

DRAFT

FOR DISCUSSION ONLY

MODEL REGISTERED AGENTS ACT
AND
AMENDMENTS TO ENTITY ACTS
TO RATIONALIZE ANNUAL ~~REPORTS ACT~~ FILINGS

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

Draft of ~~October 19, 2005~~March 13, 2006

With Introduction, Comments and Appendix of Conforming Amendments
~~and Partial Comments~~

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AND RATIONALIZATION OF ENTITY
ANNUAL FILING REQUIREMENTS

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Article 1
Preliminary Provisions
INTRODUCTION

- ~~101. Short title.....~~
~~102. Definitions.....~~
~~103. Fees.....~~
~~104. Addresses in filings.....~~

The Model Registered Agents Act (the “Act”) is one of several projects undertaken by the Conference and the American Bar Association (“ABA”) to integrate state entity laws into a more coherent and rational scheme. Other projects include the development of the Model Entity Transactions Act jointly by the Conference and the ABA and the addition of Chapter 9 to the Model Business Corporation Act by the Committee on Corporate Laws of the ABA.

Article 2
Registered Agents

The Act grew out of discussions within the International Association of Commercial Administrators (“IACA”), which is the association of secretaries of state in the United States and Canada. IACA was approached by representatives of corporation service companies who were seeking to solve several problems they have encountered in their provision of registered agent services. IACA had also been considering on its own how filing requirements in state corporation bureaus could be simplified and standardized. IACA decided that the time was right for it to develop proposed statutory provisions on two subjects:

- ~~201. Appointment of registered agent.....~~
~~202. Registration of commercial registered agent~~
~~203. Change of registered agent or registered county by entity~~
~~204. Change of name or street address by noncommercial~~
~~registered agent~~
~~205. Change of name or street address by commercial~~
~~registered agent~~
~~206. Resignation of registered agent.....~~
~~207. Designation of agent~~
~~208. Service of process on entities.....~~
~~209. Duty of registered agent.....~~

1. A standard set of provisions that would apply to all forms of entities that are required to designate in a public filing an agent for service of process.
2. A standard form of annual report to be filed with secretaries of state by all forms of entities.

Article 3
Entity Annual Reports

The Ad Hoc Committee on Entity Rationalization of the ABA Section on Business Law (the “ABA Committee”) had been working cooperatively with IACA for several years on projects of mutual interest. After IACA had prepared a first draft of provisions on registered agents and annual reports, the ABA Committee joined the drafting effort. The ABA Committee

also approached the leadership of the Conference with the suggestion that the Conference also join the drafting effort. The result was the development of the Act.

~~301. Annual report required~~

~~302. Failure to file annual report~~

~~303. Amended annual report~~

~~304. Forms~~

The original draft of the Act contained separate articles dealing with the two subjects originally identified by IACA: (i) registered agents and (ii) annual report filings. After detailed consideration, the drafting committee and its advisors were all agreed that a separate article on annual reports was not necessary and should be omitted from the Act. Instead, the changes needed to standardize annual report filings are included in the appendix of conforming amendments to the Act. Thus, the Act has two parts:

Article 4

Miscellaneous Provisions

1. The provisions of the Act itself, which deal with registered agent issues and apply to all forms of entities.
2. An appendix of conforming changes to all of the existing uniform and model entity laws that have two separate purposes:
 - o some of the conforming amendments integrate the uniform and model entity laws with the new registered agent provisions, and
 - o the remaining conforming amendments standardize the provisions of the uniform and model entity laws on annual report filings.

~~401. Consistency of application~~

~~402. Relation to Electronic Signatures in Global and National
Commerce Act~~

~~403. Effective date~~

~~404. Savings clause~~

Under existing uniform and model entity laws, an entity's registered agent and the location of the registered agent's office serve three purposes:

1. the registered agent is an agent of the entity authorized to receive service of process on behalf of the entity;
2. the location of the office of the registered agent determines where venue is to be laid in certain actions under the entity's organic law; and
3. the location of the office of the registered agent also determines where certain notices required by the entity's organic law are to be published.

Appendix

Conforming Amendments and Repeals

The first function, that of being an agent for service of process, is the principal reason why the appointment of a registered agent is required under entity organic laws. The remaining two functions made sense at a time when the registered office address of an entity was often a business address for the entity. In recent years, however, it has become common for entities to use as their registered agents businesses whose principal activity is the provision of registered

agent services and thus the address of the registered agent has become divorced from any real connection with the business activities of the represented entity. This Act accordingly eliminates the functions of the registered office address as a means of determining where venue or publication is appropriate.

~~Section A1. — Model Business Corporation Act.....~~
~~Section A2. — Model Nonprofit Corporation Act.....~~
~~Section A3. — Uniform Partnership Act.....~~
~~Section A4. — Uniform Limited Partnership Act.....~~
~~Section A5. — Uniform Limited Liability Company Act.....~~
~~Section A6. — Prototype Limited Liability Company Act.....~~
~~Section A7. — Uniform Unincorporated Nonprofit Association Act.....~~

This Act also eliminates the provisions found in some entity organic laws that make the Secretary of State the default agent for service of process under certain circumstances.

MODEL REGISTERED AGENTS ~~AN~~IDENTITY ~~ANNUAL REPORTS~~ ACT

~~[ARTICLE] 1~~

~~PRELIMINARY PROVISIONS~~

~~Section 101. Short title.~~SECTION 1. SHORT TITLE. This [act] may be cited as the
[State] Registered Agents ~~and Entity Annual Reports~~ Act.

Comment

~~**Section 102. Definitions.**~~

SECTION 2. DEFINITIONS.

(a) Definitions. In this [act]:

~~(1) “Commercial registered agent” means an individual or a domestic or foreign entity that is registered under section 202.~~

(2) ~~“Designation~~1) “Appointment of agent” means a statement appointing an agent for service of process filed by:

(A) a domestic or foreign unincorporated nonprofit association under [section 10 of the Uniform Unincorporated Nonprofit Association Act]; or

~~(B)~~ (B) a domestic entity that is not a filing entity or a nonqualified foreign entity under ~~section 207.~~Section 11.

(2) “Commercial registered agent” means an individual or a domestic or foreign entity that is listed under Section 6.

(3) “Domestic entity” means an entity whose internal affairs are governed by the law of this state.

1 (4) “Entity” means a person that has a separate legal existence or has the power
2 to acquire an interest in real property in its own name other than:

3 (A) an individual;

4 (B) a testamentary, inter vivos, or charitable trust, with the exception of a
5 business trust or similar trust;

6 (C) an association or relationship that is not a partnership by reason of
7 [Section 202(c) of the Uniform Partnership Act (1997)] or a similar provision of the law of any
8 other jurisdiction;

9 (D) a decedent’s estate; or

10 (E) a government, a governmental subdivision, agency, or
11 instrumentality, or a quasi-governmental instrumentality.

12 (5) “Filing entity” means an entity that is created by the filing of a public organic
13 document.

14 (6) “Foreign entity” means an entity other than a domestic entity.

15 ~~(37)~~ “Foreign qualification document” means an application for a certificate of
16 authority or other foreign qualification filing with the [Secretary of State] by a foreign entity.

17 (8) “Governor” means a person by or under whose authority the powers of an
18 entity are exercised and under whose direction the business and affairs of the entity are managed
19 pursuant to the organic law and organic rules of the entity.

20 (9) “Interest holder” means a direct holder of an interest.

21 (10) “Jurisdiction of organization,” with respect to an entity, means the
22 jurisdiction whose law includes the organic law of the entity.

(411) “Noncommercial registered agent” means a person ~~who~~that is not listed as a commercial registered agent under ~~section 202~~Section 6 and ~~who~~that is:

(A) an individual or a domestic or foreign entity that serves in this ~~State~~state as ~~an~~the registered agent ~~for service of process~~ of an entity; or

(B) the individual who holds the office or other position in an entity that is designated as the agent for service of process pursuant to ~~section 201~~Section 5(a)(2)(B)(~~ii~~).

(512) “Nonqualified foreign entity” means a foreign entity that is not authorized to transact business in this state pursuant to a filing with the [Secretary of State].

(613) “Nonresident LLP statement” means:

(A) a statement of qualification of a domestic ~~limited liability partnership that does not have an office in this State; or~~

~~(B) a statement of foreign qualification of a foreign limited liability partnership that does not have an office in this State.~~

~~(7) “Registered agent” means a commercial registered agent or a noncommercial registered agent.~~

~~(8) “Registered agent filing” means:~~

~~(A) the public organic document of a domestic filing entity;~~

~~(B) a nonresident LLP statement;~~

~~(C) a foreign qualification document;~~

~~(D) a designation of agent; or~~

~~(E) an annual report filed under [Article] 3.~~

1 ~~(9) “Registered county” means the county designated by an entity as provided in this~~
2 ~~[act] for publication of notices under its organic law and the laying of venue in actions under its~~
3 ~~organic law.~~

4 ~~(10) “Represented entity” means:~~

5 ~~(A) a domestic filing entity;~~

6 ~~(B) a domestic or qualified foreign~~ limited liability partnership that does not have
7 an office in this state;

8 ~~(C) a qualified foreign entity;~~

9 ~~(D) a domestic or foreign unincorporated nonprofit association for which a~~
10 ~~designation of agent has been filed; or~~

11 ~~(E) a nonqualified foreign entity for which a designation of agent has been filed.~~

12 ~~(b) Other definitions.~~ As used in this [act], the following terms have the meanings
13 ~~given to them in [Section 102 of the Model Entity Transactions Act]:~~

14 ~~(1) “domestic entity”~~

15 ~~(2) “entity”~~

16 ~~(3) “filing entity”~~

17 ~~(4) “foreign entity”~~

18 ~~(5) “governance interest”~~

19 ~~(6) “governor”~~

20 ~~(7) “interest”~~

21 ~~(8) “interest holder”~~

22 ~~(9) “jurisdiction of organization”~~

23 ~~(10) “organic law”~~

1
2 ~~“Registered county.”~~

3
4 ~~“Represented entity”~~

5
6 ~~**Subsection (b).** This subsection makes applicable in this Act the definitions of a number~~
7 ~~of terms defined in the Model Entity Transactions Act (“META”). Because of the broad scope~~
8 ~~of the substantive provisions of META, it was necessary in that act to provide a set of defined~~
9 ~~terms that would describe many aspects of the substantive laws relating to the internal affairs of~~
10 ~~entities. Thus the definitions in META provide a general vocabulary for speaking about entity~~
11 ~~law issues. Like META, this Act applies generally to all types of private entities that may be~~
12 ~~created under a state’s laws and accordingly uses many of the terms defined in META.~~

13
14 ~~Many states may choose to codify both META and this Act in a way that makes the~~
15 ~~definitions in META applicable to both META and this Act. In those states, subsection (b) may~~
16 ~~be omitted entirely. In a state that has not adopted META, on the other hand, it will be necessary~~
17 ~~to include in this section the full definitions of the terms listed in subsection (b). The full~~
18 ~~definitions of the terms listed in subsection (b) have not been included in the official text of this~~
19 ~~Act in order to simply highlight the definitions in subsection (a).~~

20
21 ~~The terms listed in subsection (b) are defined in META as follows:~~

22
23 ~~“Domestic entity” means an entity whose internal affairs are governed by the law of this~~
24 ~~state.~~

25
26 ~~“Entity” means a person that has a separate legal existence or has the power to acquire an~~
27 ~~interest in real property in its own name other than:~~

28 ~~(A) an individual;~~

29 ~~(B) a testamentary, inter vivos, or charitable trust, with the exception of a business~~
30 ~~trust or similar trust;~~

31 ~~(C) an association or relationship that is not a partnership by reason of [Section~~
32 ~~202(c) of the Uniform Partnership Act (1997)] or a similar provision of the law of any other~~
33 ~~jurisdiction;~~

34 ~~(D) a decedent’s estate; or~~

35 ~~(E) a government, a governmental subdivision, agency, or instrumentality, or a quasi-~~
36 ~~governmental instrumentality.~~

37
38 ~~“Filing entity” means an entity that is created by the filing of a public organic document.~~

39
40 ~~“Foreign entity” means an entity other than a domestic entity.~~

41
42 ~~“Governance interest” means the right under the organic law or organic rules of an entity,~~
43 ~~other than as a governor, agent, assignee, or proxy, to:~~

44 ~~(A) receive or demand access to information concerning, or the books and records of,~~
45 ~~the entity;~~

46 ~~(B) vote for the election of the governors of the entity; or~~

~~(C) receive notice of or vote on any or all issues involving the internal affairs of the entity.~~

~~“Governor” means a person by or under whose authority the powers of an entity are exercised and under whose direction the business and affairs of the entity are managed pursuant to the organic law and organic rules of the entity.~~

~~“Interest” means:~~

- ~~(A) a governance interest in an unincorporated entity;~~
- ~~(B) a transferable interest in an unincorporated entity; or~~
- ~~(C) a share or membership in a corporation.~~

~~“Interest holder” means a direct holder of an interest.~~

~~“Jurisdiction of organization” of an entity means the jurisdiction whose law includes the organic law of the entity.~~

~~“Organic law” means the statutes, if any, other than this [Act], governing the internal affairs of an entity.~~

~~“Organic rules” means the public organic document and private organic rules of an entity.~~
“Person” means an individual, corporation, estate, trust, partnership, limited liability company, business or similar trust, association, joint venture, public corporation, government, or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

~~“Private organic rules” mean the rules, whether or not in a record, that govern the internal affairs of an entity, are binding on all of its interest holders, and are not part of its public organic document, if any.~~

(15) “Public organic document” means the public record the filing of which creates an entity, and any amendment to or restatement of that record.

(16) “Qualified foreign entity” means a foreign entity that is authorized to transact business in this state pursuant to a filing with the [Secretary of State].

(17) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(18) “Registered agent” means a commercial registered agent or a noncommercial registered agent.

(19) “Registered agent filing” means:

1 (A) the public organic document of a domestic filing entity;

2 (B) a nonresident LLP statement;

3 (C) a foreign qualification document; or

4 (D) an appointment of agent.

5 (20) “Represented entity” means:

6 (A) a domestic filing entity;

7 (B) a domestic or qualified foreign limited liability partnership that does
8 not have an office in this state;

9 (C) a qualified foreign entity;

10 (D) a domestic or foreign unincorporated nonprofit association for which
11 an appointment of agent has been filed;

12 (E) a domestic entity that is not a filing entity for which an appointment
13 of agent has been filed; or

14 (F) a nonqualified foreign entity for which an appointment of agent has
15 been filed.

16 (21) “Sign” means, with present intent to authenticate or adopt a record:

17 (A) to execute or adopt a tangible symbol; or

18 (B) to attach to or logically associate with the record an electronic sound,
19 symbol, or process.

20
21 ~~“Transferable interest” means the right under an entity’s organic law to receive~~
22 ~~distributions from the entity.~~

23 (22) “Type,” with regard~~respect~~ to an entity, means a generic form of entity:

24 (A) recognized at common law; or

(B) organized under an organic law, whether or not some entities organized under that organic law are subject to provisions of that law that create different categories of the form of entity.

(b) Other definitions. In this section:

(1) “Governance interest” means the right under the organic law or organic rules of an entity, other than as a governor, agent, assignee, or proxy, to:

(A) receive or demand access to information concerning, or the books and records of, the entity;

(B) vote for the election of the governors of the entity; or

(C) receive notice of or vote on any or all issues involving the internal affairs of the entity.

(2) “Interest” means:

(A) a governance interest in an unincorporated entity;

(B) a transferable interest in an unincorporated entity; or

(C) a share or membership in a corporation.

(3) “Organic law” means the statutes, if any, other than this [Act], governing the internal affairs of an entity.

(4) “Organic rules” means the public organic document and private organic rules of an entity.

(5) “Private organic rules” mean the rules, whether or not in a record, that govern the internal affairs of an entity, are binding on all of its interest holders, and are not part of its public organic document, if any.

1 (6) “Transferable interest” means the right under an entity’s organic law to
2 receive distributions from the entity.

3 **Comment**

4
5 **In general.** This section outlines the vocabulary of terms used in the Act.

6
7 All of the definitions in subsection (b), as well as many of the definitions in subsection
8 (a), were developed for use in the Model Entity Transactions Act (META). States that have
9 adopted META should consider arranging their entity laws in such a manner that the definitions
10 in META will apply more broadly and do not need to be repeated in other laws. The definitions
11 that are common to this Act and META are:

12
13 “domestic entity”

14 “entity”

15 “filing entity”

16 “foreign entity”

17 “governance interest”

18 “governor”

19 “interest”

20 “interest holder”

21 “jurisdiction of organization”

22 “nonqualified foreign entity”

23 “organic law”

24 “organic rules”

25 “person”

26 “private organic rules”

27 “public organic document”

28 “qualified foreign entity”

29 “record”

30 “sign”

31 “transferable interest”

32 “type”

33
34 **Subsection (a).** The definitions in subsection (a) are used throughout the Act.

35
36 **“Appointment of agent.” [(1)]** An appointment of agent is an optional filing that may
37 be made by an entity that does not otherwise make a public filing in the state naming an agent for
38 service of process. If a state has not enacted the Uniform Unincorporated Nonprofit Association
39 Act, paragraph (A) should be omitted.

40
41 **“Commercial registered agent.” [(2)]** A commercial registered agent is an individual
42 or entity that is in the business of serving as a registered agent in the state and that files a
43 statement under Section 6. Being listed as a commercial registered agent is voluntary and
44 persons serving as registered agents are not required to be listed under Section 6. The benefits to

1 the registered agent of being listed under Section 6, however, are substantial and most registered
2 agents will elect to be so listed. Although this definition and Section 6 do not require that a
3 foreign entity that is listed as a commercial registered agent be qualified to do business in the
4 state, the activity of serving as a registered agent is one that requires such registration.

5
6 **“Domestic entity.” [(3)]** – The term “domestic entity” in this Act means an entity whose
7 internal affairs are governed by the organic laws of the adopting jurisdiction. Except in the case
8 of general partnerships, this will mean an entity that is formed, organized, or incorporated under
9 domestic law. In the case of a general partnership organized under the Uniform Partnership Act
10 (1997) (“RUPA”), it will mean a general partnership whose governing law under RUPA § 106 is
11 the law of the adopting state. Under RUPA § 106 the governing law is determined by the
12 location of the partnership’s chief executive office, except for limited liability partnerships where
13 the governing law is the state where the statement of qualification is filed.

14
15 **“Entity.” [(4)]** – The term “entity” includes:

- 16 • Business corporation.
- 17 • Business trust.
- 18 • General partnership, whether or not a limited liability partnership.
- 19 • Limited liability company.
- 20 • Limited partnership, whether or not a limited liability limited partnership.
- 21 • Nonprofit corporation.
- 22 • Unincorporated nonprofit association.

23 The term does not include a sole proprietorship.

24
25 This definition is intended to include all forms of private organizations, regardless of
26 whether organized for profit, and artificial legal persons other than those excluded by paragraphs
27 (A) through (E). Thus, this definition is broader than the definition of “business entity” in, e.g.,
28 Code of Ala. § 10-15-2(2) which does not include nonprofit entities. This definition does not
29 exclude regulated entities such as public utilities, banks and insurance companies.

30
31 Inter vivos and testamentary trusts are treated in many states as having a separate legal
32 existence, but they have been excluded from the definition of “entity.” Trusts that carry on a
33 business, however, such as a Massachusetts trust, real estate investment trust, Illinois land trust,
34 or other common law or statutory business trusts are “entities.”

35
36 Section 4 of the Uniform Unincorporated Nonprofit Association Act gives an
37 unincorporated nonprofit association the power to acquire an estate in real property and thus an
38 unincorporated nonprofit association organized in a state that has adopted that act will be an
39 “entity.” At common law, an unincorporated nonprofit association was not a legal entity and did
40 not have the power to acquire real property. Most states that have not adopted the Uniform Act
41 have nonetheless modified the common law rule, but states that have not adopted the Uniform
42 Act should analyze whether they should modify the definition of “entity” to add an express
43 reference to unincorporated nonprofit associations.

44
45 There is some question as to whether a partnership subject to the Uniform Partnership
46 Act (1914) (UPA) is an entity or merely an aggregation of its partners. That question has been

1 resolved by Section 201 of the Uniform Partnership Act (1997) (RUPA), which makes clear that
2 a general partnership is an entity with its own separate legal existence. Section 8 of UPA gives
3 partnerships subject to it the power to acquire estates in real property and thus such a partnership
4 will be an “entity.” As a result, all general partnerships will be “entities” regardless of whether
5 the state in which they are organized has adopted RUPA.

6
7 Paragraph (C) of this definition excludes from the concept of an “entity” any form of co-
8 ownership of property or sharing of returns from property that is not a partnership under RUPA.
9 In that connection, Section 202(c) of RUPA provides in part:

10
11 In determining whether a partnership is formed, the following rules apply:

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

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

18
19 Limited liability partnerships and limited liability limited partnerships are “entities”
20 because they are general partnerships and limited partnerships, respectively, that have made the
21 additional required election claiming LLP or LLLP status. A limited liability partnership is not,
22 therefore, a separate type of entity from the underlying general or limited partnership that has
23 elected limited liability partnership status.

24
25 “Filing entity.” [(5)] – Whether an entity is a filing entity is determined by reference to
26 whether its legal existence is attributable to the filing of a document with the state filing officer.
27 While the statute refers to an entity that is “created,” it is intended to encompass corporations
28 which are “incorporated,” limited liability companies which are “organized,” and limited
29 partnerships which are “formed” by a filing required by the organic law governing the entity.
30 Business trusts present a special problem. In some states, for example, a business trust is a filing
31 entity, while in other states business trusts are recognized only by common law.

32
33 The term does not include a limited liability partnership because an election filed by a
34 general partnership claiming that status (e.g., a statement of qualification under Uniform
35 Partnership Act (1997), § 1001) does not create the entity. A limited liability limited partnership,
36 on the other hand, is a filing entity because the underlying limited partnership is created by filing
37 a certificate of limited partnership.

38
39 This definition is patterned after Model Business Corporation Act § 1.40(9A) (“filing
40 entity”).

41
42 “Foreign entity.” [(6)] – The term “foreign entity” includes any non-domestic entity of
43 any type. Where a foreign entity is a filing entity, the entity is governed by the laws of the state
44 of filing. A nonfiling foreign entity is governed by the laws of the state governing its internal
45 affairs. It is a factual question whether a general partnership whose internal affairs are governed
46 by the Uniform Partnership Act (1914) (UPA) is a domestic or foreign partnership. A UPA

1 partnership will likely be deemed to be a domestic entity where the greatest nexus of contacts are
2 found. The domestic or foreign characterization of partnerships under the Uniform Partnership
3 Act (1997) (RUPA) that have not registered as limited liability partnerships will be governed by
4 RUPA § 106(a) (“state where the partnership’s chief executive office is located”).

5
6 **“Foreign qualification document.” [(7)]** This definition should be construed broadly
7 to include filings in the state that are required when a foreign entity is conducting activities in the
8 state, regardless of whether the process is referred to as “obtaining a certificate of authority to do
9 business,” “qualifying to do business,” “being authorized to transact business,” or some other
10 formulation.

11
12 **“Governor.” [(8)]** – This term has been chosen to provide a way of referring to a person
13 who has the authority under an entity’s organic law to make management decisions regarding the
14 entity that is different from any of the existing terms used in connection with particular types of
15 entities. Compare Colo. § 7-90-102(35.7) which uses the term “manager” to refer to this
16 concept, even though “manager” is also a term of art in connection with limited liability
17 companies. Depending on the type of entity or its organic rules, the governors of an entity may
18 have the power to act on their own authority, or they may be organized as a board or similar
19 group and only have the power to act collectively, and then only through a designated agent. In
20 other words, a person having only the power to bind the organization pursuant to the instruction
21 of the governors is not a governor. Under the organic rules, particularly those of unincorporated
22 entities, most or all of the management decisions may be reserved to the members or partners.
23 Thus, if a manager of a limited liability company were limited to having authority to execute
24 management decisions made by the members and did not have any authority to make
25 independent management decisions, the manager would not be a governor under this definition.

26
27 Except as described above, the term “governor” includes:

- 28 • Director of a business corporation.
- 29 • Director or trustee of a nonprofit corporation.
- 30 • General partner of a general partnership.
- 31 • General partner of a limited partnership.
- 32 • Manager of a limited liability company.
- 33 • Member of a member-managed limited liability company.
- 34 • Trustee of a business trust.

35
36 **“Interest holder.” [(9)]** – This Act does not refer to “equity” interests or “equity”
37 owners or holders because the term “equity” could be confusing in the case of a nonprofit entity
38 whose members do not have an interest in the assets or results of operations of the entity but only
39 have a right to vote on its internal affairs. Compare Code of Ala. § 10-15-2(4) (“equity
40 owner”).

41
42 The term “interest holder” includes:

- 43 • Beneficiary of a business trust.
- 44 • General partner of a general partnership.
- 45 • General partner of a limited partnership.
- 46 • Limited partner of a limited partnership.

- Member of a limited liability company.
- Member of a nonprofit corporation.
- Member of an unincorporated nonprofit association.
- Shareholder of a business corporation.

This definition has been patterned after Model Business Corporation Act § 1.40(13B) (“interest holder”).

“Jurisdiction of organization.” [(10)] – The term “jurisdiction of organization” refers to the jurisdiction whose laws include the organic law of the entity.

“Noncommercial registered agent.” [(11)] A noncommercial registered agent is a person that serves as an agent for process but that is not listed under Section 6. All agents for service of process that are not commercial registered agents are noncommercial registered agents.

“Nonqualified foreign entity.” [(12)] A nonqualified foreign entity is one for which there is no foreign qualification document in effect.

“Nonresident LLP statement.” [(13)] A nonresident LLP statement is the filing that is made by a limited liability partnership under Section 1001 of the Uniform Partnership Act (1997).

“Person.” [(14)] – The term “person” has the standard meaning of that term in uniform acts.

“Public organic document.” [(15)] – A “public organic document” is a document that is filed of public record to form, organize, incorporate, or otherwise create an entity. The term does not include a statement of partnership authority filed under Section 303 of the Uniform Partnership Act (1997) or any of the other statements that may be filed under that act since those statements do not create a new entity. A limited liability partnership is the same entity as the partnership that files the statement. For the same reason, the term also does not include a statement of qualification filed under Section 1001 of that act to become a limited liability partnership. Similarly, the term does not include a statement of authority filed under Section 5 of the Uniform Unincorporated Nonprofit Association Act or a statement appointing an agent filed under Section 10 of that act. Where a public organic document has been amended or restated, the term means the public organic document as last amended or restated.

The term “public organic document” includes:

- Articles of incorporation of a business corporation.
- Articles of incorporation of a nonprofit corporation.
- Certificate of limited partnership.
- Certificate of organization of a limited liability company.

In those states where a deed of trust or other instrument is publicly filed to create a business trust, that filing will constitute a public organic document. But in those states where a business

1 trust is not created by a public filing, the deed of trust or similar document will be part of the
2 private organic rules of the business trust.

3
4 **“Qualified foreign entity” [(16)]** – A qualified foreign entity is one for which there is a
5 foreign qualification document in effect.

6
7 **“Record.” [(17)]** – The term “record” has the standard meaning of that term in uniform
8 acts.

9
10 **“Registered agent.” [(18)]** This term is used in the Act to refer to agents for service of
11 process in contexts where it is not necessary to differentiate between commercial registered
12 agents and noncommercial registered agents.

13
14 **“Registered agent filing.” [(19)]** – Some states require that filings in addition to those
15 listed in this definition, such as articles of amendment or articles of merger, state the registered
16 agent information of the entity making the filing. In states where that is the case, this definition
17 should be amended to add the following additional provision:

18
19 “(E) any other filing with the [Secretary of State] under an entity’s organic law that
20 must include the information required by Section 5(a).”

21
22 **“Represented entity.” [(20)]** This definition lists the various classes of entities for
23 which registered agents act as agents for service of process.

24
25 **“Sign.” [(21)]** – The term “sign” has the standard meaning of that term in uniform acts.

26
27 **“Type.” [(22)]** – The term “type” has been developed in an attempt to distinguish
28 different legal forms of entities. It is sometimes difficult to decide whether one is dealing with a
29 different form of entity or a variation of the same form. For example, a limited partnership,
30 although it has been defined as a partnership, is a different type of entity from a general
31 partnership, while a limited liability partnership is not a different type of entity from a general
32 partnership. In some states cooperative corporations are categories of business corporations or
33 nonprofit corporations, while in other states cooperatives are a separate type of entity.

34
35 **Subsection (b).** The definitions in subsection (b) are used only in the other definitions
36 in this section.

37
38 **“Governance interest” [(1)]** – A governance interest is typically only part of the interest
39 that a person will hold in an entity and is usually coupled with a transferable interest (or
40 economic rights). However, memberships in some nonprofit corporations and unincorporated
41 nonprofit associations consist solely of governance interests and in others may not include either
42 governance interests or transferable interests. In some unincorporated business entities, there is a
43 more limited right to transfer governance interests than there is to transfer transferable interests.
44 An interest holder in such an unincorporated business entity who transfers only a transferable
45 interest and retains the governance interest will also retain the status of an interest holder.

1 Whether a transferee who acquires only a transferable interest will acquire the status of an
2 interest holder is determined by the definition of “interest holder.”

3
4 Shares in a business corporation that are nonvoting nonetheless have a governance
5 interest because they entitle the holder to certain rights of access to information and to certain
6 statutory voting rights on amendments of the articles of incorporation.

7
8 Governors of an entity have the kinds of rights listed in the definition of “governance
9 interest” by reason of their position with the entity. For a governor to have a “governance
10 interest,” however, requires that the governor also have those rights for a reason other than the
11 governor’s status as such. A manager who is not a member in a limited liability company, for
12 example, will not have a governance interest, but a manager who is a member will have a
13 governance interest arising from the ownership of a membership interest.

14
15 “Interest” [(2)] – In the usual case, the interest held by an interest holder will include
16 both a governance interest and a transferable interest (or economic rights). Members in certain
17 nonprofit corporations or unincorporated nonprofit associations generally do not have any
18 transferable interest because they may not receive distributions, but they nonetheless may hold a
19 governance interest in which case they would have the status of interest holders under this Act.
20 An interest holder in an unincorporated business entity may transfer all or part of the interest
21 holder’s transferable interest without the transferee’s acquiring the governance interest of the
22 transferor. In that case, whether the transferor will retain the status of an interest holder will be
23 determined by the applicable organic law and the transferee will have the status of an interest
24 holder under paragraph (B) of this definition. That paragraph will also apply to subsequent
25 transferees from the original transferee.

26
27 The term “interest” includes:

- 28 • Beneficial interest in a business trust.
- 29 • Membership in a nonprofit corporation.
- 30 • Membership in an unincorporated nonprofit association.
- 31 • Membership interest in a limited liability company.
- 32 • Partnership interest in a general partnership.
- 33 • Partnership interest in a limited partnership.
- 34 • Shares in a business corporation.

35
36 “Organic law” [(3)] – Organic law includes statutes other than this Act **that govern the**
37 **internal affairs of an entity.** Entity laws in a few states purport to require that some of their
38 internal governance rules applicable to a domestic entity also apply to a foreign entity with
39 significant ties to the state. *See, e.g.,* Cal. Gen. Corp. Law § 2115, N.Y. N-PCL §§ 1318-1321,
40 15 Pa.C.S. § 6145. Such a “sticky fingers” law is included within the definition of “organic law”
41 for purposes of this Act.

42
43 “Organic rules” [(4)] – The term “organic rules” means an entity’s public organic
44 document and the private organic rules.

1 **“Private organic rules” [(5)]** – The term private “organic rules” is intended to include
2 all governing rules of an entity that are binding on all of its interest holders, whether or not in
3 written form, except for the provisions of the entity’s public organic document, if any. The term
4 is intended to include agreements in “record” form as well as oral partnership agreements and
5 oral operating agreements among LLC members. Where private organic rules have been
6 amended or restated, the term means the private organic rules as last amended or restated.

7
8 The term “private organic rules” includes:

- 9 • Bylaws of a business corporation.
- 10 • Bylaws of a business trust.
- 11 • Bylaws of a nonprofit corporation.
- 12 • Constitution and bylaws of an unincorporated nonprofit association.
- 13 • Operating agreement of a limited liability company.
- 14 • Partnership agreement of a general partnership.
- 15 • Partnership agreement of a limited partnership.

16
17 **“Transferable interest” [(6)]** – The term “transferable interest” is taken from Section
18 102(22) of the Uniform Limited Partnership Act (2001).

19
20 ~~**Section 103. Fees.**~~

21 **SECTION 3. FEES.**

22 (a) Filing fees. The [Secretary of State] shall collect the following fees when a filing is
23 made under this [act]:

<u>document</u>	<u>fee</u>
(1) commercial registered agent listing statement of registration	_____
\$__	
(2) statement of change	\$__
(3) statement of resignation	no fee
(4) designation of agent	_____ <u>(4) statement</u>
<u>appointing an agent for service</u>	
<u>of process</u>	<u>\$__</u>
(5) annual report	_____ <u>\$__</u>
(6) amended annual report	_____ <u>\$__</u>

1 (b) Service of process fee. The [Secretary of State] shall collect a fee of \$__ each time
2 process is served on the [Secretary of State] under this [act]. The party to a proceeding causing
3 service of process is entitled to recover this fee as costs if the party ~~prevails~~is awarded costs in
4 the proceeding.

5 (c) Copy and certification fees. The [Secretary of State] shall collect the following fees
6 for copying and certifying a copy of any document filed under this [act]:

7 (1) \$__ a page for copying; and

8 (2) \$__ for a certificate.

9 **Comment**

10
11 Subsection (a) establishes the filing fees for all documents that may be filed under the
12 Act. The dollar amounts for each filing should be inserted by ~~each~~the adopting state with
13 reference to the filing fees charged for other filings with ~~the~~its Secretary of State.

14
15 Subsection (a)(3) provides that a fee is not required in connection with a filing of a
16 statement of resignation. That permits a person who is named as a registered agent without the
17 person's consent, or who agrees to serve as registered agent for a fee and the fee is not paid, to
18 eliminate any reference to the person in the records of the Secretary of State without expense.

19
20 Subsection (b) makes clear that the fee charged by the Secretary of State when process is
21 served on that office may be recovered as costs in the underlying legal proceeding. Subsection
22 (b) is not framed in terms of the prevailing party being able to recover the cost of the fee because
23 the test for being awarded costs in some actions under entity organic laws is framed in other
24 terms. See, e.g., Section 13.31 of the Model Business Corporation Act on the award of costs in
25 an appraisal rights proceeding.

26
27 Subsection (c) establishes fees for copying and certifying documents filed under the Act.
28 The dollar amounts for these fees should be inserted by ~~each~~the adopting state with reference to
29 the fees charged for those services under the state's various entity laws.

30
31 This section is patterned after Section 1.22 of the Model Business Corporation Act.

32
33 In a state where filing fees are set by rule making, subsections (a) and (c) may be
34 replaced with the statement "The [Secretary of State] shall by rule set fees for filings, and the
35 services provided, under this [act]."

36
37 ~~Section 104. Addresses in filings.~~

SECTION 4. ADDRESSES IN FILINGS. Whenever this [act] requires that a filing ~~to~~ state ~~a street~~an address, the filing must state ~~both~~:

(1) an actual street address ~~in this state~~ or rural route box number in this state;

and

(2) a mailing address in this state, if different ~~than~~from the address under

paragraph (1).

Comment

When this Act requires that a filing state an address, the address used must always be a geographic location. Where a person uses a post office box as its address, paragraph (2) requires that the post office box address also be stated.

1 ~~[ARTICLE] 2~~

2 SECTION 5. APPOINTMENT OF REGISTERED AGENTS AGENT.

3
4 ~~Section 201. Appointment of registered agent.~~

5 (a) General rule. A registered agent filing must state:

6 ~~(1) except as provided in subsection (d), (1) the name of the entity's registered county; and~~

7 ~~(2) either: (A) the name of the represented entity's commercial registered agent; or~~

8 ~~(B) if the entity does not have a commercial registered agent, either:~~

9 ~~(i) A the name and ~~street~~ address of the entity's noncommercial registered~~
10 ~~agent; or~~

11 ~~(ii) B the title of an office or other position with the entity if service of~~
12 ~~process is to be sent to the person holding that office or position, and the ~~street~~ address of the~~
13 ~~business office of that person.~~

14 (b) Consent of registered agent. The ~~designation~~appointment of a registered agent
15 pursuant to subsection (a)(~~2~~)(A1) or (~~a~~)(2)(~~B~~)(iA) is an affirmation by the represented entity that
16 the ~~registered~~ agent has consented to serve as such.

17 (c) Daily listing of filings. The [Secretary of State] ~~must~~shall make available in a record
18 as promptly as practicable a daily list of filings that name a registered agent. The list must be
19 organized by type of filing and list in alphabetical order the names of the registered agents. The
20 list must be kept available for at least two weeks.

21 ~~(d) Transitional rule. If a domestic or foreign entity represented by a noncommercial~~
22 ~~registered agent has not designated a registered county, its registered county is the county in~~
23 ~~which the address of the noncommercial registered agent as set forth in the represented entity's~~
24 ~~most recent registered agent filing is located.~~

25 **Comment**

1
2 Subsection (a)(~~2~~1) gives an entity the option of listing just the name of its commercial
3 registered agent ~~and the name of in~~ its registered ~~county in lieu of listing a registered~~
4 ~~address~~agent filing and omitting the address of the registered agent. If the commercial registered
5 agent subsequently changes its address, that change will be reflected in the filing made by the
6 agent under Section ~~4~~6, but no change will be necessary in the registered agent filing of any of
7 the entities represented by the commercial registered agent. The address of an entity's
8 commercial registered agent may be ascertained from the records of the Secretary of State by
9 consulting its ~~registration~~listing under Section ~~4~~6.

10
11 The address of an entity's noncommercial registered agent is usually not an address of the
12 represented entity. On the other hand, Section ~~35~~32(a)(~~32~~B) permits an entity to designate a
13 person within the organization, such as its general counsel, to serve as its registered agent; and in
14 that circumstance the address of the registered agent may very well be a business address of the
15 represented entity.

16
17 Subsection (a) is a generalization of Section 5.01 of the Model Business Corporation Act,
18 Section 114 of the Uniform Limited Partnership Act, and Section 108 of the Uniform Limited
19 Liability Company Act.

20
21 ~~Section 202. Registration of commercial registered agent.~~

22 **SECTION 6. LISTING OF COMMERCIAL REGISTERED AGENT.**

23 (a) General rule. An individual or a domestic or foreign entity may ~~register~~become
24 listed as a commercial registered agent by filing with the [Secretary of State] a commercial
25 registered agent listing statement ~~of registration~~ signed by or on behalf of the person ~~and~~
26 ~~stating~~that states:

27 (1) the name of the individual or the name, type, and jurisdiction of organization
28 of the entity;

29 (2) that the person is in the business of serving as ~~an~~a commercial registered
30 agent ~~for service of process~~ in this state; and

31 (3) the ~~street~~ address of a place of business of the person in this state to which
32 service of process and other notice and documents being served on or sent to entities represented
33 by it may be delivered.

(b) Effectiveness of statement. A commercial registered agent listing statement-~~of registration~~ takes effect on filing.

~~(c) Transitional rule. If an entity has not designated a registered county and its noncommercial registered agent registers under this section, the registered county of the represented entity is the county in which the address of the registered agent as set forth in the represented entity's most recent registered agent filing is located, but process must be served on the office designated by the commercial registered agent in its filing under this section.~~

Comment

This section is a substantial simplification of practice because it removes the need to amend the filed record of every entity represented by a commercial registered agent when the agent changes its address.

This section is patterned generally after 15 Pa.C.S. § 109.

~~Section 203. Change of registered agent or registered county by entity.~~

SECTION 7. CHANGE OF REGISTERED AGENT BY ENTITY.

(a) General rule. A represented entity may change the information currently on file under ~~section 201~~Section 5(a) by filing with the [Secretary of State] a statement of change signed on behalf of the entity ~~and stating~~that states:

(1) the name of the entity; and

(2) the information ~~required by section 201(a)~~ that is to be in effect as a result of the filing of the statement of change.

(b) Approval of interest holders or governors not required. ~~It is not necessary for the~~The interest holders or governors of a domestic entity ~~to need not~~ approve the filing of:

(1) a statement of change under this section; or

(2) a similar filing changing the registered agent, or registered office, ~~or registered~~

1 ~~county~~ of the entity in any other jurisdiction.

2 (c) Consent of registered agent. The ~~designation~~appointment of a registered agent
3 pursuant to subsection (a) is an affirmation by the represented entity that the ~~registered~~ agent has
4 consented to serve as such.

5 (d) Effectiveness of statement. A statement of change filed under this section takes effect
6 on filing. ~~A statement of change takes effect on filing.~~

7 (e) Nonexclusive procedure. Instead of using the procedures in this section, a represented
8 entity may change ~~its registered agent or registered county~~the information currently on file under
9 Section 5(a) by amending its most recent registered agent filing in the manner provided by
10 ~~law~~the laws of this state other than this [act] for amending that filing.

11 **Comment**

12
13 Changes of the registered agent or ~~registered~~the office ~~of an entity~~address of a registered
14 agent are usually routine matters that do not affect the rights of the interest holders of the entity.
15 This section permits those changes to be made without a formal amendment of an entity's public
16 organic document, without approval of its interest holders, and, indeed, even without formal
17 approval by its governors (i.e., the persons managing the entity's affairs, such as the board of
18 directors of a corporation).

19
20 Subsection (c) avoids the need to file with a statement of change a consent of the new
21 registered agent being designated.

22
23 Subsection (e) makes clear that the procedures in this section are not exclusive. A
24 common way in which an entity changes its registered agent or registered office is to include the
25 change in an amendment of its public organic document.

26
27 Subsection (a) is a generalization of Section 5.02(a) of the Model Business Corporation
28 Act, Section 115 of the Uniform Limited Partnership Act, and Section 109 of the Uniform
29 Limited Liability Company Act. As to subsection (c), compare Section 5.02(a)(5) of the Model
30 Business Corporation Act. Subsection (d) is patterned after Section 115(b) of the Uniform
31 Limited Partnership Act.

32 **SECTION 8. CHANGE OF NAME OR ADDRESS BY NONCOMMERCIAL** 33 **REGISTERED AGENT.** 34

~~Section 204. Change of name or street address by~~ (a) General rule. If a noncommercial registered agent, changes its name or its address as currently in effect with respect to a represented entity pursuant to section 5(a), the agent shall file with the [Secretary of State] a statement of change signed on behalf of the agent that states:

~~(a) General rule. A noncommercial registered agent may change its name or street address as currently in effect with respect to a represented entity pursuant to section 201(a) by filing with the [Secretary of State] a statement of change signed on behalf of the noncommercial registered agent and stating:~~

~~(1) the name and street address of the noncommercial registered agent as currently in effect with respect to the represented entity;~~

~~(2) the name of the represented entity;~~

~~(3) if the name of the noncommercial registered agent has changed, the new name;~~

~~and~~

~~(4) if the street address of the noncommercial registered agent has changed, the new street address.~~

~~(b) Effectiveness of statement. A statement of change takes effect on filing.—~~

(1) the name of the entity;

(2) the name and address of the agent as currently in effect with respect to the entity;

(3) if the name of the agent has changed, its new name; and

(4) if the address of the agent has changed, the new address.

(b) Effectiveness of statement. A statement of change filed under this section takes effect on filing.

(c) Notice to represented entity. ~~The~~A noncommercial registered agent ~~must~~shall promptly furnish the represented entity with notice in a record of the filing of ~~the~~a statement of change and the changes made by the filing.~~(d) Transitional rule. A filing under this section does not change the registered county of the represented entity as determined under section 201(d).~~

Comment

~~Subsection (a)(4) restricts a noncommercial registered agent from changing its address to one located in a different county unless the represented entity has designated a registered county so that the noncommercial registered agent does not have the power to change the county in which venue is to be laid and notices published. If the represented entity has designated a registered county, that restriction does not apply because a change to an address in a different county will not affect the represented entity's registered county. This section permits a noncommercial registered agent to change the information regarding the agent that appears in the registered agent filing of an entity represented by the agent. Because the noncommercial registered agent is not listed under Section 6, the agent will not be able to use the procedures in Section 9 which permit commercial registered agents to make only one filing to change their name and address for all entities represented by them. Thus the noncommercial registered agent will need to make a filing under this section for each entity represented by the agent.~~

This section is patterned after 15 Pa.C.S. § 108.

~~Section 205. Change of name or street address by commercial registered agent.~~

SECTION 9. CHANGE OF NAME OR ADDRESS BY COMMERCIAL REGISTERED AGENT.

(a) General rule. ~~A~~If a commercial registered agent ~~may change~~changes its name or ~~street~~the address as currently ~~registered under section 202(a) by filing~~listed under Section 6(a), the agent shall file with the [Secretary of State] a statement of change signed by or on behalf of the ~~commercial registered agent and stating~~that states:

(1) the name and ~~street~~ address of the ~~commercial registered~~ agent as currently ~~registered~~listed under ~~section 202~~Section 6(a);

1 (2) if the name of the ~~commercial registered~~ agent has changed, the new name;
2 and

3 (3) if the ~~street~~ address of the ~~commercial registered~~ agent has changed, the new
4 ~~street~~ address.

5 (b) Application to all represented entities. The filing of a statement of change under
6 subsection (a) is effective to change the information regarding the commercial registered agent
7 with respect to each entity represented by the ~~commercial registered~~ agent.

8 (c) Effectiveness of statement. A statement of change filed under this section takes effect
9 on filing.

10 (d) Notice to represented entities. ~~The~~A commercial registered agent ~~must~~shall promptly
11 furnish each entity represented by it with notice in a record of the filing of the statement of
12 change and the changes made by the filing.

13 (e) Cancellation of listing. If a commercial registered agent changes its address without
14 filing a statement of change as required by this section, the [Secretary of State] may cancel the
15 listing of the agent under Section 6. As promptly as possible after canceling the listing of an
16 agent, the [Secretary of State] shall give notice in a record to each entity represented by that
17 agent.

18 **Comment**

19
20 This section permits a commercial registered agent to make a single filing that has the
21 effect of changing the name or address of the agent for all of the entities represented by it.

22
23 This section is patterned after 15 Pa.C.S. § 109(b).

24
25 ~~Section 206. Resignation of registered agent.~~

26 **SECTION 10. RESIGNATION OF REGISTERED AGENT.**

1 (a) General rule. A registered agent may resign at any time with respect to a represented
2 entity by filing with the [Secretary of State] a statement of resignation signed by or on behalf of
3 the ~~registered~~-agent ~~and stating~~that states:

4 (1) the name of the ~~represented~~-entity;

5 (2) the name of the ~~registered~~-agent;

6 (3) that the ~~registered~~ agent resigns from serving as agent for service of process
7 for the ~~represented~~-entity; and

8 _____ (4) the name and address of the person to which the agent will send the notice
9 required by subsection (c).

10 (b) Effectiveness of statement. A statement of resignation takes effect on the earlier of
11 the 31st day after the day on which it is filed or the appointment of a new registered agent for the
12 represented entity.

13 (c) Notice to represented entity. The registered agent ~~must~~shall promptly furnish the
14 represented entity with notice in a record of the date on which ~~the~~a statement of resignation was
15 filed.

16 (d) Effect of resignation. When a statement of resignation takes effect, the registered
17 agent ceases to have responsibility for any matter tendered to it as ~~registered~~-agent for the
18 represented entity. A resignation under this section does not affect any contract rights the entity
19 may have against the agent.

20 Comment

21
22 Resignation under this section may be accomplished solely by action of the registered
23 agent and does not require the cooperation or consent of the represented entity. Whether a
24 resignation violates a contract between the registered agent and the represented entity is beyond
25 the scope of this Act and subsection (d) preserves whatever claims a represented entity may have
26 against its registered agent for a wrongful termination. Even if a resignation were to violate such
27 a contract, the resignation would still be effective if the provisions of this section are followed.

1
2 Subsection (b) delays the effectiveness of a statement of resignation for 31 days to allow
3 the notice of the resignation that must be sent under subsection (c) to reach the represented entity
4 and to allow the represented entity to arrange for a substitute registered agent.
5

6 Subsection (a) is a generalization of Section 5.03(a) of the Model Business Corporation
7 Act, Section 116(a) of the Uniform Limited Partnership Act, and Section 110(a) of the Uniform
8 Limited Liability Company Act. Subsection (b) is a generalization of Section 5.03(c) of the
9 Model Business Corporation Act, Section 116(c) of the Uniform Limited Partnership Act, and
10 Section 110(c) of the Uniform Limited Liability Company Act. Subsection (c) is derived from
11 Section 5.03(b) of the Model Business Corporation Act, Section 116(b) of the Uniform Limited
12 Partnership Act, and Section 110(b) of the Uniform Limited Liability Company Act, except that
13 notice under this Act is to be given by the resigning registered agent rather than the Secretary of
14 State.
15

16 **~~Section 207. Designation of agent.~~**

17 ~~(a) General rule. A nonqualified foreign entity may file with the [Secretary of State] a~~
18 ~~statement appointing an agent for service of process, which must be signed on behalf of the~~
19 ~~nonqualified foreign entity and set forth:~~
20

21 **SECTION 11. APPOINTMENT OF AGENT BY NONQUALIFIED FOREIGN**
22 **ENTITY.**

23 (a) General rule. A domestic entity that is not a filing entity or a nonqualified foreign
24 entity may file with the [Secretary of State] a statement appointing an agent for service of
25 process signed on behalf of the entity that states:

26 (1) the name, type, and jurisdiction of organization of the ~~nonqualified foreign~~
27 ~~entity; and~~

28 ~~(2) the information required by section 201(a).~~

29 ~~(b) Effectiveness of statement. A statement appointing an agent for service or process~~
30 ~~takes effect on filing.~~ entity; and

31 (2) the information required by Section 5(a).

1 (b) Effectiveness of statement. A statement appointing an agent for service of process
2 takes effect on filing.

3 (c) Effect of filing. The appointment of a registered agent under this section does not
4 qualify a nonqualified foreign entity to do business in this state, and is not sufficient alone to
5 create personal jurisdiction over the entity in this state.

6 **Comment**

7
8 Filing under this section is elective, and no inference should be drawn from the failure of
9 an entity to make such a filing.

10
11 Subsection (a) is patterned after Section 10 of the Uniform Unincorporated Nonprofit
12 Association Act.

13
14 **~~Section 208. Service of process on entities.~~**

15 **SECTION 12. SERVICE OF PROCESS ON ENTITIES.**

16 (a) General rule. A registered agent is an agent of the represented entity authorized to
17 receive service of any process, notice, or demand required or permitted by law to be served on
18 the entity.

19 (b) Service in absence of registered agent. If an entity that ~~has~~ previously filed a
20 registered agent filing with the [Secretary of State] ~~a registered agent filing~~ no longer has a
21 registered agent, or if its registered agent cannot with reasonable diligence be served, the entity
22 may be served ~~option 1:~~ by registered or certified mail, return receipt requested, addressed to
23 the governors of the entity by name at its principal office in accordance with any applicable rules
24 and procedures. The names of the governors and the address of the principal office may be as
25 shown in the most recent annual report filed with the [Secretary of State]. Service is perfected
26 under this subsection at the earliest of:

27 (1) the date the entity receives the mail;

1 (2) the date shown on the return receipt, if signed on behalf of the entity; or

2 (3) five days after its deposit ~~in~~with the United States ~~Mail~~Postal Service, if
3 correctly addressed with sufficient postage.}

4 ~~{option 2: by delivering to the [Secretary of State] duplicate copies of the document being~~
5 ~~served. The [Secretary of State] must forward one of the copies by registered or certified mail,~~
6 ~~return receipt requested, to the entity at the most current street address for the entity shown on~~
7 ~~the records of the [Secretary of State]. The [Secretary of State] must keep a record of each~~
8 ~~document served pursuant to this subsection and record the time of, and the action taken~~
9 ~~regarding, the service. Service is perfected under this subsection at the earliest of:~~

10 ~~(1) the date the entity receives the mail;~~

11 ~~(2) the date shown on the return receipt, if signed on behalf of the entity; or~~

12 ~~(3) five days after its deposit in the United States Mail, if correctly addressed.]~~

13 ~~{option 3: insert other state specific language regarding substituted service}.~~

14 ~~(c) Other means of service. This section does not prescribe the only means, or~~
15 ~~necessarily the required means, of serving an entity.~~

16 **Comment**

17 (c) Service on unrepresented entities. If process, notice, or demand cannot be served on
18 an entity pursuant to subsection (a) or (b), service of process may be made by handing a copy to
19 the manager, clerk or other person in charge of any regular place of business or activity of the
20 entity if the person served is not a plaintiff in the action.

21 (d) Form of service. Service of process, notice, or demand on a registered agent must be
22 in the form of a written document, except that service may be made on a commercial registered
23 agent in such other forms of a record, and subject to such requirements, as the agent has
24 announced publicly from time to time it will accept.

1 (e) Other means of service. Service of process, notice, or demand may be perfected by
2 any other means prescribed by law other than this [act].

3 Comment

4
5 ~~Subsection (c) makes clear that service may be perfected by any other means specified by~~
6 ~~applicable statutes or rules.~~

7 Subsection (c) provides a means for serving process on an entity that cannot be served
8 under subsection (a) or (b). A relatively common example of such a situation is where a
9 nonqualified foreign entity is the surviving entity in a merger and a lawsuit is brought arising
10 from conduct by a nonsurviving party to the merger. Some entity organic laws require that
11 service of process in that circumstance be made on the Secretary of State, but that leaves
12 unresolved the question of what the Secretary of State should do with the process. Subsection
13 (c) is patterned after Pa. R.Civ.Proc. 423(3) and 424(2). A similar approach is taken by Fed.
14 R.Civ.Proc. 4(h)(1).

15
16 Subsections (a) and (~~ed~~) are a generalization of Section 5.04(a) and (c) of the Model
17 Business Corporation Act, Section 117(a) and (f) of the Uniform Limited Partnership Act, and
18 Section 111(a) and (e) of the Uniform Limited Liability Company Act. ~~Option 1 for~~
19 ~~subsection~~Subsection (b) is a generalization of Section 5.04(b) of the Model Business
20 Corporation Act. ~~Option 2 for subsection (b) is a generalization of Section 117(c) — (e) of the~~
21 ~~Uniform Limited Partnership Act and Section 111(c) and (d) of the Uniform Limited Liability~~
22 ~~Company Act.~~

23 ~~Section 209. Duty of registered agent.~~

24
25 ~~The sole~~ SECTION 13. DUTIES OF REGISTERED AGENT. ~~The only~~ duties ~~to a~~
26 ~~represented entity~~under this [act] of a registered agent who has complied with this [act] are ~~to~~:

27 (1) to forward to the represented entity at ~~its last known~~the address most recently
28 supplied to the agent by the entity any ~~notice~~, process, notice, or demand that is served on the
29 ~~registered agent; and~~

30 (2) to provide the notices required by this [act] to the ~~represented~~ entity at ~~its last~~
31 ~~known~~the address ~~;~~ most recently supplied to the agent by the entity;

32 ~~Comment~~

~~[ARTICLE] 3~~
~~ENTITY ANNUAL REPORTS~~

~~Section 301. Annual report required.~~

~~(a) Filing of annual report.~~ Each domestic filing entity, domestic limited liability partnership, or qualified foreign entity must file with the [secretary of state] an annual report signed on behalf of the entity and stating:

~~(1) the name of the entity;~~

~~(2) its jurisdiction of organization [and the date of its organization];~~

~~(3) the information required by section 201;~~

~~(4) the address of its principal executive office, wherever located;~~

~~(5) the names of:~~

~~(A) in the case of a corporation, the president or chief executive officer, the treasurer or chief financial officer, and the directors or, in the case of a statutory close corporation without directors, the shareholders;~~

~~(B) in the case of a limited liability company, the managers or, if there are no managers, the members;~~

~~(C) in the case of a limited partnership or domestic limited liability partnership, the general partners; and~~

~~(D) in the case of a [business] [statutory] trust, the trustees.~~

~~[(6) A brief statement of the character of the business in which the entity is actually engaged in this State, if any.]~~

~~——(b) Information current.~~ The information in the annual report must be current as of the date the report is filed.

~~_____ (c) Time of filing. An annual report must be filed between January 1 and April 1 of each year following the year in which:~~

~~(1) a domestic filing entity is created;~~

~~(2) a domestic limited liability partnership files a statement of qualification; or~~

~~(3) a qualified foreign entity is first authorized to transact business in this state.~~

Comment

~~Section 302. Failure to file annual report.~~

~~(a) Penalty. An entity that fails to file an annual report as required by section 301 must pay, in addition to the fee set forth in section 103, a late filing penalty of [_____].~~

~~(b) Dissolution or revocation. If an entity fails to file an annual report within 60 days after it is due under section 301 or to pay within that time the annual report fee set forth in section ____ and the penalty required under subsection (a), the [Secretary of State] may:~~

~~(1) if the entity is a domestic filing entity, dissolve the entity in accordance with the provisions for administrative dissolution in the entity's organic law;~~

~~(2) if the entity is a domestic limited liability partnership, revoke its statement of qualification as provided in its organic law; or~~

~~(3) if the entity is a qualified foreign entity, revoke its authority to transact business in this State in accordance with the provisions for revocation in the law of this State that is the organic law of that type of entity.~~

~~(c) Reinstatement. If an entity is dissolved or its statement of qualification or authority to transact business is revoked, the entity may have its good standing, statement of qualification, or authority to transact business reinstated in accordance with the law of this State.~~

1 **Comment**

2
3
4
5 **~~Section 303. Amended annual report.~~**

6 ~~If the information contained in an annual report filed under section 301 has changed, the~~
7 ~~entity may file with the [Secretary of State] an amended annual report. The amended annual~~
8 ~~report must be signed on behalf of the entity and set forth:~~

9 ~~(1) the name of the entity;~~

10 ~~(2) its jurisdiction of organization;~~

11 ~~(3) the information required by section 201;~~

12 ~~(4) the date on which the annual report being amended was filed; and~~

13 ~~(5) the information that has changed and the date on which it changed.~~

14 **Comment**

15 (3) if the agent is a noncommercial registered agent, to keep current the
16 information required by Section 5(a) in the most recent registered agent filing for the entity; and

17 (4) if the agent is a commercial registered agent, to keep current the information
18 listed for it under Section 6(a).

19 **Comment**

20
21 **~~Section 304. Forms.~~**

22 ~~The [Secretary of State] may prescribe and furnish on request a form of annual report. If~~
23 ~~the [Secretary of State] so requires, use of the form is mandatory.~~

24 **Comment**

25 This section is limited to prescribing the duties of a registered agent under this Act. An
26 agent may undertake other responsibilities to a represented entity, such as by contract or course
27 of dealing, but those duties will be determined under other law.

28
29 **SECTION 14. JURISDICTION AND VENUE.** The appointment or maintenance in
30 this state of a registered agent does not by itself create the basis for personal jurisdiction over the

1 represented entity in this state. The address of the agent does not determine venue in an action or
2 proceeding involving the entity.

3 **Comment**

4
5

1 ~~[ARTICLE] 4~~

2 ~~MISCELLANEOUS PROVISIONS~~

3 As discussed in the Introduction to the Act, one of the purposes of the Act is to eliminate
4 the registered office address as a means of determining where venue is to be laid in an action
5 involving a represented entity. Consistent with that purpose, this section makes clear that the
6 address of a registered agent does not determine venue. This section may be inconsistent with
7 other law or procedural rules in a state, and thus existing law on venue should be reviewed when
8 this Act is considered for adoption in a state. Compare *Cooper v. Chevron U.S.A., Inc.*, 132
9 N.M. 382, 49 P.3d 61 (N.M. 2002) (applying New Mexico statute permitting venue “in the
10 county where the statutory agent designated by the foreign corporation resides”).

11
12 ~~Section 401. Consistency of application.~~

13 SECTION 15. CONSISTENCY OF APPLICATION. In applying and construing this
14 [act], consideration must be given to the need to promote consistency of the law with respect to
15 its subject matter among states that enact it.

16 Comment

17
18 A provision similar to this section is included in each uniform act promulgated by the
19 Conference. Because this Act is not a uniform act, however, the usual formulation of this section
20 has been changed from “uniformity” of application to “consistency” of application to promote
21 the same policy while recognizing the different nature of this Act.

22
23 ~~Section 402. Relation to Electronic Signatures in Global and National Commerce Act.~~

24 SECTION 15. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND
25 NATIONAL COMMERCE ACT. This [act] modifies, limits, and supersedes the federal
26 Electronic Signatures in Global and National Commerce Act (15 U.S.C. Section 7001, et seq.),
27 but does not modify, limit, or supersede Section 101(c) of that act (15 U.S.C. Section 7001(c)) or
28 authorize delivery of any of the notice described in Section 103(b) of that act (15 U.S.C. Section
29 7003(b)).

30
31 ~~Section 403. Effective date.~~

32 ~~This [act] takes effect [January 1, 20__].~~

1 ~~Section 404. Savings clause.~~

2 SECTION 16. SAVINGS CLAUSE. This [act] does not affect an action or proceeding
3 commenced or right accrued before the effective date of this [act].

4

5

1
2
3
4

Appendix

SECTION 17. EFFECTIVE DATE. This [act] takes effect_____.

1 APPENDIX

2 Conforming Amendments and Repeals

3 CONFORMING AMENDMENTS AND REPEALS

4

5

6

7 ~~Section A1. Model Business Corporation Act~~

8 SECTION A1. MODEL BUSINESS CORPORATION ACT

9 (a) Sections ~~1.21~~, 1.22, 1.25, 1.26, ~~1.28, 1.40~~, 1.41, and 2.02 of the Model Business

10 Corporation Act are amended to read:

11 ~~§ 1.21. Forms.~~

12 ~~(a) —The secretary of state may prescribe and furnish on request forms for: (1) an~~

13 ~~application for a certificate of existence, (2) a foreign corporation's application for a certificate~~

14 ~~of authority to transact business in this state, and (3) a foreign corporation's application for a~~

15 ~~certificate of withdrawal[, and (4) the annual report]. If the secretary of state so requires, use~~

16 ~~of these forms is mandatory.~~

17 * * *

18 § 1.22. Filing, service, and copying fees.

19 (a) The secretary of state shall collect the following fees when the documents

20 described in this subsection are delivered to him for filing:

21 * * *

22 [(7) Corporation's statement of change of registered agent or

23 registered office or both

\$__

24 (8) Agent's statement of change of registered office for

25 each affected corporation not to exceed a total of ____

\$__

26 (9) Agent's statement of resignation

no fee]

27 * * *

28 ~~[(23) Annual report] _____ \$__]~~

29 * * *

30 § 1.25. Filing duty of Secretary of State.

31 * * *

32 (b) The secretary of state files a document by recording it as filed on the date and

33 time of receipt. After filing a document, except as provided in [sections 5.03 and] section 15.10,

34 the secretary of state shall deliver to the domestic or foreign corporation or its representative a

35 copy of the document with an acknowledgement of the date and time of filing.

36 * * *

37 § 1.26. Appeal from Secretary of State's refusal to file document.

38 (a) If the secretary of state refuses to file a document delivered to his office for filing,

39 the domestic or foreign corporation may appeal the refusal within 30 days after the return of the

40 document to the [name or describe] court [of the county where the corporation's principal office

41 is or will be located (or, if none in this state, [its registered office] is or will be located] ~~of its~~

1 ~~registered county~~ [] of _____ county []]. The appeal is commenced by petitioning the court to
2 compel filing the document and by attaching to the petition the document and the secretary of
3 state's explanation of his refusal to file.

4 * * *

5 ~~§ 1.28. Certificate of existence.~~

6 * * *

7 ~~(b) — A certificate of existence or authorization sets forth:~~

8 * * *

9 ~~(4) — that its most recent annual report required by [section 16.21] [section 301~~
10 ~~of the Model Registered Agents and Entity Annual Reports Act] has been delivered to the~~
11 ~~secretary of state;~~

12 * * *

13 ~~§ 1.40. Act definitions.~~

14 ~~In this Act:~~

15 ~~(1) — “Articles of incorporation” means the original articles of incorporation, all~~
16 ~~amendments thereof, and any other documents permitted or required to be filed by a~~
17 ~~domestic business corporation with the secretary of state under any provision of this Act~~
18 ~~[except section 16.21]. If an amendment of the articles or any other document filed~~
19 ~~under this Act restates the articles in their entirety, thenceforth the “articles” shall not~~
20 ~~include any prior documents.~~

21 ~~* * *(19A) — “Registered county” means the county identified or determined as such~~
22 ~~pursuant to [section 201 of the Model Registered Agents and Entity Annual Reports Act].~~

23 * * *

24 § 1.41. Notice.

25 * * *

26 (d) Written notice to a domestic or foreign corporation (authorized to transact
27 business in this state) may be addressed to its registered agent [**at its registered office**] or to the
28 corporation or its secretary at its principal office shown in its most recent annual report or, in the
29 case of a foreign corporation that has not yet delivered an annual report, in its application for a
30 certificate of authority.

31 * * *

32 § 2.02. Articles of incorporation.

33 (a) The articles of incorporation must set forth:

34 * * *

35 (3) [**the street address of the corporation's initial registered office and the**
36 **name of its initial registered agent at that office**] the information required by [Section
37 ~~2015(a) of the Model Registered Agents and Entity Annual Reports Act~~]; and

38 * * *

39
40 (b) Chapter 5 of the Model Business Corporation Act is repealed.

41 (c) Sections 7.03, 7.20, 8.09, 10.05, 11.07, 13.30, 14.07, 14.08, 14.20, 14.21, 14.22,
42 14.23, 14.31, 15.03 and 15.04 of the Model Business Corporation Act are amended to read:

43 § 7.03. Court-ordered meeting.

1 (a) The [name or describe] court of the county where a corporation's principal office
2 is located (or, if none in this state, **[its registered office) is located]** of ~~its registered~~
3 county) may summarily order a meeting to be held:

4 * * *

5 § 7.20. Shareholders' list for meeting.

6 * * *

7 (d) If the corporation refuses to allow a shareholder, his agent, or attorney to inspect
8 the shareholders' list before or at the meeting (or copy the list as permitted by subsection (b)),
9 the [name or describe] court of the county where a corporation's principal office is located (or, if
10 none in this state, **[its registered office) is located]** of ~~its registered~~ county), on
11 application of the shareholder, may summarily order the inspection or copying at the
12 corporation's expense and may postpone the meeting for which the list was prepared until the
13 inspection or copying is complete.

14 * * *

15 § 8.09. Removal of directors by judicial proceeding.

16 (a) The [name or describe] court of the county where a corporation's principal office
17 is located (or, in none in this state, **[its registered office) is located]** of ~~its registered~~
18 county) may remove a director of the corporation from office in a proceeding commenced by or
19 in the right of the corporation if the court finds that (1) the director engaged in fraudulent
20 conduct with respect to the corporation or its shareholders, grossly abused the position of
21 director, or intentionally inflicted harm on the corporation; and (2) considering the director's
22 course of conduct and the inadequacy of other available remedies, removal would be in the best
23 interest of the corporation.

24 * * *

25 § 10.05. Amendment by board of directors.

26 Unless the articles of incorporation provide otherwise, a corporation's board of directors
27 may adopt amendments to the corporation's articles of incorporation without shareholder
28 approval:

29 * * *

30 (3) **[to delete the name and address of the initial registered agent or**
31 **registered office, if a statement of change is on file with the secretary of state;]** to
32 change the information required by [section 2015(a) of the Model Registered Agents
33 Entity Annual Reports Act];

34 * * *

35 § 11.07. Effect of merger or share exchange.

36
37 (d) Upon a merger becoming effective, a foreign corporation, or a foreign eligible
38 entity, that is the survivor of the merger is deemed to:

39 (1) [appoint the secretary of state as its agent for] agree that service or
40 process in a proceeding to enforce the rights of shareholders of each domestic corporation
41 that is a party to the merger who exercise appraisal rights may be made in the manner
42 provided in [Section 12 of the Model Registered Agents Act], and

43 * * *

44 § 13.30. Court action.

45 * * *

(b) The corporation shall commence the proceeding in the appropriate court of the county where the corporation's principal office is located (or, if none[, **its registered office**) **in this state is located**] in this state, of ~~its registered~~ county). If the corporation is a foreign corporation ~~[without a registered [office in this state]-county]~~, it shall commence the proceeding in the county in this state where the principal office **[or registered office]** of the domestic corporation merged with the foreign corporation was located ~~or in the registered county~~ ~~of, if the domestic corporation did not have its principal office in this state~~ at the time of the transaction, in county.

* * *

§ 14.07. Other claims against dissolved corporation.

* * *

(b) The notice must:

(1) be published one time in a newspaper of general circulation in the county where the dissolved corporation's principal office is or was last located (or, ~~in~~if none in this state, **[its registered office] is or was last located**) of its last registered county).

* * *

§ 14.08. Court proceedings.

(a) A dissolved corporation that has published a notice under section 14.07 may file an application with the [name or describe] court of the county where the dissolved corporation's principal office is located (or, if none in this state, **[its registered office] is located**) of its registered county) for a determination of the amount and form of security to be provided for payment of claims that are contingent or have not been made known to the dissolved corporation or that are based on an event occurring after the effective date of dissolution but that, based on the facts known to the dissolved corporation, are reasonably estimated to arise after the effective date of dissolution. Provision need not be made for any claim that is or is reasonably anticipated to be barred under section 14.07(c).

* * *

§ 14.20. Grounds for administrative dissolution.

The secretary of state may commence a proceeding under section 14.21 to administratively dissolve a corporation if:

* * *

(3) the corporation is without a registered agent **[or registered office]** in this state for 60 days or more;

(4) the corporation does not notify the secretary of state within 60 days that its registered agent **[or registered office]** has been changed, or that its registered agent has resigned[, **or that its registered office has been discontinued**]; or

* * *

§ 14.21. Procedure for and effect of administrative dissolution.

(a) If the secretary of state determines that one or more grounds exist under section 14.20 for dissolving a corporation, he shall serve the corporation with written notice of his determination **[under section 5.04]**.

(b) If the corporation does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the secretary of state that each ground determined by the secretary of state does not exist within 60 days after service of the notice is perfected **[under section 5.04]**, the secretary of state shall administratively dissolve the corporation by signing a certificate

1 of dissolution that recites the ground or grounds for dissolution and its effective date. The
2 secretary of state shall file the original of the certificate and serve a copy on the corporation
3 **[under section 5.04]**.

4 * * *

5 § 14.22. Reinstatement following administrative dissolution.

6 * * *

7 (b) If the secretary of state determines that the application contains the information
8 required by subsection (a) and that the information is correct, he shall cancel the certificate of
9 dissolution and prepare a certificate of reinstatement that recites his determination and the
10 effective date of reinstatement, file the original of the certificate, and serve a copy on the
11 corporation **[under section 5.04]**.

12 * * *

13 § 14.23. Appeal from denial of reinstatement.

14 (a) If the secretary of state denies a corporation's application for reinstatement
15 following administrative dissolution, he shall serve the corporation **[under section 5.04]** with a
16 written notice that explains the reason or reasons for denial.

17 * * *

18 § 14.31. Procedure for judicial dissolution.

19 (a) Venue for a proceeding by the attorney general to dissolve a corporation lies in
20 [name the county or counties]. Venue for a proceeding brought by any other party named in
21 section 14.30 lies in the county where a corporation's principal office is or was last located (or, if
22 none in this state, **[its registered office) is or was last located]** ~~of its last registered~~
23 ~~county).~~

24 * * *

25 § 15.03. Application for certificate of authority.

26 (a) A foreign corporation may apply for a certificate of authority to transact business
27 in this state by delivering an application to the secretary of state for filing. The application must
28 set forth:

29 * * *

30 (5) **[the address of its registered office in this state and the name of its**
31 **registered agent at that office]** the information required by [Section ~~2015~~(a) of the
32 Model Registered Agents ~~and Entity Annual Reports Act]~~; and

33 * * *

34 § 15.04. Amended certificate of authority.

35 (a) A foreign corporation authorized to transact business in this state must obtain an
36 amended certificate of authority from the secretary of state if it changes:

37 (1) its corporate name;

38 (2) the period of its duration; **[or]**

39 (3) any of the information required by [Section ~~2015~~(a) of the Model
40 Registered Agents ~~and Entity Annual Reports Act]~~; or

41 (4) the state or country of its incorporation.

42 * * *

43 (d) Sections 15.07, 15.08, and 15.09 of the Model Business Corporation Act are

44 repealed.

(e) Sections 15.30, ~~16.01, 16.04~~ 16.04, 16.05, and ~~16.05~~ 16.21 of the Model Business Corporation Act are amended to read:

§ 15.30. Grounds for revocation.

The secretary of state may commence a proceeding under section 15.31 to revoke the certificate of authority of a foreign corporation authorized to transact business in this state if:

* * *

(3) the foreign corporation is without a registered agent **[or registered office]** in this state for 60 days or more;

(4) the foreign corporation does not inform the secretary of state **[under section 15.08 or 15.09]** by an appropriate filing that its registered agent **[or registered office]** has changed, or that its registered agent has resigned~~f~~, **[or that its registered office has been discontinued]** within 60 days of the change[, or resignation[, or discontinuance];

* * *

~~§ 16.01. Corporate records.—~~

~~* * *~~

~~(e) —A corporation shall keep a copy of the following records at its principal office:~~

~~* * *~~

~~(7) —its most recent annual report delivered to the secretary of state under [section 16.21] [section 301 of the Model Registered Agents and Entity Annual Reports Act].~~

§ 16.04. Court-ordered inspection.

(a) If a corporation does not allow a shareholder who complies with section 16.02(a) to inspect and copy any records required by that subsection to be available for inspection, the [name or describe court] of the county where the corporation's principal office is located (or, if none in this state, **[its registered office) is located]** ~~of its registered~~ county) may summarily order inspection and copying of the records demanded at the corporation's expense upon application of the shareholder.

(b) If a corporation does not within a reasonable time allow a shareholder to inspect and copy any other record, the shareholder who complies with sections 16.02(b) and (c) may apply to the [name or describe court] in the county where the corporation's principal office is located (or, if none in this state, **[its registered office) is located]** ~~of its registered~~ county) for an order to permit inspection and copying of the records demanded. The court shall dispose of an application under this subsection on an expedited basis.

* * *

§ 16.05. Inspection of records by directors.

* * *

(b) The [name or describe the court] of the county where the corporation's principal office is located (or, if none in this state, **[its registered office) is located]** ~~of its registered~~ county) may order inspection and copying of the books, records and documents at the corporation's expense, upon application of a director who has been refused such inspection rights, unless the corporation establishes that the director is not entitled to such inspection rights. The court shall dispose of an application under this subsection on an expedited basis.

~~(f) Section 16.21 of the Model Business Corporation Act is repealed.~~
§ 16.21. Annual report for Secretary of State.
(a) Each domestic corporation, and each foreign corporation authorized to transact business in this state, shall deliver to the secretary of state for filing an annual report that sets forth:
(1) the name of the corporation;
(2) ~~[and the state or country]~~ the jurisdiction under whose law it is incorporated;
~~[(2)]~~ (3) ~~[the address of its registered office and the name of its registered agent at that office in this state]~~ the information required by ~~[section 5(a) of the Model Registered Agents Act]~~;
~~[(3)]~~ (4) the address of its principal office, wherever located;
~~[(4)]~~ (5) the names ~~[and business addresses]~~ of its ~~[directors and]~~ principal officers; and
(6) the names of its directors, except that in the case of a statutory close corporation without directors the annual report shall set forth the names of the shareholders instead.
(5) a brief description of the nature of its business;
(6) the total number of authorized shares, itemized by class and series, if any, within such class; and
(7) the total number of issued and outstanding shares, itemized by class and series, if any, within each class.]
* * *

~~Section A2. Model Nonprofit Corporation Act~~
SECTION A2. MODEL NONPROFIT CORPORATION ACT

(a) Sections ~~1.21~~, 1.22, 1.25, 1.26, ~~1.28~~, ~~1.40~~, and 2.02 of the Model Nonprofit Corporation Act are amended to read:

§ 1.21. Forms.

~~(a) The secretary of state may prescribe and furnish on request forms for: (1) an application for a certificate of existence, (2) a foreign corporation's application for a certificate of authority to transact business in this state, and (3) a foreign corporation's application for a certificate of withdrawal[, and (4) the annual report]. If the secretary of state so requires, use of these forms is mandatory.~~

~~* * *~~

§ 1.22. Filing, service, and copying fees.

(a) The secretary of state shall collect the following fees when the documents described in this subsection are delivered to him for filing:

* * *

[(7) Corporation's statement of change of registered agent or registered office or both

\$__

(8) Agent's statement of change of registered office for

1 each affected corporation not to exceed a total of _____ \$__
2 (9) Agent's statement of resignation no fee]
3 * * *
4 [(23) Annual report \$__]
5 * * *

6 § 1.25. Filing duty of Secretary of State.

7 * * *
8 (b) The secretary of state files a document by stamping or otherwise endorsing
9 "Filed," together with the secretary of state's name and official title and the date and time of
10 receipt, on both the original and copy of the document and on the receipt for the filing fee. After
11 filing a document, except as provided in [sections 5.03 and] section 15.10, the secretary of state
12 shall deliver the document copy, with the filing fee receipt (or acknowledgement of receipt if no
13 fee is required) attached, to the domestic or foreign corporation or its representative.

14 * * *
15 § 1.26. Appeal from Secretary of State's refusal to file document.

16 (a) If the secretary of state refuses to file a document delivered for filing to the
17 secretary of state's office, the domestic or foreign corporation may appeal the refusal to the
18 [name or describe] court in the county where the corporation's principal office is or will be
19 located, or if there is none in this state, [its registered office, is or will be located] of its
20 registered _____ county. The appeal is commenced by petitioning the court to compel
21 filing the document and by attaching to the petition the document and the secretary of state's
22 explanation of his refusal to file.

23 * * *
24 ~~§ 1.28. Certificate of existence.~~

25 * * *
26 ~~(b) — The certificate of existence sets forth:~~

27 * * *
28 ~~(4) — that its most recent annual report required by [section 16.22] [section 301~~
29 ~~of the Model Registered Agents and Entity Annual Reports Act] has been delivered to the~~
30 ~~secretary of state;~~

31 * * *
32 ~~§ 1.40. Act definitions.~~

33 ~~In this Act:~~

34 * * *
35 ~~(29A) "Registered county" means the county identified or determined as such~~
36 ~~pursuant to [section 201 of the Model Registered Agents and Entity Annual Reports Act].~~

37 * * *
38 § 2.02. Articles of incorporation.

39 (a) The articles of incorporation must set forth:

40 * * *
41 (3) [the street address of the corporation's initial registered office and the
42 name of its initial registered agent at that office] the information required by [Section
43 2015(a) of the Model Registered Agents and Entity Annual Reports Act]; and

44 * * *
45 (b) Chapter 5 of the Model Nonprofit Corporation Act is repealed.
46

(c) Sections 7.03, 7.20, 10.02, 11.06, 14.08, 14.20, 14.21, 14.22, 14.23, 14.31, 15.03 and 15.04 of the Model Nonprofit Corporation Act are amended to read:

§ 7.03. Court-ordered meeting.

(a) The [name or describe] court of the county where a corporation's principal office is located (or, if none in this state, **[its registered office) is located]** ~~of its registered~~ county) may summarily order a meeting to be held:

* * *

§ 7.20. Members' list for meeting.

* * *

(d) If the corporation refuses to allow a member, a member's agent, or attorney to inspect the list of members before or at the meeting (or copy the list as permitted by subsection (b)), the [name or describe] court of the county where a corporation's principal office is located (or, if none in this state, **[its registered office) is located]** ~~of its registered~~ county, on application of the member, may summarily order the inspection or copying at the corporation's expense and may postpone the meeting for which the list was prepared until the inspection or copying is complete and may order the corporation to pay the member's costs (including reasonable counsel fees) incurred to obtain the order.

* * *

§ 10.02. Amendment by directors.

(a) Unless the articles provide otherwise, a corporation's board of directors may adopt one or more amendments to the corporation's articles without member approval:

* * *

(3) **[to delete the name and address of the initial registered agent or registered office, if a statement of change is on file with the secretary of state;] to change the information required by [section ~~201~~5(a) of the Model Registered Agents-~~and~~ Entity Annual Reports Act];**

* * *

§ 11.06. Merger with foreign corporation.

* * *

(b) Upon the merger taking effect, the surviving foreign business or nonprofit corporation [is deemed to have irrevocably appointed the secretary of state as its agent for service of process] may be served with process in any proceeding brought against it as provided in [Section 12 of the Model Registered Agents Act].

§ 14.08. Unknown claims against dissolved corporation.

* * *

(b) The notice must:

(1) be published one time in a newspaper of general circulation in the county where the dissolved corporation's principal office is or was last located (or, in none in this state, **[its registered office) is or was last located]** ~~of its last registered~~ county.

* * *

§ 14.20. Grounds for administrative dissolution.

The secretary of state may commence a proceeding under section 14.21 to administratively dissolve a corporation if:

1 * * *

2 (3) the corporation is without a registered agent [**or registered office**] in this
3 state for 60 days or more;

4 (4) the corporation does not notify the secretary of state within 120 days that
5 its registered agent [**or registered office**] has been changed, or that its registered agent
6 has resigned[, **or that its registered office has been discontinued**]; or

7 * * *

8 § 14.21. Procedure for and effect of administrative dissolution.

9 (a) Upon determining that one or more grounds exist under section 14.20 for
10 dissolving a corporation, the secretary of state shall serve the corporation with written notice of
11 that determination [**under section 5.04**], and in the case of a public benefit corporation shall
12 notify the attorney general in writing..

13 (b) If the corporation does not correct each ground for dissolution or demonstrate to
14 the reasonable satisfaction of the secretary of state that each ground determined by the secretary
15 of state does not exist within at least 60 days after service of the notice is perfected [**under**
16 **section 5.04**], the secretary of state may administratively dissolve the corporation by signing a
17 certificate of dissolution that recites the ground or grounds for dissolution and its effective date.
18 The secretary of state shall file the original of the certificate and serve a copy on the corporation
19 [**under section 5.04**], and in the case of a public benefit corporation shall notify the attorney
20 general in writing.

21 * * *

22 § 14.22. Reinstatement following administrative dissolution.

23 * * *

24 (b) If the secretary of state determines that the application contains the information
25 required by subsection (a) and that the information is correct, the secretary of state shall cancel
26 the certificate of dissolution and prepare a certificate of reinstatement reciting that determination
27 and the effective date of reinstatement, file the original of the certificate, and serve a copy on the
28 corporation [**under section 5.04**].

29 * * *

30 § 14.23. Appeal from denial of reinstatement.

31 (a) The secretary of state, upon denying a corporation's application for reinstatement
32 following administrative dissolution, shall serve the corporation [**under section 5.04**] with a
33 written notice that explains the reason or reasons for denial.

34 * * *

35 § 14.31. Procedure for judicial dissolution.

36 (a) Venue for a proceeding by the attorney general to dissolve a corporation lies in
37 [name the county or court]. Venue for a proceeding brought by any other party named in section
38 14.30 lies in the county where a corporation's principal office is or was last located (or, if none
39 in this state, [**its registered office**) **is or was last located**] of ~~its last registered~~
40 county).

41 * * *

42 § 15.03. Application for certificate of authority.

43 (a) A foreign corporation may apply for a certificate of authority to transact business
44 in this state by delivering an application to the secretary of state. The application must set forth:

45 * * *

(5) [the address of its registered office in this state and the name of its registered agent at that office] the information required by [Section 2015(a) of the Model Registered Agents ~~and Entity Annual Reports Act~~]; and

* * *

§ 15.04. Amended certificate of authority.

(a) A foreign corporation authorized to transact business in this state must obtain an amended certificate of authority from the secretary of state if it changes:

(1) its corporate name;

(2) the period of its duration; [or]

(3) any of the information required by [Section 2015(a) of the Model Registered Agents ~~and Entity Annual Reports Act~~]; or

(4) the state or country of its incorporation.

* * *

(d) Sections 15.07, 15.08, and 15.09 of the Model Nonprofit Corporation Act are repealed.

(e) Sections 15.30, ~~16.01, and~~ 16.04 and 16.22 of the Model Nonprofit Corporation Act are amended to read:

§ 15.30. Grounds for revocation.

The secretary of state may commence a proceeding under section 15.31 to revoke the certificate of authority of a foreign corporation authorized to transact business in this state if:

* * *

(3) the foreign corporation is without a registered agent [or registered office] in this state for 60 days or more;

(4) the foreign corporation does not inform the secretary of state [under section 15.08 or 15.09] by an appropriate filing that its registered agent [or registered office] has changed, or that its registered agent has resigned[, or that its registered office has been discontinued] within 60 days of the change[, or resignation[, or discontinuance];

* * *

~~§ 16.01. Corporate records.—~~

~~* * *~~

~~(e) — A corporation shall keep a copy of the following records at its principal office:~~

~~* * *~~

~~(7) — its most recent annual report delivered to the secretary of state under [section 16.21] [section 301 of the Model Registered Agents and Entity Annual Reports Act].~~

§ 16.04. Court-ordered inspection.

(a) If a corporation does not allow a member who complies with section 16.02(a) to inspect and copy any records required by that subsection to be available for inspection, the [name or describe court] of the county where the corporation's principal office is located (or, if none in this state, [its registered office] is located) of its registered county may

1 summarily order inspection and copying of the records demanded at the corporation's expense
2 upon application of the member.

3 (b) If a corporation does not within a reasonable time allow a member to inspect and
4 copy any other record, the member who complies with subsections 16.02(b) and (c) may apply to
5 the [name or describe court] in the county where the corporation's principal office is located (or,
6 if none in this state, **[its registered office) is located]** of ~~its registered~~ _____ county for
7 an order to permit inspection and copying of the records demanded. The court shall dispose of
8 an application under this subsection on an expedited basis.

9 * * *

10
11 ~~(f) — Section 16.22 of the Model Nonprofit Corporation Act is repealed.~~
12 § 16.22. Annual report for Secretary of State.

13 (a) Each domestic corporation, and each foreign corporation authorized to transact
14 business in this state, shall deliver to the secretary of state an annual report on a form prescribed
15 and furnished by the secretary of state that sets forth:

16 (1) the name of the corporation;

17 (2) **[and the state or country]** the jurisdiction under whose law it is
18 incorporated;

19 **[(2)] (3) [the address of its registered office and the name of its**
20 **registered agent at the office in this state]** the information required by *[section 5(a) of*
21 *the Model Registered Agents Act]*;

22 **[(3)] (4) the address of its principal office, wherever located;**

23 **[(4)] (5) the names **[and business or residence addresses]** of its **[directors****
24 **and]** principal officers; and

25 (6) the names of its directors.

26 **[(5) a brief description of the nature of its business;**

27 **(6) whether or not it has members;**

28 **(7) if it is a domestic corporation, whether it is a public benefit, mutual**
29 **benefit or religious corporation; and**

30 **(8) if it is a foreign corporation, whether it would be a public benefit,**
31 **mutual benefit or religious corporation had it been incorporated in this state.]**

32 * * *

33
34
35 ~~Section A3. Uniform Partnership Act~~

36 SECTION A3. UNIFORM PARTNERSHIP ACT (1997)

37
38 Sections 1001, 1003, and 1102 of the Uniform Partnership Act (1997) are amended to
39 read:

40 § 1001. Statement of qualification.

41 * * *

42 (c) After the approval required by subsection (b), a partnership may become a limited
43 liability partnership by filing a statement of qualification. The statement must contain:

44 * * *

(3) if the partnership does not have an office in this State, **[the name and street address of the partnership's agent for service of process]** the information required by [Section 2015(a) of the Model Registered Agents and Entity Annual Reports Act];

* * *

(d) **[The agent of a limited liability partnership for service of process must be an individual who is a resident of this State or other person authorized to do business in this State.]** (Repealed.)

* * *

§ 1003. Annual report.

~~[(a)]~~ A limited liability partnership, and a foreign limited liability partnership authorized to transact business in this State, shall file an annual report in the office of the [Secretary of State] which contains:

(1) the name of the limited liability partnership and the State or other jurisdiction under whose laws the foreign limited liability partnership is formed;

(2) the street address of the partnership's chief executive office and, if different, the street address of an office of the partnership in this State, if any; and

(3) if the partnership does not have an office in this State, the **[name and street address of the partnership's current agent for service of process.]** ~~(Repealed.)~~ information required by [section 5(a) of the Model Registered Agents Act].

~~[(b)]~~ **An annual report must be filed between [January 1 and April 1] of each year following the calendar year in which a partnership files a statement of qualification or a foreign partnership becomes authorized to transact business in this State.]** (Repealed.)

* * *

§ 1102. Statement of foreign qualification.

(a) Before transacting business in this State, a foreign limited liability partnership must file a statement of foreign qualification. The statement must contain:

* * *

(2) the street address of the partnership's chief executive office **[and, if different, the street address of an office of the partnership in this State, if any];**

(3) **[if there is no office of the partnership in this State, the name and street address of the partnership's agent for service of process]** the information required by [Section 2015(a) of the Model Registered Agents and Entity Annual Reports Act]; and

* * *

(b) **[The agent of a foreign limited liability partnership for service of process must be an individual who is a resident of this State or other person authorized to do business in this State.]** (Repealed.)

* * *

~~Section A4. Uniform Limited Partnership Act~~

SECTION A4. UNIFORM LIMITED PARTNERSHIP ACT (2001)

(a) Section 102(4) (“designated office”) of the Uniform Limited Partnership Act (2001) is repealed.

(b) ~~Section 111 of the Uniform Limited Partnership Act (2001) is amended to read:~~

~~§ 111. Required information.~~

~~A limited partnership shall maintain at its [designated] principal office the following information:~~

~~* * *~~

~~(7) — a copy of the three most recent annual reports delivered by the limited partnership to the [Secretary of State] pursuant to [Section 210] [Section 301 of the Model Registered Agents and Entity Annual Reports Act];~~

~~* * *(e) — Sections 114, 115, 116, and 117 of the Uniform Limited Partnership Act (2001) are repealed.~~

(d) Sections 201, 202, 206, 208, and ~~209~~210 of the Uniform Limited Partnership Act (2001) are amended to read:

§ 201. Formation of limited partnership; certificate of limited partnership.

(a) In order for a limited partnership to be formed, a certificate of limited partnership must be delivered to the [Secretary of State] for filing. The certificate must state:

* * *

(2) **[the street and mailing address of the initial designated office and the name and street and mailing address of the initial agent for service of process]** the information required by [Section 2015(a) of the Model Registered Agents and Entity Annual Reports Act];

* * *

§ 202. Amendment or restatement of certificate.

* * *

(c) A general partner that knows that any information in a filed certificate of limited partnership was false when the certificate was filed or has become false due to changed circumstances shall promptly:

(1) cause the certificate to be amended; or

(2) if appropriate, deliver to the [Secretary of State] for filing **[a statement of change pursuant to Section 115 or]** a statement of correction pursuant to Section ~~207~~207 or [Section 7 of the Model Registered Agents Act].

* * *

§ 206. Delivery to and filing of records by [Secretary of State]; effective time and date.

* * *

(c) Except as provided in **[Sections 116 and]** Section 207, a record delivered to the [Secretary of State] for filing under this [Act] may specify an effective time and a delayed effective date. Except as otherwise provided in this [Act], a record filed by the [Secretary of State] is effective:

* * *

§ 208. Liability for false information in filed record.

1 (a) If a record delivered to the [Secretary of State] for filing under this [Act] and filed
2 by the [Secretary of State] contains false information, a person that suffers loss by reliance on the
3 information may recover damages for the loss from:

4 * * *

5 (2) a general partner that has notice that the information was false when the
6 record was filed or has become false because of changed circumstances, if the general
7 partner has notice for a reasonably sufficient time before the information is relied upon to
8 enable the general partner to effect an amendment under Section 202, file a petition
9 pursuant to Section 205, or deliver to the [Secretary of State] for filing a statement of
10 change pursuant to [Section 115] ~~[Section 2037 of the Model Registered Agents and~~
11 ~~Entity Annual Reports Act]~~ or a statement of correction pursuant to Section 207.

12 * * *

13 ~~§ 209. Certificate of existence or authorization.~~ 210. Annual report for [Secretary of State].

14 (a) ~~The [Secretary of State], upon request and payment of the requisite fee, shall~~
15 ~~furnish a certificate of existence for a limited partnership if the records filed in the [office of the~~
16 ~~Secretary of State] show that the [Secretary of State] has filed a certificate of limited partnership~~
17 ~~and has not filed a statement of termination. A certificate of existence must state:~~ A limited
18 partnership or a foreign limited partnership authorized to transact business in this State shall
19 deliver to the [Secretary of State] for filing an annual report that states:

20 (1) the name of the limited partnership or foreign limited partnership;

21 (2) [the street and mailing address of its designated office and the name
22 and street and mailing address of its agent for service of process in this State] the
23 information required by [Section 5(a) of the Model Registered Agents Act];

24 (3) in the case of a limited partnership, the street and mailing address of its
25 principal office; and

26 (4) in the case of a foreign limited partnership, the State or other jurisdiction
27 under whose law the foreign limited partnership is formed and any alternate name
28 adopted under Section 905(a).

29 * * *

30 ~~(4) — whether the limited partnership's most recent annual report required by [Section~~
31 ~~210] [Section 301e] If a filed annual report contains [an address of a designated office or the~~
32 ~~name or address of an agent for service of process] information provided under subsection~~
33 ~~(a)(2) which differs from the information shown in the records of the [Secretary of State]~~
34 ~~immediately before the filing, the differing information in the annual report is considered a~~
35 ~~statement of change under [Section 115] [Section 7 of the Model Registered Agents and Entity~~
36 ~~Annual Reports Act] has been filed by the [Secretary of State]; Act].~~

37 * * *

38 (b) ~~The [Secretary of State], upon request and payment of the requisite fee, shall~~
39 ~~furnish a certificate of authorization for a foreign limited partnership if the records filed in the~~
40 ~~[office of the Secretary of State] show that the [Secretary of State] has filed a certificate of~~
41 ~~authority, has not revoked the certificate of authority, and has not filed a notice of cancellation.~~
42 ~~A certificate of [Secretary of State], upon request and payment of the requisite fee, shall furnish a~~
43 ~~certificate of existence for a limited partnership if the records filed in the [office of the Secretary~~
44 ~~of State] show that the [Secretary of State] has filed a certificate of limited partnership and has~~
45 ~~not filed a statement of termination. A certificate of existence must state of authorization must~~
46 ~~state:~~

1 * * *

2 (4) ~~whether the foreign limited partnership's most recent annual report~~
3 ~~required by [Section 210] [Section 301 of the Model Registered Agents and Entity Annual~~
4 ~~Reports Act] has been filed by the [Secretary of State];~~

5 * * *

6
7 ~~(e) Section 210 of the Uniform Limited Partnership Act (2001) is repealed.~~

8 (f) Sections 304, 407, 807, 902, 906, [1104](#), 1105, [1108](#), and 1109 of the Uniform

9 Limited Partnership Act (2001) are amended to read:

10 § 304. Right of limited partner and former limited partner to information.

11 (a) On 10 days' demand, made in a record received by the limited partnership, a
12 limited partner may inspect and copy required information during regular business hours in the
13 limited partnership's **[designated] principal** office. The limited partner need not have any
14 particular purpose for seeking the information.

15 * * *

16 (d) Subject to subsection (f), a person dissociated as a limited partner may inspect and
17 copy required information during regular business hours in the limited partnership's
18 **[designated] principal** office if:

19 * * *

20 § 407. Right of general partner and former general partner to information.

21 (a) A general partner, without having any particular purpose for seeking the
22 information, may inspect and copy during regular business hours:

23 (1) in the limited partnership's **[designated] principal** office, required
24 information; and

25 * * *

26 § 807. Other claims against dissolved limited partnership.

27 * * *

28 (b) The notice must:

29 (1) be published at least once in a newspaper of general circulation in the
30 [county] in which the dissolved limited partnership's principal office is located; or if it
31 has none in this State, in **[the [county] in which the limited partnership's designated**
32 **office is or was last located]** ~~the limited partnership's registered county as determined~~
33 ~~pursuant to [Section 201 of the Model Registered Agents and Entity Annual Reports~~
34 ~~Act]~~ [county](#);

35 * * *

36 § 902. Application for certificate of authority.

37 (a) A foreign limited partnership may apply for a certificate of authority to transact
38 business in this State by delivering an application to the [Secretary of State] for filing. The
39 application must state:

40 * * *

41 (4) **[the name and street and mailing address of the foreign limited**
42 **partnership's initial agent for service of process in this State]** the information required
43 by [Section ~~201~~5(a) of the Model Registered Agents and Entity Annual Reports Act];

1 * * *

2 § 906. Revocation of certificate of authority.

3 (a) A certificate of authority of a foreign limited partnership to transact business in

4 this State may be revoked by the [Secretary of State] in the manner provided in subsections (b)

5 and (c) if the foreign limited partnership does not:

6 * * *

7 ~~(2) — deliver, within 60 days after the due date, its annual report required under~~

8 ~~[Section 210] [Section 301 of the Model Registered Agents and Entity Annual Reports~~

9 ~~Act];~~

10 (3) appoint and maintain an agent for service of process as required by

11 ~~[Section 114(b)] [Section 2015(a) of the Model Registered Agents and Entity Annual~~

12 ~~Reports Act];~~ or

13 (4) deliver for filing a statement of change under [Section 115] ~~[Section 2037~~

14 ~~of the Model Registered Agents and Entity Annual Reports Act]~~ within 30 days after a

15 change has occurred in the name or address of the agent.

16 (b) In order to revoke a certificate of authority, the [Secretary of State] must prepare,

17 sign, and file a notice of revocation and send a copy to the foreign limited partnership's agent for

18 service of process in this State, or if the foreign limited partnership does not appoint and

19 maintain a proper agent in this State, to the foreign limited partnership's **[designated]** principal

20 office. The notice must state:

21 * * *

22 § 1104. Filings required for conversion; effective date.

23 (a) After a plan of conversion is approved:

24 (1) a converting limited partnership shall deliver to the [Secretary of State] for

25 filing articles of conversion, which must include:

26 * * *

27 (F) if the converted organization is a foreign organization not

28 authorized to transact business in this State, the street and mailing address of an

29 office which [the [Secretary of State] may use for the purposes of] may be

30 used for service of process under Section 1105(c); and

31 * * *

32 § 1105. Effect of conversion.

33 * * *

34 (c) A converted organization that is a foreign organization consents to the jurisdiction

35 of the courts of this State to enforce any obligation owed by the converting limited partnership, if

36 before the conversion the converting limited partnership was subject to suit in this State on the

37 obligation. A converted organization that is a foreign organization and not authorized to transact

38 business in this State **[appoints the [Secretary of State] as its agent for service of process for**

39 **purposes of enforcing an obligation under this subsection. Service on the [Secretary of**

40 **State] under this subsection is made in the same manner and with the same consequences**

41 **as in [Section 117(c) and (d)]** ~~[Section 208(b) of the Model Registered Agents and Entity Annual~~

42 ~~Reports Act]~~ may be served with process at the address required in the articles of conversion

43 under Section 1104(a)(1)(F).

44 § 1108. Filings required for merger; effective date.

45 * * *

46 (b) The articles of merger must include:

1 * * *

2 (7) if the surviving organization is a foreign organization not authorized to
3 transact business in this State, the street and mailing address of an office which [the
4 [Secretary of State] may use for the purposes of] may be used for service of process
5 under Section 1109(b); and

6 * * *

7 § 1109. Effect of merger

8 * * *

9 (b) A surviving organization that is a foreign organization consents to the jurisdiction
10 of the courts of this State to enforce any obligation owed by a constituent organization, if before
11 the merger the constituent organization was subject to suit in this State on the obligation. A
12 surviving organization that is a foreign organization and not authorized to transact business in
13 this State **[appoints the [Secretary of State] as its agent for service of process for the**
14 **purposes of enforcing an obligation under this subsection. Service on the [Secretary of**
15 **State] under this subsection is made in the same manner and with the same consequences**
16 **as in [Section 117(c) and (d)]** ~~*[Section 208(b) of the Model Registered Agents and Entity Annual*~~
17 ~~*Reports Act]*~~ may be served with process at the address required in the articles of merger under
18 Section 1108(b)(7).

19
20
21 **~~Section A5. Uniform Limited Liability Company Act~~**

22 **SECTION A5. UNIFORM LIMITED LIABILITY COMPANY ACT**

23 (a) Sections 108, 109, 110, and 111 of the Uniform Limited Liability Company Act
24 are repealed.

25 (b) Sections 203 and ~~208~~211 of the Uniform Limited Liability Company Act are
26 amended to read:

27 § 203. Articles of organization.

28 (a) Articles of organization of a limited liability company must set forth:

29 * * *

30 (2) **[the address of the initial designated office;]** ~~(Repealed.)~~

31 (3) **[the name and street address of the initial agent for service of process]**
32 **the information required by [Section ~~204~~5(a) of the Model Registered Agents** ~~*and Entity*~~
33 ~~*Annual Reports Act]*~~;

34 * * *

35 ~~§ 208. Certificate of existence or authorization.~~

36 ~~§ 211. Annual report for [Secretary of State].~~

37 (a) A limited liability company, and a foreign limited liability company authorized to
38 transact business in this State, shall deliver to the [Secretary of State] for filing an annual report
39 that sets forth:

40 (1) the name of the company;

(2) [and the State or country] the jurisdiction under whose law it is organized;
[(2)] (3) [the address of its designated office and the name and address of its agent for service or process in this State] the information required by [Section 5(a) of the Model Registered Agents Act];
[(3)] (4) the address of its principal office, wherever located; and
[(4)] (5) the names [and business addresses] of any managers.

* * *

~~(b) — A certificate of existence for a limited liability company must set forth:~~

~~* * *~~

~~(4) — whether its most recent annual report required by [Section 211] [Section 301 of the Model Registered Agents and Entity Annual Reports Act] has been filed with the [Secretary of State];~~

~~* * *~~

~~(c) — A certificate of authorization for a foreign limited liability company must set forth:~~

~~* * *~~

~~(4) — whether its most recent annual report required by [Section 211] [Section 301 of the Model Registered Agents and Entity Annual Reports Act] has been filed with the [Secretary of State];~~

~~* * *~~

~~(c) — Section 211 of the Uniform Limited Liability Company Act is repealed.(dc)~~

Sections 808, 906, 1002, and 1006 of the Uniform Limited Liability Company Act are amended to read:

§ 808. Other claims against dissolved limited liability company.

* * *

(b) The notice must;

(1) be published at least once in a newspaper of general circulation in the [county] in which the dissolved limited liability company's principal office is or was located or, if none in this State, **[in which its designated office is or was last located]** ~~of its registered county as determined pursuant to [Section 201 of the Model Registered Agents and Entity Annual Reports Act]~~ in _____ county;

* * *

§ 906. Effect of merger.

* * *

(b) **[The [Secretary of State] is an agent for service of process in an action or proceeding against the surviving foreign entity to enforce an obligation of any party to a merger if]** If the surviving foreign entity fails to appoint or maintain an agent designated for service or process in this State or the agent for service of process cannot with reasonable

diligence be found ~~[at the [designated office] address of the agent shown in the most recent filing under [the Model Registered Agents and Entity Annual Reports Act].~~ Upon receipt of process, the [Secretary of State] shall send a copy of the process by registered or certified mail, return receipt required, to the surviving entity at the address set forth in the articles of merger~~], service of process may be made on the foreign entity as provided in [Section 12(b) of the Model Registered Agents Act].~~ Service is effected under this subsection at the earliest of:

* * *

§ 1002. Application for certificate of authority.

(a) A foreign limited liability company may apply for a certificate of authority to transact business in this State by delivering an application to the [Secretary of State] for filing. The application must set forth:

* * *

(4) ~~[the address of its initial designated office in this State] (Repealed.);~~

(5) ~~[the name and street address of its initial agent for service of process in this State]~~ the information required by ~~[Section 2015(a) of the Model Registered Agents and Entity Annual Reports Act];~~

* * *

§ 1006. Revocation of certificate of authority.

(a) A certificate of authority of a foreign limited liability company to transact business in this State may be revoked by the [Secretary of State] in the manner provided in subsection (b) if:

(1) the company fails to:

* * *

~~(ii) — deliver its annual report required under [Section 211] [Section 301 of the Model Registered Agents and Entity Annual Reports Act] to the [Secretary of State] within 60 days after it is due;~~

(iii) appoint and maintain an agent for service of process as required by ~~[this [article]] [Section 2015(a) of the Model Registered Agents and Entity Annual Reports Act];~~ or

(iv) file a statement of change in the name or business address of the agent as required by ~~[this[article]] [Section 7 of the Model Registered Agents and Entity Annual Reports Act];~~ or

* * *

(b) The [Secretary of State] may not revoke a certificate of authority of a foreign limited liability company unless the [Secretary of State] sends the company notice of the revocation, at least 60 days before its effective date, by a record **[addressed to its agent for service of process in this State, or if the company fails to appoint and maintain a proper agent in this State, addressed to the office required to be maintained by Section 108]** served in accordance with ~~[Section 20812 of the Model Registered Agents and Entity Annual Reports Act].~~ The notice must specify the cause for the revocation of the certificate of authority. The authority of the company to transact business in this State ceases on the effective date of the revocation unless the foreign limited liability company cures the failure before that date.

~~Section A6. Prototype Limited Liability Company Act~~

1 **SECTION A6. PROTOTYPE LIMITED LIABILITY COMPANY ACT**

2 (a) Section 105 of the Prototype Limited Liability Company Act is repealed.

3 (b) Sections 202, 908, and 1002 of the Prototype Limited Liability Company Act are
4 amended to read:

5 § 202. Articles of organization.

6 The articles of organization shall set forth:

7 * * *

8 (B) **[The address of the registered office and the name and business,**
9 **residence, or mailing address of the registered agent required to be maintain by §**
10 **105.]** The information required by [Section 35(a) of the Model Registered Agents Act].

11 * * *

12 § 908. Unknown claims against dissolved limited liability company.

13 * * *

14 (B) The notice must:

15 (1) Be published once in a newspaper of general circulation in: ~~(i) — the~~
16 ~~county where the limited liability company's principal office [(or, if none in this state,~~
17 ~~its registered office) is located; or (ii) — if the limited liability company does~~
18 ~~not have its principal office in this State, in the limited liability company's registered~~
19 ~~county or, if it has not designated a registered county, in the county in which its~~
20 ~~registered office is located, in each case as designated in its most recent filing under~~
21 ~~[Section 3(a) of the Model Registered Agents Act]; if none in this state, in~~
22 county;

23 * * *

24 § 1002. Registration.

25 Before transacting business in this state, a foreign limited liability company shall register
26 with the Secretary of State by submitting to the Secretary of State an original signed copy of an
27 application for registration as a foreign limited liability company, together with a duplicate copy
28 that may be either a signed, photocopied, or conformed copy, executed by a person with
29 authority to do so under the laws of the state or other jurisdiction of its formation. The
30 application shall set forth:

31 * * *

32 (C) **[The name and address of a registered agent for service of process**
33 **required to be maintained by § 105]** the information required by [Section 35(a) of the
34 Model Registered Agents Act];

35 (D) **[A statement that the Secretary of State is appointed the agent of the**
36 **foreign limited liability company for service of process if the foreign limited liability**
37 **company fails to appoint or maintain a registered agent in satisfaction of the**
38 **requirements of § 105] (Repealed.);**

39 * * *

40
41
42 **Section A7. Uniform Unincorporated Nonprofit Association Act**

1 **SECTION A7. UNIFORM UNINCORPORATED NONPROFIT ASSOCIATION ACT**

2 Section 10 of the Uniform Unincorporated Nonprofit Association Act is amended to read:

3 § 10. Appointment of agent to receive service of process.

4 * * *

5 (b) A statement appointing an agent must set forth:

6 * * *

7 (4) **[the name of the person in this State authorized to receive service of**
8 **process and the person's address, including the street address, in this State] the**
9 **information required by [Section ~~201~~5(a) of the Model Registered Agents*and Entity***
10 ***Annual Reports Act*].**

11 (c) A statement appointing an agent, and an amendment or cancellation thereof, must
12 be signed **[and [acknowledged] [sworn to]]** by a person authorized to manage the affairs of the
13 nonprofit association. **[The statement must also be signed and acknowledged by the person**
14 **appointed agent, who thereby accepts the appointment. The appointed agent may resign**
15 **by filing a resignation in the office of the [Secretary of State] and giving notice to the**
16 **nonprofit association.]**

17 **[(d) A filing officer may collect a fee for filing a statement appointing an agent to**
18 **receive service of process, an amendment, a cancellation, or a resignation in the amount**
19 **charged for filing similar documents.] (Repealed.)**

20 **[(e) An amendment to or cancellation of a statement appointing an agent to**
21 **receive service of process must meet the requirements for execution of an original**
22 **statement.] (Repealed.)**
23

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Deletion	
Moved from	
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Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

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