loan  
20 associations, state savings and loan associations, domestic  
21 building and loan associations, pension funds, or insurance  
22 companies authorized to do business within this state, or any  
23 combination thereof, have agreed in writing to become members  
24 of the corporation; and the written agreement shall be filed  
25 with the Secretary of State with the certificate of formation

1 and the filing of same shall be a condition precedent to the  
 2 approval of the certificate of formation by the Secretary of  
 3 State. Whenever the certificate of formation shall have been  
 4 filed in the office of the Secretary of State and approved by  
 5 him or her and all filing fees and taxes prescribed by Alabama  
 6 statutes, including Section 10A-1-4.31, have been paid, the  
 7 subscribers, their successors, and assigns shall constitute a  
 8 corporation, and the corporation shall then be authorized to  
 9 commence business and stock thereof to the extent herein, or  
 10 hereafter, duly authorized may from time to time be issued.

11 "§10A-20-9.01.

12 "Ten or more persons desiring to associate  
 13 themselves together for nonprofit purposes in the sense of not  
 14 paying interest or dividends on stock, but for mutual benefit  
 15 through the application of cooperation, single-tax, or other  
 16 economic principles, may become a body corporate in the manner  
 17 following:

18 "(1) The persons proposing to form the corporation  
 19 shall ~~file with the judge of probate in the county in which it~~  
 20 ~~proposes to establish itself~~ deliver to the Secretary of State  
 21 for filing a declaration in writing, setting out the name of  
 22 the proposed corporation, the names of the charter members,  
 23 and the purposes of the corporation, which declaration shall  
 24 constitute its corporate charter, together with a filing fee  
 25 in the amount prescribed by ~~Section 10A-1-4.31 to be paid to~~



1 ~~the judge of probate~~ Chapter 1 for filing a certificate of  
2 formation.

3 "(2) Upon the filing of such declaration, ~~the judge~~  
4 ~~of probate shall issue to the corporation a charter~~  
5 corporation's existence begins, which shall be perpetual,  
6 subject to revocation at any time by the Legislature.

7 "§10A-20-10.01.

8 "(a) Notwithstanding any provision to the contrary  
9 in the certificate of formation, other governing instrument,  
10 or under any other law of this state, and except as otherwise  
11 provided by court order, or by a provision in the certificate  
12 of formation or other governing instrument, which in either  
13 case is entered or made after August 11, 1971, and expressly  
14 limits the applicability of this section, a corporation which  
15 is, or is treated as, a private foundation, as defined in  
16 Section 509 of the Internal Revenue Code of ~~1954~~ 1986, as  
17 amended, during the period it is, or is treated as, a private  
18 foundation:

19 "(1) Shall not engage in any act of self-dealing as  
20 defined in Section 4941 (d) thereof;

21 "(2) Shall distribute, for the purposes specified in  
22 its certificate of formation, for each taxable year not less  
23 than the amounts at the time and in the manner as not to  
24 become subject to the tax on undistributed income imposed by  
25 Section 4942 thereof;

1           "(3) Shall not, if Section 4943 thereof is  
2 applicable, retain any excess business holdings as defined in  
3 subsection (c) of that section beyond the period permitted by  
4 that section;

5           "(4) Shall not make any investment in a manner as to  
6 subject it to tax under Section 4944 thereof; and

7           "(5) Shall not make any taxable expenditures as  
8 defined in Section 4945 (d) thereof.

9           "(b) Nothing in this section shall impair the rights  
10 and powers of the courts or the Attorney General of this state  
11 with respect to any corporation described in this section. The  
12 provisions of this section shall not apply to any corporation  
13 to the extent that a court of competent jurisdiction shall  
14 determine that the application would be contrary to the terms  
15 of the certificate of formation or other instrument governing  
16 the corporation or governing the administration of charitable  
17 funds held by it and that the same may not properly be changed  
18 to conform to this section.

19           "(c) All references to sections of the Internal  
20 Revenue Code of ~~1954~~ 1986, as amended, shall include future  
21 amendments to the sections and corresponding provisions of  
22 future internal revenue laws.

23           "§10A-20-11.01.

24           "(a) Any incorporated medical association of the  
25 State of Alabama, Alabama Dental Association, Alabama

1       Pharmaceutical Association, or other corporations organized  
2       similarly to the corporation or of a similar kind may alter,  
3       amend, or extend its charter, or may do any two or all of  
4       these, in the manner following:

5               "(1) A written resolution setting out the name of  
6       the corporation and embodying the proposed alterations,  
7       amendments, or extensions shall be submitted to a lawful  
8       annual meeting of the corporation or other lawful meeting of  
9       the corporation and adopted by a two-thirds vote of those  
10      present at the meeting and lawfully entitled to vote on  
11      business matters coming before the meeting;

12              "(2) The president, or some other executive officer  
13      of the corporation, and the secretary thereof shall prepare,  
14      sign, and acknowledge as conveyances are acknowledged and ~~file~~  
15      ~~in the office of the judge of probate of the county wherein~~  
16      ~~the original declaration of incorporation was filed if the~~  
17      ~~charter was secured in that manner or, if the charter was~~  
18      ~~granted by act or acts of the Legislature prior to the time~~  
19      ~~when the Constitution of 1901, went into effect, in the office~~  
20      ~~of the Secretary of State~~ deliver to the Secretary of State  
21      for filing a certificate containing a copy of the resolution  
22      and certifying that it was adopted in the manner above  
23      provided; and

24              "(3) Upon the filing of the certificate, together  
25      with payment of the filing fee prescribed by ~~Section~~

1 ~~10A-1-4.31 to be paid to the Secretary of State Chapter 1~~ for  
2 filing an amendment to a certificate of formation, the charter  
3 of the corporation shall stand altered, amended, or extended  
4 as therein shown.

5 " (b) Any such alteration, amendment, or extension  
6 under subsection (a), may be made by changing or adding to the  
7 language of the act, or acts, of incorporation, declaration of  
8 incorporation, or certificate of incorporation of the  
9 corporation, as the case may be, or by changing or adding to  
10 the language of both or all of them. When any such corporation  
11 is now or hereafter may be charged by law with public or  
12 quasi-public functions, alterations to, or amendments or  
13 extensions of its charter shall in no manner add to, detract  
14 from or modify the functions or the rights and duties of the  
15 corporation in reference thereto, but no alteration,  
16 amendment, or extension of the charter of any corporation so  
17 charged by law shall be made which will interfere with the  
18 discharge of the functions.

19 "§10A-20-12.01.

20 " (a) Unless otherwise provided, any corporation, not  
21 of a business character, may alter or amend its charter  
22 whenever not less than three fourths in number of its members,  
23 in case of corporations having no central or general governing  
24 body, or where the corporations have a central or general  
25 governing body, then whenever not less than three fourths of

1 the first four principal officers of the central or general  
2 governing body, shall ~~file in the office of the judge of~~  
3 ~~probate of the county wherein the original declaration of~~  
4 ~~incorporation was filed or in cases where the charter was~~  
5 ~~granted by an act of the Legislature, prior to the adoption of~~  
6 ~~the Constitution in 1901, in the Office of the Secretary of~~  
7 ~~State~~ deliver to the Secretary of State for filing, together  
8 with a filing fee in the amount prescribed in Chapter 1 for an  
9 amendment to a certificate of formation, a declaration in  
10 writing signed by them setting forth:

11 "(1) When the corporation was organized, its name  
12 and what changes, if any, it is desired to make in the name;

13 "(2) The purposes of the corporation as the same are  
14 set forth in the original declaration of incorporation, and  
15 the alterations and the amendments thereof, if any are  
16 desired;

17 "(3) If it is desired to increase its powers as to  
18 the holding of real estate in area and value and of personal  
19 property in value, the declaration shall set forth the  
20 limitations prescribed as to these matters in the original  
21 certificate of formation, and any amendments heretofore made  
22 thereto, and shall also set forth the increase in area of real  
23 property it is desired to acquire and hold, together with the  
24 purposes for which it is desired, and the increase in value of  
25 personal property desired to be acquired and held, and the

1 purpose for which it is desired, and if the purposes as so  
 2 declared are not violative of any of the laws or public  
 3 policies of the State of Alabama, the filing of the  
 4 declaration shall authorize and empower the corporation to  
 5 acquire and hold such additional real estate and personal  
 6 property.

7 "But no such change or alteration in the charter or  
 8 the character of any corporation shall authorize it to  
 9 exercise any power or to do any acts which similar  
 10 corporations are not authorized to do under the laws existing  
 11 at the time such alteration or amendment may be made, nor to  
 12 decrease its capital stock below the minimum fixed by existing  
 13 laws.

14 "(b) The declaration provided in subsection (a)  
 15 shall be verified by the affidavit of some one or more of the  
 16 signers, stating that the statements contained therein are  
 17 true, and the signers thereof signed the same in the presence  
 18 of affiant, or acknowledged their signatures thereto to him or  
 19 her; ~~and upon the filing of the declaration in the office of~~  
 20 ~~the judge of probate or Secretary of State, as the case may~~  
 21 ~~be, together with the appropriate filing fee due to such~~  
 22 ~~officer under Section 10A-1-4.31 for filing an amendment to a~~  
 23 ~~certificate of formation, it shall be the duty of such officer~~  
 24 ~~to issue a certificate, certifying that such corporation under~~  
 25 ~~its new name and style, is duly authorized to do business with~~

1 ~~the powers and capacity conferred after such alterations and~~  
 2 ~~amendments. Such declaration and certificate must be recorded~~  
 3 ~~in the office of the judge of probate or the Secretary of~~  
 4 ~~State, in and from which the same are filed and issued.~~

5           "(c) The provisions of this section are cumulative  
 6 and shall not be construed to repeal or supersede any laws not  
 7 directly inconsistent herewith.

8           "§10A-20-16.01.

9           "The Legislature finds and declares that the  
 10 services of nonprofit corporations, organizations,  
 11 associations, boards, authorities, and commissions are  
 12 critical to the efficient conduct and management of the  
 13 public, civic, and charitable affairs of the citizens of this  
 14 state. Noncompensated officers, directors, trustees, partners,  
 15 managers, members, and governing persons and other members of  
 16 governing ~~bodies~~ authorities of such nonprofit entities must  
 17 be permitted to operate without undue concern for the  
 18 possibility of litigation arising from the discharge of their  
 19 duties as policymakers.

20           "§10A-20-16.02.

21           "The following terms shall have the following  
 22 respective meanings for the purposes of this chapter:

23           "(1) OFFICER. Any officer, director, trustee, ~~or~~  
 24 partner, manager, member, and governing person and other  
 25 member of the governing ~~body~~ authority of a qualified entity

1 who does not receive compensation for serving in such  
 2 capacity. A per diem amount of not more than three hundred  
 3 dollars (\$300) per day and actual, reasonable, and necessary  
 4 expenses shall not constitute compensation for the purposes of  
 5 this article. Provided, however, that the immunity granted  
 6 herein shall not extend to officers ~~and~~, directors, trustees,  
 7 partners, managers, or members of any board, authority, or  
 8 commission dealing with pari-mutuel betting, gambling, or  
 9 games of chance.

10 "(2) QUALIFIED ENTITY.

11 "a. Any nonprofit corporation, association, or  
 12 organization which is exempt from federal income taxation  
 13 under Section 501(c) of the Internal Revenue Code of ~~1954~~  
 14 1986, as amended;

15 "b. Any nonprofit corporation, association, or  
 16 organization which is organized pursuant to Section  
 17 10A-4-1.01, et seq.;

18 "c. Any organization organized under Sections  
 19 22-51-1, 22-51-2, 22-51-3, 22-51-4, 22-51-5, 22-51-6, 22-51-7,  
 20 22-51-8, 22-51-9, 22-51-10, 22-51-11, 22-51-12, 22-51-13, and  
 21 22-51-14;

22 "d. Any self-insured fund established pursuant to  
 23 Section 11-26-1, 11-26-2, 11-30-2, or 25-5-9, provided,  
 24 however this chapter shall not apply to any self-insured  
 25 employer operating under Section 25-5-8; and



1            "e. Any board, authority, or commission the members  
2 of which are appointed by the governing body or bodies of any  
3 county or municipality, or by the Governor or other  
4 constitutional officer or member of the Legislature pursuant  
5 to legislative or constitutional authorization, or the members  
6 of which are constitutionally or legislatively delegated."

7            Section 11. This act shall become effective on  
8 January 1, 2021, following its passage and approval by the  
9 Governor, or its otherwise becoming law.

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*Mac McClatchey*

Speaker of the House of Representatives

*[Signature]*

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in  
and was passed by the House 25-FEB-20.

Jeff Woodard  
Clerk

Senate

12-MAR-20

Passed

APPROVED

*3-31-2020*

TIME

*1:00 pm*

*Ray Ivey*

GOVERNOR

Alabama Secretary Of State

Act Num....: 2020-73  
Bill Num...: H-202

Recv'd 03/31/20 03:10pmSLF

SPONSOR \_\_\_\_\_ DIST. NO. \_\_\_\_\_

ROOKE  
-SPONSORS

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HOUSE ACTION **FRED**

DATE: 2-11 2020

RD 1 RFD FR

**REPORT OF STANDING COMMITTEE**  
 This bill having been referred by the House to its standing committee on FR was acted upon by such committee in session, and returned therefrom to the House with the recommendation that it be Passed w/amend(s) w/sub this 19th day of February, 2020.  
Chris Sells, Chairperson

DATE: 2-20 2020

RF EAU RD 2 CAL

DATE: 20

RE-REFERRED  RE-COMMITTED

Committee \_\_\_\_\_

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill, HB 2022.  
 YEARS 102 NAYS 0

JEFF WOODARD,  
 Clerk

SENATE ACTION

DATE: 2-25 2020

RD 1 RFD FRED

This Bill was referred to the Standing Committee of the Senate on FRED and was acted upon by such Committee in session and is by order of the Committee returned therefrom with a favorable report w/amd(s) w/sub w/eng sub by a vote of yeas 8 nays 0 abstain this 4th day of March, 2020.  
Patrick Harris, Chairperson

DATE: 3-5 2020

RF EAU RD 2 CAL

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill, HB 2029.  
 YEARS 2029 NAYS 0

**PATRICK HARRIS,**  
 Secretary

DATE: 3-12-20 RD 3 at length

PASSED  PASSED AS AMENDED

YEAS 29 NAYS 0

And was ordered returned forthwith to the House

**PATRICK HARRIS**  
 Secretary

DATE: \_\_\_\_\_

INDEFINITELY POSTPONED YEARS \_\_\_\_\_ NAYS \_\_\_\_\_

DATE: \_\_\_\_\_

YEAS \_\_\_\_\_ NAYS \_\_\_\_\_