



UNIFORM BUSINESS ORGANIZATIONS CODE (UBOC) (2013)

- A Summary -

Since the early 1990s, the Uniform Law Commission (ULC) has promulgated, or in several cases, revised eight unincorporated business entity acts:

- Revised Uniform Partnership Act (1997)
- Revised Uniform Limited Partnership Act (2001)
- Revised Uniform Limited Liability Company Act (2006)
- Model Registered Agents Act (2006)
- Uniform Limited Cooperative Association Act (2007)
- Model Entity Transactions Act (2007)
- Revised Uniform Unincorporated Nonprofit Association Act (2008)
- Uniform Statutory Trust Entity Act (2009)

In 2006, the ULC authorized a project to integrate these eight acts into the Uniform Business Organizations Code (UBOC), using the a “hub-and-spoke” model in which provisions common to all entity laws are placed in the hub, and other provisions are left in the individual entity laws which are the spokes. The project, known as the Harmonization of Business Entity Acts Project (Harmonization Project), involved four steps: (1) the creation of the Hub, which contains provisions such as definitions, filing requirements, etc., which appear in almost all of the eight statutes; (2) harmonizing and updating the eight acts (which also continue to exist as stand-alone acts); (3) making the stand-alone acts “Code-ready” by removing from each act all provisions contained in the Hub and all provisions contained in the Model Entity Transactions Act; and (4) compiling the UBOC, by converting the Code-ready acts into separate articles of the UBOC.

The ULC approved the Hub, which is Article 1 of the Uniform Business Organizations Code, in 2011. The harmonization of the unincorporated entities acts phase of the Harmonization Project was completed and approved in 2013. The integration of the various Code-ready acts into the UBOC was completed in 2015.

Article 1 (Hub) contains 50 definitions that apply to all the UBOC Articles; basic provisions dealing with the filing of documents in the office of the Secretary of State (or equivalent state filing office); entity names and reservation and registration of entity names; the registered agent provisions in the Model Registered Agents Act; foreign entities; administrative dissolution and reinstatement provisions; miscellaneous provisions, including reservation of the power to amend or repeal the UBOC, effective date, severability and savings provisions, and the applicability of supplemental principles of law.

Article 2, is the **Model Entity Transactions Act (META)**, which contains intra- and inter-species merger, interest exchange, conversion, and domestication provisions for all forms

of for-profit and nonprofit unincorporated and corporate entities. In most states, the statutes dealing with these types of reorganization transactions are incomplete, and in many cases, inconsistent. Having a thorough and consistent statutory framework for these transactions in one statute is a significant benefit to lawyers and their business entity clients.

Article 3 is the **Uniform Partnership Act (1997) (Last Amended 2013)**, minus the provisions that are in Articles 1 and 2 of the UBOC. The original Uniform Partnership Act was promulgated in 1914 and was enacted in all states except Louisiana, which has a European Civil Law General Partnership Act. The revised uniform act has been enacted in approximately two-thirds of the states. A general partnership is the default for-profit entity. A for-profit entity is a general partnership if the owners have not filed with the state filing office a document that states that the entity is an entity other than a general partnership. The main disadvantage of being a general partnership is that the owners are jointly and severally liable for the debts and other liabilities of the partnership that cannot be satisfied by the assets of the partnership. Part 9 of the revised uniform act authorizes the filing of a document that states that the partnership is a limited liability partnership (LLP). The principal advantage of being an LLP is that the owners have the same limited liability protection as shareholders of a corporation. The protection against personal liability is the reason many law firms and other professional businesses are LLPs.

Article 4 is the **Uniform Limited Partnership Act (2001) (Last Amended 2013)**, minus the provisions that are in Articles 1 and 2 of the UBOC. All states have some version of the Uniform Limited Partnership Act. The initial version was promulgated in 1916. The revised harmonized act is specifically designed for real estate ventures and family businesses, which constitute the bulk of existing limited partnerships. The revised act also authorizes a limited liability limited partnership (LLL), which provides limited liability to the general partners as well as to the limited partners.

Article 5 is the **Uniform Limited Liability Company Act (2006) (Last Amended 2013)**, minus the provisions that are in Articles 1 and 2 of the UBOC. A limited liability company (LLC) is a relatively new form of business entity. Most states enacted their initial LLC act in the 1990s. In a very short time, LLCs became the most prevalent form of new business formation. Currently, the number of newly formed LLCs annually in most states is three times or more than the number of new corporations formed in the state. The harmonized 2013 version of the uniform act is a state-of-the-art LLC act which deals in a comprehensive manner with all the issues that must be taken into account in drafting an operating agreement and in advising the owners and creditors about problems that arise in the operation of LLCs. Many of the current state LLC acts are twenty or more years old, or are very incomplete, and in many cases, contain inconsistencies or provisions that have adverse unintended consequences. Enacting the 2013 version of the uniform act will provide a state with a clear, innovative, and practical statute for LLCs formed in the state.

Article 6 is the **Uniform Limited Cooperative Associations Act (2007) (Last Amended 2013)**, minus the provisions in Articles 1 and 2 of the UBOC. The Uniform Limited Cooperative Associations Act (ULCAA) does not replace a state's existing cooperative acts. The ULCAA is different from most state's existing cooperative acts in that it authorizes a cooperative formed under its provisions to engage in any type of for profit and nonprofit activity whereas the

existing state cooperative acts generally restrict a cooperative to a single purpose such as agricultural products. The ULCAA also allows non-patrons to be on the cooperative's board, as long as the majority of the voting power is held by the patron members, and expands the possibilities of outside nonmember financing.

Article 7 is the **Uniform Unincorporated Nonprofit Associations Act (2008) (Last Amended 2013)**, minus the provisions that are in Articles 1 and 2 of the UBOC. A nonprofit entity is an unincorporated nonprofit association (UNA) if it has not been formed as a nonprofit corporation or as some other form of business under a statute that allows nonprofit activities. There are thousands of UNAs in every state, ranging from churches who cannot, or do not, want to incorporate to local little league teams and book clubs. Common law principles, including joint and several liability of the members for the debts and other liabilities of the UNA, provide the governing law of UNA's in most states; and statutory framework for UNAs is fragmentary. The Uniform Unincorporated Nonprofit Associations Act (UUNAA) provides the same limited liability protection to the members of a UNA as shareholders of a corporation have and also contains a basic set of default governance provisions. In addition, the UUNAA has provisions resolving many of the uncertainties under the common law, such as how to transfer real property to and from an UNA. The UUNAA has been enacted and has worked well in several states.

Article 8 is the **Uniform Statutory Trust Entity Act (2009) (Last Amended 2013)**, minus the provisions that are in Articles 1 and 2 of the UBOC. Statutory trusts are widely used for mutual funds, securitization transactions and in other non-operating business financing transactions. The Uniform Statutory Trust Entity Act (USTEA) provides a comprehensive modern statutory framework for statutory trusts. The USTEA also has provisions for series statutory trusts. Under this framework, a statutory trust can create one or more series without having to form separate entities. For example, a mutual fund series statutory trust can form any number of mutual funds under the initial filing it made to become a statutory trust.

It is contemplated that in the future the ULC and the American Bar Association (ABA) Business Law Section will approve the inclusion of the Model Business Corporation Act and the Model Nonprofit Corporation Act as part of the UBOC. Articles 9 and 10 are listed as "Reserved" for this purpose.

The two corporate acts are promulgated by the ABA Business Law Section. The UBOC has already benefitted by the ABA's involvement with the drafting of the Hub, the META, and the MORAA. Because these acts cover corporate as well as unincorporated entities, their respective drafting projects were sponsored jointly by the ULC and the ABA.