

1 SB206
2 204031-1
3 By Senator Givhan
4 RFD: Judiciary
5 First Read: 18-FEB-20

1
2
3
4
5
6
7
8 SYNOPSIS: This bill would make changes to the Alabama
9 Business and Nonprofit Entities Code to allow
10 business corporations to elect to become benefit
11 corporations; allow electronic filing of all entity
12 filings to increase the speed at which businesses
13 may be formed and by which transactions may be
14 accomplished; update definitions to include terms
15 applicable to the allowance of electronic and
16 digital transactions and transmissions of filings,
17 notices, and data; establish certain basic
18 standards for all filing instruments to allow for
19 easier electronic transmission; provide a mechanism
20 to allow the Secretary of State to reject certain
21 filing instruments which are not accompanied by
22 full payment, to assist in the electronic filing
23 process; clarify the requirements of certificates
24 of existence for entities; remove certain outdated
25 definitions and matters to streamline the code; and
26 to clarify that volunteer partners, managers,
27 members, governing persons, and other members of a

1 governing authority are considered officers of a
2 qualifying nonprofit entity, thereby recognizing
3 that there are nonprofit partnerships, nonprofit
4 limited partnerships, and non-profit limited
5 liability companies.

6
7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 Relating to the Alabama Business and Nonprofit
12 Entities Code; to amend Sections 10A-1-1.02, 10A-1-1.03, and
13 10A-1-1.08, as amended by Act 2019-94, 2019 Regular Session,
14 Code of Alabama 1975; to add Sections 10A-1-3.07 and
15 10A-1-3.08 to the Code of Alabama 1975; to amend Sections
16 10A-1-3.32, as amended by Act 2019-94, 2019 Regular Session,
17 10A-1-3.33, as amended by Act 2019-304, 2019 Regular Session,
18 10A-1-3.42, 10A-1-4.01, and 10A-1-4.02, as amended by Act
19 2019-94, 2019 Regular Session, and 10A-1-4.05, Code of Alabama
20 1975; to add Section 10A-1-4.07 to the Code of Alabama 1975;
21 to amend Sections 10A-1-4.11, as amended by Act 2019-94, 2019
22 Regular Session, 10A-1-4.12, 10A-1-4.21 and 10A-1-4.31, as
23 amended by Act 2019-94, 2019 Regular Session, and Sections
24 10A-1-5.04 and 10A-1-5.11, Code of Alabama 1975; to add
25 Section 10A-1-5.17 to the Code of Alabama 1975; to amend
26 Sections 10A-1-6.02, 10A-1-8.01, and 10A-1-8.02, as amended by
27 Act 2019-94, 2019 Regular Session, 10A-2A-1.40, 10A-2A-1.41,

1 10A-2A-1.52, 10A-2A-2.02, 10A-2A-2.05, 10A-2A-3.04,
2 10A-2A-7.03, 10A-2A-7.20, 10A-2A-7.24, 10A-2A-7.29,
3 10A-2A-7.40, 10A-2A-8.09, 10A-2A-13.30, 10A-2A-14.01,
4 10A-2A-14.03, 10A-2A-14.04, 10A-2A-14.07, 10A-2A-14.10,
5 10A-2A-14.11, 10A-2A-16.04, 10A-2A-16.05, and 10A-2A-16.10, as
6 added to the Code of Alabama 1975, by Act 2019-94, 2019
7 Regular Session; to add Sections 10A-2A-17.01, 10A-2A-17.02,
8 10A-2A-17.03, 10A-2A-17.04, 10A-2A-17.05, and 10A-2A-17.06, to
9 the Code of Alabama 1975; to amend and renumber existing
10 Sections 10A-2A-17.01, 10A-2A-17.02, 10A-2A-17.03,
11 10A-2A-17.04, 10A-2A-17.05, and 10A-2A-17.06 as added to the
12 Code of Alabama 1975 by Act 2019-94, 2019 Regular Session, as
13 Sections 10A-2A-18.01, 10A-2A-18.02, 10A-2A-18.03,
14 10A-2A-18.04, 10A-2A-18.05, and 10A-2A-18.06, Code of Alabama
15 1975; and to amend Sections 10A-3-2.14, 10A-3-3.01,
16 10A-3-3.03, 10A-3-4.02, 10A-3-4.04, 10A-3-5.04, 10A-3-7.01,
17 10A-3-7.04, 10A-3-7.05, 10A-3-7.06, 10A-3-7.07, 10A-3-7.08,
18 10A-3-7.09, 10A-3-7.10, 10A-3-7.16, 10A-3-7.18, and
19 10A-4-3.02, as added to the Code of Alabama 1975, by Act
20 2019-94, 2019 Regular Session, Section 10A-4-4.01, as amended
21 by Act 2019-94, 2019 Regular Session, Sections 10A-4-5.08,
22 10A-5A-2.01, 10A-5A-2.02, 10A-5A-2.04, 10A-5A-2.05,
23 10A-5A-2.06, 10A-5A-4.01, 10A-5A-7.01, 10A-5A-7.02,
24 10A-5A-7.03, 10A-5A-7.05, 10A-5A-7.08, 10A-5A-8.02,
25 10A-5A-11.09, 10A-5A-11.11, 10A-5A-11.13, 10A-8A-8.02,
26 10A-8A-8.07, 10A-8A-8.11, 10A-8A-10.03, 10A-9A-2.01,
27 10A-9A-2.02, 10A-9A-2.03, 10A-9A-2.04, 10A-9A-2.06,

1 10A-9A-8.01, 10A-9A-8.02, 10A-9A-8.03, 10A-9A-8.07,
2 10A-9A-8.11, 10A-10-1.07, and 10A-10-1.14, 10A-10-1.15, as
3 amended by Act 2019-94, 2019 Regular Session, and Sections
4 10A-16-1.05, 10A-17-1.06, 10A-17-1.11, 10A-20-1.08,
5 10A-20-2.01, 10A-20-6.02, 10A-20-6.06, 10A-20-7.02,
6 10A-20-9.01, 10A-20-10.01, 10A-20-11.01, 10A-20-12.01,
7 10A-20-16.01, and 10A-20-16.02, Code of Alabama 1975, to to
8 allow business corporations to elect to become benefit
9 corporations; to allow electronic filing of all entity
10 filings; to update definitions to include terms applicable to
11 the allowance of electronic and digital transactions and
12 transmissions of filings, notices, and data; to establish
13 certain basic standards for all filing instruments; to provide
14 a mechanism to allow the Secretary of State to reject certain
15 filing instruments which are not accompanied by full payment;
16 to clarify the requirements of certificates of existence for
17 entities; to remove certain outdated definitions and matters;
18 and to clarify that volunteer partners, managers, members,
19 governing persons, and other members of a governing authority
20 are considered officers of a qualifying nonprofit entity,
21 thereby recognizing that there are nonprofit partnerships,
22 nonprofit limited partnerships, and non-profit limited
23 liability companies.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. Sections 10A-1-1.02, 10A-1-1.03, and
26 10A-1-1.08, as amended by Act 2019-94, 2019 Regular Session,
27 Code of Alabama 1975, are amended to read as follows:

1 "§10A-1-1.02.

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

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

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

17 "§10A-1-1.03.

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

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

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

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

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

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

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

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

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

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

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

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

1 "~~(4)~~(5) BUSINESS CORPORATION. A corporation or
2 foreign corporation as defined in ~~Chapter 2 or Chapter 2A, as~~
3 ~~applicable~~. The term includes a benefit corporation as defined
4 in Chapter 2A.

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

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

13 "~~(7)~~(8) CERTIFICATE OF FORMATION.

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

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

20 "~~(8)~~(9) CERTIFICATE OF OWNERSHIP. An instrument
21 evidencing an ownership interest or membership interest in an
22 entity.

23 "~~(9)~~(10) CERTIFICATED OWNERSHIP INTEREST. An
24 ownership interest of a domestic entity represented by a
25 certificate.

26 "~~(10)~~(11) CERTIFICATION or CERTIFIED. Duly
27 authenticated by the proper officer or filing officer of the

1 jurisdiction the laws of which govern the internal affairs of
2 an entity.

3 ~~"(11)~~ (12) CONTRIBUTION. A tangible or intangible
4 benefit that a person transfers to an entity in consideration
5 for an ownership interest in the entity or otherwise in the
6 person's capacity as an owner or a member. A benefit that may
7 constitute a contribution transferred in exchange for an
8 ownership interest or transferred in the transferor's capacity
9 as an owner or member may include cash, property, services
10 rendered, a contract for services to be performed, a
11 promissory note or other obligation of a person to pay cash or
12 transfer property to the entity, or securities or other
13 interests in or obligations of an entity. In either case, the
14 benefit does not include cash or property received by the
15 entity:

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

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

21 ~~"(12)~~ (13) CONVERSION. A conversion, whether referred
22 to as a conversion, domestication, or otherwise, means:

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

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

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

3 "~~(13)~~ (14) CONVERTED ENTITY. An entity resulting from
4 a conversion.

5 "~~(14)~~ (15) CONVERTING ENTITY. An entity as the entity
6 existed before the entity's conversion.

7 "~~(15)~~ (16) COOPERATIVE. Includes an employee
8 cooperative as defined in Chapter 11.

9 "~~(16)~~ (17) CORPORATION. Includes a domestic or
10 foreign business corporation, including a benefit corporation,
11 as defined in ~~Chapter 2 or Chapter 2A, as applicable,~~ a
12 domestic or foreign nonprofit corporation as defined in
13 Chapter 3, a domestic or foreign professional corporation as
14 defined in Chapter 4, and those entities specified in Chapter
15 20 as corporate.

16 "~~(17)~~ (18) COURT. ~~Every court and judge~~ The
17 designated court, and if none, the circuit court specifically
18 set forth in this title, and if none, any other court having
19 jurisdiction in a case.

20 "~~(18)~~ (19) DAY. When used in the computation of time
21 excludes the first day and includes the last day of the period
22 so computed, unless the last day is a Saturday, Sunday, or
23 legal holiday, in which event the period runs until the end of
24 the next day that is not a Saturday, a Sunday, or a legal
25 holiday. When the period of time to be computed is less than 7
26 days, intermediate Saturdays, Sundays, and legal holidays
27 shall be excluded.

1 "~~(19)~~ (20) DEBTOR IN BANKRUPTCY. A person who is the
2 subject of:

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

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

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

17 "~~(20)~~ (22) DIRECTOR. An individual who serves on the
18 board of directors, by whatever name known, of a foreign or
19 domestic corporation.

20 "~~(21)~~ (23) DISTRIBUTION. A transfer of property,
21 including cash, from an entity to an owner or member of the
22 entity in the owner's or member's capacity as an owner or
23 member. The term includes a dividend, a redemption or purchase
24 of an ownership interest, or a liquidating distribution.

25 "~~(22)~~ (24) DOMESTIC. With respect to an entity, ~~that~~
26 ~~the entity is formed and exists pursuant to~~ means governed as
27 to its internal affairs by this title.

1 "~~(23)~~ (25) DOMESTIC ENTITY. An ~~organization formed~~
2 ~~and existing pursuant to~~ entity governed as to its internal
3 affairs by this title.

4 "~~(24)~~ (26) EFFECTIVE DATE OF THIS TITLE. January 1,
5 2011.

6 "~~(25)~~ (27) ELECTRONIC. Relating to technology having
7 electrical, digital, magnetic, wireless, optical,
8 electromagnetic, or similar capabilities.

9 "~~(26)~~ (28) ELECTRONIC SIGNATURE. An electronic
10 signature as that term is defined in the Alabama Electronic
11 Transactions Act, Chapter 1A of Title 8, or any successor
12 statute.

13 "~~(27)~~ (29) ELECTRONIC TRANSMISSION or ELECTRONICALLY
14 TRANSMITTED. Any form or process of communication not directly
15 involving the physical transfer of paper or another tangible
16 medium, which (i) is suitable for the retention, retrieval,
17 and reproduction of information by the recipient, and (ii) is
18 retrievable in paper form by the recipient through an
19 automated process used in conventional commercial practice.

20 "~~(28)~~ (30) ELECTRONIC WRITING. Information that is
21 stored in an electronic or other nontangible medium and is
22 retrievable in paper form through an automated process used in
23 conventional commercial practice.

24 "~~(29)~~ (31) ENTITY. A domestic ~~entity~~ or foreign
25 ~~entity~~ organization.

26 "~~(30)~~ (32) FILING ENTITY. A domestic entity that is a
27 corporation, limited partnership, limited liability limited

1 partnership, limited liability company, professional
2 association, employee cooperative corporation, or real estate
3 investment trust.

4 "~~(31)~~ (33) FILING INSTRUMENT. An instrument,
5 document, or statement that is required or permitted by this
6 title to be delivered for filing by or for an entity to a
7 filing officer.

8 "~~(32)~~ (34) FILING OFFICER. ~~The~~ An officer of this
9 state with whom a filing instrument is required or permitted
10 to be delivered for filing pursuant to this title.

11 "~~(33)~~ (35) FOREIGN. With respect to an entity, ~~that~~
12 ~~the entity is formed and existing under~~ means governed as to
13 its internal affairs by the laws of a jurisdiction other than
14 this state.

15 "~~(34)~~ (36) FOREIGN ENTITY. An ~~organization formed and~~
16 ~~existing under~~ entity governed as to its internal affairs by
17 the laws of a jurisdiction other than this state.

18 "~~(35)~~ (37) FOREIGN FILING ENTITY. A foreign entity
19 that registers or is required to register as a foreign entity
20 under Article 7.

21 "~~(36)~~ (38) FOREIGN GOVERNMENTAL AUTHORITY. A
22 governmental official, agency, or instrumentality of a
23 jurisdiction other than this state.

24 "~~(37)~~ ~~FOREIGN LIMITED LIABILITY LIMITED PARTNERSHIP.~~
25 ~~A foreign limited liability limited partnership as defined in~~
26 ~~Chapter 9A.~~

1 "~~(38)~~ FOREIGN LIMITED LIABILITY PARTNERSHIP. A
2 foreign limited liability partnership as defined in Chapter
3 8A.

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

6 "~~(40)~~ (39) FOREIGN NONFILING ENTITY. A foreign entity
7 that is not a foreign filing entity.

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

11 "~~(42)~~ (40) GENERAL PARTNER.

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

13 "(B) a person who is admitted to a limited
14 partnership as a general partner in accordance with the
15 governing documents of the limited partnership.

16 "~~(43)~~ (41) GENERAL PARTNERSHIP. A partnership as
17 defined in Chapter 8A. The term includes a limited liability
18 partnership as defined in Chapter 8A.

19 "~~(44)~~ (42) GOVERNING AUTHORITY. A person or group of
20 persons who are entitled to manage and direct the affairs of
21 an entity pursuant to this title and the governing documents
22 of the entity, except that if the governing documents of the
23 entity or this title divide the authority to manage and direct
24 the affairs of the entity among different persons or groups of
25 persons according to different matters, governing authority
26 means the person or group of persons entitled to manage and
27 direct the affairs of the entity with respect to a matter

1 under the governing documents of the entity or this title. The
2 term includes the board of directors of a corporation, by
3 whatever name known, or other persons authorized to perform
4 the functions of the board of directors of a corporation, the
5 general partners of a general partnership or limited
6 partnership, the persons who have direction and oversight of a
7 limited liability company, and the trust managers of a real
8 estate investment trust. The term does not include an officer
9 who is acting in the capacity of an officer.

10 "~~(45)~~ (43) GOVERNING DOCUMENTS.

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

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

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

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

25 "~~(46)~~ (44) GOVERNING PERSON. A person serving as part
26 of the governing authority of an entity.

1 "~~(47)~~(45) INDIVIDUAL. A natural person and the
2 estate of an incompetent or deceased natural person.

3 "~~(48)~~(46) INSOLVENCY. The inability of a person to
4 pay the person's debts as they become due in the usual course
5 of business or affairs.

6 "~~(49)~~(47) INSOLVENT. A person who is unable to pay
7 the person's debts as they become due in the usual course of
8 business or affairs.

9 "~~(50)~~(48) JUDGE OF PROBATE. The judge of probate of
10 the county in which ~~a domestic~~ an entity is required or
11 permitted to deliver a filing instrument for filing pursuant
12 to this title.

13 "~~(51)~~(49) JURISDICTION OF FORMATION.

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

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

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

26 "(D) in the case of a foreign limited liability
27 partnership, the laws of the jurisdiction which govern the

1 filing of the foreign limited liability partnership's
2 statement of limited liability partnership or such filing in
3 that jurisdiction; and

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

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

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

17 "~~(52)~~ (50) LAW. Unless the context requires
18 otherwise, both statutory and common law.

19 "~~(53)~~ (51) LICENSE. A license, certificate of
20 registration, or other legal authorization.

21 "~~(54)~~ (52) LICENSING AUTHORITY. The state court,
22 state regulatory licensing board, or other like agency which
23 has the power to issue a license or other legal authorization
24 to render professional services.

25 "~~(55)~~ (53) LIMITED LIABILITY COMPANY. A limited
26 liability company as defined in Chapter 5A.

1 "~~(56)~~ (54) LIMITED LIABILITY LIMITED PARTNERSHIP. A
2 limited liability limited partnership as defined in Chapter
3 9A.

4 "~~(57)~~ (55) LIMITED LIABILITY PARTNERSHIP. A limited
5 liability partnership as defined in Chapter 8A.

6 "~~(58)~~ (56) LIMITED PARTNER. A person who has been
7 admitted to a limited partnership as a limited partner as
8 provided by:

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

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

13 "~~(59)~~ (57) LIMITED PARTNERSHIP. A limited partnership
14 as defined in Chapter 9A. The term includes a limited
15 liability limited partnership as defined in Chapter 9A.

16 "~~(60)~~ (58) MANAGERIAL OFFICIAL. An officer or a
17 governing person.

18 "~~(61)~~ (59) MEMBER.

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

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

24 "(C) in the case of an employee cooperative
25 corporation formed pursuant to or governed by Chapter 11, a
26 natural person who, as provided in Chapter 11, has been

1 accepted for membership in and owns a membership share in an
2 employee cooperative;

3 "(D) in the case of a nonprofit association, a
4 person who, as provided in Chapter 17, may participate in the
5 selection of persons authorized to manage the affairs of the
6 nonprofit association or in the development of its policy.

7 "~~(62)~~ (60) MERGER. The combination of one or more
8 domestic entities with one or more domestic entities or
9 ~~non-code organizations~~ foreign entities resulting in:

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

12 "(B) the creation of one or more new domestic
13 entities or ~~non-code organizations~~ foreign entities, or one or
14 more surviving domestic entities or ~~non-code organizations~~
15 foreign entities; or

16 "(C) one or more surviving domestic entities or
17 ~~non-code organizations~~ foreign entities and the creation of
18 one or more new domestic entities or ~~non-code organizations~~
19 foreign entities.

20 "~~(63)~~ ~~NON-CODE ORGANIZATION~~. ~~An organization other~~
21 ~~than a domestic entity~~.

22 "~~(64)~~ (61) NONFILING ENTITY. A domestic entity that
23 is not a filing entity. The term includes a domestic general
24 partnership, a limited liability partnership, and a nonprofit
25 association.

26 "~~(65)~~ (62) NONPROFIT ASSOCIATION. An unincorporated
27 nonprofit association as defined in Chapter 17. The term does

1 not include a general partnership which has filed a statement
2 of not for profit partnership in accordance with Chapter 8A, a
3 limited partnership which is carrying on a not for profit
4 purpose, or a limited liability company which is carrying on a
5 not for profit purpose.

6 ~~"(66)~~ (63) NONPROFIT CORPORATION. A domestic or
7 foreign nonprofit corporation as defined in Chapter 3.

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

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

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

24 ~~"(70)~~ (67) ORGANIZER. A person, who need not be an
25 owner or member of the entity, who, having the capacity to
26 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.

26 ~~"(74)~~ (71) PARTNER. A limited partner or general
27 partner.

1 "~~(75)~~ (72) PARTNERSHIP. Includes a general
2 partnership, a limited liability partnership, a foreign
3 limited liability partnership, a limited partnership, a
4 foreign limited partnership, a limited liability limited
5 partnership, and a foreign limited liability limited
6 partnership.

7 "~~(76)~~ (73) PARTNERSHIP AGREEMENT. Any agreement
8 (whether referred to as a partnership agreement or otherwise),
9 written, oral or implied, of the partners as to the activities
10 and affairs of a general partnership or a limited partnership.
11 The partnership agreement includes any amendments to the
12 partnership agreement. In the case of limited partnerships
13 formed prior to October 1, 1998, partnership agreement
14 includes the certificate of partnership.

15 "~~(77)~~ (74) PARTY TO THE MERGER. A domestic entity or
16 ~~non-code organization~~ foreign entity that under a plan of
17 merger is combined by a merger. The term does not include a
18 domestic entity or ~~non-code organization~~ foreign entity that
19 is not to be combined into or with one or more domestic
20 entities or ~~non-code organizations~~ foreign entities,
21 regardless of whether ownership interests of the entity are to
22 be issued under the plan of merger.

23 "~~(78)~~ (75) PERSON. An individual, including the
24 estate of an incompetent or deceased individual, or an
25 ~~organization~~ entity, whether created by the laws of this state
26 or another state or foreign country, including, without
27 limitation, a general partnership, limited liability

1 partnership, limited partnership, limited liability limited
2 partnership, limited liability company, corporation,
3 professional corporation, nonprofit corporation, professional
4 association, trustee, personal representative, fiduciary, as
5 defined in Section 19-3-150 or person performing in any
6 similar capacity, business trust, estate, trust, association,
7 joint venture, government, governmental subdivision, agency,
8 or instrumentality, or any other legal or commercial entity.

9 ~~"(79)~~ (76) PRESIDENT.

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

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

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

20 ~~"(80)~~ (78) PROFESSIONAL ASSOCIATION. A professional
21 association as defined in Chapter 30.

22 ~~"(81)~~ (79) PROFESSIONAL CORPORATION. A domestic or
23 foreign professional corporation as defined in Chapter 4.

24 ~~"(82)~~ (80) PROFESSIONAL ENTITY. A professional
25 association and a professional corporation.

26 ~~"(83)~~ (81) PROFESSIONAL SERVICE. Any type of service
27 that may lawfully be performed only pursuant to a license

1 issued by a state court, state regulatory licensing board, or
2 other like agency pursuant to state laws.

3 ~~"(84)~~ (82) PROPERTY. Includes all property, whether
4 real, personal, or mixed, or tangible or intangible, or any
5 right or interest therein.

6 ~~"(85)~~ (83) REAL ESTATE INVESTMENT TRUST. An
7 unincorporated trust, association, or other entity as defined
8 in Chapter 10.

9 ~~"(86)~~ (84) SECRETARY.

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

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

15 ~~"(87)~~ (85) SECRETARY OF STATE. The Secretary of State
16 of the State of Alabama.

17 ~~"(88)~~ (86) SIGN or SIGNATURE. With the present intent
18 to authenticate or adopt a writing:

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

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

26 ~~"(89)~~ (87) STATE. Includes, when referring to a part
27 of the United States, a state or commonwealth, and its

1 agencies and governmental subdivisions, and a territory or
2 possession, and its agencies and governmental subdivisions, of
3 the United States.

4 "~~(90)~~ (88) SUBSCRIBER. A person who agrees with or
5 makes an offer to an entity to purchase by subscription an
6 ownership interest in the entity.

7 "~~(91)~~ (89) SUBSCRIPTION. An agreement between a
8 subscriber and an entity, or a written offer made by a
9 subscriber to an entity before or after the entity's
10 formation, in which the subscriber agrees or offers to
11 purchase a specified ownership interest in the entity.

12 "~~(92)~~ (90) SUBSIDIARY. An entity ~~or organization~~ at
13 least 50 percent of:

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

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

18 "~~(93)~~ (91) TREASURER.

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

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

24 "~~(94)~~ (92) TRUSTEE. A person who serves as a trustee
25 of a trust, including a real estate investment trust.

1 "~~(95)~~ (93) UNCERTIFICATED OWNERSHIP INTEREST. An
2 ownership interest in a domestic entity that is not
3 represented by a certificate.

4 "~~(96)~~ (94) VICE PRESIDENT.

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

7 "(B) the officer or committee of persons authorized
8 to perform the functions of the president of the entity on the
9 death, absence, or resignation of the president or on the
10 inability of the president to perform the functions of office
11 without regard to the designated name of the officer or
12 committee.

13 "~~(97)~~ (95) WRITING or WRITTEN. Information that is
14 inscribed on a tangible medium or that is stored in an
15 electronic or other medium and is retrievable in perceivable
16 form.

17 "§10A-1-1.08.

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

20 "(b) ~~Chapter 2 or Chapter 2A, as applicable,~~ and the
21 provisions of Chapter 1 to the extent applicable to business
22 corporations may be cited as the Alabama Business Corporation
23 Law.

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

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

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

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

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

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

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

20 "(j) Chapter 17 and the provisions of Chapter 1 to
21 the extent applicable to unincorporated nonprofit associations
22 may be cited as the Alabama Unincorporated Nonprofit
23 Association Law.

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

26 §10A-1-3.07. Certificate of existence or
27 registration.

1 Unless provided otherwise in a chapter of this title
2 governing an entity:

3 (a) The Secretary of State, upon request and payment
4 of the requisite fee, shall furnish to any person a
5 certificate of existence for a filing entity if the filing
6 instruments filed with the Secretary of State show that the
7 filing entity has been formed under the laws of this state. A
8 certificate of existence shall reflect only the information on
9 file with the Secretary of State. A certificate of existence
10 must state:

11 (1) the filing entity's name;

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

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

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

18 (5) the unique identifying number or other
19 designation of the filing entity as assigned by the Secretary
20 of State; and

21 (6) other facts of record in the office of the
22 Secretary of State that are specified by the person requesting
23 the certificate.

24 (b) The Secretary of State, upon request and payment
25 of the requisite fee, shall furnish to any person a
26 certificate of registration for a foreign entity if the filing
27 instruments of that foreign entity filed with the Secretary of

1 State show that the Secretary of State has filed an
2 application for registration for authority to transact
3 business in this state and the registration has not been
4 revoked, withdrawn, or terminated. A certificate of
5 registration must state:

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

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

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

12 (4) that the foreign entity has not filed with the
13 Secretary of State a certificate of withdrawal or otherwise
14 terminated its registration;

15 (5) the unique identifying number or other
16 designation of the foreign entity as assigned by the Secretary
17 of State; and

18 (6) other facts of record in the office of the
19 Secretary of State that are specified by the person requesting
20 the certificate.

21 (c) Subject to any qualification stated in the
22 certificate, a certificate of existence or certificate of
23 registration issued by the Secretary of State is conclusive
24 evidence that the filing entity is in existence or the foreign
25 filing entity is authorized to transact business in this
26 state.

1 (d) The Secretary of State shall not be required to
2 issue a certificate of existence for a filing entity if the
3 records of the Secretary of State do not show that the filing
4 entity has been formed under the laws of this state. The
5 Secretary of State shall furnish a certificate of existence
6 upon the filing entity delivering to the Secretary of State a
7 certificate of information which must list and attach
8 certified copies of all filing instruments as to the entity
9 which (i) were previously filed with a filing officer other
10 than the Secretary of State, (ii) are not in the records of
11 the Secretary of State, and (iii) prove that the filing entity
12 was formed under the laws of this state.

13 §10A-1-3.08. Filings before January 1, 2021.

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

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

1 (2) not be affected as to their validity on or after
2 January 1, 2021, solely by reason of the change of location of
3 filings for similar filing instruments on or after January 1,
4 2021, to the office of the Secretary of State.

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

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

19 "§10A-1-3.32.

20 "(a) This section applies to domestic entities other
21 than (i) corporations formed pursuant to or governed by
22 ~~Chapter 2,~~ Chapter 2A~~,~~ or Chapter 4, and real estate
23 investment trusts formed pursuant to or governed by Chapter
24 10, each of which is governed by the separate recordkeeping
25 requirements and record inspections provisions of ~~Chapter 2 or~~
26 ~~Chapter 2A, as applicable,~~ and (ii) nonprofit corporations
27 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
26 counsel to inspect any books or records of ~~the~~ that entity
27 shall be personally liable to the agent or member for a

1 penalty in an amount not to exceed 10 percent of the fair
2 market value of the ownership interest of the owner or member,
3 in addition to any other damages or remedy.

4 "§10A-1-3.33.

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

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

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

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

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

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

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

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

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

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

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

14 "§10A-1-3.42.

15 "(a) A certificated ownership interest in a domestic
16 entity may contain an impression of the seal of the entity, if
17 any. A facsimile of the entity's seal may be printed or
18 lithographed on the certificate.

19 "(b) If a domestic entity is authorized to issue
20 ownership interests of more than one class or series, each
21 certificate representing ownership interests that is issued by
22 the entity must conspicuously state on the front or back of
23 the certificate:

24 "(1) the designations, preferences, limitations, and
25 relative rights of the ownership interests of each class or
26 series to the extent they have been determined and the

1 authority of the governing authority to make those
2 determinations as to subsequent classes or series; or

3 "(2) that the information required by subsection (1)
4 is stated in the domestic entity's governing documents and
5 that the domestic entity, on written request to the entity's
6 principal ~~place of business~~ office or registered office, will
7 provide a free copy of that information to the record holder
8 of the certificate.

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

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

13 "(2) the name of the person to whom the certificate
14 is issued;

15 "(3) the number and class of ownership interests and
16 the designation of the series, if any, represented by the
17 certificate; and

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

21 "(d) A certificate representing ownership interests
22 that is subject to a restriction, placed by or agreed to by
23 the domestic entity pursuant to this title on the transfer or
24 registration of the transfer of the ownership interests must
25 conspicuously note the existence of the restriction on the
26 front or back of the certificate. Even if not so noted, a

1 restriction is enforceable against a person with actual
2 knowledge of the restriction.

3 "(e) Abbreviations may be used in the inscribing of
4 certificates representing ownership interests. Without limit-
5 ing the use of other abbreviations, however, the following or
6 substantially similar abbreviations may be used in the in-
7 scribing of such certificates, and shall be construed as
8 though they were written out in full and shall be accorded the
9 meaning ascribed herein.

10 "Abbreviation: Meaning:

11 "TEN COM As tenants in common.

As joint tenants with rights of survivorship and no

12 "JTWROS tenants in common.

As joint tenants with rights of survivorship and no

13 "JT TEN tenants in common.

14 "CUSTODIAN FOR, As custodian for _____ (name of minor) under the Un-

15 UTMA Transfers to Minor Act.

16 "§10A-1-4.01.

17 "(a) A filing instrument must ~~be~~:

18 "(1) be typewritten, printed, or electronically
19 transmitted. If a filing instrument is electronically
20 transmitted, the filing instrument shall be in a format that
21 can be retrieved or reproduced in typewritten or printed form.

1 "(2) be in the English language. A name may be in a
2 language other than English if written in English letters or
3 Arabic or Roman numerals. A filing instrument not in English
4 shall be accompanied by an English translation reasonably
5 authenticated to the satisfaction of the filing officer. If a
6 filing instrument is not in English but is accompanied by an
7 English translation authenticated to the satisfaction of the
8 filing officer, then the filing instrument and the English
9 translation shall collectively be considered one filing
10 instrument, however, for all purposes of the laws of this
11 state, the English translation shall govern.

12 ~~"(1)(3) be signed by the person or persons required~~
13 ~~by this title or the applicable chapter to execute, and to~~
14 ~~verify, if required by the applicable chapter, the filing~~
15 ~~instrument; and~~

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

23 "(4) if delivered to the Secretary of State for
24 filing, state the unique identifying number or other
25 designation as assigned by the Secretary of State to the
26 entity or entities referenced in the filing instrument if a

1 unique identifying number or other designation has been
2 assigned; and

3 "(5) be delivered to the filing officer for filing.
4 Delivery may be made in person, by mail, by courier, or if
5 delivered to the Secretary of State, by electronic
6 transmission, and if delivered to a filing officer other than
7 the Secretary of State, by electronic transmission if
8 permitted by that filing officer. If the filing instrument is
9 filed in typewritten or printed form and not transmitted
10 electronically, the filing officer may require up to two exact
11 or conformed copies be delivered with the filing instrument.

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

14 "(c) A filing instrument that provides for the name
15 of an entity, the change of the name of an entity, the
16 reinstatement of an entity, or otherwise affects the name of
17 an entity, must comply with Article 5 of this chapter.

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

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

26 ~~"(d)~~ (f) If a person required by this title to
27 ~~execute any filing instrument fails or refuses to sign a~~

1 writing or deliver a writing to a filing officer for filing
2 under this title does not do so, any other person who is
3 adversely affected that is aggrieved by the that failure or
4 refusal may petition the circuit designated court for the
5 judicial circuit in which the county is located where,
6 pursuant to this title the filing instrument would be filed,
7 or if it would be filed with the Secretary of State, in, and
8 if none, the circuit court in for the county in which the
9 registered agent entity's principal office is located in this
10 state, and if no registered agent is required, in none in this
11 state, the circuit court in for the county in which the entity
12 has its principal place of business in this state, and if the
13 entity does not have a place of business in this state, in the
14 Circuit Court of Montgomery County, to direct the execution of
15 the filing instrument. If the court finds that it is proper
16 for the filing instrument to be executed and that any person
17 so designated has failed or refused to execute the filing
18 instrument, it shall order the filing officer to record an
19 appropriate filing instrument. entity's most recent registered
20 office is located, to order:

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

22 "(2) the person to deliver the writing to the filing
23 officer for filing; or

24 "(3) the filing officer to file the writing
25 unsigned.

26 "(g) If a petitioner under subsection (f) is not the
27 entity to whom the writing pertains, the petitioner shall make

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

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

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

13 "§10A-1-4.02.

14 ~~"(a) The following filing instruments shall be~~
15 ~~delivered to the judge of probate for filing, except as the~~
16 ~~chapter applicable to an entity or other provision of this~~
17 ~~title provides for filing by the Secretary of State or another~~
18 ~~filing officer:~~

19 ~~"(1) certificates of formation or any amendments or~~
20 ~~restatements thereof;~~

21 ~~"(2) certificates of dissolution, other than a~~
22 ~~statement of dissolution of a general partnership or a~~
23 ~~statement of cancellation by a limited liability partnership;~~

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

25 ~~"(4) certificates of correction to any filing~~
26 ~~instrument required to be delivered to the office of the judge~~
27 ~~of probate for filing; and~~

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

4 ~~"(b) Any of the filing instruments delivered to the~~
5 ~~office of the judge of probate for filing in accordance with~~
6 ~~subsections (a) (1) through (a) (4) shall be accompanied by an~~
7 ~~additional exact or conformed copy to permit the judge of~~
8 ~~probate to transmit to the Secretary of State a certified copy~~
9 ~~thereof as required by subsection (e).~~

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

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

14 ~~"(2) statements or registrations of a foreign entity~~
15 ~~for authority to transact business in this state and any~~
16 ~~statements, notices, or certificates of withdrawal or~~
17 ~~termination or statements, notices, or certificates evidencing~~
18 ~~the same or required or authorized under Article 7 of this~~
19 ~~chapter;~~

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

26 ~~"(4) for (i) corporations created by an act of the~~
27 ~~Legislature prior to the adoption of the Constitution of~~

1 ~~Alabama of 1901, and (ii) entities or organizations which are~~
2 ~~the converted or surviving entities or organizations of a~~
3 ~~merger, share exchange, or conversion, all filing instruments~~
4 ~~required by this title to be delivered to the judge of probate~~
5 ~~for filing shall be delivered to the Secretary of State for~~
6 ~~filing, except for (i) certified copies of statements of~~
7 ~~authority, denial, or cancellation thereof permitted to be~~
8 ~~delivered to the judge of probate for filing pursuant to~~
9 ~~Chapter 8A, (ii) any documents permitted to be delivered to~~
10 ~~the judge of probate for filing pursuant to Chapter 17, and~~
11 ~~(iii) certified copies of statements of merger or conversion~~
12 ~~permitted to be delivered to the judge of probate for filing~~
13 ~~pursuant to Chapter 1, Chapter 2A, Chapter 5A, Chapter 8A, or~~
14 ~~Chapter 9A;~~

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

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

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

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

1 ~~"(9) any other filing instrument or document~~
2 ~~required or permitted to be filed pursuant to this title and~~
3 ~~not expressly required or permitted to be delivered to the~~
4 ~~Secretary of State or judge of probate or other designated~~
5 ~~filing office for filing.~~

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

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

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

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

26 "(1) ~~endorsing~~ recording that filing instrument as
27 "filed," together with ~~his or her~~ the name and official title

1 of the filing officer and the date and time of receipt on the
2 instrument and all copies required hereunder and on the
3 receipt for the filing fee;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 "(iv) each person delivering a filing instrument by
27 means of electronic transmission to the Secretary of State for

1 filing to receive from the Secretary of State immediate
2 confirmation that the filing instrument has been delivered to,
3 and accepted and filed by, the Secretary of State with that
4 confirmation to include the information required in
5 subsections (d) (1), (d) (2), and (d) (3), associated with that
6 filing instrument, clearly set forth on a digital copy of that
7 filing instrument.

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

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

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

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

1 electronic transmission to the person who delivered that
2 filing instrument to the Secretary of State, not later than
3 the next business day.

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

7 "§10A-1-4.05.

8 "(a) The Secretary of State may adopt forms for a
9 filing instrument or a report authorized or required by this
10 title to be filed with the ~~judge of probate or~~ Secretary of
11 State.

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

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

17 §10A-1-4.07.

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

21 (b) If any law prohibits the disclosure by a filing
22 officer of information contained in a filing instrument
23 delivered for filing, the filing officer shall file the filing
24 instrument if it otherwise complies with the applicable law,
25 but the filing officer may redact such information so that it
26 is not available to the public.

1 Section 5. Sections 10A-1-4.11, as amended by Act
2 2019-94, 2019 Regular Session, 10A-1-4.12, 10A-1-4.21 and
3 10A-1-4.31, as amended by Act 2019-94, 2019 Regular Session,
4 and Sections 10A-1-5.04 and 10A-1-5.11 of the Code of Alabama
5 1975, are amended to read as follows:

6 "§10A-1-4.11.

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

12 "§10A-1-4.12.

13 "(a) Except as otherwise provided by Section
14 10A-1-4.14, a filing instrument may take effect at a specified
15 date and time after the time the instrument would otherwise
16 take effect as provided by this title for the entity filing
17 the instrument.

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

20 "(1) the date may not be later than the 90th day
21 after the date the instrument is delivered to the filing
22 officer for filing;

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

26 "(3) if a delayed effective date is specified, but
27 no time is specified, at 12:01 a.m. on the date specified,

1 which may not be more than 90 days after the date the
2 instrument is delivered to the filing officer for filing.

3 "(c) If a filing instrument does not specify the
4 time zone or the place at which a date or time, or both, is to
5 be determined, the date or time, or both, at which it becomes
6 effective shall be those prevailing at the place of filing in
7 this state.

8 ~~"(d) If a filing instrument is required to, or may
9 be, delivered to two or more filing officers, the date that
10 the filing instrument is delivered to the first filing officer
11 shall be deemed to be the date the instrument was delivered to
12 the filing officer for filing for the purpose of determining
13 the 90 days in subsection (b) of this section.~~

14 "§10A-1-4.21.

15 "(a) A filing instrument that has been filed with
16 ~~the~~ a filing officer that is an inaccurate record of the event
17 or transaction evidenced in the instrument, that contains an
18 inaccurate or erroneous statement, or that was defectively or
19 erroneously signed, sealed, acknowledged, or verified may be
20 corrected by filing a certificate of correction.

21 "(b) A certificate of correction must be signed by
22 the person authorized by this title to act on behalf of the
23 entity.

24 "§10A-1-4.31.

25 ~~"(a) The filing officer shall collect the following
26 fees when the filing instruments described in this title are
27 delivered to him or her for filing:~~

~~FEE FOR STATE OF ALABAMA~~ ~~FEE FOR THE JUDGE OF PROBATE~~

1	"FILING INSTRUMENT	ALABAMA	OF PROBATE
2	"(1) Certificate of for-		
3	mation and restated cer-		
4	tificate of formation		
5	(Except for filings pur-		
6	suant to Chapter 2 or		
7	Chapter 2A)	\$100	\$50
8	"(2) Amendments to cer-		
9	tificate of formation		
10	(Except for filings pur-		
11	suant to Chapter 2 or		
12	Chapter 2A)	\$50	\$25
13	"(3) Name reservations		
14	and notice of transfer		
15	of name reservation	\$25	No fee
16	"(4) Certificate, arti-		
17	cles, or statements of		
18	dissolution or cancella-		
19	tion (Except for filings		
20	pursuant to Chapter 2 or		
21	Chapter 2A or Chapter		
22	2A)	\$100	\$50
23	"(5) Foreign entity reg-		
24	istration including a	\$150	No fee

1	statement of foreign		
2	limited liability part-		
3	nership		
4	"(6) Certificate of ex-		
5	istence	\$25	No fee
6	"(7) Certificates, arti-		
7	cles, or statements, and		
8	any document required or		
9	permitted to be filed		
10	with the Secretary of		
11	State pursuant to Chap-		
12	ter 2 or Chapter 2A	\$100	No fee
13	"(8) Statements and any		
14	document required or		
15	permitted to be filed		
16	with the Secretary of		
17	State pursuant to Chap-		
18	ter 8A	\$100	No fee
19	"(9) Certified copy of		
20	statements of authority,		
21	denial, and cancellation		
22	thereof, permitted to be		
23	filed with the judge of		
24	probate pursuant to		
25	Chapter 8A	No fee	\$100
26	"(10) Certificates, ar-	\$100	\$50

1	ticles, or statements of		
2	merger, conversion, and		
3	share exchange (Except		
4	for filings pursuant to		
5	Chapter 1, Chapter 2,		
6	Chapter 2A, Chapter 5A,		
7	Chapter 8A, and Chapter		
8	9A)		
9	"(11) Certificates, ar-		
10	ticles, or statements of		
11	merger, conversion, and		
12	share exchange filed		
13	pursuant to Chapter 1,		
14	Chapter 2, Chapter 2A,		
15	Chapter 5A, Chapter 8A,		
16	and Chapter 9A	\$100	No fee
17	"(12) Certified copy of		
18	certificates, articles,		
19	or statements of merger		
20	and conversion filed		
21	pursuant to Chapter 1,		
22	Chapter 2A, Chapter 5A,		
23	Chapter 8A, or Chapter		
24	9A	No fee	\$5
25	"(13) Any other filing		
26	instrument required or	\$25	\$25

1 ~~permitted to be filed~~
2 ~~pursuant to this title~~

3 ~~"(b) When a filing instrument is to be delivered for~~
4 ~~filing only to the Secretary of State, that filing instrument~~
5 ~~shall be accompanied by a check payable to the State of~~
6 ~~Alabama. When a filing instrument is only to be delivered for~~
7 ~~filing to the judge of probate, that filing instrument shall~~
8 ~~be accompanied by a check payable to the judge of probate.~~
9 ~~When a filing instrument is to be delivered for filing to the~~
10 ~~judge of probate, and a copy is to be forwarded to the~~
11 ~~Secretary of State for filing, two checks shall accompany that~~
12 ~~filing instrument and copy, one payable to the judge of~~
13 ~~probate covering all charges for the judge of probate, and one~~
14 ~~payable to the State of Alabama covering all charges for the~~
15 ~~Secretary of State; and the check payable to the State of~~
16 ~~Alabama shall be forwarded by the judge of probate to the~~
17 ~~Secretary of State.~~

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

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

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

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

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

5 "

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

9 "(6) Certificate of existence: Twenty-five dollars
10 (\$25);

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

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

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

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

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

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

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

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

21 "(e) (1) From the two hundred dollar (\$200) fee
22 collected by the Secretary of State for the filing of a
23 certificate of formation in final irrevocable full payment of
24 immediately available funds, the Secretary of State shall pay
25 the sum of one hundred dollars (\$100) to the county treasurer
26 for the county in which the office of the initial registered
27 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.

25 ~~"(i) For requests of immediate expedition of~~
26 ~~document filings, certifications, and certificates to be~~
27 ~~obtained in less than 24 hours from the Secretary of State,~~

1 ~~other than documents which may be delivered to, or obtained~~
2 ~~from, the Secretary of State electronically, in addition to~~
3 ~~required fees, a one hundred dollar (\$100) surcharge shall be~~
4 ~~imposed.~~

5 "§10A-1-5.04.

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

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

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

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

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

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

20 "(e) For a corporation that elects to be a benefit
21 corporation under the Alabama Business Corporation Law, the
22 name of that benefit corporation must contain the words
23 "benefit corporation," the abbreviation "B.C.," or the
24 designation "BC" and may not use the word "incorporated" or an
25 abbreviation thereof.

26 "§10A-1-5.11.

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

7 "(b) The application must set forth the name and
8 address of the applicant and the name proposed to be reserved
9 and must be:

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

11 "(2) signed by the applicant or by the agent or
12 attorney of the applicant.

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

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

21 §10A-1-5.17. Electronic name reservation.

22 The Secretary of State shall establish and maintain
23 an automated electronic name reservation system that enables
24 (i) the reservation of a name, (ii) the renewal of that
25 reserved name, (iii) the withdrawal of that reserved name,
26 (iv) the transfer of that reserved name, and (v) the payment
27 of the fees associated therewith, in order to provide for an

1 immediate reservation, renewal, withdrawal, or transfer of the
2 reserved name 24 hours a day, seven days a week, each day of
3 the year, including holidays and weekends.

4 Section 7. Sections 10A-1-6.02, 10A-1-8.01, and
5 10A-1-8.02, as amended by Act 2019-94, 2019 Regular Session,
6 10A-2A-1.40, 10A-2A-1.41, 10A-2A-1.52, 10A-2A-2.02,
7 10A-2A-2.05, 10A-2A-3.04, 10A-2A-7.03, 10A-2A-7.20,
8 10A-2A-7.24, 10A-2A-7.29, 10A-2A-7.40, 10A-2A-8.09,
9 10A-2A-13.30, 10A-2A-14.01, 10A-2A-14.03, 10A-2A-14.04,
10 10A-2A-14.07, 10A-2A-14.10, 10A-2A-14.11, 10A-2A-16.04,
11 10A-2A-16.05, and 10A-2A-16.10, as added to the Code of
12 Alabama 1975, by Act 2019-94, 2019 Regular Session, are
13 amended to read as follows:

14 "§10A-1-6.02.

15 "This article does not apply to: general
16 partnerships, limited liability partnerships, limited
17 liability companies, limited partnerships, limited liability
18 limited partnerships, nonprofit corporations, professional
19 corporations, and business corporations.

20 "§10A-1-8.01.

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

23 "(1) CORPORATIONS.

24 "a. The terms and conditions of a plan of conversion
25 of a corporation, other than a nonprofit corporation, must be
26 approved: ~~(i) for corporations governed by Chapter 2, by all~~
27 ~~of the corporation's stockholders or as otherwise provided in~~

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

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

1 corporation has no members, or no members entitled to vote
2 thereon, the terms and conditions of the plan of conversion
3 must be approved by a unanimous vote of the board of directors
4 of the converting nonprofit corporation, or as otherwise
5 provided in the governing documents; but in no case may the
6 governing documents provide for approval by less than a
7 majority of the board of directors.

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

19 "(3) LIMITED LIABILITY COMPANIES. The terms and
20 conditions of a plan of conversion of a limited liability
21 company must be approved by all of the limited liability
22 company's members or as otherwise provided in the limited
23 liability company's governing documents. No conversion of a
24 limited liability company to a general or limited partnership
25 may be effected without the consent in writing of each member
26 who will have personal liability with respect to the converted
27 entity, notwithstanding any provision in the governing

1 documents of the converting limited liability company
2 providing for less than unanimous member approval for the
3 conversion.

4 "(4) GENERAL PARTNERSHIPS, INCLUDING LIMITED
5 LIABILITY PARTNERSHIPS. The terms and conditions of a plan of
6 conversion of a general partnership must be approved by all of
7 the partners or as otherwise provided in the partnership
8 agreement. No conversion of a limited liability partnership to
9 a general or limited partnership may be effected without the
10 consent in writing of each partner who will have personal
11 liability with respect to the converted entity,
12 notwithstanding any provision in the partnership agreement of
13 the converting limited liability partnership providing for
14 less than unanimous partner approval for the conversion. If a
15 general partnership is the converting ~~organization~~ entity and
16 that general partnership does not have an effective statement
17 of partnership, statement of not for profit partnership, or
18 statement of limited liability partnership on file with the
19 Secretary of State, then that general partnership must, before
20 proceeding with a conversion deliver to the Secretary of State
21 for filing, a statement of partnership, statement of not for
22 profit partnership, or statement of limited liability
23 partnership simultaneously with the delivery to the Secretary
24 of State for filing, of a statement of conversion.

25 "(5) REAL ESTATE INVESTMENT TRUST. The terms and
26 conditions of a plan of conversion of a real estate investment
27 trust must be approved by all of the trust's shareholders or

1 as otherwise provided in the trust's declaration of trust; but
2 in no case may the vote required for shareholder approval be
3 set at less than a majority of all the votes entitled to be
4 cast. No conversion of a real estate investment trust to a
5 general or limited partnership may be effected without the
6 consent in writing of each shareholder who will have personal
7 liability with respect to the converted entity,
8 notwithstanding any provision in the declaration of trust of
9 the converting real estate investment trust providing for less
10 than unanimous shareholder approval for the conversion.

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

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

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

23 "(1) must include the following:

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

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

3 "c. the terms and conditions of the conversion,
4 including the manner and basis for converting interests in the
5 converting entity into any combination of money, interests in
6 the converted entity, and other consideration allowed in
7 subsection (c); and

8 "d. the organizational documents of the converted
9 entity; and

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

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

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

25 " (e) After the conversion is approved pursuant to
26 subsection (a):

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

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

8 "b. the date of the filing of the certificate of
9 formation of the converting entity, if any, and all prior
10 amendments and the filing office or offices, if any, where
11 such is filed;

12 "c. a statement that the converting entity has been
13 converted into the converted entity;

14 "d. the name and type of entity of the converted
15 entity and the jurisdiction of its governing statute;

16 "e. the street and mailing address of the principal
17 office of the converted entity;

18 "f. the date the conversion is effective under the
19 governing statute of the converted entity;

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

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

24 "i. a statement that a copy of the plan of
25 conversion will be furnished by the converted entity, on
26 request and without cost, to any owner of the converted or
27 converting entity; and

1 "j. if the converted entity is a foreign entity not
2 authorized to conduct activities and affairs in this state,
3 the street and mailing address of an office for the purposes
4 of Section 10A-1-8.04(b); and

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

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

23 "b. A statement that the converting entity has been
24 converted into the converted entity;

25 "c. The filing office where the certificate of
26 formation, if any, of the converting entity is filed and the
27 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
26 file with the Secretary of State, then the converting
27 ~~organization~~ entity must deliver to the Secretary of State for

1 filing, a statement of partnership, statement of not for
2 profit partnership, or statement of limited liability
3 partnership simultaneously with the delivery to the Secretary
4 of State for filing, of a statement of conversion.

5 "(f) A conversion becomes effective:

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

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

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

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

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

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

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

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

21 "(5) except as otherwise provided in the statement
22 of conversion, the terms and conditions of the statement of
23 conversion take effect;

24 "(6) except as otherwise agreed, for all purposes of
25 the laws of this state, the converting entity shall not be
26 required to wind up its affairs or pay its liabilities and

1 distribute its assets, and the conversion shall not be deemed
2 to constitute a dissolution of the converting entity;

3 "(7) for all purposes of the laws of this state, the
4 rights, privileges, powers, interests in property, debts,
5 liabilities, and duties of the converting entity, shall be the
6 rights, privileges, powers, interests in property, debts,
7 liabilities, and duties of the converted entity, and shall not
8 be deemed as a consequence of the conversion, to have been
9 transferred to the converted entity;

10 "(8) if the converted entity is a domestic entity,
11 for all purposes of the laws of this state, the converted
12 entity shall be deemed to be the same entity as the converting
13 entity, and the conversion shall constitute a continuation of
14 the existence of the converting entity in the form of the
15 converted entity;

16 "(9) if the converting entity is a domestic entity,
17 the existence of the converted entity shall be deemed to have
18 commenced on the date the converting entity commenced its
19 existence in the jurisdiction in which the converting entity
20 was first created, formed, organized, incorporated, or
21 otherwise came into being;

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

24 "(11) if the Secretary of State has assigned a
25 unique identifying number or other designation to the
26 converting entity and (i) the converted entity is formed
27 pursuant to the laws of this state, or (ii) the converted

1 entity is, within 30 days after the effective date of the
2 conversion, registered to transact business in this state,
3 then that unique identifying number or other designation shall
4 continue to be assigned to the converted entity; and

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

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

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

22 "(i) If:

23 "(1) the converting entity is a filing entity, a
24 general partnership with an effective statement of
25 partnership, statement of not for profit partnership, or
26 statement of limited liability partnership on file with the
27 Secretary of State, a foreign filing entity registered to

1 transact business or not for profit activity in this state, or
2 a qualified foreign limited liability partnership;

3 "(2) the converted entity will be a filing entity, a
4 general partnership with an effective statement of
5 partnership, statement of not for profit partnership, or
6 statement of limited liability partnership on file with the
7 Secretary of State, a foreign filing entity registered to
8 transact business or not for profit activity in this state, or
9 a qualified foreign limited liability partnership;

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

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

16 "then, notwithstanding Division B of Article 5, no
17 name reservation shall be required and the converted entity
18 shall for all purposes of this title be entitled to utilize
19 the name of the converting entity without any further action
20 by the converting entity or the converted entity.

21 "(j) A certified copy of the statement of conversion
22 may be delivered to the office of the judge of probate in any
23 county in which the converting entity owned real property, to
24 be recorded without payment and without collection by the
25 judge of probate of any deed or other transfer tax or fee. The
26 judge of probate shall, however, be entitled to collect a
27 filing fee of five dollars (\$5). Any filing shall evidence

1 chain of title, but lack of filing shall not affect the
2 converted entity's title to the real property.

3 "§10A-1-8.02.

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

7 "(1) CORPORATIONS.

8 "a. In the case of a corporation, other than a
9 nonprofit corporation, that is a party to a merger, a plan of
10 merger must be approved in accordance with the procedures and
11 by the stockholder vote required by ~~Article 11 of Chapter 2 or~~
12 ~~Article 11 of Chapter 2A, as applicable.~~ If the governing
13 documents of the corporation provide for approval of a merger
14 by less than all of the corporation's stockholders, approval
15 of the merger shall constitute corporate action subject to
16 ~~dissenter's rights pursuant to Article 13 of Chapter 2, or~~
17 appraisal rights pursuant to Article 13 of Chapter 2A, as
18 applicable. No merger of a corporation into a general or
19 limited partnership may be effected without the consent in
20 writing of each stockholder who will have personal liability
21 with respect to the surviving entity, notwithstanding any
22 provision in the governing documents of the corporation that
23 is a party to the merger providing for less than unanimous
24 stockholder approval for the conversion.

25 "b. In the case of a nonprofit corporation that is a
26 party to the merger, a plan of merger must be approved by all
27 the nonprofit corporation's members entitled to vote thereon,

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

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

25 "(3) LIMITED LIABILITY COMPANIES. In the case of a
26 limited liability company that is a party to the merger, a
27 plan of merger must be approved in writing by all of the

1 limited liability company's members or as otherwise provided
2 in the limited liability company's governing documents. No
3 merger of a limited liability company with a general or
4 limited partnership that is the surviving entity may be
5 effected without the consent in writing of each member who
6 will have personal liability with respect to the surviving
7 entity, notwithstanding any provision in the governing
8 documents of the merging limited liability company providing
9 for less than unanimous member approval for a merger.

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

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

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

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

25 "(1) must include the following:

26 "a. the name, type of entity, and mailing address of
27 the principal office of each entity that is a party to the

1 merger, the jurisdiction of the governing statute of each
2 entity that is a party to the merger, and the respective
3 unique identifying number or other designation as assigned by
4 the Secretary of State, if any, of each entity that is a party
5 to the merger;

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

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

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

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

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

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

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

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

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

25 "(3) for each entity other than a general
26 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;

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

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

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

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

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

19 "(g) If all of the entities that are parties to the
20 merger are domestic entities, the merger becomes effective on
21 the effective date determined in accordance with Article 4. If
22 one or more parties to the merger is a foreign entity, or a
23 foreign entity created by the merger is the surviving entity,
24 the merger shall become effective at the later of:

25 "(1) when all documents required to be filed in
26 foreign jurisdictions to effect the merger have become
27 effective, or

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

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

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

18 "(1) the surviving entity continues or, in the case
19 of a surviving entity created pursuant to the merger, comes
20 into existence;

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

23 "(3) except as provided in the plan of merger, all
24 property owned by, and every contract right possessed by, each
25 merging entity that ceases to exist vests in the surviving
26 entity without transfer, reversion, or impairment and the
27 title to any property and contract rights vested by deed or

1 otherwise in the surviving entity shall not revert, be in any
2 way impaired, or be deemed to be a transfer by reason of the
3 merger;

4 "(4) all debts, obligations, and other liabilities
5 of each merging entity, other than the surviving entity, are
6 debts, obligations, and liabilities of the surviving entity,
7 and neither the rights of creditors, nor any liens upon the
8 property of any entity that is a party to the merger, shall be
9 impaired by the merger;

10 "(5) an action or proceeding, pending by or against
11 any merging entity that ceases to exist continues as if the
12 merger had not occurred and the name of the surviving entity
13 may, but need not be substituted in any pending proceeding for
14 the name of any merging entity whose separate existence ceased
15 in the merger;

16 "(6) except as prohibited by law other than this
17 chapter or as provided in the plan of merger, all the rights,
18 privileges, franchises, immunities, powers, and purposes of
19 each merging entity, other than the surviving entity, vest in
20 the surviving entity;

21 "(7) except as otherwise provided in the plan of
22 merger, the terms and conditions of the plan of merger take
23 effect;

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

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

3 "(i) if it is a general partnership, the statement
4 of partnership, statement of not for profit partnership, or
5 statement of limited liability partnership becomes effective;
6 or

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

10 "(10) the interests in a merging entity that are to
11 be converted in accordance with the terms of the merger into
12 interests, obligations, rights to acquire interests, cash,
13 other property, or any combination of the foregoing, are
14 converted as provided in the plan of merger, and the former
15 holders of interests are entitled only to the rights provided
16 to them by those terms or to any appraisal or dissenters'
17 rights they may have under the governing statute governing the
18 merging entity;

19 "(11) if the surviving entity exists before the
20 merger:

21 "(i) except as provided in the plan of merger, all
22 the property and contract rights of the surviving entity
23 remain its property and contract rights without transfer,
24 reversion, or impairment;

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

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

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

17 "(13)a. An owner of an entity with limited liability
18 protection remains liable, if at all, for an obligation
19 incurred prior to the merger by an entity that ceases to exist
20 as a result of the merger only to the extent, if any, that the
21 owner would have been liable under the laws applicable to
22 owners of the form of entity that ceased to exist if the
23 merger had not occurred.

24 "b. An owner with limited liability protection who,
25 as a result of the merger, becomes an owner without limited
26 liability protection of the surviving entity is liable for an
27 obligation of the surviving entity incurred after merger to

1 the extent provided for by the laws applicable to the
2 surviving entity.

3 "(14) An owner without limited liability protection
4 of an entity that ceases to exist as a result of a merger and
5 who as a result of the merger becomes an owner of a surviving
6 entity with limited liability protection remains liable for an
7 obligation of the entity that ceases to exist incurred before
8 the merger takes effect only to the extent, if any, that the
9 owner would have been liable if the merger had not occurred.

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

20 "§10A-2A-1.40.

21 "Notwithstanding Section 10A-1-1.03, as used in this
22 chapter, unless otherwise specified or unless the context
23 otherwise requires, the following terms have the following
24 meanings:

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

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

6 "(3) ~~"Certificate of incorporation"~~ CERTIFICATE OF
7 INCORPORATION means the certificate of incorporation described
8 in Section 10A-2A-2.02, all amendments to the certificate of
9 incorporation, and any other documents permitted or required
10 to be delivered for filing by a corporation with the Secretary
11 of State under this chapter or Chapter 1 that modify, amend,
12 supplement, restate, or replace the certificate of
13 incorporation. After an amendment of the certificate of
14 incorporation or any other document filed under this chapter
15 or Chapter 1 that restates the certificate of incorporation in
16 its entirety, the certificate of incorporation shall not
17 include any prior documents. When used with respect to a
18 corporation incorporated and existing on December 31, 2019,
19 under a predecessor law of this state, the term "certificate
20 of incorporation" means articles of incorporation, charter, or
21 similar incorporating document, and all amendments and
22 restatements to the certificate of incorporation, charter, or
23 similar incorporating document. When used with respect to a
24 foreign corporation, a nonprofit corporation, or a foreign
25 nonprofit corporation, the "certificate of incorporation" of
26 such an entity means the document of such entity that is
27 equivalent to the certificate of incorporation of a

1 corporation. The term "certificate of incorporation" as used
2 in this chapter is synonymous to the term "certificate of
3 formation" used in Chapter 1.

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

7 "~~(5) "Deliver" or "delivery"~~ DELIVER or DELIVERY
8 means any method of delivery used in conventional commercial
9 practice, including delivery by hand, mail, commercial
10 delivery, and, if authorized in accordance with Section
11 10A-2A-1.41, by electronic transmission.

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

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

22 "~~(8) "Effective date,"~~ EFFECTIVE DATE when referring
23 to a document accepted for filing by the Secretary of State,
24 means the time and date determined in accordance with Article
25 4 of Chapter 1.

26 "(9) ELECTRONIC MAIL means an electronic
27 transmission directed to a unique electronic mail address,

1 which electronic mail shall be deemed to include any files
2 attached thereto and any information hyperlinked to a website
3 if such electronic mail includes the contact information of an
4 officer or agent of the corporation who is available to assist
5 with accessing those files and that information.

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

13 ~~"(9) "Eligible entity"~~ (11) ELIGIBLE ENTITY means an
14 unincorporated entity, foreign unincorporated entity,
15 nonprofit corporation, or foreign nonprofit corporation.

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

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

21 ~~"(12) "Entity"~~ (14) ENTITY includes corporation;
22 foreign corporation; nonprofit corporation; foreign nonprofit
23 corporation; estate; trust; unincorporated entity; foreign
24 unincorporated entity; and state, United States, and foreign
25 government.

1 ~~"(13) "Expenses"~~ (15) EXPENSES means reasonable
2 expenses of any kind that are incurred in connection with a
3 matter.

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

9 ~~"(15) "Foreign corporation"~~ (17) FOREIGN CORPORATION
10 means a corporation incorporated under a law other than the
11 law of this state which would be a corporation if incorporated
12 under the law of this state.

13 ~~"(16) "Foreign nonprofit corporation"~~ (18) FOREIGN
14 NONPROFIT CORPORATION means a corporation incorporated under a
15 law other than the law of this state which would be a
16 nonprofit corporation if incorporated under the law of this
17 state.

18 ~~"(17) "Governing statute"~~ (19) GOVERNING STATUTE
19 means the statute governing the internal affairs of a
20 corporation, foreign corporation, nonprofit corporation,
21 foreign nonprofit corporation, unincorporated entity, or
22 foreign unincorporated entity.

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

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

1 ~~"(20) Interest"~~ (22) INTEREST means either or both
2 of the following rights under the governing statute governing
3 an unincorporated entity:

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

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

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

12 ~~"(22) Knowledge"~~ (24) KNOWLEDGE is determined as
13 follows:

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

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

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

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

19 "(1) knows of it;

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

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

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

26 "(c) A person notifies another of a fact by taking
27 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.

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

1 ~~"(23) "Means"~~ (25) MEANS denotes an exhaustive
2 definition.

3 ~~"(24) "Membership"~~ (26) MEMBERSHIP means the rights
4 of a member in a nonprofit corporation or foreign nonprofit
5 corporation.

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

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

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

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

1 ~~"(29) "Proceeding"~~ (31) PROCEEDING includes any
2 civil suit and criminal, administrative, and investigatory
3 action.

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

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

21 ~~"(32) "Record stockholder"~~ (34) RECORD STOCKHOLDER
22 means (i) the person in whose name shares of stock are
23 registered in the records of the corporation, or (ii) the
24 person identified as the beneficial owner of stock in a
25 beneficial ownership certificate pursuant to Section
26 10A-2A-7.23 on file with the corporation to the extent of the
27 rights granted by such certificate.

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

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

9 "~~(35) "Stockholder"~~ (37) STOCKHOLDER means a record
10 stockholder.

11 "~~(36) "Stock"~~ (38) STOCK means the units into which
12 the proprietary interests in a corporation or foreign
13 corporation are divided.

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

20 "~~(38) "Unincorporated entity"~~ (40) UNINCORPORATED
21 ENTITY means an organization or artificial legal person that
22 either has a separate legal existence or has the power to
23 acquire an estate in real property in its own name and that is
24 not any of the following: a corporation, foreign corporation,
25 nonprofit corporation, foreign nonprofit corporation, a series
26 of a limited liability company or of another type of entity,
27 an estate, a trust, a state, United States, or foreign

1 government. The term includes a general partnership, limited
2 liability company, limited partnership, business trust, joint
3 stock association, and unincorporated nonprofit association.

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

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

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

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

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

25 "§10A-2A-1.41.

26 "(a) A notice under this chapter must be in writing
27 unless oral notice is reasonable in the circumstances. Unless

1 otherwise agreed between the sender and the recipient, words
2 in a notice or other communication under this chapter must be
3 in English.

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

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

22 "(d) A notice or other communications to a
23 stockholder from the corporation may be delivered by
24 electronic ~~transmission~~ mail to that stockholder at the
25 electronic mail address for that stockholder as reflected in
26 the books and records of the corporation, unless that
27 stockholder has previously notified the corporation in writing

1 that the stockholder objects to receiving notices and other
2 communications by electronic mail. Any such notice or
3 communication may be delivered by electronic transmission
4 other than electronic mail if consented to by the ~~recipient~~
5 stockholder or if authorized by subsection (j), and any other
6 notice or communication may be delivered by electronic
7 transmission if consented to by the recipient or if authorized
8 by subsection (j).

9 "(e) Any consent under subsection (d) may be revoked
10 by the person who consented by written or electronic notice to
11 the person to whom the consent was delivered. ~~Any consent is~~
12 ~~deemed revoked~~ Authority to deliver notice or other
13 communications to a stockholder by electronic mail or by
14 electronic transmission pursuant to subsection (d) shall cease
15 if (i) the corporation is unable to deliver two consecutive
16 electronic transmissions ~~given by the corporation to that~~
17 stockholder in accordance with ~~that consent~~ subsection (d),
18 and (ii) the inability becomes known to the secretary or an
19 assistant secretary or to the transfer agent, or other person
20 responsible for the giving of notice or other communications;
21 provided, however, the inadvertent failure to treat that
22 inability as a ~~revocation~~ cessation of authority shall not
23 invalidate any meeting or other action.

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

26 "(1) it enters an information processing system that
27 the recipient has designated or uses for the purposes of

1 receiving electronic transmissions or information of the type
2 sent, and from which the recipient is able to retrieve the
3 electronic transmission; and

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

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

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

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

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

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

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

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

24 "(2) if mailed postage prepaid and correctly
25 addressed to a stockholder, upon deposit in the United States
26 mail;

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

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

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

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

14 "~~(4)~~(5) if an electronic transmission, when it is
15 received as provided in subsection (f); and

16 "~~(5)~~(6) if oral, when communicated.

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

25 "(k) If this chapter prescribes requirements for
26 notices or other communications in particular circumstances,
27 those requirements govern. If the certificate of incorporation

1 or bylaws prescribe requirements for notices or other
2 communications, not inconsistent with this section or other
3 provisions of this chapter, those requirements govern. The
4 certificate of incorporation or bylaws may authorize or
5 require delivery of notices of meetings of directors by
6 electronic transmission.

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

13 "§10A-2A-1.52.

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

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

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

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

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

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

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

23 "(d) Notwithstanding any other provision of this
24 section or otherwise under applicable law, any action
25 asserting that the ratification of any defective corporate
26 action and any putative stock issued as a result of a
27 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;

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

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

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

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

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

22 "(5) a provision permitting or making obligatory
23 indemnification of a director for liability as defined in
24 Section 10A-2A-8.50 to any person for any action taken, or any
25 failure to take any action, as a director, except liability
26 for (i) receipt of a financial benefit to which the director
27 is not entitled, (ii) an intentional infliction of harm on the

1 corporation or its stockholders, (iii) a violation of Section
2 10A-2A-8.32, or (iv) an intentional violation of criminal law;
3 and

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

16 "(c) The certificate of incorporation need not set
17 forth any of the corporate powers enumerated in Sections
18 10A-1-2.11, 10A-1-2.12, and 10A-1-2.13.

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

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

25 "(f) The certificate of incorporation may not
26 contain any provision that would impose liability on a
27 stockholder for the attorney's fees or expenses of the

1 corporation or any other party in connection with an internal
2 corporate claim, as defined in Section 10A-2A-2.07(d).

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

6 "§10A-2A-2.05.

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

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

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

14 "(1) a requirement that if the corporation solicits
15 proxies or consents with respect to an election of directors,
16 the corporation include in its proxy statement and any form of
17 its proxy or consent, to the extent and subject to any
18 procedures or conditions as are provided in the bylaws, one or
19 more individuals nominated by a stockholder in addition to
20 individuals nominated by the board of directors; and

21 "(2) a requirement that the corporation reimburse
22 the expenses incurred by a stockholder in soliciting proxies
23 or consents in connection with an election of directors, to
24 the extent and subject to any procedures and conditions as are
25 provided in the bylaws, provided that no provision so adopted
26 shall apply to elections for which any record date precedes
27 its adoption.

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

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

11 "§10A-2A-3.04.

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

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

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

18 "(2) in a proceeding by the corporation, directly,
19 derivatively, or through a receiver, trustee, or other legal
20 representative, against an incumbent or former director,
21 officer, employee, or agent of the corporation; or

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

24 "(c) In a stockholder's proceeding under subsection
25 (b) (1) to enjoin an unauthorized corporate act, the court may
26 enjoin or set aside the act, if equitable and if all affected
27 persons are parties to the proceeding, and may award damages

1 for loss (other than anticipated profits) suffered by the
2 corporation or another party because of enjoining the
3 unauthorized act.

4 "(d) Proceedings under subsection (b) shall be
5 brought in the designated court, and if none, in the circuit
6 court for the county in which the corporation's principal
7 office is located in this state, and if none in this state, in
8 the circuit court for the county in which the corporation's
9 most recent registered office is located.

10 "§10A-2A-7.03.

11 "(a) The designated court, and if none, the circuit
12 court of for the county where a in which the corporation's
13 principal office is located in this state, and, if none in
14 this state, its the circuit court for the county in which the
15 corporation's most recent registered office is located may
16 summarily order a meeting to be held:

17 "(1) on application of any stockholder of the
18 corporation entitled to participate in an annual meeting if an
19 annual meeting was not held or action by written consent in
20 lieu of an annual meeting did not become effective within the
21 earlier of 12 months after the end of the corporation's fiscal
22 year or 15 months after its last annual meeting; or

23 "(2) on application of one or more stockholders who
24 signed a demand for a special meeting valid under Section
25 10A-2A-7.02, if:

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

4 "(ii) the special meeting was not held in accordance
5 with the notice.

6 "(b) The court may fix the time and place of the
7 meeting, determine the stock entitled to participate in the
8 meeting, specify a record date or dates for determining
9 stockholders entitled to notice of and to vote at the meeting,
10 prescribe the form and content of the meeting notice, fix the
11 quorum required for specific matters to be considered at the
12 meeting (or direct that the stock represented at the meeting
13 constitute a quorum for action on those matters), and enter
14 other orders necessary to accomplish the purpose or purposes
15 of the meeting.

16 "(c) For purposes of subsection (a)(1),
17 "stockholder" means a record stockholder, a beneficial
18 stockholder, and an unrestricted voting trust beneficial
19 owner.

20 "§10A-2A-7.20.

21 "(a) After fixing a record date for a meeting, a
22 corporation shall prepare an alphabetical list of the names of
23 all its stockholders who are entitled to notice of a
24 stockholders' meeting. If the board of directors fixes a
25 different record date under Section 10A-2A-7.07(e) to
26 determine the stockholders entitled to vote at the meeting, a
27 corporation also shall prepare an alphabetical list of the

1 names of all its stockholders who are entitled to vote at the
2 meeting. A list must be arranged by voting group (and within
3 each voting group by class or series of stock) and show the
4 address of and number of shares of stock held by each
5 stockholder. ~~Nothing contained in this subsection shall~~
6 ~~require~~ If the corporation has an electronic mail address for
7 a stockholder and the corporation uses that electronic mail
8 address to send notices and other communications to that
9 stockholder, then the corporation to shall include that
10 electronic mail address on that list the electronic mail
11 address or other electronic contact information of a
12 stockholder the stockholders' list.

13 "(b) The stockholders' list for notice shall be
14 available for inspection by any stockholder, beginning two
15 business days after notice of the meeting is given for which
16 the list was prepared and continuing through the meeting, (i)
17 at the corporation's principal office or at a place identified
18 in the meeting notice in the city where the meeting will be
19 held or (ii) on a reasonably accessible electronic network,
20 provided that the information required to gain access to such
21 list is provided with the notice of the meeting. In the event
22 that the corporation determines to make the list available on
23 an electronic network, the corporation may take reasonable
24 steps to ensure that such information is available only to
25 stockholders of the corporation. A stockholders' list for
26 voting shall be similarly available for inspection promptly
27 after the record date for voting. A stockholder, or the

1 stockholder's agent or attorney, is entitled on written demand
2 to inspect and, subject to the requirements of Section
3 10A-2A-16.02(c), to copy a list, during regular business hours
4 and at the stockholder's expense, during the period it is
5 available for inspection.

6 "(c) If the meeting is to be held at a place, the
7 corporation shall make the list of stockholders entitled to
8 vote available at the meeting, and any stockholder, or the
9 stockholder's agent or attorney, is entitled to inspect the
10 list at any time during the meeting or any adjournment. If the
11 meeting is to be held solely by means of remote communication,
12 then such list shall also be open to such inspection during
13 the meeting on a reasonably accessible electronic network, and
14 the information required to access such list shall be provided
15 with the notice of the meeting.

16 "(d) If the corporation refuses to allow a
17 stockholder, or the stockholder's agent or attorney, to
18 inspect a stockholders' list before or at the meeting (or copy
19 a list as permitted by subsection (b)), the designated court,
20 and if none, the circuit court of for the county where in
21 which the corporation's principal office, or, is located in
22 this state, and if none in this state, its the circuit court
23 for the county in which the corporation's most recent
24 registered office, is located, on application of the
25 stockholder, may summarily order the inspection or copying at
26 the corporation's expense and may postpone the meeting for

1 which the list was prepared until the inspection or copying is
2 complete.

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

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

10 "§10A-2A-7.24.

11 "(a) If the name signed on a vote, ballot, consent,
12 waiver, stockholder demand, or proxy appointment corresponds
13 to the name of a stockholder, the corporation, if acting in
14 good faith, is entitled to accept the vote, ballot, consent,
15 waiver, stockholder demand, or proxy appointment and give it
16 effect as the act of the stockholder.

17 "(b) If the name signed on a vote, ballot, consent,
18 waiver, stockholder demand, or proxy appointment does not
19 correspond to the name of its stockholder, the corporation, if
20 acting in good faith, is nevertheless entitled to accept the
21 vote, ballot, consent, waiver, stockholder demand, or proxy
22 appointment and give it effect as the act of the stockholder
23 if:

24 "(1) the stockholder is an entity and the name
25 signed purports to be that of an officer or agent of the
26 entity;

1 "(2) the name signed purports to be that of an
2 administrator, executor, guardian, or conservator representing
3 the stockholder and, if the corporation requests, evidence of
4 fiduciary status acceptable to the corporation has been
5 presented with respect to the vote, ballot, consent, waiver,
6 stockholder demand, or proxy appointment;

7 "(3) the name signed purports to be that of a
8 receiver or trustee in bankruptcy of the stockholder and, if
9 the corporation requests, evidence of this status acceptable
10 to the corporation has been presented with respect to the
11 vote, ballot, consent, waiver, stockholder demand, or proxy
12 appointment;

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

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

24 "(c) The corporation is entitled to reject a vote,
25 ballot, consent, waiver, stockholder demand, or proxy
26 appointment if the person authorized to accept or reject that
27 instrument, acting in good faith, has reasonable basis for

1 doubt about the validity of the signature on it or about the
2 signatory's authority to sign for the stockholder.

3 "(d) Neither the corporation or any person
4 authorized by it, nor an inspector of election appointed under
5 Section 10A-2A-7.29, that accepts or rejects a vote, ballot,
6 consent, waiver, stockholder demand, or proxy appointment in
7 good faith and in accordance with the standards of this
8 Section 10A-2A-7.24 or Section 10A-2A-7.22(b) is liable in
9 damages to the stockholder for the consequences of the
10 acceptance or rejection.

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

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

26 "§10A-2A-7.29.

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

13 "(b) The inspectors shall:

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

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

18 "(3) Count all votes and ballots;

19 "(4) Determine and retain for a reasonable period a
20 record of the disposition of any challenges made to any
21 determination by the inspectors; and

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

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

13 "(d) In determining the validity and counting of
14 proxies and ballots, the inspectors shall be limited to an
15 examination of the proxies, any envelopes submitted with those
16 proxies, any information provided in accordance with Section
17 10A-2A-7.22, or any information provided pursuant to Section
18 10A-2A-7.09(b), ballots and the regular books and records of
19 the corporation, except that the inspectors may consider other
20 reliable information for the limited purpose of reconciling
21 proxies and ballots submitted by or on behalf of banks,
22 brokers, their nominees, or similar persons which represent
23 more votes than the holder of a proxy is authorized by the
24 record owner to cast or more votes than the stockholder holds
25 of record. If the inspectors consider other reliable
26 information for the limited purpose permitted herein, the
27 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
25 extent provided in Section 10A-2A-7.48, in the right of a
26 foreign corporation.

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

4 "§10A-2A-8.09.

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

21 "(b) A stockholder proceeding on behalf of the
22 corporation under subsection (a) shall comply with all of the
23 requirements of Division D of Article 7, except clause (2) of
24 Section 10A-2A-7.42.

25 "§10A-2A-13.30.

26 "(a) If a stockholder makes demand for payment under
27 Section 10A-2A-13.26 which remains unsettled, the corporation

1 shall commence a proceeding within 60 days after receiving the
2 payment demand and petition the court to determine the fair
3 value of the stock and accrued interest. If the corporation
4 does not commence the proceeding within the 60-day period, it
5 shall pay in cash to each stockholder the amount the
6 stockholder demanded pursuant to Section 10A-2A-13.26 plus
7 interest.

8 "(b) The corporation shall commence the proceeding
9 in the designated court, and if none, the circuit court of for
10 the county where in which the corporation's principal office,
11 or, is located in this state, and if none in this state, its
12 in the circuit court for the county in which the corporation's
13 most recent registered office, is located.

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

21 "(d) The jurisdiction of the court in which the
22 proceeding is commenced under subsection (b) is plenary and
23 exclusive. The court may appoint one or more persons as
24 appraisers to receive evidence and recommend a decision on the
25 question of fair value. The appraisers shall have the powers
26 described in the order appointing them, or in any amendment to
27 it. The stockholders demanding appraisal rights are entitled

1 to the same discovery rights as parties in other civil
2 proceedings. There shall be no right to a jury trial.

3 "(e) Each stockholder made a party to the proceeding
4 is entitled to judgment (i) for the amount, if any, by which
5 the court finds the fair value of the stockholder's stock
6 exceeds the amount paid by the corporation to the stockholder
7 for the stock, plus interest, or (ii) for the fair value, plus
8 interest, of the stockholder's stock for which the corporation
9 elected to withhold payment under Section 10A-2A-13.25.

10 "§10A-2A-14.01.

11 "A majority of the incorporators or initial
12 directors of a corporation that has not issued stock or has
13 not commenced business may dissolve the corporation by
14 delivering to the Secretary of State for filing a certificate
15 of dissolution that sets forth:

16 "(a) the name of the corporation;

17 "(b) the date of its incorporation;

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

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

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

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

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

3 "§10A-2A-14.03.

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

7 "(1) the name of the corporation;

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

9 "(3) if dissolution was approved by the
10 stockholders, a statement that the proposal to dissolve was
11 duly approved by the stockholders in the manner required by
12 this chapter and by the certificate of incorporation; and

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

15 "(b) The certificate of dissolution shall take
16 effect at the effective date determined in accordance with
17 Article 4 of Chapter 1. A corporation is dissolved upon the
18 effective date of its certificate of dissolution.

19 "(c) For purposes of this Division A of this Article
20 14, "dissolved corporation" means a corporation whose
21 certificate of dissolution has become effective and includes a
22 successor entity to which the remaining assets of the
23 corporation are transferred subject to its liabilities for
24 purposes of liquidation.

25 "§10A-2A-14.04.

26 "(a) A corporation may revoke its dissolution within
27 120 days after its effective date and be reinstated.

1 "(b) Revocation of dissolution and reinstatement
2 shall be authorized in the same manner as the dissolution was
3 authorized unless that authorization permitted revocation and
4 reinstatement by action of the board of directors alone, in
5 which event the board of directors may revoke the dissolution
6 and effect the reinstatement without stockholder action.

7 "(c) After the revocation of dissolution and
8 reinstatement is authorized, the corporation may revoke the
9 dissolution and effect the reinstatement by delivering to the
10 Secretary of State for filing a certificate of revocation of
11 dissolution and reinstatement, together with a copy of its
12 certificate of dissolution, that sets forth:

13 "(1) the name of the corporation;

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

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

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

21 "(5) if the corporation's board of directors revoked
22 a dissolution and effected the reinstatement as authorized by
23 the stockholders, a statement that revocation and
24 reinstatement was permitted by action by the board of
25 directors alone pursuant to that authorization; ~~and~~

26 "(6) if stockholder action was required to revoke
27 the dissolution and effect the reinstatement, a statement that

1 the revocation and reinstatement was duly approved by the
2 stockholders in the manner required by this chapter and by the
3 certificate of incorporation; and

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

6 "(d) The certificate of revocation of dissolution
7 and reinstatement shall take effect at the effective date
8 determined in accordance with Article 4 of Chapter 1.

9 Revocation of dissolution and reinstatement is effective upon
10 the effective date of the certificate of revocation of
11 dissolution and reinstatement.

12 "(e) (1) Subject to subsection (e) (2), upon
13 revocation and reinstatement, the corporation shall be deemed
14 for all purposes to have continued its business as if
15 dissolution had never occurred; and each right inuring to, and
16 each debt, obligation, and liability incurred by, the
17 corporation after the dissolution shall be determined as if
18 the dissolution had never occurred.

19 "(2) The rights of persons acting in reliance on the
20 dissolution before those persons had notice of the revocation
21 and reinstatement shall not be adversely affected by the
22 revocation and reinstatement.

23 "(f) If the corporation is listed in the Secretary
24 of State's records as a corporation that has been dissolved,
25 then the name of the corporation following revocation and
26 reinstatement shall be that corporation name at the time of
27 revocation and reinstatement if that corporation name complies

1 with Article 5 of Chapter 1 at the time of revocation and
2 reinstatement. If that corporation name does not comply with
3 Article 5 of Chapter 1, the name of the corporation following
4 revocation and reinstatement shall be that corporation name
5 followed by the word "reinstated."

6 "§10A-2A-14.07.

7 "(a) A dissolved corporation may publish notice of
8 its dissolution and request that persons with claims against
9 the dissolved corporation present them in accordance with the
10 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 dissolved
14 corporation's principal office is located or, if it has none
15 in this state, in the county in which the corporation's most
16 recent registered office is ~~or was last~~ located;

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

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

24 "(c) If a dissolved corporation publishes a
25 newspaper notice in accordance with subsection (b), unless
26 sooner barred by any other statute limiting actions, the claim
27 of each of the following claimants is barred unless the

1 claimant commences a proceeding to enforce the claim against
2 the dissolved corporation within two years after the
3 publication date of the newspaper notice:

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

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

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

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

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

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

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

18 "(f) Within 10 days after the filing of the
19 application provided for in subsection (e), notice of the
20 proceeding shall be given by the dissolved corporation to each
21 potential claimant as described in subsection (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,
26 including all reasonable expert witness fees, shall be paid by
27 the dissolved corporation.

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

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

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

19 "§10A-2A-14.10.

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

25 "(1) in a proceeding by the Attorney General if it
26 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:

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

1 (ii) the corporation has admitted in writing that
2 the creditor's claim is due and owing and the corporation is
3 insolvent;

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

6 (5) in a proceeding by a stockholder if the
7 corporation has abandoned its business and has failed within a
8 reasonable time to liquidate and distribute its assets and
9 dissolve.

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

13 (1) a covered security under Section 18(b) (1) (A) or
14 (B) of the Securities Act of 1933; or

15 (2) not a covered security, but is held by at least
16 2,000 stockholders.

17 (c) In subsection (a), "stockholder" means a record
18 stockholder, a beneficial stockholder, and an unrestricted
19 voting trust beneficial owner, and in subsection (b),
20 "stockholder" means a record stockholder, a beneficial
21 stockholder, and a voting trust beneficial owner.

22 "§10A-2A-14.11.

23 (a) Venue for a proceeding by the attorney general
24 to dissolve a corporation lies in circuit court ~~of~~ for the
25 county ~~where~~ in which the corporation's principal office, ~~or~~
26 is located in this state, and if none in this state, its in
27 the circuit court for the county in which the corporation's

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

8 "(b) It is not necessary to make stockholders
9 parties to a proceeding to dissolve a corporation unless
10 relief is sought against them individually.

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

17 "(d) Within 10 days of the commencement of a
18 proceeding to dissolve a corporation under Section
19 10A-2A-14.10(a) (2), the corporation shall deliver to all
20 stockholders, other than the petitioner, a notice stating that
21 the stockholders are entitled to avoid the dissolution of the
22 corporation by electing to purchase the petitioner's stock
23 under Section 10A-2A-14.14 and accompanied by a copy of
24 Section 10A-2A-14.14.

25 "§10A-2A-16.04.

26 "(a) If a corporation does not allow a stockholder
27 who complies with Section 10A-2A-16.02(a) to inspect and copy

1 any records required by that section to be available for
2 inspection, the designated court, and if none, the circuit
3 court of for the county where in which the corporation's
4 principal office, ~~or,~~ is located in this state, and if none in
5 this state, its the circuit court for the county in which the
6 corporation's most recent registered office, is located may
7 summarily order inspection and copying of the records demanded
8 at the corporation's expense upon application of the
9 stockholder.

10 "(b) If a corporation does not within a reasonable
11 time allow a stockholder who complies with Section
12 10A-2A-16.02(b) to inspect and copy the records required by
13 that section, the stockholder who complies with Section
14 10A-2A-16.02(c) may apply to the designated court, and if
15 none, the circuit court of for the county where in which the
16 corporation's principal office, ~~or,~~ is located in this state,
17 and if none in this state, its the circuit court for the
18 county in which the corporation's most recent registered
19 office, is located for an order to permit inspection and
20 copying of the records demanded. The court shall dispose of an
21 application under this subsection on an expedited basis.

22 "(c) If the court orders inspection and copying of
23 the records demanded under Section 10A-2A-16.02(b), it may
24 impose reasonable restrictions on their confidentiality, use,
25 or distribution by the demanding stockholder and it shall also
26 order the corporation to pay the stockholder's expenses
27 incurred to obtain the order unless the corporation

1 establishes that it refused inspection in good faith because
2 the corporation had:

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

5 "(2) required reasonable restrictions on the
6 confidentiality, use, or distribution of the records demanded
7 to which the demanding stockholder had been unwilling to
8 agree.

9 "§10A-2A-16.05.

10 "(a) A director of a corporation is entitled to
11 inspect and copy the books, records, and documents of the
12 corporation at any reasonable time to the extent reasonably
13 related to the performance of the director's duties as a
14 director, including duties as a member of a board committee,
15 but not for any other purpose or in any manner that would
16 violate any duty to the corporation.

17 "(b) The designated court, and if none, the circuit
18 court of for the county where in which the corporation's
19 principal office, or, is located in this state, and if none in
20 this state, its the circuit court for the county in which the
21 corporation's most recent registered office~~7~~ is located may
22 order inspection and copying of the books, records and
23 documents at the corporation's expense, upon application of a
24 director who has been refused inspection rights, unless the
25 corporation establishes that the director is not entitled to
26 inspection rights. The court shall dispose of an application
27 under this subsection on an expedited basis.

1 "(c) If an order is issued, the court may include
2 provisions protecting the corporation from undue burden or
3 expense, and prohibiting the director from using information
4 obtained upon exercise of the inspection rights in a manner
5 that would violate a duty to the corporation, and may also
6 order the corporation to reimburse the director for the
7 director's expenses incurred in connection with the
8 application.

9 "§10A-2A-16.10.

10 "(a) Upon the written request of a stockholder, a
11 corporation shall deliver or make available to the requesting
12 stockholder by posting on its website or by other generally
13 recognized means annual financial statements for the most
14 recent fiscal year of the corporation for which annual
15 financial statements have been prepared for the corporation.
16 If financial statements have been prepared for the corporation
17 on the basis of generally accepted accounting principles for
18 that specified period, the corporation shall deliver or make
19 available those financial statements to the requesting
20 stockholder. If the annual financial statements to be
21 delivered or made available to the requesting stockholder are
22 audited or otherwise reported upon by a public accountant, the
23 report shall also be delivered or made available to the
24 requesting stockholder.

25 "(b) A corporation shall deliver, or make available
26 and provide written notice of availability of, the financial
27 statements required under subsection (a) to the requesting

1 stockholder within five business days of delivery of the
2 written request to the corporation.

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

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

10 "(1) as a condition to delivering or making
11 available financial statements to a requesting stockholder,
12 the corporation may require the requesting stockholder to
13 agree to reasonable restrictions on the confidentiality, use,
14 and distribution of the financial statements; and

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

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

23 "(1) The requesting stockholder may apply to the
24 designated court, and if none, the circuit court of for the
25 county where in which the corporation's principal office, ~~or,~~
26 is located in this state, and if none in this state, its the
27 circuit court for the county in which the corporation's most

1 recent registered office, is located for an order requiring
2 delivery of or access to the requested financial statements.
3 The court shall dispose of an application under this
4 subsection on an expedited basis.

5 "(2) If the court orders delivery or access to the
6 requested financial statements, it may impose reasonable
7 restrictions on their confidentiality, use, or distribution.

8 "(3) In the proceeding, if the corporation has
9 declined to deliver or make available the financial statements
10 because the stockholder had been unwilling to agree to
11 restrictions proposed by the corporation on the
12 confidentiality, use, and distribution of the financial
13 statements, the corporation shall have the burden of
14 demonstrating that the restrictions proposed by the
15 corporation were reasonable.

16 "(4) In the proceeding, if the corporation has
17 declined to deliver or make available the financial statements
18 pursuant to Section 10A-2A-16.10(d)(2), the corporation shall
19 have the burden of demonstrating that it had reasonably
20 determined that the stockholder's request was not made in good
21 faith or for a proper purpose.

22 "(5) If the court orders delivery or access to the
23 requested financial statements it shall order the corporation
24 to pay the stockholder's expenses incurred to obtain the order
25 unless the corporation establishes that it had refused
26 delivery or access to the requested financial statements
27 because the stockholder had refused to agree to reasonable

1 restrictions on the confidentiality, use or distribution of
2 the financial statements or that the corporation had
3 reasonably determined that the stockholder's request was not
4 made in good faith or for a proper purpose.

5 Section 8. Sections 10A-2A-17.01, 10A-2A-17.02,
6 10A-2A-17.03, 10A-2A-17.04, 10A-2A-17.05, and 10A-2A-17.06,
7 are added to the Code of Alabama 1975, to read as follows:

8 §10-2A-17.01. Application of Article 17;
9 Definitions.

10 (a) A corporation electing to become a benefit
11 corporation under this article in the manner prescribed in
12 this article is subject in all respects to the provisions of
13 this chapter, except to the extent this article imposes
14 additional or different requirements, in which case those
15 requirements apply. The inclusion of a provision in this
16 article does not imply that a contrary or different rule of
17 law applies to a corporation that is not a benefit
18 corporation. This article does not affect a statute or rule of
19 law that applies to a corporation that is not a benefit
20 corporation.

21 (b) As used in this article:

22 (1) BENEFIT CORPORATION means a corporation that
23 includes in its certificate of incorporation a statement that
24 the corporation is subject to this article.

25 (2) PUBLIC BENEFIT means a positive effect, or
26 reduction of negative effects, on one or more communities or
27 categories of persons (other than stockholders solely in their

1 capacity as stockholders) or on the environment, including
2 effects of an artistic, charitable, economic, educational,
3 cultural, literary, medical, religious, social, ecological, or
4 scientific nature.

5 (3) PUBLIC BENEFIT PROVISION means a provision in
6 the certificate of incorporation which states that the
7 corporation shall pursue one or more identified public
8 benefits.

9 (4) RESPONSIBLE AND SUSTAINABLE MANNER means a
10 manner that:

11 (i) pursues through the business of the corporation
12 the creation of a positive effect on society and the
13 environment, taken as a whole, that is material taking into
14 consideration the corporation's size and the nature of its
15 business; and

16 (ii) considers, in addition to the interests of
17 stockholders generally, the separate interests of stakeholders
18 known to be affected by the conduct of the business of the
19 corporation.

20 §10A-2A-17.02. Name; stock certificates.

21 (a) The name of a benefit corporation must comply
22 with Section 10A-1-5.04(e).

23 (b) Any stock certificate issued by a benefit
24 corporation, and any information statement delivered by a
25 benefit corporation pursuant to Section 10A-2A-6.26(b), must
26 note conspicuously that the corporation is a benefit
27 corporation subject to this chapter.

1 §10A-2A-17.03. Certain amendments and transactions;
2 votes required.

3 (a) Unless the certificate of incorporation requires
4 a greater vote, in addition to any other approval of
5 stockholders required under this chapter, the approval of at
6 least two-thirds of the votes entitled to be cast thereon,
7 and, if any class or series of stock is entitled to vote as a
8 separate group thereon, the approval of at least two-thirds of
9 the votes entitled to be cast by that voting group, shall be
10 required for a corporation that is not a benefit corporation
11 to:

12 (1) amend its certificate of incorporation to
13 include a statement that it is subject to this article; or

14 (2) (i) merge with or into another entity, or effect
15 a conversion, if, as a result of the merger or conversion, the
16 stock of any voting group would become, or be converted into
17 or exchanged for the right to receive, stock of a benefit
18 corporation or stock or interests in an entity subject to
19 provisions of organic law analogous to those in this article;
20 provided, however, that in the case of this subsection

21 (a) (2) (i), if the stock of one or more, but not all, voting
22 groups are so affected, then only the stock in the voting
23 groups so affected shall be entitled to cast votes under this
24 subsection (a).

25 (ii) enter into a stock exchange with another
26 corporation or foreign corporation, if, as a result of the
27 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
26 this article; provided, however, that in the case of this
27 subsection (b) (2) (i), if the stock of one or more, but not

1 all, voting groups are so affected, then only the stock in the
2 voting groups so affected shall be entitled to cast votes
3 under this subsection (b).

4 (ii) enter into a stock exchange with another
5 corporation or foreign corporation if, as a result of the
6 stock exchange, the stock of any voting group would become, or
7 be converted into or exchanged for the right to receive, stock
8 or interests in a corporation or foreign corporation that is
9 neither a benefit corporation nor a foreign benefit
10 corporation subject to provisions of organic law analogous to
11 those in this article; provided, however, that in the case of
12 this subsection (b) (2) (ii), if the stock of one or more, but
13 not all, voting groups are so affected, then only the stock in
14 the voting groups so affected shall be entitled to cast votes
15 under this subsection (b).

16 §10A-2A-17.04. Duties of directors.

17 (a) Each member of the board of directors of a
18 benefit corporation, when discharging the duties of a
19 director, shall act: (i) in a responsible and sustainable
20 manner, and (ii) in a manner that pursues the public benefit
21 or benefits identified in any public benefit provision.

22 (b) In fulfilling the duties under subsection (a), a
23 director shall consider, to the extent affected, in addition
24 to the interests of stockholders generally, the separate
25 interests of stakeholders known to be affected by the business
26 of the corporation including:

1 (1) the employees and work forces of the
2 corporation, its subsidiaries, and its suppliers;

3 (2) customers;

4 (3) communities or society, including those of each
5 community in which offices or facilities of the corporation,
6 its subsidiaries, or its suppliers are located; and

7 (4) the local and global environment.

8 (c) A director of a benefit corporation shall not,
9 by virtue of the duties imposed by subsections (a) and (b),
10 owe any duty to a person other than the benefit corporation
11 due to any interest of the person in the status of the
12 corporation as a benefit corporation or in any public benefit
13 provision.

14 (d) Unless otherwise provided in the certificate of
15 incorporation, the violation by a director of the duties
16 imposed by subsections (a) and (b) shall not constitute an
17 intentional infliction of harm on the corporation or the
18 stockholders for purposes of Sections 10A-2A-2.02(b)(4) and
19 (5).

20 §10A-2A-17.05. Annual benefit report.

21 (a) No less than annually, a benefit corporation
22 shall prepare a benefit report addressing the efforts of the
23 corporation during the preceding year to operate in a
24 responsible and sustainable manner, to pursue any public
25 benefit or benefits identified in any public benefit
26 provision, and to consider the interests described in Section
27 10A-2A-17.04(b). The annual benefit report must include:

1 (1) the objectives that the board of directors has
2 established for the corporation to operate in a responsible
3 and sustainable manner, to pursue the public benefit or
4 benefits identified in any public benefit provision, and to
5 consider the interests described in Section 10A-2A-17.04(b);

6 (2) the standards the board of directors has adopted
7 to measure the corporation's progress in operating in a
8 responsible and sustainable manner, in pursuing the public
9 benefit or benefits identified in any public benefit
10 provision, and in considering the interests described in
11 Section 10A-2A-17.04(b);

12 (3) if the certificate of incorporation or bylaws
13 require that the corporation use an independent third-party
14 standard in reporting on the corporation's progress in
15 operating in a responsible and sustainable manner, in pursuing
16 the public benefit or benefits identified in any public
17 benefit provision, or in considering the interests described
18 in Section 10A-2A-17.04(b), or if the board of directors has
19 chosen to use such a standard, the applicable standard so
20 required or chosen; and

21 (4) an assessment of the corporation's success in
22 meeting the objectives and standards identified in subsections
23 (a)(1) and (a)(2) and, if applicable, subsection (a)(3), and
24 the basis for that assessment.

25 (b) The benefit corporation shall deliver to each
26 stockholder, or make available and provide written notice to

1 each stockholder of the availability of, the annual benefit
2 report required by subsection (a) on or before the earlier of:

3 (1) 120 days following the end of the fiscal year of
4 the benefit corporation; or

5 (2) the time that the benefit corporation delivers
6 any other annual reports or annual financial statements to its
7 stockholders.

8 (c) Any stockholder that has not received or been
9 given access to an annual benefit report within the time
10 required by subsection (b) may make a written request that the
11 corporation deliver or make available the annual benefit
12 report to the stockholder. If a benefit corporation does not
13 deliver or make available an annual benefit report to the
14 stockholder within five business days of receiving such
15 request, the requesting stockholder may apply to the
16 designated court, and if none, to the circuit court of the
17 county where the corporation's principal office is located in
18 this state, and if none in this state, the circuit court for
19 the county in which the corporation's most recent registered
20 office is located for an order requiring delivery of or access
21 to the annual benefit report. The court shall dispose of an
22 action under this subsection (c) on an expedited basis.

23 (d) A benefit corporation shall post all of its
24 annual benefit reports on the public portion of its website,
25 if any. If a benefit corporation does not have a website, the
26 benefit corporation shall provide a copy of its most recent

1 annual benefit report, without charge, to any person that
2 requests a copy in writing.

3 §10A-2A-17.06. Rights of action.

4 (a) Except in a proceeding authorized under Section
5 10A-2A-17.05(c) or this section, no person other than the
6 corporation, or a stockholder in the right of the corporation
7 pursuant to subsection (b), may bring an action or assert a
8 claim with respect to the violation of any duty applicable to
9 a benefit corporation or any of its directors under this
10 article.

11 (b) Except for a proceeding brought under Section
12 10A-2A-17.05(c), a proceeding by a stockholder of a benefit
13 corporation claiming violation of any duty applicable to a
14 benefit corporation or any of its directors under this
15 article:

16 (1) must be brought in a derivative proceeding
17 pursuant to Division D of Article 7 of this chapter; and

18 (2) may be brought only by a stockholder of the
19 benefit corporation that at the time of the act or omission
20 complained of either individually, or together with other
21 stockholders bringing such action collectively, owned directly
22 or indirectly at least five percent of a class of the
23 corporation's outstanding stock or, in the case of a
24 corporation with stock traded on an organized market as
25 described in Section 10A-2A-13.02(b)(1)(i), either that
26 percentage of shares of stock or shares of stock with a market

1 value of at least \$5 million at the time the proceeding is
2 commenced.

3 (c) A suit under subsection (b) may not be
4 maintained if, during the pendency of the suit, the
5 stockholder individually fails, or the stockholders
6 collectively fail, to continue to own directly or indirectly
7 the lesser of (i) the number of shares of stock at the time
8 the proceeding is commenced, (ii) a number of shares of stock
9 representing five percent of a class of the corporation's
10 stock, or (iii) a number of shares of stock with a market
11 value of at least \$5 million.

12 Section 9. Sections 10A-2A-17.01, 10A-2A-17.02,
13 10A-2A-17.03, 10A-2A-17.04, 10A-2A-17.05, and 10A-2A-17.06, as
14 added to the Code of Alabama 1975 by Act 2019-94, 2019 Regular
15 Session, are amended and renumbered to read as follows:

16 "~~§10A-2A-17.01~~ §10A-2A-18.01.

17 "(a) Before January 1, 2021, this chapter governs
18 only:

19 "(1) a corporation incorporated on or after January
20 1, 2020; and

21 "(2) a corporation incorporated before January 1,
22 2020, which elects, by amending or restating that
23 corporation's certificate of incorporation, to be governed by
24 this chapter.

25 "(b) On and after January 1, 2021, this chapter
26 governs all existing corporations incorporated under:

1 "(1) any general or special law of this state
2 providing for the incorporation of corporations for a purpose
3 or purposes for which a corporation might be incorporated
4 under this chapter, where the power has been reserved to
5 amend, repeal, or modify the law under which the corporation
6 was incorporated; and

7 "(2) any predecessor statute hereto.

8 "(c) For purposes of applying this chapter to a
9 corporation incorporated before January 1, 2020:

10 "(1) the corporation's incorporation document,
11 whether a certificate of incorporation, certificate of
12 formation, charter, or articles of incorporation is deemed to
13 be the corporation's certificate of incorporation;

14 "(2) the corporation's bylaws are deemed to be the
15 corporation's bylaws;

16 "(3) any amendment or restatement of a corporation's
17 certificate of incorporation or bylaws on or after January 1,
18 2020, shall conform with this chapter; and

19 "(4) all filing instruments to be delivered for
20 filing by or on behalf of a corporation on or after January 1,
21 2020, shall conform with this chapter and shall be delivered
22 for filing to the filing officer in accordance with Article 4,
23 commencing with Section 10A-1-4.01, of Chapter 1.

24 "(d) No corporation may be incorporated after
25 December 31, 2019, pursuant to Sections 10A-2-1.01 to
26 10A-2-17.02, inclusive, of the Code of Alabama 1975.

27 "~~§10A-2A-17.02~~ §10A-2A-18.02.

1 "A foreign corporation registered or authorized to
2 transact business in this state on January 1, 2020, is subject
3 to this chapter and is deemed to be registered to transact
4 business in this state, and is not required to renew its
5 registration to transact business under Article 7, commencing
6 with Section 10A-1-7.01, of Chapter 1, except as Article 7,
7 commencing with Section 10A-1-7.01, of Chapter 1 requires.

8 ~~"§10A-2A-17.03~~ §10A-2A-18.03.

9 "(a) Except as provided in subsection (b), the
10 repeal of a statute by this chapter does not affect:

11 "(1) the operation of the statute or any action
12 taken under it before its repeal;

13 "(2) any ratification, right, remedy, privilege,
14 obligation, or liability acquired, accrued, or incurred under
15 the statute before its repeal;

16 "(3) any violation of the statute, or any penalty,
17 forfeiture, or punishment incurred because of the violation,
18 before its repeal; or

19 "(4) any proceeding, reorganization, or dissolution
20 commenced under the statute before its repeal, and the
21 proceeding, reorganization, or dissolution may be completed in
22 accordance with the statute as if it had not been repealed.

23 "(b) If a penalty or punishment imposed for
24 violation of a statute repealed by this chapter is reduced by
25 this chapter, the penalty or punishment if not already imposed
26 shall be imposed in accordance with this chapter.

27 ~~"§10A-2A-17.03~~ §10A-2A-18.03.

1 "(a) Except as provided in subsection (b), the
2 repeal of a statute by this chapter does not affect:

3 "(1) the operation of the statute or any action
4 taken under it before its repeal;

5 "(2) any ratification, right, remedy, privilege,
6 obligation, or liability acquired, accrued, or incurred under
7 the statute before its repeal;

8 "(3) any violation of the statute, or any penalty,
9 forfeiture, or punishment incurred because of the violation,
10 before its repeal; or

11 "(4) any proceeding, reorganization, or dissolution
12 commenced under the statute before its repeal, and the
13 proceeding, reorganization, or dissolution may be completed in
14 accordance with the statute as if it had not been repealed.

15 "(b) If a penalty or punishment imposed for
16 violation of a statute repealed by this chapter is reduced by
17 this chapter, the penalty or punishment if not already imposed
18 shall be imposed in accordance with this chapter.

19 "~~§10A-2A-17.04~~ §10A-2A-18.04.

20 "If any provision of this chapter or its application
21 to any person or circumstance is held invalid by a court of
22 competent jurisdiction, the invalidity does not affect other
23 provisions or applications of this chapter that can be given
24 effect without the invalid provision or application, and to
25 this end the provisions of this chapter are severable.

26 "~~§10A-2A-17.05~~ §10A-2A-18.05.

1 "This chapter modifies, limits, and supersedes the
2 federal Electronic Signatures in Global and National Commerce
3 Act, 15 U.S.C. Section 7001 et seq., but does not modify,
4 limit, or supersede Section 101(c) of that act, 15 U.S.C.
5 Section 7001(c), or authorize electronic delivery of any of
6 the notices described in Section 103(b) of that act, 15 U.S.C.
7 Section 7003(b).

8 "~~§10A-2A-17.06~~ §10A-2A-18.06.

9 "A corporation formed and existing under this
10 chapter may conduct its business and affairs, carry on its
11 operations, and have and exercise the powers granted by this
12 chapter in any state, foreign country, or other jurisdiction."

13 Section 10. Sections 10A-3-2.14, 10A-3-3.01,
14 10A-3-3.03, 10A-3-4.02, 10A-3-4.04, 10A-3-5.04, 10A-3-7.01,
15 10A-3-7.04, 10A-3-7.05, 10A-3-7.06, 10A-3-7.07, 10A-3-7.08,
16 10A-3-7.09, 10A-3-7.10, 10A-3-7.16, 10A-3-7.18, and
17 10A-4-3.02, as added to the Code of Alabama 1975, by Act
18 2019-94, 2019 Regular Session, Section 10A-4-4.01, as amended
19 by Act 2019-94, 2019 Regular Session, Sections 10A-4-5.08,
20 10A-5A-2.01, 10A-5A-2.02, 10A-5A-2.04, 10A-5A-2.05,
21 10A-5A-2.06, 10A-5A-4.01, 10A-5A-7.01, 10A-5A-7.02,
22 10A-5A-7.03, 10A-5A-7.05, 10A-5A-7.08, 10A-5A-8.02,
23 10A-5A-11.09, 10A-5A-11.11, 10A-5A-11.13, 10A-8A-8.02,
24 10A-8A-8.07, 10A-8A-8.11, 10A-8A-10.03, 10A-9A-2.01,
25 10A-9A-2.02, 10A-9A-2.03, 10A-9A-2.04, 10A-9A-2.06,
26 10A-9A-8.01, 10A-9A-8.02, 10A-9A-8.03, 10A-9A-8.07,
27 10A-9A-8.11, 10A-10-1.07, and 10A-10-1.14, 10A-10-1.15, as

1 amended by Act 2019-94, 2019 Regular Session, and Sections
2 10A-16-1.05, 10A-17-1.06, 10A-17-1.11, 10A-20-1.08,
3 10A-20-2.01, 10A-20-6.02, 10A-20-6.06, 10A-20-7.02,
4 10A-20-9.01, 10A-20-10.01, 10A-20-11.01, 10A-20-12.01,
5 10A-20-16.01, and 10A-20-16.02 of the Code of Alabama 1975,
6 are amended to read as follows:

7 "§10A-3-2.14.

8 "Any action required by this title or this chapter
9 to be taken at a meeting of the members or directors of a
10 nonprofit corporation or any action which may be taken at a
11 meeting of the members or directors or of a committee of
12 directors may be taken without a meeting if a consent in
13 writing, setting forth the action so taken, is signed by all
14 of the members entitled to vote with respect to the subject
15 matter thereof, all of the directors or all of the members of
16 the committee of directors, as the case may be. The consent
17 shall have the same force and effect as a unanimous vote and
18 may be stated as such in any filing instrument filed with
19 ~~either the judge of probate or~~ Secretary of State.

20 "§10A-3-3.01.

21 "One or more persons, partnerships, domestic
22 corporations or foreign corporations, whether profit or
23 nonprofit, may act as incorporator or incorporators of a
24 nonprofit corporation by signing the certificate of formation
25 and delivering the same to the ~~judge of probate of the county~~
26 ~~in which the nonprofit corporation is to have its initial~~
27 ~~registered office~~ Secretary of State for filing.

1 "§10A-3-3.03.

2 "Upon the effectiveness under Sections 10A-1-4.11
3 and 10A-1-4.12 of the filing of the certificate of formation
4 with the ~~judge of probate~~ Secretary of State, the corporate
5 existence shall begin. The ~~judge of probate's~~ Secretary of
6 State filing of the certificate of formation shall be
7 conclusive evidence that the corporation has been incorporated
8 under this chapter, except as against the State of Alabama in
9 a proceeding to cancel or revoke the incorporation or for
10 involuntary dissolution of the corporation.

11 "§10A-3-4.02.

12 "The certificate of amendment of a nonprofit
13 corporation shall be executed for the nonprofit corporation by
14 its president or a vice president, and by its secretary or an
15 assistant secretary, and verified by one of the officers
16 signing the articles⁷. The certificate of amendment shall be
17 delivered to the Secretary of State for filing. The
18 certificate of amendment shall set forth the information
19 required by Section 10A-1-3.13 for certificates of amendment,
20 and in addition shall set forth:

21 "(1) If there are members entitled to vote thereon,
22 (i) a statement setting forth the date of the meeting of
23 members at which the amendment was adopted, that a quorum was
24 present at the meeting, and that the amendment received at
25 least two-thirds of the votes entitled to be cast by members
26 present or represented by proxy at the meeting, or (ii) a
27 statement that the amendment was adopted by a consent in

1 writing signed by all members entitled to vote with respect
2 thereto.

3 "(2) If there are no members, or no members entitled
4 to vote thereon, a statement of the fact, the date of the
5 meeting of the board of directors at which the amendment was
6 adopted, and a statement of the fact that the amendment
7 received the vote of a majority of the directors in office.

8 "§10A-3-4.04.

9 "(a) A domestic nonprofit corporation may at any
10 time restate its certificate of formation as theretofore
11 amended, in the following manner:

12 "(1) If there are members entitled to vote thereon,
13 the board of directors shall adopt a resolution setting forth
14 the proposed restated certificate of formation and directing
15 that they be submitted to a vote at a meeting of members
16 entitled to vote thereon, which may be either an annual or a
17 special meeting.

18 "(2) Written notice setting forth the proposed
19 restated articles or a summary of the provisions thereof shall
20 be given to each member entitled to vote thereon, within the
21 time and in the manner provided in this chapter for the giving
22 of notice of meetings of members. If the meeting is an annual
23 meeting, the proposed restated articles or a summary of the
24 provisions thereof may be included in the notice of the annual
25 meeting.

26 "(3) At the meeting a vote of the members entitled
27 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

26 "(3) If any merging or consolidating nonprofit
27 corporation has no members, or no members entitled to vote

1 thereon, then as to each nonprofit corporation a statement of
2 the fact, the date of the meeting of the board of directors at
3 which the plan was adopted and a statement of the fact that
4 the plan received the vote of a majority of the directors in
5 office.

6 ~~"(4) As to each nonprofit corporation incorporated~~
7 ~~under the law of Alabama, the county in which its certificate~~
8 ~~of formation or other comparable charter document is filed.~~

9 "(b) The articles of merger or articles of
10 consolidation ~~and the additional number of copies as may be~~
11 ~~required for purposes of Section 10A-1-4.02~~ shall be delivered
12 to the Secretary of State for filing ~~pursuant to Section~~
13 ~~10A-1-4.02.~~

14 "§10A-3-7.01.

15 "(a) A nonprofit corporation may dissolve and wind
16 up its affairs in the following manner:

17 "(1) If there are members entitled to vote thereon,
18 the board of directors shall adopt a resolution recommending
19 that the nonprofit corporation be dissolved, and directing
20 that the question of the dissolution be submitted to a vote at
21 a meeting of members entitled to vote thereon, which may be
22 either an annual or a special meeting. Written notice stating
23 that the purpose, or one of the purposes, of the meeting is to
24 consider the advisability of dissolving the nonprofit
25 corporation, shall be given to each member entitled to vote at
26 the meeting, within the time and in the manner provided in
27 this chapter for the giving of notice of meetings of members.

1 A resolution to dissolve the nonprofit corporation shall be
2 adopted upon receiving at least two-thirds of the votes
3 entitled to be cast by members present or represented by proxy
4 at the meeting.

5 "(2) If there are no members, or no members entitled
6 to vote thereon, the dissolution of the corporation shall be
7 authorized at a meeting of the board of directors upon the
8 adoption of a resolution to dissolve by the vote of a majority
9 of the directors in office.

10 "(b) Upon the adoption of the resolution by the
11 members, or by the board of directors if there are no members
12 or no members entitled to vote thereon, a statement of intent
13 to dissolve shall be executed for the nonprofit corporation by
14 its president or a vice president, and by its secretary or an
15 assistant secretary, and verified by one of the officers
16 signing the statement, which statement shall set forth:

17 "(1) The name of the nonprofit corporation.

18 "(2) The names and respective addresses of its
19 officers.

20 "(3) The names and respective addresses of its
21 directors.

22 "(4) If there are members entitled to vote thereon,
23 (i) a statement setting forth the date of the meeting of
24 members at which the resolution to dissolve was adopted, that
25 a quorum was present at the meeting, and that the resolution
26 received at least two-thirds of the votes entitled to be cast
27 by members present or represented by proxy at the meeting, or

1 (ii) a statement that the resolution was adopted by a consent
2 in writing signed by all members entitled to vote with respect
3 thereto.

4 "(5) If there are no members, or no members entitled
5 to vote thereon, a statement of the fact, the date of the
6 meeting of the board of directors at which the resolution to
7 dissolve was adopted and a statement of the fact that the
8 resolution received the vote of a majority of the directors in
9 office.

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

12 "(c) The statement of intent to dissolve shall be
13 delivered to the ~~judge of probate. If the judge of probate~~
14 ~~finds that the statement conforms to law, the judge of probate~~
15 ~~shall, when all fees prescribed in this title have been paid:~~
16 Secretary of State for filing.

17 "~~(1) Endorse on the statement of intent to dissolve~~
18 ~~the word "filed," and the hour, day, month and year of the~~
19 ~~filing thereof.~~

20 "~~(2) File the statement of intent to dissolve in his~~
21 ~~or her office.~~

22 "(d) Upon the filing of a statement of intent to
23 dissolve, the nonprofit corporation shall cease to conduct its
24 affairs except insofar as may be necessary for the winding up
25 thereof, and shall proceed to collect its assets and apply and
26 distribute them as provided in this chapter.

27 "§10A-3-7.04.

1 "(a) A nonprofit corporation may, at any time prior
2 to the ~~issuance of a certificate of dissolution by the judge~~
3 ~~of probate~~ delivery of the articles of dissolution to the
4 Secretary of State for filing, revoke the action theretofore
5 taken to dissolve the nonprofit corporation, in the following
6 manner:

7 "(1) If there are members entitled to vote thereon,
8 the board of directors shall adopt a resolution recommending
9 that the voluntary dissolution proceedings be revoked, and
10 directing that the question of the revocation be submitted to
11 a vote at a meeting of members entitled to vote thereon, which
12 may be either an annual or a special meeting. Written notice
13 stating that the purpose, or one of the purposes, of the
14 meeting is to consider the advisability of revoking the
15 voluntary dissolution proceedings, shall be given to each
16 member entitled to vote at the meeting, within the time and in
17 the manner provided in this chapter for the giving of notice
18 of meetings of members. A resolution to revoke the voluntary
19 dissolution proceedings shall be adopted upon receiving at
20 least two-thirds of the votes entitled to be cast by members
21 present or represented by proxy at the meeting.

22 "(2) If there are no members, or no members entitled
23 to vote thereon, a resolution to revoke the voluntary
24 dissolution proceedings shall be adopted at a meeting of the
25 board of directors upon receiving the vote of a majority of
26 the directors in office.

1 "(b) Upon the adoption of the resolution by the
2 members, or by the board of directors where there are no
3 members or no members entitled to vote thereon, a statement of
4 revocation of voluntary dissolution proceedings shall be
5 executed for the nonprofit corporation by its president or a
6 vice president, and by its secretary or an assistant
7 secretary, and verified by one of the officers signing the
8 statement, which statement shall set forth:

9 "(1) The name of the nonprofit corporation.

10 "(2) The names and respective addresses of its
11 officers.

12 "(3) The names and respective addresses of its
13 directors.

14 "(4) If there are members entitled to vote thereon,
15 (i) a statement setting forth the date of the meeting of
16 members at which the resolution to revoke the voluntary
17 dissolution proceedings was adopted, that a quorum was present
18 at the meeting, and that the resolution received at least
19 two-thirds of the votes entitled to be cast by members present
20 or represented by proxy at the meeting, or (ii) a statement
21 that the resolution was adopted by a consent in writing signed
22 by all members entitled to vote with respect thereto.

23 "(5) If there are no members, or no members entitled
24 to vote thereon, a statement of the fact, the date of the
25 meeting of the board of directors at which the resolution to
26 revoke the voluntary dissolution proceedings was adopted and a

1 statement of the fact that the resolution received the vote of
2 a majority of the directors in office.

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

5 "(c) The statement of revocation of voluntary
6 dissolution proceedings shall be delivered to the ~~judge of~~
7 ~~probate. If the judge of probate finds that the statement~~
8 ~~conforms to law, the judge of probate shall, when all fees~~
9 ~~prescribed in this title have been paid:~~ Secretary of State
10 for filing.

11 ~~"(1) Endorse on the statement of revocation of~~
12 ~~voluntary dissolution proceedings the word "filed," and the~~
13 ~~hour, day, month, and year of the filing thereof.~~

14 ~~"(2) File the statement of revocation of voluntary~~
15 ~~dissolution proceedings in the office of the judge of probate.~~

16 "(d) Upon the filing of a statement of revocation of
17 voluntary dissolution proceedings, the nonprofit corporation
18 may thereupon again conduct its affairs.

19 "§10A-3-7.05.

20 "If voluntary dissolution proceedings have not been
21 revoked, then when all debts, liabilities and obligations of
22 the corporation shall have been paid and discharged, or
23 adequate provision shall have been made therefor, and all of
24 the remaining property and assets of the nonprofit corporation
25 shall have been transferred, conveyed, or distributed in
26 accordance with the provisions of this chapter, articles of
27 dissolution shall be executed for the nonprofit corporation by

1 its president or a vice president, and by its secretary or an
2 assistant secretary, and verified by one of the officers
3 signing the articles, which statement shall set forth:

4 "(1) The name of the nonprofit corporation.

5 "(2) That a statement of intent to dissolve the
6 nonprofit corporation has theretofore been filed, and the date
7 on which the statement was filed.

8 "(3) That all debts, obligations, and liabilities of
9 the nonprofit corporation have been paid and discharged or
10 that adequate provision has been made therefor.

11 "(4) A copy of the plan of distribution, if any, as
12 adopted by the nonprofit corporation, or a statement that no
13 plan was so adopted.

14 "(5) That all the remaining property and assets of
15 the nonprofit corporation have been transferred, conveyed, or
16 distributed in accordance with the provisions of this chapter.

17 "(6) That there are no suits pending against the
18 nonprofit corporation in any court, or that adequate provision
19 has been made for the satisfaction of any judgment, order, or
20 decree which may be entered against it in any pending suit.

21 "(7) The unique identifying number or other
22 designation as assigned by the Secretary of State.

23 "§10A-3-7.06.

24 "(a) The articles of dissolution ~~and two copies~~
25 ~~thereof~~ shall be delivered to the ~~judge of probate~~. ~~If the~~
26 ~~judge of probate finds that the articles of dissolution~~
27 ~~conform to law, the judge of probate shall, when all fees~~

1 ~~prescribed in this title have been paid: Secretary of State~~
2 ~~for filing.~~

3 ~~"(1) Endorse on the articles of dissolution and on~~
4 ~~each of the copies the word "filed," and the hour, day, month,~~
5 ~~and year of the filing thereof.~~

6 ~~"(2) File the articles of dissolution in the office~~
7 ~~of the judge of probate and certify the two copies thereof.~~

8 ~~"(3) Issue a certificate of dissolution to which the~~
9 ~~judge of probate shall affix a certified copy of the articles~~
10 ~~of dissolution, and return the certificate of dissolution with~~
11 ~~a certified copy of the articles of dissolution affixed~~
12 ~~thereto to the representative of the dissolved nonprofit~~
13 ~~corporation.~~

14 ~~"(4) Within 10 days after the issuance of the~~
15 ~~certificate of dissolution, transmit to the Secretary of State~~
16 ~~a certificate of dissolution with a certified copy of the~~
17 ~~articles of dissolution attached thereto, indicating thereon~~
18 ~~the place, date, and time of filing of the statement.~~

19 ~~"(b) For failure of the judge of probate to comply~~
20 ~~with the requirements of subsection (a) (4), the judge of~~
21 ~~probate shall forfeit fifty dollars (\$50) to the State of~~
22 ~~Alabama to be recovered in an action by the State of Alabama.~~

23 ~~"(c)(b) Upon the issuance filing of the certificate~~
24 ~~articles of dissolution, the existence of the nonprofit~~
25 ~~corporation shall cease, except for the purpose of suits,~~
26 ~~other proceedings, and appropriate corporate action by~~

1 members, directors, and officers as provided in this chapter
2 or otherwise in this title.

3 "§10A-3-7.07.

4 "A nonprofit corporation may be dissolved
5 involuntarily by an order of the circuit court of the county
6 in which the principal office of the nonprofit corporation in
7 this state is located, and if none is located in this state,
8 the circuit court for the county in which the most recent
9 registered office of the nonprofit corporation ~~is situated~~ is
10 located in an action filed by the Attorney General when it is
11 established that:

12 "(1) The nonprofit corporation procured its
13 certificate of formation through fraud;

14 "(2) The nonprofit corporation has continued to
15 exceed or abuse the authority conferred upon it by law;

16 "(3) The nonprofit corporation has failed for 90
17 days to appoint and maintain a registered agent in Alabama; or

18 "(4) The nonprofit corporation has failed for 90
19 days after change of its registered agent to file in the
20 office of the ~~judge of probate~~ Secretary of State a statement
21 of the change.

22 "§10A-3-7.08.

23 "The Secretary of State shall certify to the
24 Attorney General, from time to time, the names of all
25 nonprofit corporations which have given cause for dissolution
26 as provided in this chapter, together with the facts pertinent
27 thereto. Whenever the Secretary of State shall certify the

1 name of a nonprofit corporation to the Attorney General as
2 having given any cause for dissolution, the Secretary of State
3 shall concurrently mail to the nonprofit corporation at its
4 registered office a notice that the certification has been
5 made. Upon the receipt of the certification, the Attorney
6 General shall, no sooner than 30 days nor more than 90 days
7 after the receipt, file an action in the name of the State of
8 Alabama against the nonprofit corporation for its dissolution.
9 If, before 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 the fact shall be forthwith certified by the Secretary of
14 State to the Attorney General and he or she shall not file an
15 action against the nonprofit corporation for the cause. If,
16 after an action is filed, the nonprofit corporation shall
17 appoint or maintain a registered agent as provided in this
18 title, or shall file with the ~~judge of probate~~ Secretary of
19 State the required statement of change of registered agent,
20 and shall pay the costs of the action, the action for the
21 cause shall abate.

22 "§10A-3-7.09.

23 "Every action for the involuntary dissolution of a
24 nonprofit corporation shall be commenced by the Attorney
25 General in the circuit court ~~of~~ for the county in which the
26 nonprofit corporation's principal office is located in this
27 state, and if none in this state, in 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. Summons shall issue and be served as in other civil
4 actions. If process is returned not found, the Attorney
5 General shall cause publication to be made as in other civil
6 cases in some newspaper published in the county ~~where the~~ in
7 which the nonprofit corporation's principal office is located
8 in this state, and if none in this state, in the county in
9 which the nonprofit corporation's most recent registered
10 office of the nonprofit corporation is situated is located,
11 containing a notice of the pendency of the action, the title
12 of the court, the title of the action, and the date on or
13 after which default may be entered. The Attorney General may
14 include in one notice the names of any number of nonprofit
15 corporations against which actions are then pending in the
16 same court. The Attorney General shall cause a copy of the
17 notice to be mailed to the nonprofit corporation at its
18 registered office within 10 days after the first publication
19 thereof. The certificate of the Attorney General of the
20 mailing of the notice shall be prima facie evidence thereof.
21 The notice shall be published once each week for two
22 successive weeks, and the first publication thereof may begin
23 at any time after the summons has been returned. Unless a
24 nonprofit corporation shall have been served with summons, no
25 default shall be taken against it earlier than 30 days after
26 the last publication of the notice.

27 "§10A-3-7.10.

1 "(a) The circuit court of the county in which the
2 nonprofit corporation's principal office is located in this
3 state, and if none in this state, the circuit court for the
4 county in which the nonprofit corporation's most recent
5 registered office of the nonprofit corporation is situated is
6 located shall have full power to liquidate the assets and
7 affairs of a nonprofit corporation:

8 "(1) In an action by a member or director when it is
9 established:

10 "a. That the directors are deadlocked in the
11 management of the corporate affairs and that irreparable
12 injury to the nonprofit corporation is being suffered or is
13 threatened by reason thereof, and either that the members are
14 unable to break the deadlock or there are no members having
15 voting rights;

16 "b. That the acts of the directors or those in
17 control of the nonprofit corporation are illegal, oppressive
18 or fraudulent;

19 "c. That the members entitled to vote in the
20 election of directors are deadlocked in voting power and have
21 failed for at least two years to elect successors to directors
22 whose terms have expired or would have expired upon the
23 election of their successors;

24 "d. That the corporate assets are being misapplied
25 or wasted; or

26 "e. That the nonprofit corporation is unable to
27 carry out its purposes.

1 "(2) In an action by a creditor:

2 "a. When the claim of the creditor has been reduced
3 to judgment and an execution thereon has been returned
4 unsatisfied and it is established that the nonprofit
5 corporation is insolvent; or

6 "b. When the nonprofit corporation has admitted in
7 writing that the claim of the creditor is due and owing and it
8 is established that the nonprofit corporation is insolvent.

9 "(3) Upon application by a nonprofit corporation to
10 have its dissolution continued under the supervision of the
11 court.

12 "(4) When an action has been filed by the Attorney
13 General to dissolve a nonprofit corporation and it is
14 established that liquidation of its affairs should precede the
15 entry of an order of dissolution.

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

22 "(c) It shall not be necessary to make directors or
23 members parties to any action or proceedings unless relief is
24 sought against them personally.

25 "§10A-3-7.16.

26 "In case the court shall enter an order dissolving a
27 nonprofit corporation, it shall be the duty of the court to

1 cause a certified copy of the order to be ~~filed with the judge~~
2 ~~of probate in the county in which the certificate of formation~~
3 ~~was filed and with~~ delivered to the Secretary of State for
4 filing. No fee shall be charged by ~~the judge of probate or the~~
5 Secretary of State for the filing thereof.

6 "§10A-3-7.18.

7 "The dissolution of a nonprofit corporation either
8 (1) by the ~~issuance of a certificate of~~ filing of the articles
9 of dissolution by the ~~judge of probate~~ Secretary of State, or
10 (2) by an order of court when the court has not liquidated the
11 assets and affairs of the corporation as provided in this
12 chapter, or (3) by operation of law, or (4) by expiration of
13 its period of duration, shall not take away or impair any
14 remedy available to or against the nonprofit corporation, its
15 directors, officers, or members, for any right or claim
16 existing, or any liability incurred, prior to the dissolution
17 if action or other proceeding thereon is commenced within two
18 years after the date of the dissolution. Any action or
19 proceeding by or against the nonprofit corporation may be
20 prosecuted or defended by the nonprofit corporation in its
21 corporate name. The members, directors, and officers shall
22 have power to take the corporate or other action as shall be
23 appropriate to protect the remedy, right, or claim. If the
24 nonprofit corporation was dissolved by the expiration of its
25 period of duration, the nonprofit corporation may amend its
26 certificate of formation at any time during the period of two
27 years so as to extend its period of duration.

1 "§10A-4-3.02.

2 "(a) Upon the death of a shareholder of a domestic
3 professional corporation or if a shareholder of a domestic
4 professional corporation becomes a disqualified person or if
5 shares of a domestic professional corporation are transferred
6 by operation of law or court decree to a disqualified person,
7 the shares of the deceased shareholder or of the disqualified
8 person may be transferred to a qualified person and, if not so
9 transferred, shall be purchased or redeemed by the domestic
10 professional corporation to the extent of funds which may be
11 legally made available for the purchase.

12 "(b) If the price for the shares is not fixed by the
13 governing documents of the domestic professional corporation
14 or by private agreement, the domestic professional
15 corporation, within six months after the death or 30 days
16 after the disqualification or transfer, as the case may be,
17 shall make a written offer to pay for the shares at a
18 specified price deemed by the domestic professional
19 corporation to be the fair value thereof as of the date of the
20 death, disqualification or transfer. The offer shall be given
21 to the executor or administrator of the estate of a deceased
22 shareholder or to the disqualified shareholder or transferee
23 and shall be accompanied by a balance sheet of the domestic
24 professional corporation, as of the latest available date and
25 not more than 12 months prior to the making of the offer, and
26 a profit and loss statement of the domestic professional

1 corporation for the 12 months' period ended on the date of the
2 balance sheet.

3 "(c) If within 30 days after the date of the written
4 offer from the domestic professional corporation the fair
5 value of the shares is agreed upon between the disqualified
6 person and the domestic professional corporation, payment
7 therefor shall be made within 90 days, or other period as the
8 parties may fix by agreement, after the date of the offer,
9 upon surrender of the certificate or certificates representing
10 the shares. Upon payment of the agreed value the disqualified
11 persons shall cease to have any interest in the shares.

12 "(d) If within 30 days from the date of the written
13 offer from the domestic professional corporation, the
14 disqualified person and the domestic professional corporation
15 do not so agree, then either party may commence a civil action
16 in the circuit court ~~in~~ for the county in ~~Alabama where~~ which
17 the domestic professional corporation's principal office is
18 located in this state, and if none in this state, in the
19 circuit court for the county in which the domestic
20 professional corporation's most recent registered office ~~of~~
21 ~~the domestic professional corporation~~ is located requesting
22 that the fair value of the shares be found and determined. The
23 disqualified person, wherever residing, shall be made a party
24 to the proceeding as an action against his or her shares quasi
25 in rem. Service shall be made in accordance with the rules of
26 civil procedure. The disqualified person shall be entitled to
27 judgment against the domestic professional corporation for the

1 amount of the fair value of his or her shares as of the date
2 of death, disqualification, or transfer upon surrender to the
3 domestic professional corporation of the certificate or
4 certificates representing the shares. The court may, in its
5 discretion, order that the judgment be paid in installments
6 and with interest and on terms as the court may determine. The
7 court may, if it so elects, appoint one or more persons as
8 appraisers to receive evidence and recommend a decision on the
9 question of fair value. The appraisers shall have the power
10 and authority as shall be specified in the order of their
11 appointment or an amendment thereof.

12 "(e) The judgment shall include an allowance for
13 interest at the rate the court finds to be fair and equitable
14 in all the circumstances, from the date of death,
15 disqualification, or transfer.

16 "(f) The costs and expenses of any proceeding shall
17 be determined by the court and shall be assessed against the
18 domestic professional corporation, but all or any part of the
19 costs and expenses may be apportioned and assessed as the
20 court may deem equitable against the disqualified person if
21 the court shall find that the action of the disqualified
22 person in failing to accept the offer was arbitrary or
23 vexatious or not in good faith. The expenses shall include
24 reasonable compensation for and reasonable expenses of the
25 appraisers and a reasonable attorney's fee but shall exclude
26 the fees and expenses of counsel for and of experts employed
27 by any party; but if the fair value of the shares as

1 determined materially exceeds the amount which the domestic
2 professional corporation offered to pay therefor, or if no
3 offer was made, the court in its discretion may award to the
4 disqualified person the sum the court determines to be
5 reasonable compensation to any expert or experts employed by
6 the disqualified person in the proceeding.

7 "(g) If a purchase, redemption, or transfer of the
8 shares of a deceased or disqualified shareholder or of a
9 transferee who is a disqualified person is not completed
10 within 12 months after the death of the deceased shareholder
11 or 12 months after the disqualification or transfer, as the
12 case may be, the domestic professional corporation shall
13 forthwith cancel the shares on its books and the disqualified
14 person shall have no further interest as a shareholder in the
15 domestic professional corporation other than his or her right
16 to payment for the shares under this section.

17 "(h) Shares acquired by a domestic professional
18 corporation pursuant to payment of the agreed value therefor
19 or to payment of the judgment entered therefor, as in this
20 section provided, may be held, cancelled, or disposed of by
21 the domestic professional corporation as in the case of other
22 treasury shares.

23 "(i) This section shall not be deemed to require the
24 purchase of shares of a disqualified person where the period
25 of the disqualification is for less than 12 months from the
26 date of disqualification or transfer.

1 "(j) Any provision regarding purchase, redemption,
2 or transfer of shares of a domestic professional corporation
3 contained in the certificate of formation, bylaws, or any
4 private agreement shall be specifically enforceable in the
5 courts of Alabama.

6 "(k) Nothing herein contained shall prevent or
7 relieve a domestic professional corporation from paying
8 pension benefits or other deferred compensation for services
9 rendered to or on behalf of a former shareholder as otherwise
10 permitted by law.

11 "(l) A domestic professional corporation may
12 purchase its own shares from a disqualified person without
13 regard to the availability of capital or surplus for the
14 purchase; however, no purchase of or payment for the shares
15 shall be made at a time when the domestic professional
16 corporation is insolvent or when the purchase or payment would
17 make it insolvent.

18 "(m) The foregoing provisions of this section shall
19 not apply to a domestic nonprofit professional corporation.
20 Any member of a corporation who becomes a disqualified person
21 must cease being a member not more than 12 months after the
22 date of disqualification, if he or she is then a disqualified
23 person.

24 "§10A-4-4.01.

25 "Administrators, executors, guardians, conservators,
26 or receivers of the estates of shareholders of a domestic
27 professional corporation who hold all of the outstanding

1 shares of the corporation may amend the certificate of
2 formation by signing a written consent to the amendment and
3 delivering the amendment for filing to the ~~judge of probate of~~
4 ~~the county in which the corporation's certificate of formation~~
5 ~~was filed in accordance with Article 4 of Chapter 1~~ Secretary
6 of State. The certificate of amendment shall set forth, in
7 addition to the information required to be included in the
8 certificate of amendment by the Alabama Business Corporation
9 Law, a statement that the administrators, executors,
10 guardians, conservators, or receivers own all the outstanding
11 shares.

12 "§10A-4-5.08.

13 "(a) The provisions of this chapter shall apply to
14 all existing corporations organized under the statute formerly
15 codified as Article 11 of Chapter 4, Title 10 and repealed by
16 Acts 1983, No. 83-514, effective January 1, 1984; provided,
17 that any professional corporation, or nonprofit corporation,
18 in existence on December 31, 1983, in which duly licensed
19 medical and dental professionals are shareholders, or in the
20 case of a nonprofit professional corporation, render medical
21 and dental services, shall be deemed to be in compliance with
22 Sections 10A-4-2.01 and 10A-4-2.03, as amended, and other
23 applicable provisions of this chapter. The repeal of a prior
24 act by this chapter shall not impair, or otherwise affect, the
25 organization or continued existence of an existing domestic
26 professional corporation nor the right of any foreign
27 professional corporation presently qualified to render

1 professional services in Alabama to continue to do so without
2 again qualifying to render professional services in Alabama.

3 "(b) Any unincorporated professional association
4 organized under Section 10A-30-1.01 may become subject to the
5 provisions of this chapter by amending its certificate of
6 association as a certificate of formation in compliance with
7 this chapter, and ~~filing duly executed duplicate originals of~~
8 ~~the certificate of formation with the judge of probate of the~~
9 ~~county in which its certificate of formation was filed~~
10 delivering its certificate of formation to the Secretary of
11 State for filing.

12 "(c) Any domestic nonprofit corporation rendering
13 professional services may become subject to the provisions of
14 this chapter by amending its certificate of formation in
15 compliance with this chapter and ~~filing duly executed~~
16 ~~duplicate originals of the certificate with the judge of~~
17 ~~probate of the county in which its certificate of formation~~
18 ~~was filed~~ delivering the amendment to its certificate of
19 formation to the Secretary of State for filing.

20 "(d) The provisions of this chapter shall not apply
21 to any unincorporated professional association now in
22 existence under Section 10A-30-1.01, or to any domestic
23 nonprofit corporation rendering professional services unless
24 the association or nonprofit corporation voluntarily becomes
25 subject to this chapter as herein provided, and nothing
26 contained in this chapter shall alter or affect any existing
27 or future right or privilege permitting or not prohibiting

1 performance of professional services through the use of any
2 other form of business organization.

3 "§10A-5A-2.01.

4 "(a) In order to form a limited liability company,
5 one or more organizers must execute a certificate of formation
6 and deliver it for filing to the filing officer provided for
7 in subsection (e). Notwithstanding Section 10A-1-3.05, the
8 certificate of formation shall set forth:

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

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

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

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

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

19 "(6) any other matters the members determine to
20 include therein.

21 "(b) A limited liability company is formed when its
22 certificate of formation becomes effective in accordance with
23 Article 4 of Chapter 1.

24 "(c) The fact that a certificate of formation has
25 been filed and is effective in accordance with Article 4 of
26 Chapter 1 is notice of the matters required to be included by

1 Subsections (a) (1), (a) (2), (a) (3), and (a) (4) and if
2 applicable, (a) (5), but is not notice of any other fact.

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

10 "(e) A certificate of formation shall be delivered
11 for filing to the ~~judge of probate of the county in which the~~
12 ~~initial registered office of the limited liability company is~~
13 ~~located pursuant to Article 4 of Chapter 1 unless the~~
14 ~~certificate of formation is required to be delivered for~~
15 ~~filing to a different filing officer under Article 10 of this~~
16 ~~chapter~~ Secretary of State.

17 "§10A-5A-2.02.

18 "Notwithstanding Division B of Article 3 of Chapter
19 1:

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

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

24 "(c) To amend its certificate of formation, a
25 limited liability company must deliver a certificate of
26 amendment for filing to the ~~filing officer provided for in~~

1 ~~subsection (g) Secretary of State~~ which certificate of
2 amendment shall state:

3 "(1) the name of the limited liability company;

4 "(2) ~~the date of filing of its certificate of~~
5 ~~formation, and of all prior amendments and the filing office~~
6 ~~or offices where filed~~ unique identifying number or other
7 designation as assigned by the Secretary of State; and

8 "(3) the changes the amendment makes to the
9 certificate of formation as most recently amended or restated.

10 "(d) To restate its certificate of formation, a
11 limited liability company must deliver a restated certificate
12 of formation for filing to the ~~filing officer provided for in~~
13 ~~subsection (g) Secretary of State~~. A restated certificate of
14 formation must:

15 "(1) be designated as such in the heading;

16 "(2) state the limited liability company's name;

17 "(3) state the ~~date of the filing of its certificate~~
18 ~~of formation, and of all prior amendments and the filing~~
19 ~~office or offices where filed~~ unique identifying number or
20 other designation as assigned by the Secretary of State; and

21 "(4) set forth any amendment or change effected in
22 connection with the restatement of the certificate of
23 formation.

24 "Any such restatement that effects an amendment
25 shall be subject to any other provision of this chapter, not
26 inconsistent with this section, which would apply if a

1 separate certificate of amendment were filed to effect the
2 amendment or change.

3 "(e) The original certificate of formation, as
4 theretofore amended, shall be superseded by the restated
5 certificate of formation and thenceforth, the restated
6 certificate of formation, including any further amendment or
7 changes made thereby, shall be the certificate of formation of
8 the limited liability company, but the original effective date
9 of formation shall remain unchanged.

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

15 ~~"(g) If a limited liability company is not an
16 organization described in Section 10A-1-4.02(c)(4), then that
17 limited liability company shall deliver the certificate of
18 amendment or the restated certificate of formation for filing
19 with the judge of probate in whose office the original
20 certificate of formation is filed. If a limited liability
21 company is an organization described in
22 Section 10A-1-4.02(c)(4), then that limited liability company
23 shall deliver the certificate of amendment or the restated
24 certificate of formation for filing with the Secretary of
25 State.~~

26 "§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
26 under this chapter does not do so, any other person that is
27 aggrieved by that failure may petition the designated court,

1 and if none, the circuit court ~~in~~ for the county in which the
2 limited liability company's principal ~~place of business~~ office
3 within this state is located, and if the limited liability
4 company does not have a principal ~~place of business~~ office
5 within this state then the circuit court for the county in
6 which the limited liability company's most recent registered
7 office is located, to order:

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

9 "(2) the person to deliver the writing to the filing
10 officer for filing; or

11 "(3) the filing officer to file the writing
12 unsigned.

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

24 "(c) A writing filed unsigned pursuant to this
25 section is effective without being signed.

26 "(d) A court may award reasonable expenses,
27 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-5A-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 liability company if
7 the writings filed in the Office of the Secretary of State
8 show that the limited liability company has been formed under
9 the laws of this state. A certificate of existence shall
10 reflect only the information on file with the Secretary of
11 State. A certificate of existence must state:

12 "(1) the limited liability company's name;

13 "(2) that the limited liability company was formed
14 under the laws of this state, the date of formation, and the
15 filing office in which the certificate of formation was filed;

16 "(3) whether the limited liability company has
17 delivered to the Secretary of State for filing a statement of
18 dissolution;

19 "(4) whether the limited liability company has
20 delivered to the Secretary of State for filing a certificate
21 of reinstatement; ~~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 that are specified by the person requesting
26 the certificate.

1 "(b) The Secretary of State, upon request and
2 payment of the requisite fee, shall furnish to any person a
3 certificate of qualification for a foreign limited liability
4 company if the writings filed in the Office of the Secretary
5 of State show that the Secretary of State has filed an
6 application for registration for authority to conduct
7 activities and affairs in this state and the registration has
8 not been revoked, withdrawn, or terminated. A certificate of
9 qualification must state:

10 "(1) the foreign limited liability company's name
11 and any alternate name adopted for use in this state;

12 "(2) that the foreign limited liability company is
13 authorized to conduct activities and affairs in this state;

14 "(3) that the Secretary of State has not revoked the
15 foreign limited liability company's registration;

16 "(4) that the foreign limited liability company has
17 not filed with the Secretary of State a certificate of
18 withdrawal or otherwise terminated its registration; ~~and~~

19 "(5) the unique identifying number or other
20 designation as assigned by the Secretary of State; and

21 "~~(5)~~ (6) other facts of record in the ~~Office~~ office
22 of the Secretary of State that are specified by the person
23 requesting the certificate.

24 "(c) Subject to any qualification stated in the
25 certificate, a certificate of existence or certificate of
26 qualification issued by the Secretary of State is conclusive
27 evidence that the limited liability company is in existence or

1 the foreign limited liability company is authorized to conduct
2 activities and affairs in this state.

3 "§10A-5A-4.01.

4 "(a) The initial member or members of a limited
5 liability company are admitted as a member or members upon the
6 formation of the limited liability company.

7 "(b) After formation of a limited liability company,
8 a person is admitted as a member of the limited liability
9 company:

10 "(1) as provided in the limited liability company
11 agreement;

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

14 "(3) with the consent of all the members; or

15 "(4) as provided in Section 10A-5A-7.01(c) (1) or
16 (c) (2).

17 "(c) A person may be admitted as a member without
18 acquiring a transferable interest and without making or being
19 obligated to make a contribution to the limited liability
20 company. A person may be admitted as the sole member without
21 acquiring a transferable interest and without making or being
22 obligated to make a contribution to the limited liability
23 company.

24 "§10A-5A-7.01.

25 "A limited liability company is dissolved and its
26 affairs shall be wound up upon the occurrence of the first of
27 the following events:

1 "(a) An event or circumstance that the limited
2 liability company agreement states causes dissolution.

3 "(b) Consent of all members to dissolve.

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

6 "(1) The holders of all the transferable interests
7 in the limited liability company agree in writing, within 90
8 days after the dissociation of the last member, to continue
9 the activities and affairs of the limited liability company
10 and to appoint one or more new members.

11 "(2) The activities and affairs of the limited
12 liability company are continued and one or more new members
13 are appointed in the manner stated in the limited liability
14 company agreement.

15 "(d) On application by a member, the entry of an
16 order dissolving the limited liability company on the grounds
17 that it is not reasonably practicable to carry on the limited
18 liability company's activities and affairs in conformity with
19 the limited liability company agreement, which order is
20 entered by the designated court, and if none, the circuit
21 court for the county in which the limited liability company's
22 principal ~~place of business~~ office within this state is
23 located, and if the limited liability company does not have a
24 principal ~~place of business~~ office within this state then by
25 the circuit court for the county in which the limited
26 liability company's most recent registered office is located.

27 "§10A-5A-7.02.

1 "Notwithstanding Section 10A-1-9.12:

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

6 "(1) collecting its assets;

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

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

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

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

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

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

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

21 "(B) ~~The date of filing its certificate of~~
22 ~~formation, and all amendments and restatements thereof, and~~
23 ~~the office or offices where filed~~ unique identifying number or
24 other designation as assigned by the Secretary of State.

25 "(C) That the limited liability company has
26 dissolved.

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

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

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

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

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

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

14 "(c) The dissolution of a limited liability company
15 does not:

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

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

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

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

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

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

3 "~~(e) 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 statement of
6 dissolution for filing to the judge of probate in whose office
7 the original certificate of formation is filed. If a limited
8 liability company is an organization described in
9 Section 10A-1-4.02(c)(4), then that limited liability company
10 shall deliver the statement of dissolution for filing to the
11 Secretary of State.~~

12 "§10A-5A-7.03.

13 "(a) The person or persons designated in the limited
14 liability company agreement to wind up the activities and
15 affairs of the dissolved limited liability company shall wind
16 up the activities and affairs of the limited liability company
17 in accordance with Section 10A-5A-7.02. If no person or
18 persons are designated in the limited liability company
19 agreement to wind up the activities and affairs of the
20 dissolved limited liability company, then the remaining
21 members of the dissolved limited liability company shall wind
22 up the activities and affairs of the limited liability company
23 in accordance with Section 10A-5A-7.02. If no person or
24 persons are designated in the limited liability company
25 agreement to wind up the activities and affairs of the
26 dissolved limited liability company and there are no remaining
27 members of the dissolved limited liability company, then all

1 of the holders of the transferable interests of the limited
2 liability company, or their designee, shall wind up the
3 activities and affairs of the limited liability company in
4 accordance with Section 10A-5A-7.02.

5 "(b) The designated court, and if none, the circuit
6 court for the county in which the limited liability company's
7 principal ~~place of business~~ office within this state is
8 located, and if the limited liability company does not have a
9 principal ~~place of business~~ office within this state then the
10 circuit court for the county in which the limited liability
11 company's most recent registered office is located, may order
12 judicial supervision of the winding up of a dissolved limited
13 liability company, including the appointment of a person to
14 wind up the limited liability company's activities and
15 affairs:

16 "(1) on application of a member, if the applicant
17 establishes good cause;

18 "(2) on application of a transferee, if:

19 "(A) the limited liability company does not have any
20 members; and

21 "(B) within a reasonable time following the
22 dissolution no person having the authority to wind up the
23 activities and affairs of the limited liability company
24 pursuant to subsection (a) is winding up the activities and
25 affairs of the limited liability company; or

26 "(3) in connection with a proceeding under Section
27 10A-5A-7.01(d).

1 "§10A-5A-7.05.

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

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

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

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

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

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

21 "(c) If a dissolved limited liability company
22 publishes a newspaper notice in accordance with subsection
23 (b), unless sooner barred by any other statute limiting
24 actions, the claim of each of the following claimants is
25 barred unless the claimant commences a proceeding to enforce
26 the claim against the dissolved limited liability company

1 within two years after the publication date of the newspaper
2 notice:

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

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

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

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

15 "(1) against a dissolved limited liability company,
16 to the extent of its undistributed assets; and

17 "(2) except as provided in subsection (h), if the
18 assets of a dissolved limited liability company have been
19 distributed after dissolution, against the person or persons
20 owning the transferable interests to the extent of that
21 person's proportionate share of the claim or of the assets
22 distributed to that person after dissolution, whichever is
23 less, but a person's total liability for all claims under
24 subsection (d) may not exceed the total amount of assets
25 distributed to that person after dissolution of the limited
26 liability company.

1 "(e) A dissolved limited liability company that
2 published a notice under this section may file an application
3 with the circuit court ~~in~~ for the county in which the
4 dissolved limited liability company's principal ~~place of~~
5 ~~business~~ office is located in this state, and if the limited
6 liability company does not have a principal ~~place of business~~
7 office within this state, ~~in~~ with the circuit court for the
8 county in which the dissolved limited liability company'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 liability company or that are based on an
13 event occurring after the effective date of the dissolution of
14 the limited liability company but that, based on the facts
15 known to the dissolved limited liability company, are
16 reasonably estimated to arise after the effective date of the
17 dissolution of the limited liability company. Provision need
18 not be made for any claim that is or is reasonably anticipated
19 to be barred under subsection (c).

20 "(f) Within 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 liability
23 company to each potential claimant as described in subsection
24 (e).

25 "(g) The circuit court under subsection (e) may
26 appoint a guardian ad litem to represent all claimants whose
27 identities are unknown in any proceeding brought under this

1 section. The reasonable fees and expenses of the guardian,
2 including all reasonable expert witness fees, shall be paid by
3 the dissolved limited liability company.

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

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-5A-7.04, this section, or other law,
20 the person or persons designated to wind up the affairs of a
21 limited liability company, and the owners of the transferable
22 interests receiving assets from the limited liability company,
23 shall not be liable for that claim.

24 "§10A-5A-7.08.

25 "(a) In order to reinstate a limited liability
26 company under this article, a certificate of reinstatement
27 shall be delivered for filing to the ~~filing officer provided~~

1 ~~for in subsection (d)~~ Secretary of State which certificate of
2 reinstatement shall have attached thereto a true and complete
3 copy of the limited liability company's certificate of
4 formation. The certificate of reinstatement shall state:

5 "(1) the name of the limited liability company
6 before reinstatement;

7 "(2) the name of the limited liability company
8 following reinstatement, which limited liability company name
9 shall comply with Section 10A-5A-7.09;

10 "(3) the date of formation of the limited liability
11 company;

12 "(4) the date of dissolution of the limited
13 liability company, if known;

14 "(5) a statement that all applicable conditions of
15 Section 10A-5A-7.07 have been satisfied; ~~and~~

16 "(6) the address of the registered office and the
17 name of the registered agent at that address in compliance
18 with Article 5 of Chapter 1- ; and

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

21 "(b) A limited liability company shall not be
22 required to file a statement of dissolution in order to file a
23 certificate of reinstatement.

24 "(c) A certificate of reinstatement shall be deemed
25 to be a filing instrument under Chapter 1.

26 "~~(d) If a limited liability company is not an~~
27 ~~organization described in Section 10A-1-4.02(c)(4), then that~~

1 ~~limited liability company shall deliver the certificate of~~
2 ~~reinstatement for filing to the judge of probate in whose~~
3 ~~office the original certificate of formation is filed. If a~~
4 ~~limited liability company is an organization described in~~
5 ~~Section 10A-1-4.02(c)(4), then that limited liability company~~
6 ~~shall deliver the certificate of reinstatement for filing to~~
7 ~~the Secretary of State.~~

8 "§10A-5A-8.02.

9 "(a) In the case of a limited liability company
10 performing professional services, upon the death of a member,
11 upon a member becoming a disqualified person, or upon a
12 transferable interest being transferred by operation of law or
13 court decree to a disqualified person, the transferable
14 interest of the deceased member or of the disqualified person
15 may be transferred to a qualified person and, if not so
16 transferred, subject to Section 10A-5A-4.06, shall be
17 purchased by the limited liability company as provided in this
18 section.

19 "(b) If the price of the transferable interest is
20 not fixed by the limited liability company agreement, the
21 limited liability company, within six months after the death
22 or 30 days after the disqualification or transfer, as the case
23 may be, shall make a written offer to pay to the holder of the
24 transferable interest a specified price deemed by the limited
25 liability company to be the fair value of the transferable
26 interest as of the date of the death, disqualification, or
27 transfer. The offer shall be given to the personal

1 representative of the estate of the deceased member, the
2 disqualified person, or the transferee, as the case may be,
3 and shall be accompanied by a balance sheet of the limited
4 liability company, as of the latest available date and not
5 more than 12 months prior to the making of the offer, and a
6 profit and loss statement of the limited liability company for
7 the 12 months' period ended on the date of the balance sheet.

8 "(c) If within 30 days after the date of the written
9 offer from the limited liability company the fair value of the
10 transferable interest is agreed upon between the personal
11 representative of the estate of the deceased member, the
12 disqualified person, or the transferee, as the case may be,
13 and the limited liability company, payment therefor shall be
14 made within 90 days, or such other period as the parties may
15 agree, after the date of the offer. Upon payment of the agreed
16 value, the personal representative of the estate of the
17 deceased member, the disqualified person, or the transferee,
18 as the case may be, shall cease to have any interest in, or
19 claim to, the transferable interest.

20 "(d) If within 30 days from the date of the written
21 offer from the limited liability company, the personal
22 representative of the estate of the deceased member, the
23 disqualified person, or the transferee, as the case may be,
24 and the limited liability company do not so agree as to the
25 fair value of the transferable interest, then either party may
26 commence a civil action in the designated court, and if none,
27 in the circuit court ~~in~~ for the county in which the limited

1 liability company's principal ~~place of business~~ office within
2 this state is located, and if the limited liability company
3 does not have a principal ~~place of business~~ office within this
4 state, then in the circuit court for the county in which the
5 limited liability company's most recent registered office is
6 located requesting that the fair value of the transferable
7 interest be found and determined. The personal representative
8 of the estate of the deceased member, the disqualified person,
9 or the transferee, as the case may be, wherever residing,
10 shall be made a party to the proceeding as an action against
11 that person's transferable interest quasi in rem. Service
12 shall be made in accordance with the rules of civil procedure.
13 The personal representative of the estate of the deceased
14 member, the disqualified person, or the transferee, as the
15 case may be, shall be entitled to a judgment against the
16 limited liability company for the amount of the fair value of
17 that person's transferable interest as of the date of death,
18 disqualification, or transfer. The court, in its discretion,
19 may order that the judgment be paid in installments and with
20 interest and on terms as the court may determine. The court,
21 if it so elects, may appoint one or more persons as appraisers
22 to receive evidence and recommend a decision on the question
23 of fair value. The appraisers shall have the power and
24 authority as shall be specified in the order of their
25 appointment or an amendment thereof.

26 "(e) The judgment shall include an allowance for
27 interest at the rate the court finds to be fair and equitable

1 in all the circumstances, from the date of death,
2 disqualification, or transfer.

3 "(f) The costs and expenses of any proceeding shall
4 be determined by the court and shall be assessed against the
5 parties in a manner the court deems equitable.

6 "(g) The expenses shall include reasonable
7 compensation for and reasonable expenses of the appraisers and
8 a reasonable attorney's fee but shall exclude the fees and
9 expenses of counsel for and of experts employed by any party;
10 but: (1) if the fair value of the transferable interest as
11 determined materially exceeds the amount which the limited
12 liability company offered to pay therefor, or if no offer was
13 made by the limited liability company, the court in its
14 discretion may award to the personal representative of the
15 estate of the deceased member, the disqualified person, or the
16 transferee, as the case may be, the sum the court determines
17 to be reasonable compensation to any expert or experts
18 employed by the personal representative of the estate of the
19 deceased member, the disqualified person, or the transferee,
20 as the case may be, in the proceeding; and (2) if the offer of
21 the limited liability company for the transferable interest
22 materially exceeds the amount of the fair value of the
23 transferable interest as determined, the court in its
24 discretion may award to the limited liability company the sum
25 the court determines to be reasonable compensation to any
26 expert or experts employed by the limited liability company,
27 in the proceeding.

1 "(h) If the purchase or transfer of the transferable
2 interest of a deceased member, a disqualified person, or a
3 transferee is not completed within 12 months after the death
4 of the deceased member or 12 months after the disqualification
5 or transfer, as the case may be, the limited liability company
6 shall forthwith cancel the transferable interest on its books
7 and the personal representative of the estate of the deceased
8 member, the disqualified person, or the transferee, as the
9 case may be, shall have no further interest in the
10 transferable interest other than that person's right to
11 payment for the transferable interest under this section.

12 "(i) This section shall not require a limited
13 liability company to purchase a transferable interest of a
14 disqualified person if the disqualification is for less than
15 12 months from the date of disqualification. A limited
16 liability company may require the disqualified person to sell
17 the disqualified person's transferable interest to the limited
18 liability company upon any disqualification.

19 "(j) Any provision of a limited liability company
20 agreement regarding the purchase or transfer of a transferable
21 interest of a limited liability company performing
22 professional services shall be specifically enforceable in the
23 courts of Alabama.

24 "(k) Nothing in this section shall prevent or
25 relieve a limited liability company from paying pension
26 benefits or other deferred compensation.

27 "§10A-5A-11.09.

1 "A series is dissolved and its activities and
2 affairs shall be wound up upon the first to occur of the
3 following:

4 "(a) the dissolution of the limited liability
5 company under Section 10A-5A-7.01;

6 "(b) an event or circumstance that the limited
7 liability company agreement states causes dissolution of the
8 series;

9 "(c) the consent of all of the members associated
10 with the series;

11 "(d) the passage of 90 days after the occurrence of
12 the dissociation of the last remaining member associated with
13 the series; or

14 "(e) on application by a member associated with the
15 series, an order dissolving the series on the grounds that it
16 is not reasonably practicable to carry on the series'
17 activities and affairs in conformity with the limited
18 liability company agreement which order is entered by the
19 designated court, and if none, by the circuit court for the
20 county in which the limited liability company's principal
21 ~~place of business~~ office within this state is located, and if
22 the limited liability company does not have a principal ~~place~~
23 ~~of business~~ office within this state then by the circuit court
24 for the county in which the limited liability company's most
25 recent registered office is located.

26 "§10A-5A-11.11.

1 "(a) The person or persons designated in the limited
2 liability company agreement to wind up the activities and
3 affairs of the dissolved series shall wind up the activities
4 and affairs of the dissolved series in accordance with Section
5 10A-5A-11.10. If no person or persons are designated in the
6 limited liability company agreement to wind up the activities
7 and affairs of the dissolved series, then the remaining
8 members associated with the dissolved series shall wind up the
9 activities and affairs of the dissolved series in accordance
10 with Section 10A-5A-11.10. If no person or persons are
11 designated in the limited liability company agreement to wind
12 up the activities and affairs of the dissolved series and
13 there are no remaining members associated with the dissolved
14 series, then all of the holders of the transferable interests
15 associated with the series, or their designee, shall wind up
16 the activities and affairs of the dissolved series in
17 accordance with Section 10A-5A-11.10.

18 "(b) The designated court, and if none, the circuit
19 court for the county in which the limited liability company's
20 principal ~~place of business~~ office within this state is
21 located, and if the limited liability company does not have a
22 principal ~~place of business~~ office within this state then the
23 circuit court for the county in which the limited liability
24 company's most recent registered office is located may order
25 judicial supervision of the winding up of a dissolved series,
26 including the appointment of a person to wind up the series'
27 activities and affairs:

1 "(1) on application of a member associated with the
2 series, if the applicant establishes good cause;

3 "(2) on the application of a transferee associated
4 with a series, if:

5 "(A) there are no members associated with the
6 series; and

7 "(B) within a reasonable time following the
8 dissolution a person has not been appointed pursuant to
9 subsection (a); or

10 "(3) in connection with a proceeding under Section
11 10A-5A-11.09(e).

12 "§10A-5A-11.13.

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

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

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

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

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

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

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

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

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

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

20 "(d) A claim that is not barred under this section,
21 any other statute limiting actions, or Section 10A-5A-11.12
22 may be enforced:

23 "(1) against a dissolved series, to the extent of
24 its undistributed assets associated with the series; and

25 "(2) except as provided in subsection (h), if the
26 assets of a dissolved series have been distributed after
27 dissolution, against the person or persons owning the

1 transferable interests associated with the series to the
2 extent of that person's proportionate share of the claim or of
3 the assets of the series distributed to that person after
4 dissolution, whichever is less, but a person's total liability
5 for all claims under this subsection may not exceed the total
6 amount of assets of the series distributed to that person
7 after dissolution of the series.

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

25 "(f) Within 10 days after the filing of the
26 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
25 interests receiving assets from the limited liability company,
26 shall not be liable for that claim.

27 "§10A-8A-8.02.

1 "Notwithstanding Section 10A-1-9.12:

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

6 "(1) collecting its assets;

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

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

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

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

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

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

19 "(A) The name of the partnership;

20 "(B) If the partnership has filed a statement of
21 partnership, a statement of not for profit partnership, a
22 statement of authority, or a statement of limited liability
23 partnership, ~~the date of filing its statement of partnership,~~
24 ~~statement of not for profit partnership, statement of~~
25 ~~authority, or statement of limited liability partnership, and~~
26 ~~all amendments and restatements thereof, and the office or~~

1 ~~offices where filed~~ unique identifying number or other
2 designation as assigned by the Secretary of State;

3 "(C) That the partnership has dissolved;

4 "(D) The name, street address, and mailing address
5 of the partner who will be winding up the business or not for
6 profit activity of the partnership pursuant to Section
7 10A-8A-8.03(a), and if none, the name, street address, and
8 mailing address of the person appointed pursuant to Section
9 10A-8A-8.03(b) or (c) to wind up the business or not for
10 profit activity of the partnership;

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

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

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

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

22 "(4) transfer the partnership's assets;

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

24 and

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

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

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

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

4 "(3) terminate, abate or suspend a proceeding
5 pending by or against the partnership on the effective date of
6 dissolution;

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

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

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

13 "§10A-8A-8.07.

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

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

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

20 "(1) be published at least one time in a newspaper
21 of general circulation in the county in which the dissolved
22 partnership's principal ~~place of business or not for profit~~
23 ~~activity~~ office in this state is located, and if none, was
24 last located;

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

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

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

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

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

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

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

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

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

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

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

17 "(e) A dissolved partnership that published a notice
18 under this section may file an application with a court of
19 competent jurisdiction for a determination of the amount and
20 form of security to be provided for payment of claims that are
21 contingent or have not been made known to the dissolved
22 partnership or that are based on an event occurring after the
23 effective date of the dissolution of the partnership but that,
24 based on the facts known to the dissolved partnership, are
25 reasonably estimated to arise after the effective date of the
26 dissolution of the partnership. Provision need not be made for

1 any claim that is or is reasonably anticipated to be barred
2 under subsection (c).

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

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

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

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

26 "(j) If a claim has been satisfied, disposed of, or
27 barred under Section 10A-8A-8.06, this section, or other law,

1 the person or persons designated to wind up the business or
2 not for profit activity of a partnership, and the owners of
3 the transferable interests receiving assets from the
4 partnership, shall not be liable for that claim.

5 "§10A-8A-8.11.

6 "A partnership that has dissolved, has filed a
7 statement of dissolution, and is seeking to reinstate in
8 accordance with Section 10A-8A-8.10, shall deliver to the
9 Secretary of State for filing a certificate of reinstatement
10 in accordance with the following:

11 "(a) A certificate of reinstatement shall be
12 delivered to the Secretary of State for filing. The
13 certificate of reinstatement shall state:

14 "(1) the name of the partnership before
15 reinstatement;

16 "(2) the name of the partnership following
17 reinstatement, which partnership name shall comply with
18 Section 10A-8A-8.12;

19 "(3) the date of formation of the partnership;

20 "(4) the date of filing its statement of
21 dissolution, and all amendments and restatements thereof, and
22 the office or offices where filed;

23 "(5) 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
26 partnership, ~~the date of filing its statement of partnership,~~
27 ~~statement of not for profit partnership, statement of~~

1 ~~authority, or statement of limited liability partnership, and~~
2 ~~all amendments and restatements thereof, and the office or~~
3 ~~offices where filed~~ unique identifying number or other
4 designation as assigned by the Secretary of State;

5 "(6) the date of dissolution of the partnership, if
6 known;

7 "(7) a statement that all applicable conditions of
8 Section 10A-8A-8.10 have been satisfied; and

9 "(8) the address of the registered office and the
10 name of the registered agent at that address in compliance
11 with Article 5 of Chapter 1.

12 "(b) A partnership shall deliver to the Secretary of
13 State for filing a statement of dissolution prior to or
14 simultaneously with the certificate of reinstatement. If a
15 partnership has not filed a statement of partnership, a
16 statement of not for profit partnership, or a statement of
17 limited liability partnership prior to filing its statement of
18 dissolution, the partnership must also deliver to the
19 Secretary of State for filing a statement of partnership, a
20 statement of not for profit partnership, or a statement of
21 limited liability partnership, simultaneously with the
22 certificate of reinstatement.

23 "(c) A certificate of reinstatement is a filing
24 instrument under Chapter 1.

25 "§10A-8A-10.03.

26 "(a) In the case of a limited liability partnership
27 performing professional services, upon the death of a partner,

1 upon a partner becoming a disqualified person, or upon a
2 transferable interest being transferred by operation of law or
3 court decree to a disqualified person, the transferable
4 interest of the deceased partner or of the disqualified person
5 may be transferred to a qualified person and, if not so
6 transferred, subject to Section 10A-8A-4.09, shall be
7 purchased by the limited liability partnership as provided in
8 this section.

9 "(b) If the price of the transferable interest is
10 not fixed by the partnership agreement, the limited liability
11 partnership, within six months after the death or 30 days
12 after the disqualification or transfer, as the case may be,
13 shall make a written offer to pay to the holder of the
14 transferable interest a specified price deemed by the limited
15 liability partnership to be the fair value of the transferable
16 interest as of the date of the death, disqualification, or
17 transfer. The offer shall be given to the personal
18 representative of the estate of the deceased partner, the
19 disqualified person, or the transferee, as the case may be,
20 and shall be accompanied by a balance sheet of the limited
21 liability partnership, as of the latest available date and not
22 more than 12 months prior to the making of the offer, and a
23 profit and loss statement of the limited liability partnership
24 for the 12-month period ended on the date of the balance
25 sheet.

26 "(c) If within 30 days after the date of the written
27 offer from the limited liability partnership the fair value of

1 the transferable interest is agreed upon between the personal
2 representative of the estate of the deceased partner, the
3 disqualified person, or the transferee, as the case may be,
4 and the limited liability partnership, payment therefor shall
5 be made within 90 days, or such other period as the parties
6 may agree, after the date of the offer. Upon payment of the
7 agreed value, the personal representative of the estate of the
8 deceased partner, the disqualified person, or the transferee,
9 as the case may be, shall cease to have any interest in, or
10 claim to, the transferable interest.

11 "(d) If within 30 days from the date of the written
12 offer from the limited liability partnership, the personal
13 representative of the estate of the deceased partner, the
14 disqualified person, or the transferee, as the case may be,
15 and the limited liability partnership do not so agree as to
16 the fair value of the transferable interest, then either party
17 may commence a civil action in the designated court, and if
18 none, in the circuit court ~~in~~ for the county in which the
19 limited liability partnership's principal ~~place of business or~~
20 ~~not for profit activity~~ office within this state is located,
21 and if the limited liability partnership does not have a
22 principal ~~place of business or not for profit activity~~ office
23 within this state, then the circuit court for the county in
24 which the limited liability partnership's most recent
25 registered office is located requesting that the fair value of
26 the transferable interest be found and determined. The
27 personal representative of the estate of the deceased partner,

1 the disqualified person, or the transferee, as the case may
2 be, wherever residing, shall be made a party to the proceeding
3 as an action against that person's transferable interest quasi
4 in rem. Service shall be made in accordance with the rules of
5 civil procedure. The personal representative of the estate of
6 the deceased partner, the disqualified person, or the
7 transferee, as the case may be, shall be entitled to a
8 judgment against the limited liability partnership for the
9 amount of the fair value of that person's transferable
10 interest as of the date of death, disqualification, or
11 transfer. The court may order that the judgment be paid in
12 installments and with interest and on terms as the court may
13 determine. The court may appoint one or more persons as
14 appraisers to receive evidence and recommend a decision on the
15 question of fair value. The appraisers shall have the power
16 and authority as shall be specified in the order of their
17 appointment or an amendment thereof.

18 "(e) The judgment shall include an allowance for
19 interest at the rate the court finds to be fair and equitable
20 in all the circumstances, from the date of death,
21 disqualification, or transfer.

22 "(f) The costs and expenses of any proceeding shall
23 be determined by the court and shall be assessed against the
24 parties in a manner the court deems equitable.

25 "(g) The expenses shall include reasonable
26 compensation for and reasonable expenses of the appraisers and
27 a reasonable attorney's fee but shall exclude the fees and

1 expenses of counsel for and of experts employed by any party;
2 but:

3 "(1) if the fair value of the transferable interest
4 as determined materially exceeds the amount which the limited
5 liability partnership offered to pay therefor, or if no offer
6 was made by the limited liability partnership, the court in
7 its discretion may award to the personal representative of the
8 estate of the deceased partner, the disqualified person, or
9 the transferee, as the case may be, the sum the court
10 determines to be reasonable compensation to any expert or
11 experts employed by the personal representative of the estate
12 of the deceased partner, the disqualified person, or the
13 transferee, as the case may be, in the proceeding; and

14 "(2) if the offer of the limited liability
15 partnership for the transferable interest materially exceeds
16 the amount of the fair value of the transferable interest as
17 determined, the court in its discretion may award to the
18 limited liability partnership the sum the court determines to
19 be reasonable compensation to any expert or experts employed
20 by the limited liability partnership, in the proceeding.

21 "(h) If the purchase or transfer of the transferable
22 interest of a deceased partner, a disqualified person or a
23 transferee is not completed within 12 months after the death
24 of the deceased partner or 12 months after the
25 disqualification or transfer, as the case may be, the limited
26 liability partnership shall forthwith cancel the transferable
27 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
25 State. Notwithstanding Section 10A-1-3.05, the certificate of
26 formation shall set forth:

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

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

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

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

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

11 "(6) any additional information required by Article
12 8 of Chapter 1 or by Article 10 of this chapter; and

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

15 "(b) A limited partnership is formed when the
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), (a) (4), if applicable,
22 (a) (5), and (a) (6), but is not notice of any other fact.

23 "(d) A partnership agreement shall be entered into
24 either before, after, or at the time of filing the certificate
25 of formation and, whether entered into before, after, or at
26 the time of filing, may be made effective as of the filing of

1 the certificate of formation or at any other time or date
2 provided in the partnership agreement.

3 ~~"(e) A certificate of formation shall be delivered~~
4 ~~for filing to the judge of probate of the county in which the~~
5 ~~initial registered office of the limited partnership is~~
6 ~~located pursuant to Article 4 of Chapter 1 unless the~~
7 ~~certificate of formation is required to be delivered for~~
8 ~~filing to a different filing officer under Article 8 of~~
9 ~~Chapter 1 or Article 10 of this chapter.~~

10 "§10A-9A-2.02.

11 "Notwithstanding Division B of Article 3 of Chapter
12 1:

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

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

17 "(c) To amend its certificate of formation, a
18 limited partnership must deliver a certificate of amendment
19 for filing to the ~~filing officer provided for in subsection~~
20 ~~(j)~~ Secretary of State which certificate of amendment shall
21 state:

22 "(1) the name of the limited partnership;

23 "(2) the ~~date of filing of its certificate of~~
24 ~~formation, and of all prior amendments and the office or~~
25 ~~offices where filed~~ unique identifying number or other
26 designation as assigned by the Secretary of State; and

1 "(3) the changes the amendment makes to the
2 certificate of formation as most recently amended or restated.

3 "(d) Prior to a statement of dissolution being
4 delivered to the ~~filing officer~~ Secretary of State for filing,
5 a limited partnership shall promptly deliver a certificate of
6 amendment for filing with the ~~filing officer provided for in~~
7 ~~subsection (j)~~ Secretary of State to reflect:

8 "(1) the admission of a new general partner; or

9 "(2) the dissociation of a person as a general
10 partner.

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

19 "(1) cause the certificate of formation to be
20 amended; or

21 "(2) if appropriate, deliver for filing with the
22 ~~filing officer provided for in subsection (j)~~ a statement of
23 ~~change in accordance with Division D of Article 4 of Chapter 1~~
24 ~~or a statement~~ Secretary of State a certificate of correction
25 in accordance with ~~Division C of Article 5 of Chapter 1.~~

26 "(f) A certificate of formation may be amended at
27 any time pursuant to this section for any other proper purpose

1 as determined by the limited partnership. A certificate of
2 formation may also be amended in a statement of merger
3 pursuant to Article 8 of Chapter 1 or Article 10 of this
4 chapter.

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

10 "(1) be designated as such in the heading;

11 "(2) state the name of the limited partnership;

12 "(3) state the ~~date of filing of its certificate of~~
13 ~~formation, and of all prior amendments and the filing office~~
14 ~~or offices where filed; and~~ unique identifying number or other
15 designation as assigned by the Secretary of State;

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

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

25 "(6) state that the restated certificate of
26 formation consolidates all amendments into a single document.

1 "(h) 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 partnership, but the original effective date of
7 formation shall remain unchanged.

8 "(i) An amended or restated certificate of formation
9 may contain only the 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 ~~"(j) If a limited partnership is not an organization~~
14 ~~described in Section 10A-1-4.02(c)(4), then that limited~~
15 ~~partnership shall deliver the certificate of amendment or~~
16 ~~restated certificate of formation for filing with the judge of~~
17 ~~probate in whose office the original certificate of formation~~
18 ~~is filed. If a limited partnership is an organization~~
19 ~~described in Section 10A-1-4.02(c)(4), then that limited~~
20 ~~partnership shall deliver the certificate of amendment or~~
21 ~~restated certificate of formation for filing with the~~
22 ~~Secretary of State.~~

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

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

4 "§10A-9A-2.03.

5 "(a) A writing delivered to a ~~filing officer~~
6 Secretary of State for filing pursuant to this chapter must be
7 signed as provided by this section.

8 "(1) A limited partnership's initial certificate of
9 formation must be signed by all general partners listed in the
10 certificate of formation.

11 "(2) An amendment adding or deleting a statement
12 that the limited partnership is a limited liability limited
13 partnership must be signed by all general partners listed in
14 the certificate of formation.

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

19 "(4) Any other amendment must be signed by:

20 "(A) at least one general partner; and

21 "(B) each other person designated in the amendment
22 as a new general partner.

23 "(5) A restated certificate of formation must be
24 signed by at least one general partner and, to the extent the
25 restated certificate of formation effects a change under any
26 other paragraph of this subsection, the restated certificate

1 of formation must be signed in a manner that satisfies that
2 paragraph.

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

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

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

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

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

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

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

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

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

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

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

7 "§10A-9A-2.04.

8 "(a) If a person required by this chapter to sign a
9 writing or deliver a writing to ~~a filing officer~~ the Secretary
10 of State for filing under this chapter does not do so, any
11 other person that is aggrieved by that failure may petition
12 the designated court, and if none, the circuit court in for
13 the county in which the limited partnership's principal ~~place~~
14 ~~of business~~ office within this state is located, and if the
15 limited partnership does not have a principal ~~place of~~
16 ~~business~~ office within this state then the circuit court for
17 the county in which the limited partnership's most recent
18 registered office is located, to order:

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

20 "(2) the person to deliver the writing to the ~~filing~~
21 ~~officer~~ Secretary of State for filing; or

22 "(3) the ~~filing officer~~ Secretary of State to file
23 the writing unsigned.

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

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

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

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

13 "§10A-9A-2.06.

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

23 "(1) the limited partnership's name;

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

1 "(3) whether a statement of dissolution of the
2 limited partnership has been delivered to the Secretary of
3 State for filing;

4 "(4) whether the limited partnership has delivered
5 to the Secretary of State for filing a certificate of
6 reinstatement; ~~and~~

7 "(5) the unique identifying number or other
8 designation as assigned by the Secretary of State; and

9 "~~(5)~~ (6) other facts of record in the office of the
10 Secretary of State which may be requested by the applicant.

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

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

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

24 "(3) that the Secretary of State has not revoked the
25 foreign limited partnership's certificate of authority;

26 "(4) that the foreign limited partnership has not
27 filed with the Secretary of State a certificate of withdrawal,

1 a notice of cancellation, or otherwise terminated its
2 certificate of authority; ~~and~~

3 "(5) the unique identifying number or other
4 designation as assigned by the Secretary of State; and

5 "(5)(6) other facts of record in the office of the
6 Secretary of State which may be requested by the applicant.

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

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

20 "(1) state all information required in Section
21 10A-9A-2.01(a) (1), (a) (2), (a) (3), (a) (4), (a) (5), and (a) (6);
22 and

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

25 "§10A-9A-8.01.

1 "A limited partnership is dissolved and its
2 activities and affairs shall be wound up upon the occurrence
3 of the first of the following events:

4 "(a) An event or circumstance that the partnership
5 agreement states causes dissolution.

6 "(b) Consent of all partners to dissolve.

7 "(c) When there is no remaining general partner,
8 unless either of the following applies:

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

13 "(2) The activities and affairs of the limited
14 partnership are continued and one or more new general partners
15 are admitted in the manner stated in the partnership
16 agreement.

17 "(d) When there is no remaining limited partner,
18 unless either of the following applies:

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

23 "(2) The activities and affairs of the limited
24 partnership are continued and one or more new limited partners
25 are admitted in the manner stated in the partnership
26 agreement.

1 "(e) When there are no remaining partners, unless
2 either of the following applies:

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

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

13 "(f) On application by a partner, the entry of an
14 order dissolving the limited partnership on the grounds that
15 it is not reasonably practicable to carry on the limited
16 partnership's activities and affairs in conformity with the
17 partnership agreement, which order is entered by the
18 designated court, and if none, the circuit court for the
19 county in which the limited partnership's principal ~~place of~~
20 ~~business~~ office within this state is located, and if the
21 limited partnership does not have a principal ~~place of~~
22 ~~business~~ office within this state then by the circuit court
23 for the county in which the limited partnership's most recent
24 registered office is located.

25 "§10A-9A-8.02.

26 "Notwithstanding Section 10A-1-9.12:

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

5 "(1) collecting its assets;

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

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

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

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

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

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

19 "(A) The name of the limited partnership;

20 "(B) ~~The date of filing its certificate of~~
21 ~~formation, and all amendments and restatements thereof, and~~
22 ~~the office or offices where filed~~ unique identifying number or
23 other designation as assigned by the Secretary of State;

24 "(C) That the limited partnership has dissolved;

25 "(D) The name and street mailing address of the
26 general partner who will be winding up the affairs of the
27 limited partnership pursuant to Section 10A-9A-8.03(a), and if

1 none, the name and street address of the person appointed
2 pursuant to Section 10A-9A-8.03(b) or (c) to wind up the
3 activities and affairs of the limited partnership; and

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

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

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

11 "(4) transfer the limited partnership's assets;

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

13 and

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

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

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

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

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

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

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

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

6 "~~(e) 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 statement of dissolution 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 statement of~~
13 ~~dissolution for filing to the Secretary of State.~~

14 "§10A-9A-8.03.

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

20 "(b) If a dissolved limited partnership does not
21 have a general partner, a person or persons to wind up the
22 dissolved limited partnership's activities and affairs may be
23 appointed by the consent of a majority of the limited
24 partners.

25 "(c) The designated court, and if none, the circuit
26 court for the county in which the limited partnership's
27 principal ~~place of business~~ office within this state is

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

8 "(1) on application of a partner, if the applicant
9 establishes good cause;

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

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

21 "(4) in connection with a proceeding under Section
22 10A-9A-8.01(f).

23 "(d) A person appointed under subsection (b) or (c)
24 is not a general partner but:

25 "(1) has the powers of a general partner under
26 Section 10A-9A-8.04 but is not liable for the debts,
27 liabilities, and other obligations of the limited partnership

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

4 "(2) shall promptly deliver for filing a statement
5 of dissolution to the ~~filing officer provided for in~~
6 ~~subsection (e)~~ Secretary of State setting forth the items
7 listed in Section 10A-9A-8.02(b)(1) and the following:

8 "(A) that the limited partnership does not have a
9 general partner;

10 "(B) the name and street mailing address of each
11 person that has been appointed to wind up the activities and
12 affairs of the limited partnership;

13 "(C) that each person has been appointed pursuant to
14 this subsection to wind up the activities and affairs of the
15 limited partnership; and

16 "(D) pursuant to this section, that each person has
17 the powers of a general partner under Section 10A-9A-8.04 but
18 is not liable for the debts, liabilities, and other
19 obligations of the limited partnership solely by reason of
20 having or exercising those powers or otherwise acting to wind
21 up the activities and affairs of the dissolved limited
22 partnership.

23 ~~"(e) If the limited partnership is not an~~
24 ~~organization described in Section 10A-1-4.02(c)(4), then the~~
25 ~~person or persons appointed pursuant to subsection (b) or (c)~~
26 ~~shall deliver the statement of dissolution for filing to the~~
27 ~~judge of probate in whose office the original certificate of~~

1 ~~formation is filed. If the limited partnership is an~~
2 ~~organization described in Section 10A-1-4.02(c)(4), then the~~
3 ~~person or persons appointed pursuant to subsection (b) or (c)~~
4 ~~shall deliver the statement of dissolution for filing to the~~
5 ~~Secretary of State.~~

6 "§10A-9A-8.07.

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

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

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

13 "(1) be published at least one time in a newspaper
14 of general circulation in the county in which the dissolved
15 limited partnership's principal ~~place of business~~ office is
16 located ~~or, if it has~~ in this state, and if none in this
17 state, in the county in which the limited partnership's most
18 recent registered office is ~~or was last~~ located;

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

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

26 "(4) unless the limited partnership has been
27 throughout its existence a limited liability limited

1 partnership, state that the barring of a claim against the
2 limited partnership will also bar any corresponding claim
3 against any general partner or person dissociated as a general
4 partner which is based on Section 10A-9A-4.04.

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

12 "(1) a claimant who was not given notice under
13 Section 10A-9A-8.06;

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

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

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

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

26 "(2) except as provided in subsection (h), if the
27 assets of a dissolved limited partnership have been

1 distributed after dissolution, against the person or persons
2 owning the transferable interests to the extent of that
3 person's proportionate share of the claim or of the assets
4 distributed to that person after dissolution, whichever is
5 less, but a person's total liability for all claims under
6 subsection (d) may not exceed the total amount of assets
7 distributed to that person after dissolution of the limited
8 partnership; or

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

11 "(e) A dissolved limited partnership that published
12 a notice under this section may file an application with the
13 designated court, and if none the circuit court in for the
14 county in which the dissolved limited partnership's principal
15 place of business office is located in this state and if the
16 dissolved limited partnership does not have a principal place
17 of business office within this state, in the circuit court for
18 the county in which the dissolved limited partnership's most
19 recent registered office is located, for a determination of
20 the amount and form of security to be provided for payment of
21 claims that are contingent or have not been made known to the
22 dissolved limited partnership or that are based on an event
23 occurring after the effective date of the dissolution of the
24 limited partnership but that, based on the facts known to the
25 dissolved limited partnership, are reasonably estimated to
26 arise after the effective date of the dissolution of the
27 limited partnership. Provision need not be made for any claim

1 that is or is reasonably anticipated to be barred under
2 subsection (c).

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

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

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

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

26 "(j) If a claim has been satisfied, disposed of, or
27 barred under Section 10A-9A-8.06, this section, or other law,

1 the person or persons designated to wind up the affairs of a
2 limited partnership, and the owners of the transferable
3 interests receiving assets from the limited partnership, shall
4 not be liable for that claim.

5 "§10A-9A-8.11.

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

13 "(1) the name of the limited partnership before
14 reinstatement;

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

18 "(3) the date of formation of the limited
19 partnership;

20 "(4) the date of dissolution of the limited
21 partnership, if known;

22 "(5) a statement that all applicable conditions of
23 Section 10A-9A-8.10 have been satisfied; ~~and~~

24 "(6) the address of the registered office and the
25 name of the registered agent at that address in compliance
26 with Article 5 of Chapter 1-7; and

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

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

6 "(c) A certificate of reinstatement shall be deemed
7 to be a filing instrument under Chapter 1.

8 "~~(d) If a limited partnership is not an organization~~
9 ~~described in Section 10A-1-4.02(c)(4), then that limited~~
10 ~~partnership shall deliver the certificate of reinstatement 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 certificate of~~
15 ~~reinstatement for filing to the Secretary of State.~~

16 "§10A-10-1.07.

17 "(a) A real estate investment trust may provide by
18 its declaration of trust any of the following:

19 "(1) That any specified class of shares is preferred
20 over another class as to its distributive share of the assets
21 on voluntary or involuntary liquidation of the real estate
22 investment trust and the amount of the preference.

23 "(2) That any specified class of shares may be
24 redeemed at the option of the real estate investment trust or
25 of the holders of the shares and the terms and conditions of
26 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
26 or terms or conditions of redemption, the board, before
27 issuing any of the shares, shall ~~file~~ deliver articles

1 supplementary for record ~~with the judge of probate in the~~
2 ~~county in which its principal place of business is located, in~~
3 ~~the manner and as provided by Article 4 of Chapter 1 to the~~
4 Secretary of State for filing, which shall include both of the
5 following:

6 "(1) A description of the shares, including the
7 preferences, conversion, and other rights, voting powers,
8 restrictions, limitations as to dividends, qualifications, and
9 terms and conditions of redemption, as set or changed by the
10 board of trustees.

11 "(2) A statement that the shares have been
12 classified or reclassified by the board of trustees under the
13 authority contained in the declaration of trust.

14 "(c) (1) For purposes of this subsection, "facts"
15 include the occurrence of any event, including a determination
16 or action by any person or body, including the real estate
17 investment trust.

18 "(2) Any of the preferences, conversion, or other
19 rights, voting powers, restrictions, limitations as to
20 dividends or distributions, qualifications, or terms or
21 conditions of redemption of any class or series of shares may
22 be made dependent upon facts ascertainable outside the
23 declaration of trust and may vary among holders of the shares,
24 provided, that the manner in which the facts or variations
25 will operate upon the preferences, conversion, or other
26 rights, voting powers, restrictions, limitations as to
27 dividends or distributions, qualifications, or terms or

1 conditions of redemption of the class or series of shares is
2 clearly and expressly set forth in the declaration of trust.

3 "(d) If the real estate investment trust has
4 authority to issue shares of more than one class, the
5 certificate evidencing the shares shall contain on its face or
6 back a full statement or summary of:

7 "(1) The designations and any preferences,
8 conversion, and other rights, voting powers, restrictions,
9 limitations as to dividends or distributions, qualifications,
10 and terms and conditions of redemption of the shares of each
11 class which the real estate investment trust is authorized to
12 issue.

13 "(2) If the real estate investment trust is
14 authorized to issue any preferred or special class in series
15 both of the following:

16 "a. The differences in the relative rights and
17 preferences between the shares of each series to the extent
18 they have been set.

19 "b. The authority of the board of trustees to set
20 the relative rights and preferences of subsequent series.

21 "(e) (1) A summary of the information required by
22 subsection (d), as included in a registration statement
23 permitted to become effective under the Federal Securities Act
24 of 1933, is an acceptable summary for the purposes of this
25 section.

26 "(2) Instead of a full statement or summary, the
27 certificate may state that the real estate investment trust

1 will furnish a full statement of the information required by
2 subsection (d) to any holder of shares on request and without
3 charge.

4 "(f) Unless the declaration of trust provides
5 otherwise, the trustees of a real estate investment trust may
6 authorize the issue of some of the shares of any or all of its
7 classes or series without certificates. The authorization does
8 not affect shares already represented by certificates until
9 they are surrendered to the real estate investment trust. At
10 the time of issuance or transfer of any shares without
11 certificates, the real estate investment trust shall send the
12 shareholder a written statement of the information required on
13 certificates by subsection (d) or (e).

14 "§10A-10-1.14.

15 "(a) Except as provided in subsection (c) of Section
16 10A-10-1.06 or subdivision (7) of subsection (a) of Section
17 10A-10-1.07, a declaration of trust may be amended only as
18 provided in this section.

19 "(b) The board of trustees of a real estate
20 investment trust proposing an amendment to its declaration of
21 trust shall:

22 "(1) Adopt a resolution which sets forth the
23 proposed amendment and declares that it is advisable.

24 "(2) Direct that the proposed amendment be submitted
25 for consideration at either an annual or special meeting of
26 the shareholders.

1 "(c) Notice which states that a purpose of the
2 meeting will be to act upon the proposed amendment shall be
3 given by the real estate investment trust in the manner
4 provided in the declaration of trust or bylaws to:

5 "(1) Each shareholder entitled to vote on the
6 proposed amendment.

7 "(2) Each shareholder not entitled to vote on the
8 proposed amendment if the contract rights of the shareholder's
9 shares, as expressly set forth in the declaration of trust,
10 would be altered by the amendment.

11 "(3) The notice shall include a copy of the
12 amendment or a summary of the changes it will affect.

13 "(d) The proposed amendment shall be approved by the
14 shareholders of the real estate investment trust by the
15 affirmative vote of two-thirds of all the votes entitled to be
16 cast in the matter.

17 "(e) A declaration of trust may permit the trustees
18 by a two-thirds vote to amend provisions of the declaration of
19 trust, from time to time, to qualify as a real estate
20 investment trust under the Internal Revenue Code or under this
21 chapter.

22 "(f) A certificate of amendment setting forth the
23 amendment and stating the manner in which it was adopted shall
24 be signed and acknowledged by at least a majority of the
25 trustees or an officer duly authorized by at least a majority
26 of the trustees ~~and filed with the judge of probate in the~~
27 ~~county in which its declaration of trust is filed~~ and deliver

1 the certificate of amendment to the Secretary of State for
2 filing.

3 "§10A-10-1.15.

4 "(a) For purposes of this section, the following
5 words shall have the respective meanings ascribed to them:

6 "(1) ALABAMA REAL ESTATE INVESTMENT TRUST. A real
7 estate investment trust organized in compliance with the
8 provisions of this chapter.

9 "(2) BUSINESS TRUST.

10 "a. An entity described in Section 10A-16-1.01.

11 "b. An unincorporated trust or association,
12 including an Alabama real estate investment trust, a
13 common-law trust, or a Massachusetts trust, which is engaged
14 in business and in which property is acquired, held, managed,
15 administered, controlled, invested, or disposed of for the
16 benefit and profit of any person who may become a holder of a
17 transferable unit of beneficial interest in the trust.

18 "(3) DOMESTIC LIMITED LIABILITY COMPANY. A limited
19 liability company ~~formed as defined under the laws of this~~
20 ~~state~~ Alabama Limited Liability Company Law.

21 "(4) DOMESTIC LIMITED PARTNERSHIP. A limited
22 ~~partnership formed by two or more persons under the laws of~~
23 ~~the state and having one or more general partners and one or~~
24 ~~more limited partners~~ as defined under the Alabama Limited
25 Partnership Law.

26 "(5) FOREIGN BUSINESS TRUST. A business trust
27 organized under the laws of the United States, another state

1 of the United States, or a territory, possession, or district
2 of the United States.

3 "(6) FOREIGN LIMITED LIABILITY COMPANY. A limited
4 liability company formed under the laws of any state other
5 than the State of Alabama or under the laws of a foreign
6 country or other foreign jurisdiction and denominated as such
7 under the laws of such state, foreign country, or other
8 foreign jurisdiction.

9 "(7) FOREIGN LIMITED PARTNERSHIP. A limited
10 partnership formed under the laws of any state other than the
11 State of Alabama or under the laws of a foreign country ~~and~~
12 ~~having as partners one or more general partners and one or~~
13 ~~more limited partners~~ or other foreign jurisdiction and
14 denominated as such under the laws of such state, foreign
15 country, or other foreign jurisdiction.

16 "(b) Unless the declaration of trust provides
17 otherwise, an Alabama real estate investment trust may merge
18 into an Alabama or foreign business trust, into an Alabama or
19 foreign corporation having capital stock, or into a domestic
20 or foreign limited partnership or limited liability company;
21 or one or more business trusts, corporations, domestic or
22 foreign limited partnerships, or limited liability companies
23 may merge into an Alabama real estate investment trust.

24 "(c) A merger shall be approved in the manner
25 provided by this section, except that:

26 "(1) A foreign business trust, an Alabama business
27 trust, other than an Alabama real estate investment trust, a

1 corporation, a domestic or foreign limited partnership, or a
2 domestic or foreign limited liability company party to the
3 merger shall have the merger advised, authorized, and approved
4 in the manner and by the vote required by its declaration of
5 trust, charter, or partnership agreement, and the laws of the
6 place where it is organized.

7 "(2) A merger needs to be approved by an Alabama
8 real estate investment trust successor only by a majority of
9 its entire board of trustees if:

10 "a. The merger does not reclassify or change its
11 outstanding shares or otherwise amend its declaration of
12 trust.

13 "b. The number of shares to be issued or delivered
14 in the merger is not more than 15 percent of the number of its
15 shares of the same class or series outstanding immediately
16 before the merger becomes effective.

17 "(d) The board of trustees of each Alabama real
18 estate investment trust proposing to merge shall:

19 "(1) Adopt a resolution that declares the proposed
20 transaction is advisable in substantially the terms and
21 conditions set forth or referred to in the resolution.

22 "(2) Direct that the proposed transaction be
23 submitted for consideration at either an annual or special
24 meeting of shareholders.

25 "(e) Notice which states that a purpose of a meeting
26 will be to act upon the proposed merger shall be given by each

1 Alabama real estate investment trust in the manner provided
2 for corporations by the Alabama Business Corporation Law, to:

3 "(1) Each of its shareholders entitled to vote on
4 the proposed transaction.

5 "(2) Each of its shareholders not entitled to vote
6 on the proposed transaction, except the shareholders of a
7 successor in a merger if the merger does not alter the
8 contract rights of their shares as expressly set forth in the
9 declaration of trust.

10 "(f) Except as provided in subsection (c) of Section
11 10A-10-1.06, the proposed merger shall be approved by the
12 shareholders of each Alabama real estate investment trust by
13 the affirmative vote of two-thirds of all the votes entitled
14 to be cast on the matter.

15 "(g) Articles of merger containing the information
16 required by the Alabama Business Corporation Law, and the
17 other provisions as permitted by that section shall be:

18 "(1) Executed for each party to the articles of
19 merger in the manner required by the Alabama Business
20 Corporation Law.

21 "(2) Filed for the record in the Office of the
22 Secretary of State in accordance with the provisions of
23 Article 4 of Chapter 1.

24 "(h) (1) A proposed merger may be abandoned before
25 the effective date of the articles of merger:

26 "a. If the articles of merger so provide, by
27 majority vote of the entire board of trustees of any one

1 business trust party to the articles or by a majority of the
2 entire board of directors of any one corporation party to the
3 articles.

4 "b. Unless the articles of merger provide otherwise
5 by a majority vote of the entire board of trustees of each
6 Alabama real estate investment trust party to the articles.

7 "c. By unanimous consent of the members of a limited
8 liability company party to the articles of merger.

9 "d. By unanimous consent of the partners of a
10 limited partnership party to the articles of merger.

11 "(2) If the articles of merger have been filed in
12 the Office of the Secretary of State, notice of the
13 abandonment shall be given promptly to the Secretary of State.

14 "(3)a. If the proposed merger is abandoned as
15 provided in this subsection, no legal liability arises under
16 the articles of merger.

17 "b. An abandonment does not prejudice the rights of
18 any person under any other contract made by a business trust,
19 corporation, limited partnership, or limited liability company
20 party to the proposed articles of merger in connection with
21 the proposed merger.

22 "c. Each shareholder of an Alabama real estate
23 investment trust objecting to a merger of the Alabama real
24 estate investment trust shall have the same rights as a
25 stockholder of an Alabama corporation under Article 13 of
26 Chapter 2A and under the same procedures.

1 "(i) The Secretary of State shall prepare
2 certificates of merger that specify:

3 "(1) The name of each party to the articles of
4 merger.

5 "(2) The name of the successor and the location of
6 its principal office in this state or, if it has none, its
7 principal place of business.

8 "(3) The time the articles of merger are accepted
9 for record by the Secretary of State.

10 "(j) If the successor in a merger is an Alabama real
11 estate investment trust, a merger is effective as of the later
12 of:

13 "(1) The time the Secretary of State accepts the
14 articles of merger for record.

15 "(2) The time established under the articles of
16 merger, not to exceed 30 days after the articles are accepted
17 for record.

18 "(k) (1) If the successor in a merger is a foreign
19 corporation, a foreign limited partnership, a foreign limited
20 liability company, or an Alabama or foreign business trust,
21 other than an Alabama real estate investment trust, the merger
22 is effective as of the later of:

23 "a. The time specified by the law of the place where
24 the successor is organized.

25 "b. The time the Secretary of State accepts the
26 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
26 and delivered at any time in the name of ~~the transferring~~
27 either party to the articles of merger ~~by its last acting~~

1 ~~officers or trustees or by the appropriate officers or~~
2 ~~trustees of the successor.~~ A certified copy of any document
3 required to be filed under this section may be filed in the
4 real estate records in the office of the judge of probate in
5 any county in which the nonsuccessor party owned real
6 property, without payment and without collection by the judge
7 of probate of any deed or other transfer tax or fee. The judge
8 of probate, however, may collect a filing fee of five dollars
9 (\$5). Any such filing shall evidence chain of title, but lack
10 of filing shall not affect the converted entity's title to the
11 real property.

12 "(6) a. The successor is liable for all the debts and
13 obligations of each nonsurviving party to the articles of
14 merger. An existing claim, action, or proceeding pending by or
15 against any nonsurviving party to the articles of merger may
16 be prosecuted to judgment as if the merger had not taken
17 place, or, on motion of the successor or any party, the
18 successor may be substituted as a party and the judgment
19 against the nonsurviving party to the articles of merger
20 constitutes a lien on the property of the successor.

21 "b. A merger does not impair the rights of creditors
22 or any liens on the property of any business trust,
23 corporation, limited partnership, or limited liability company
24 which is a party to the articles of merger.

25 "(m) This section is not exclusive. Real estate
26 investment trusts may merge or exchange their shares in any

1 other manner provided by law, including pursuant to the
2 provisions of Article 8 of Chapter 1.

3 "§10A-16-1.05.

4 "(a) The written declaration of trust may provide
5 for the election of successor trustees in the event of the
6 death, resignation, and removal of a trustee and may provide
7 for the amendment of the declaration of trust. The declaration
8 of trust may also contain other provisions regarding the
9 operation and administration of the business trust as may be
10 necessary or desirable.

11 "(b) ~~Two copies of the~~ The declaration of trust
12 shall be delivered to the ~~judge of probate in the county in~~
13 ~~which its principal place of business is located~~ Secretary of
14 State for filing, accompanied by the filing fees ~~for the State~~
15 ~~of Alabama and for the judge of probate in the amounts~~ fee in
16 the amount prescribed by ~~Section 10A-1-4.31~~ Chapter 1 for a
17 certificate of formation. ~~The judge of probate shall file one~~
18 ~~copy in his or her office and certify the other copy, which~~
19 ~~shall be forwarded to the Secretary of State, together with~~
20 ~~the fee collected for the State of Alabama.~~

21 "§10A-17-1.06.

22 "(a) A nonprofit association shall execute and
23 record a statement of authority to transfer an estate or
24 interest in real property in the name of the nonprofit
25 association.

26 "(b) An estate or interest in real property in the
27 name of a nonprofit association may be transferred by a person

1 so authorized in a statement of authority recorded in the
2 office of the judge of probate of the county in which the real
3 property is located.

4 "(c) A statement of authority shall set 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;

10 "(3) The name or title of a person authorized to
11 transfer an estate or interest in real property held in the
12 name of the nonprofit association; and

13 "(4) The action, procedure, or vote of the nonprofit
14 association which authorizes the person to transfer the real
15 property of the nonprofit association and which authorizes the
16 person to execute the statement of authority.

17 "(d) A statement of authority shall be executed and
18 recorded in the same manner as a deed by a person who is not
19 the person authorized to transfer the estate or interest.

20 "(e) The judge of probate ~~may~~ shall collect a fee
21 for recording a statement of authority ~~in the amount~~
22 ~~authorized to be collected by and for the judge of probate~~
23 ~~pursuant to Section 10A-1-4.31 for filing a certificate of~~
24 ~~formation~~ in accordance with Article 4 of Chapter 1.

25 "(f) An amendment, including a cancellation, of a
26 statement of authority shall meet the requirements for
27 execution and recording, and be accompanied by payment of the

1 same recording fee payable to and for the judge of probate, of
2 an original statement. Unless cancelled earlier, a recorded
3 statement of authority as amended is cancelled by operation of
4 law five years after the date of the most recent amended
5 statement of authority.

6 "(g) If the record title to real property is in the
7 name of a nonprofit association and the statement of authority
8 is recorded in the office of the judge of probate of the
9 county in which the real property is located, the authority of
10 the person named in a statement of authority is conclusive in
11 favor of a person who gives value without notice that the
12 person lacks authority.

13 "§10A-17-1.11.

14 "(a) A nonprofit association may ~~file in the office~~
15 ~~of the judge of probate of the county where the association~~
16 ~~has its principal office~~ deliver to the Secretary of State for
17 filing a statement appointing an agent authorized to receive
18 service of process.

19 "(b) A statement appointing an agent shall set
20 forth:

21 "(1) The name of the nonprofit association;

22 "(2) The address in Alabama, including the street
23 address, if any, of the nonprofit association, or, if the
24 nonprofit association does not have an address in Alabama, its
25 address out of state; and

1 "(3) The name of the person in Alabama authorized to
2 receive service of process and the person's address, including
3 the street address, in Alabama.

4 "(c) A statement appointing an agent shall be signed
5 and acknowledged by a person authorized to manage the affairs
6 of the nonprofit association. The statement shall also be
7 signed and acknowledged by the person appointed agent, who
8 thereby accepts appointment. ~~The statement and one copy~~
9 ~~thereof shall be delivered to the judge of probate, who will~~
10 ~~transmit a certified copy to the Secretary of State. If the~~
11 ~~judge of probate finds that the statement conforms to~~
12 ~~provisions of this section, he or she shall file the statement~~
13 ~~in his or her office, and upon the filing, the statement~~
14 ~~becomes effective.~~

15 "(d) The appointed agent may resign by delivering to
16 the Secretary of State for filing a resignation ~~and one copy~~
17 ~~thereof with the judge of probate, and by giving notice to the~~
18 nonprofit association. ~~The judge of probate shall transmit a~~
19 ~~certified copy to the Secretary of State.~~ The appointment of
20 the agent shall terminate upon the expiration of 30 days after
21 ~~receipt of the notice by the judge of probate~~ the Secretary of
22 State has filed the resignation.

23 "(e) The ~~judge of probate~~ Secretary of State may
24 collect a fee for filing a statement appointing an agent to
25 receive service of process, an amendment, or a resignation in
26 the amount charged for filing similar documents for nonprofit
27 corporations.

1 "(f) An amendment to a statement appointing an agent
2 to receive service of process shall meet the requirements for
3 execution of an original statement.

4 "§10A-20-1.08.

5 "Upon the presentation to the Secretary of State of
6 any application provided for in this article, the applicant
7 ~~shall not be required to pay any fee to or for the judge of~~
8 ~~probate but~~ shall pay to the Secretary of State the fee
9 prescribed to be paid to the Secretary of State by ~~Section~~
10 ~~10A-1-4.31~~ Chapter 1 as follows:

11 "(1) for the filing of an application under Section
12 10A-20-1.02 to become a corporation sole, the fee prescribed
13 for filing a certificate of formation;

14 "(2) for the filing of an application under Section
15 10A-20-1.05 for a certificate of succession, the fee
16 prescribed for filing a certificate of formation;

17 "(3) for the filing of an application under Section
18 10A-20-1.06 for appointment of an administrator, the fee
19 prescribed for filing a certificate of formation; and

20 "(4) for the filing of an application to dissolve
21 under Section 10A-20-1.07, the fee prescribed for filing
22 statement or articles of dissolution.

23 "§10A-20-2.01.

24 "(a) The members of any church, conference of
25 churches, religious society, educational society, benevolent,
26 monument, or burial society, patriotic society, societies for
27 the purpose of nature study or scientific research, society

1 for establishing public parks or places of public recreation,
2 societies for promoting knowledge, promoting arts, or
3 promoting sciences, societies for purposes of like kind or the
4 owners of a graveyard, or the trustees of any of the foregoing
5 churches, conferences, institutions, or societies elected by
6 the organization, or organizations, of the church,
7 conferences, institution, association, or society desiring to
8 become incorporated, shall adopt a resolution signifying the
9 intention and elect not less than three trustees.

10 "(b) The trustees shall, within 30 days after their
11 election, ~~file in the office of the judge of probate of the~~
12 ~~county in which the corporation is to exercise its functions,~~
13 ~~or part of its functions~~ deliver to the Secretary of State for
14 filing, a certificate stating the corporate name selected, the
15 names of the trustees, and the length of time for which they
16 are elected, ~~which certificate shall be subscribed by them and~~
17 ~~recorded and shall pay to the judge of probate~~ Secretary of
18 State the filing fee ~~required to be paid for the benefit of~~
19 ~~the judge of probate~~ under ~~Section 10A-1-4.31~~ Chapter 1 for
20 filing a certificate of formation. The members of the society,
21 their associates and successors are, from the filing of the
22 certificate, incorporated by the name specified.

23 "§10A-20-6.02.

24 "(a) The incorporators of any corporation to be
25 governed by this article shall prepare and ~~file in the office~~
26 ~~of the judge of probate of the county in which the corporation~~
27 ~~is to have its principal place of business~~ deliver to the

1 Secretary of State for filing a certificate of formation
2 stating an intention to become a corporation, which
3 certificate of formation shall be signed by each of the
4 incorporators and shall set forth:

5 "(1) The name of the proposed corporation;

6 "(2) The objects and purposes for which the
7 corporation is organized;

8 "(3) The location of the principal office of the
9 corporation in this state; and

10 "(4) The name and post office address of each
11 incorporator, not less than three in number.

12 "(b) The certificate of formation may also contain
13 any other provisions, not inconsistent with the provisions of
14 this article, which the incorporators may desire to insert for
15 the regulation of the business or affairs of the corporation
16 or which would be permitted nonprofit corporations by the
17 Alabama Nonprofit Corporation Law. The filing of the
18 certificate of formation shall be accompanied with payment of
19 the filing fee payable to ~~and for the benefit of the judge of~~
20 ~~probate provided for filing~~ the Secretary of State in the
21 amount prescribed by Chapter 1 for certificates of formation
22 under Section 10A-1-4.31. The filing ~~in the probate office~~ of
23 the certificate of formation by the Secretary of State effects
24 the creation of a corporation for the purpose of establishing,
25 maintaining, and operating a health care service plan as
26 provided for in this article.

27 "§10A-20-6.06.

1 "The corporation may change its corporate name, the
2 location of its principal ~~place of business~~ office, or make
3 other alteration, amendment, or change in its certificate of
4 formation, as may be desired in the following manner:

5 "(1) Its board of directors by a majority vote
6 thereof, either in person or by proxy, at any regular meeting
7 of the board, or at any special meeting called for the
8 purpose, shall adopt a resolution or resolutions setting forth
9 the respect or respects in which the certificate of formation
10 of the corporation shall be altered, amended, or changed;

11 "(2) The report thereof, certified by the president
12 or the secretary of the corporation under corporate seal, if
13 any, shall be ~~filed and recorded in the office of the judge of~~
14 ~~probate of the county in which the corporation was organized~~
15 delivered to the Secretary of State for filing; and

16 "(3) Upon the filing of same, its certificate of
17 formation shall be deemed to be altered, amended, or changed;
18 provided, that the certificate of alteration, amendment, or
19 change shall contain only the provisions as would be lawful
20 and proper to insert in an original certificate of formation
21 made at the time of making the amendment.

22 "§10A-20-7.02.

23 "(a) Five or more financial institutions or persons,
24 a majority of whom shall be residents of this state, who may
25 desire to create an industrial development corporation under
26 the provisions of this article for the purpose of promoting,
27 developing, and advancing the prosperity and economic welfare

1 of the state and, to that end, to exercise the powers and
2 privileges provided in this article may be incorporated by
3 delivering to the Secretary of State for filing ~~in the office~~
4 ~~of the Secretary of State, as provided in this section,~~ a
5 certificate of formation. The filing of the certificate shall
6 be accompanied by a filing fee in the amount prescribed to be
7 paid to the Secretary of State under Section 10A-1-4.31 in
8 connection with the filing of a certificate of formation. The
9 certificate of formation shall contain:

10 "(1) The name of the corporation which shall include
11 the words "industrial development corporation of Alabama."

12 "(2) The location of the principal office of the
13 corporation, but the corporation may have offices in other
14 places within the state as may be fixed by the board of
15 directors.

16 "(3) The purposes for which the corporation is
17 founded, which shall be to promote, stimulate, develop, and
18 advance the business prosperity and economic welfare of
19 Alabama and its citizens, to encourage and assist through
20 loans, investments, or other business transactions in the
21 location of new business and industry in this state, to
22 rehabilitate and assist existing business and industry, to
23 stimulate and assist in the expansion of all kinds of business
24 activity which will tend to promote the business development
25 and maintain the economic stability of this state, to provide
26 maximum opportunities for employment, encourage thrift, and
27 improve the standard of living of the citizens of this state,

1 to cooperate and act in conjunction with other organizations,
2 public or private, in the promotion and advancement of
3 industrial, commercial, agricultural, and recreational
4 developments in this state, and to provide financing for the
5 promotion, development, and conduct of all kinds of business
6 activity in this state.

7 "(4) The names and post office addresses of the
8 members of the first board of directors, who, unless otherwise
9 provided by the governing documents, shall hold office for the
10 first year of existence of the corporation or until their
11 successors are elected and have qualified.

12 "(5) Any provision which the incorporators may
13 choose to insert for the regulation of the business and for
14 the conduct of the affairs of the corporation and any
15 provision creating, dividing, limiting, and regulating the
16 powers of the corporation, the directors, stockholders or any
17 class of the stockholders, including, but not limited to, a
18 list of the officers and provisions governing the issuance of
19 stock certificates to replace lost or destroyed certificates;
20 provided, that no provision shall be contained for cumulative
21 voting for directors.

22 "(6) The amount of authorized capital stock and the
23 number of shares into which it is divided, the par value of
24 each share and the amount of the capital with which it will
25 commence business and, if there is more than one class of
26 stock, a description of the different classes, the names and
27 post office addresses of the subscribers of stock and the

1 number of shares subscribed by each. The aggregate of the
2 subscription shall be the minimum amount of the capital with
3 which the corporation shall commence business, which shall be
4 not less than one hundred thousand dollars (\$100,000). The
5 certificate of formation may also contain any provision
6 consistent with the laws of this state for the regulation of
7 the affairs of the corporation.

8 "(7) The certificate of formation shall be in
9 writing, subscribed by not less than three natural persons
10 competent to contract, acknowledged by each of the subscribers
11 before an officer authorized to take acknowledgments, and
12 filed in the office of the Secretary of State for approval. A
13 duplicate copy so subscribed and acknowledged may also be
14 filed.

15 "(8) The certificate of formation shall recite that
16 the corporation is organized under this article.

17 "(b) The Secretary of State shall not approve the
18 certificate of formation for a corporation organized under
19 this article until a total of at least five national banks,
20 state banks, mortgage banks, federal savings and loan
21 associations, state savings and loan associations, domestic
22 building and loan associations, pension funds, or insurance
23 companies authorized to do business within this state, or any
24 combination thereof, have agreed in writing to become members
25 of the corporation; and the written agreement shall be filed
26 with the Secretary of State with the certificate of formation
27 and the filing of same shall be a condition precedent to the

1 approval of the certificate of formation by the Secretary of
2 State. Whenever the certificate of formation shall have been
3 filed in the office of the Secretary of State and approved by
4 him or her and all filing fees and taxes prescribed by Alabama
5 statutes, including Section 10A-1-4.31, have been paid, the
6 subscribers, their successors, and assigns shall constitute a
7 corporation, and the corporation shall then be authorized to
8 commence business and stock thereof to the extent herein, or
9 hereafter, duly authorized may from time to time be issued.

10 "§10A-20-9.01.

11 "Ten or more persons desiring to associate
12 themselves together for nonprofit purposes in the sense of not
13 paying interest or dividends on stock, but for mutual benefit
14 through the application of cooperation, single-tax, or other
15 economic principles, may become a body corporate in the manner
16 following:

17 "(1) The persons proposing to form the corporation
18 shall ~~file with the judge of probate in the county in which it~~
19 ~~proposes to establish itself~~ deliver to the Secretary of State
20 for filing a declaration in writing, setting out the name of
21 the proposed corporation, the names of the charter members,
22 and the purposes of the corporation, which declaration shall
23 constitute its corporate charter, together with a filing fee
24 in the amount prescribed by ~~Section 10A-1-4.31 to be paid to~~
25 ~~the judge of probate~~ Chapter 1 for filing a certificate of
26 formation.

1 "(2) Upon the filing of such declaration, ~~the judge~~
2 ~~of probate shall issue to the corporation a charter~~
3 corporation's existence begins, which shall be perpetual,
4 subject to revocation at any time by the Legislature.

5 "§10A-20-10.01.

6 "(a) Notwithstanding any provision to the contrary
7 in the certificate of formation, other governing instrument,
8 or under any other law of this state, and except as otherwise
9 provided by court order, or by a provision in the certificate
10 of formation or other governing instrument, which in either
11 case is entered or made after August 11, 1971, and expressly
12 limits the applicability of this section, a corporation which
13 is, or is treated as, a private foundation, as defined in
14 Section 509 of the Internal Revenue Code of ~~1954~~ 1986, as
15 amended, during the period it is, or is treated as, a private
16 foundation:

17 "(1) Shall not engage in any act of self-dealing as
18 defined in Section 4941 (d) thereof;

19 "(2) Shall distribute, for the purposes specified in
20 its certificate of formation, for each taxable year not less
21 than the amounts at the time and in the manner as not to
22 become subject to the tax on undistributed income imposed by
23 Section 4942 thereof;

24 "(3) Shall not, if Section 4943 thereof is
25 applicable, retain any excess business holdings as defined in
26 subsection (c) of that section beyond the period permitted by
27 that section;

1 "(4) Shall not make any investment in a manner as to
2 subject it to tax under Section 4944 thereof; and

3 "(5) Shall not make any taxable expenditures as
4 defined in Section 4945 (d) thereof.

5 "(b) Nothing in this section shall impair the rights
6 and powers of the courts or the Attorney General of this state
7 with respect to any corporation described in this section. The
8 provisions of this section shall not apply to any corporation
9 to the extent that a court of competent jurisdiction shall
10 determine that the application would be contrary to the terms
11 of the certificate of formation or other instrument governing
12 the corporation or governing the administration of charitable
13 funds held by it and that the same may not properly be changed
14 to conform to this section.

15 "(c) All references to sections of the Internal
16 Revenue Code of ~~1954~~ 1986, as amended, shall include future
17 amendments to the sections and corresponding provisions of
18 future internal revenue laws.

19 "§10A-20-11.01.

20 "(a) Any incorporated medical association of the
21 State of Alabama, Alabama Dental Association, Alabama
22 Pharmaceutical Association, or other corporations organized
23 similarly to the corporation or of a similar kind may alter,
24 amend, or extend its charter, or may do any two or all of
25 these, in the manner following:

26 "(1) A written resolution setting out the name of
27 the corporation and embodying the proposed alterations,

1 amendments, or extensions shall be submitted to a lawful
2 annual meeting of the corporation or other lawful meeting of
3 the corporation and adopted by a two-thirds vote of those
4 present at the meeting and lawfully entitled to vote on
5 business matters coming before the meeting;

6 "(2) The president, or some other executive officer
7 of the corporation, and the secretary thereof shall prepare,
8 sign, and acknowledge as conveyances are acknowledged and ~~file~~
9 ~~in the office of the judge of probate of the county wherein~~
10 ~~the original declaration of incorporation was filed if the~~
11 ~~charter was secured in that manner or, if the charter was~~
12 ~~granted by act or acts of the Legislature prior to the time~~
13 ~~when the Constitution of 1901, went into effect, in the office~~
14 ~~of the Secretary of State~~ deliver to the Secretary of State
15 for filing a certificate containing a copy of the resolution
16 and certifying that it was adopted in the manner above
17 provided; and

18 "(3) Upon the filing of the certificate, together
19 with payment of the filing fee prescribed by ~~Section~~
20 ~~10A-1-4.31 to be paid to the Secretary of State~~ Chapter 1 for
21 filing an amendment to a certificate of formation, the charter
22 of the corporation shall stand altered, amended, or extended
23 as therein shown.

24 "(b) Any such alteration, amendment, or extension
25 under subsection (a), may be made by changing or adding to the
26 language of the act, or acts, of incorporation, declaration of
27 incorporation, or certificate of incorporation of the

1 corporation, as the case may be, or by changing or adding to
2 the language of both or all of them. When any such corporation
3 is now or hereafter may be charged by law with public or
4 quasi-public functions, alterations to, or amendments or
5 extensions of its charter shall in no manner add to, detract
6 from or modify the functions or the rights and duties of the
7 corporation in reference thereto, but no alteration,
8 amendment, or extension of the charter of any corporation so
9 charged by law shall be made which will interfere with the
10 discharge of the functions.

11 "§10A-20-12.01.

12 "(a) Unless otherwise provided, any corporation, not
13 of a business character, may alter or amend its charter
14 whenever not less than three fourths in number of its members,
15 in case of corporations having no central or general governing
16 body, or where the corporations have a central or general
17 governing body, then whenever not less than three fourths of
18 the first four principal officers of the central or general
19 governing body, shall ~~file in the office of the judge of~~
20 ~~probate of the county wherein the original declaration of~~
21 ~~incorporation was filed or in cases where the charter was~~
22 ~~granted by an act of the Legislature, prior to the adoption of~~
23 ~~the Constitution in 1901, in the Office of the Secretary of~~
24 State deliver to the Secretary of State for filing, together
25 with a filing fee in the amount prescribed in Chapter 1 for an
26 amendment to a certificate of formation, a declaration in
27 writing signed by them setting forth:

1 "(1) When the corporation was organized, its name
2 and what changes, if any, it is desired to make in the name;

3 "(2) The purposes of the corporation as the same are
4 set forth in the original declaration of incorporation, and
5 the alterations and the amendments thereof, if any are
6 desired;

7 "(3) If it is desired to increase its powers as to
8 the holding of real estate in area and value and of personal
9 property in value, the declaration shall set forth the
10 limitations prescribed as to these matters in the original
11 certificate of formation, and any amendments heretofore made
12 thereto, and shall also set forth the increase in area of real
13 property it is desired to acquire and hold, together with the
14 purposes for which it is desired, and the increase in value of
15 personal property desired to be acquired and held, and the
16 purpose for which it is desired, and if the purposes as so
17 declared are not violative of any of the laws or public
18 policies of the State of Alabama, the filing of the
19 declaration shall authorize and empower the corporation to
20 acquire and hold such additional real estate and personal
21 property.

22 "But no such change or alteration in the charter or
23 the character of any corporation shall authorize it to
24 exercise any power or to do any acts which similar
25 corporations are not authorized to do under the laws existing
26 at the time such alteration or amendment may be made, nor to

1 decrease its capital stock below the minimum fixed by existing
2 laws.

3 "(b) The declaration provided in subsection (a)
4 shall be verified by the affidavit of some one or more of the
5 signers, stating that the statements contained therein are
6 true, and the signers thereof signed the same in the presence
7 of affiant, or acknowledged their signatures thereto to him or
8 her; ~~and upon the filing of the declaration in the office of
9 the judge of probate or Secretary of State, as the case may
10 be, together with the appropriate filing fee due to such
11 officer under Section 10A-1-4.31 for filing an amendment to a
12 certificate of formation, it shall be the duty of such officer
13 to issue a certificate, certifying that such corporation under
14 its new name and style, is duly authorized to do business with
15 the powers and capacity conferred after such alterations and
16 amendments. Such declaration and certificate must be recorded
17 in the office of the judge of probate or the Secretary of
18 State, in and from which the same are filed and issued.~~

19 "(c) The provisions of this section are cumulative
20 and shall not be construed to repeal or supersede any laws not
21 directly inconsistent herewith.

22 "§10A-20-16.01.

23 "The Legislature finds and declares that the
24 services of nonprofit corporations, organizations,
25 associations, boards, authorities, and commissions are
26 critical to the efficient conduct and management of the
27 public, civic, and charitable affairs of the citizens of this

1 state. Noncompensated officers, directors, trustees, partners,
2 managers, members, and governing persons and other members of
3 governing ~~bodies~~ authorities of such nonprofit entities must
4 be permitted to operate without undue concern for the
5 possibility of litigation arising from the discharge of their
6 duties as policymakers.

7 "§10A-20-16.02.

8 "The following terms shall have the following
9 respective meanings for the purposes of this chapter:

10 "(1) OFFICER. Any officer, director, trustee, ~~or~~
11 partner, manager, member, and governing person and other
12 member of the governing ~~body~~ authority of a qualified entity
13 who does not receive compensation for serving in such
14 capacity. A per diem amount of not more than three hundred
15 dollars (\$300) per day and actual, reasonable, and necessary
16 expenses shall not constitute compensation for the purposes of
17 this article. Provided, however, that the immunity granted
18 herein shall not extend to officers ~~and,~~ directors, trustees,
19 partners, managers, or members of any board, authority, or
20 commission dealing with pari-mutuel betting, gambling, or
21 games of chance.

22 "(2) QUALIFIED ENTITY.

23 "a. Any nonprofit corporation, association, or
24 organization which is exempt from federal income taxation
25 under Section 501(c) of the Internal Revenue Code of ~~1954~~
26 1986, as amended;

1 "b. Any nonprofit corporation, association, or
2 organization which is organized pursuant to Section
3 10A-4-1.01, et seq.;

4 "c. Any organization organized under Sections
5 22-51-1, 22-51-2, 22-51-3, 22-51-4, 22-51-5, 22-51-6, 22-51-7,
6 22-51-8, 22-51-9, 22-51-10, 22-51-11, 22-51-12, 22-51-13, and
7 22-51-14;

8 "d. Any self-insured fund established pursuant to
9 Section 11-26-1, 11-26-2, 11-30-2, or 25-5-9, provided,
10 however this chapter shall not apply to any self-insured
11 employer operating under Section 25-5-8; and

12 "e. Any board, authority, or commission the members
13 of which are appointed by the governing body or bodies of any
14 county or municipality, or by the Governor or other
15 constitutional officer or member of the Legislature pursuant
16 to legislative or constitutional authorization, or the members
17 of which are constitutionally or legislatively delegated."

18 Section 11. This act shall become effective on
19 January 1, 2021, following its passage and approval by the
20 Governor, or its otherwise becoming law.