

D R A F T

FOR DISCUSSION ONLY

HARMONIZED
BUSINESS ORGANIZATIONS ACT
(Amendments to Business Organizations Act)

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

For March 4 – 6, 2011 Drafting Committee Meeting
on Harmonization of Business Entity Acts

Without Comments, but with Reporters' Notes

Strike and Score Version

Copyright © 2007, 2008, 2009, 2011
By
NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

The ideas and conclusions set forth in this draft, including the proposed statutory language and any comments or reporter's notes, have not been passed upon by the National Conference of Commissioners on Uniform State Laws or the Drafting Committee. They do not necessarily reflect the views of the Conference and its Commissioners and the Drafting Committee and its Members and Reporter. Proposed statutory language may not be used to ascertain the intent or meaning of any promulgated final statutory proposal.

February 21, 2011

DRAFTING COMMITTEE ON HARMONIZATION OF BUSINESS ENTITY ACTS

The Committee appointed by and representing the National Conference of Commissioners on Uniform State Laws in preparing this Act consists of the following individuals:

HARRY J. HAYNSWORTH, 2200 IDS Center, 80 S. 8th St., Minneapolis, MN 55402, *Chair*
WILLIAM H. CLARK, JR., One Logan Square, 18th and Cherry Sts., Philadelphia, PA 19103-

6996, *Vice-Chair*

ANN E. CONAWAY, Widener University School of Law, 4601 Concord Pike, Wilmington, DE 19803

THOMAS E. GEU, University of South Dakota School of Law, 414 Clark St., Suite 214, Vermillion, SD 57069-2390

DALE G. HIGER, 1302 Warm Springs Ave., Boise, ID 83712

JAMES C. MCKAY, Office of the Attorney General for the District of Columbia, 441 Fourth St. NW, 6th Floor S., Washington, DC 20001

MARILYN E. PHELAN, 306 Peninsula Ct., Granbury, TX 76048

WILLIAM J. QUINLAN, Two First National Plaza, 20 S. Clark St., Suite 2900, Chicago, IL 60603

KEVIN P. SUMIDA, 735 Bishop St., Suite 411, Honolulu, HI 96813

JUSTIN L. VIGDOR, 2400 Chase Sq., Rochester, NY 14604

DAVID S. WALKER, Drake University Law School, 2507 University Ave., Des Moines, IA 50311

CARTER G. BISHOP, Suffolk University Law School, 120 Tremont St., Boston, MA 02108-4977, *Co-Reporter*

DANIEL S. KLEINBERGER, William Mitchell College of Law, 875 Summit Ave., St. Paul, MN 55105, *Co-Reporter*

EX OFFICIO

ROBERT A. STEIN, University of Minnesota Law School, 229 19th Ave. S., Minneapolis, MN 55455, *President*

MARILYN E. PHELAN, 306 Peninsula Ct., Granbury, TX 76048, *Division Chair*

AMERICAN BAR ASSOCIATION ADVISOR

ROBERT R. KEATINGE, 555 17th St., Suite 3200, Denver, CO 80202-3979, *ABA Advisor*

WILLIAM J. CALLISON, 3200 Wells Fargo Center, 1700 Lincoln St., Denver, CO 80203, *ABA Section Advisor*

ALLAN G. DONN, Wells Fargo Center, 440 Monticello Ave., Suite 2200, Norfolk, VA 23510-2243, *ABA Section Advisor*

WILLIAM S. FORSBERG, 150 S. Fifth St., Suite 2300, Minneapolis, MN 55402-4238, *ABA Section Advisor*

BARRY B. NEKRITZ, 8000 Willis Tower, 233 S. Wacker Dr., Chicago, IL 60606, *ABA Section Advisor*

JAMES J. WHEATON, 222 Central Park Ave., Suite 2000, Virginia Beach, VA 23462, *ABA Section Advisor*

EXECUTIVE DIRECTOR

JOHN A. SEBERT, 111 N. Wabash Ave., Suite 1010, Chicago, IL 60602, *Executive Director*

Copies of this Act may be obtained from:

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS
111 N. Wabash Ave., Suite 1010
Chicago, Illinois 60602
312/450-6600
www.uniformlaws.org

HARMONIZED BUSINESS ORGANIZATIONS ACT

TABLE OF CONTENTS

Introductory Reporters' Note.....	1
-----------------------------------	---

[ARTICLE] 1

GENERAL PROVISIONS

[PART] 1

GENERAL PROVISIONS

SECTION 1-101. SHORT TITLES.....	2
SECTION 1-102. DEFINITIONS	2
SECTION 1-103. APPLICABILITY OF [ARTICLE]	12
SECTION 1-104. DELIVERY OF RECORD	12
SECTION 1-105. RULES AND PROCEDURES	12
[SECTION 1-106. ENTITIES EXCLUSIONS.....	12

[PART] 2

FILING

SECTION 1-201. ENTITY FILING REQUIREMENTS	13
SECTION 1-202. FORMS	14
SECTION 1-203. EFFECTIVE TIME AND DATE	14
SECTION 1-204. WITHDRAWAL OF FILED RECORD BEFORE EFFECTIVENESS	15
SECTION 1-205. CORRECTING FILED RECORD	16
SECTION 1-206. DUTY OF [SECRETARY OF STATE] TO FILE; REVIEW OF REFUSAL TO FILE.....	17
SECTION 1-207. EVIDENTIARY EFFECT OF COPY OF FILED RECORD	18
SECTION 1-208. CERTIFICATE OF GOOD STANDING OR REGISTRATION	18
SECTION 1-209. SIGNING CONSTITUTES AFFIRMATION.....	19
SECTION 1-210. DELIVERY BY [SECRETARY OF STATE]	19
SECTION 1-211. [ANNUAL] [BIENNIAL] REPORT FOR [SECRETARY OF STATE].....	20
[SECTION 1-212. FEES.....	21

[PART] 3

NAME OF ENTITY

SECTION 1-301. PERMITTED NAMES.....	23
SECTION 1-302. NAME REQUIREMENTS FOR CERTAIN TYPES OF ENTITIES.....	24
SECTION 1-303. RESERVATION OF NAME.....	26

SECTION 1-304. REGISTRATION OF NAME	26
---	----

[PART] 4

REGISTERED AGENT OF ENTITY

SECTION 1-401. DEFINITIONS	27
SECTION 1-402. ENTITIES REQUIRED TO DESIGNATE AND MAINTAIN REGISTERED AGENT	29
SECTION 1-403. ADDRESSES IN FILINGS	29
SECTION 1-404. APPOINTMENT <u>DESIGNATION</u> OF REGISTERED AGENT	29
SECTION 1-405. LISTING OF COMMERCIAL REGISTERED AGENT	30
SECTION 1-406. TERMINATION OF LISTING OF COMMERCIAL REGISTERED AGENT	31
SECTION 1-407. CHANGE OF REGISTERED AGENT BY ENTITY	32
SECTION 1-408. CHANGE OF NAME OR ADDRESS BY NONCOMMERCIAL REGISTERED AGENT	33
SECTION 1-409. CHANGE OF NAME, ADDRESS, TYPE OF ENTITY, OR JURISDICTION OF FORMATION BY COMMERCIAL REGISTERED AGENT	34
SECTION 1-410. RESIGNATION OF REGISTERED AGENT	35
SECTION 1-411. APPOINTMENT <u>DESIGNATION</u> OF REGISTERED AGENT BY NONQUALIFIED NONREGISTERED FOREIGN ENTITY OR NONFILING DOMESTIC ENTITY	36
SECTION 1-412. SERVICE OF PROCESS, NOTICE, OR DEMAND ON ENTITY.	37
SECTION 1-413. DUTIES OF REGISTERED AGENT	38
SECTION 1-414. JURISDICTION AND VENUE	39

[PART] 5

FOREIGN ENTITIES

SECTION 1-501. GOVERNING LAW	39
SECTION 1-502. REGISTRATION TO DO BUSINESS IN THIS STATE	40
SECTION 1-503. FOREIGN REGISTRATION STATEMENT	41
SECTION 1-504. AMENDMENT OF FOREIGN REGISTRATION STATEMENT	41
SECTION 1-505. ACTIVITIES NOT CONSTITUTING DOING BUSINESS	42
SECTION 1-506. NONCOMPLYING NAME OF FOREIGN ENTITY	43
SECTION 1-507. WITHDRAWAL OF REGISTRATION OF REGISTERED FOREIGN ENTITY	44
SECTION 1-508. WITHDRAWAL DEEMED ON CONVERSION TO DOMESTIC FILING ENTITY OR DOMESTIC LIMITED LIABILITY PARTNERSHIP	45
SECTION 1-509. WITHDRAWAL ON DISSOLUTION OR CONVERSION TO NONFILING ENTITY OTHER THAN LIMITED LIABILITY PARTNERSHIP	45
SECTION 1-510. TRANSFER OF REGISTRATION	46
SECTION 1-511. TERMINATION OF REGISTRATION	47

[SECTION 1-512. ACTION BY [ATTORNEY GENERAL]	49
--	----

[PART] 6

ADMINISTRATIVE DISSOLUTION

SECTION 1-601. GROUNDS	49
SECTION 1-602. PROCEDURE AND EFFECT	49
SECTION 1-603. REINSTATEMENT	50
SECTION 1-604. JUDICIAL REVIEW OF DENIAL OF REINSTATEMENT.....	51

[PART] 7

MISCELLANEOUS PROVISIONS

SECTION 1-701. RESERVATION OF POWER TO AMEND OR REPEAL.....	52
SECTION 1-702. SUPPLEMENTAL PRINCIPLES OF LAW.....	52
SECTION 1-703. UNIFORMITY OR CONSISTENCY OF APPLICATION AND CONSTRUCTION.....	52
SECTION 1-704. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT	52
SECTION 1-705. SAVINGS CLAUSE	52
SECTION 1-706. EFFECTIVE DATE.....	53

[ARTICLE] 2

ENTITY TRANSACTIONS

[ARTICLE] 3

BUSINESS CORPORATIONS

[ARTICLE] 4

NONPROFIT CORPORATIONS

[ARTICLE] 5

GENERAL PARTNERSHIPS

[ARTICLE] 6

LIMITED PARTNERSHIPS

[ARTICLE] 7
LIMITED LIABILITY COMPANIES

[ARTICLE] 8
LIMITED COOPERATIVE ASSOCIATIONS

[ARTICLE] 9
UNINCORPORATED NONPROFIT ASSOCIATIONS

[ARTICLE] 10
STATUTORY TRUST ENTITIES

Introductory Reporters' Note

The proposed revisions to the text of the act set forth in this document have been prepared as part of a project that has two purposes: (i) to harmonize the language of all of the unincorporated entity laws, and (ii) to revise the language of each of those acts in a manner that permits their integration into a single code of entity laws.

The Reporters' Notes in this document are limited to explaining the source of certain of the proposed changes. Following the approval of the changes in this document by the Conference, the Reporters' Notes will be replaced with more usual comments that explain the provisions of the act.

The harmonization process has involved the revision of the following acts, some of which are referred to in the Reporters' Notes by the abbreviations listed below:

HUB	Business Organizations Act
META	Model Entity Transactions Act
MORAA	Model Registered Agents Act
UPA	Uniform Partnership Act (1997)
ULPA	Uniform Limited Partnership Act (2001)
ULLCA	Uniform Limited Liability Company Act (200_)
USTEA	Uniform Statutory Trust Entity Act
Coop Act	Uniform Limited Cooperative Association Act
UUNAA	Uniform Unincorporated Nonprofit Association Act (200_)

Changes to the currently effective text of the act are shown by ~~striking through text to be deleted~~ and underlining text to be added. Changes that adopt language from META or MORAA, or are merely relocations of current language or corrections to cross references, are shown in black type. **Changes that adopt language from other unincorporated entity laws are shown in blue type.** **Changes that do not have a source in one of the existing unincorporated entity laws are shown in red type.** The "red" changes made in this act are replicated in other acts as a matter of harmonization and are shown in those acts in black type.

34 **HARMONIZED BUSINESS ORGANIZATIONS ACT**

35 **[ARTICLE] 1**

36 **GENERAL PROVISIONS**

37 **[PART] 1**

38 **GENERAL PROVISIONS**

39 **SECTION 1-101. SHORT TITLES.**

40 (a) This [act] may be cited as the Business Organizations Act.

41 (b) This [article] may be cited as the Business Organizations Act - General Provisions.

42 (c) Part 4 may be cited as the Model Registered Agents Act.

43 **SECTION 1-102. DEFINITIONS.** In this [act], except as otherwise provided in
44 definitions of the same terms in other articles of this [act]:

45 (1) “[Annual] [Biennial] report” means the report required by Section 1-211.

46 (2) “Business corporation” means a domestic business corporation incorporated under or
47 subject to [Article] 3 or a foreign business corporation.

48 (3) “Commercial registered agent” means a person listed under Section 1-405.

49 (4) “Debtor in bankruptcy” means a person that is the subject of:

50 (A) an order for relief under Title 11 of the United States Code or a comparable
51 order under a successor statute of general application; or

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

53 (5) “Distributional interest” means the right under an unincorporated entity’s organic law
54 and organic rules to receive distributions from the entity.

55 ~~(5)~~ (6) “Domestic”, with respect to an entity, means governed as to its internal affairs by
56 the law of this state.
57

~~(6)~~ (7) “Effective date”, when referring to a record filed by the [Secretary of State],
means the time and date determined in accordance with Section 1-203.

~~(7)~~ (8) “Entity”:

(A) means:

- (i) a business corporation;
 - (ii) a nonprofit corporation;
 - (iii) a general partnership;
 - (iv) a limited partnership;
 - (v) a limited liability company;
 - [(vi) a general cooperative association;]
 - (vii) a limited cooperative association;
 - (viii) an unincorporated nonprofit association;
 - (ix) a statutory trust, business trust, or common-law business trust; or
 - (x) any other person that has a legal existence separate from any interest holder of that person or that has the power to acquire an interest in real property in its own name;
- and

(B) does not include:

- (i) an individual;
- (ii) a testamentary, inter vivos, or charitable trust, except a statutory trust, business trust, or common-law business trust;
- (iii) an association or relationship that is not a partnership solely by reason of [Section 202(c) of the Revised Uniform Partnership Act] [Section 7 of the Uniform Partnership Act] or a similar provision of the law of another jurisdiction;

81 (iv) a decedent's estate; [or]
82 (v) a government or a governmental subdivision, agency, or
83 instrumentality [; or] [.]
84 [(vi) ~~an entity~~ a person excluded under Section 1-106.]
85 ~~(8)~~ (9) "Entity filing" means a record delivered for filing to the [Secretary of State]
86 pursuant to this [act].
87 ~~(9)~~ (10) "Filed record" means a record filed by the [Secretary of State] pursuant to this
88 [article].
89 ~~(10)~~ (11) "Filing entity" means an entity that is formed by the filing of a public organic
90 record.
91 ~~(11)~~ (12) "Foreign", with respect to an entity, means governed as to its internal affairs by
92 the law of a jurisdiction other than this state.
93 ~~(12)~~ (13) "General cooperative association" means a domestic general cooperative
94 association formed under or subject to [cite statute of this state under which an incorporated
95 cooperative association is formed] or a foreign general cooperative association.]
96 ~~(13)~~ (14) "General partnership" means a domestic general partnership formed under or
97 subject to [Article] 5 or a foreign general partnership. The term includes a limited liability
98 partnership.
99 ~~(14)~~ (15) "Governance interest" means a right under the organic law or organic rules of
100 an unincorporated entity, other than as a governor, agent, assignee, or proxy, to:
101 (A) receive or demand access to information concerning, or the books and records
102 of, the entity;
103 (B) vote for the election of the governors of the entity; or

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

~~(15)~~ (16) “Governor” means:

(A) a director of a business corporation;

(B) a director or trustee of a nonprofit corporation;

(C) a general partner of a general partnership;

(D) a general partner of a limited partnership;

(E) a manager of a manager-managed limited liability company;

(F) a member of a member-managed limited liability company;

[(G) a director of a general cooperative association;]

(H) a director of a limited cooperative association;

(I) a manager of an unincorporated nonprofit association;

(J) a trustee of a statutory trust, business trust, or common-law business trust; or

(K) any other person under whose authority the powers of an entity are exercised and under whose direction the ~~business~~ activities and affairs of the entity are managed pursuant to the ~~entity’s~~ organic law and organic rules of the entity.

~~(16)~~ (17) “Interest” means:

(A) a share in a business corporation;

(B) a membership in a nonprofit corporation;

(C) a partnership interest in a general partnership;

(D) a partnership interest in a limited partnership;

(E) a membership interest in a limited liability company;

[(F) a share in a general cooperative association;]

127 (G) a member’s interest in a limited cooperative association;

128 (H) a membership in an unincorporated nonprofit association;

129 (I) a beneficial interest in a statutory trust, business trust, or common-law business

130 trust;~~or~~

131 (J) a governance interest ~~or transferable interest~~ in any other type of

132 unincorporated entity; or

133 (K) a distributional interest in an unincorporated entity.

134 ~~(17)~~ (18) “Interest holder” means:

135 (A) a shareholder of a business corporation;

136 (B) a member of a nonprofit corporation;

137 (C) a general partner of a general partnership;

138 (D) a general partner of a limited partnership;

139 (E) a limited partner of a limited partnership;

140 (F) a member of a limited liability company;

141 [(G) a shareholder of a general cooperative association;]

142 (H) a member of a limited cooperative association;

143 (I) a member of an unincorporated nonprofit association;

144 (J) a beneficiary of a statutory trust, business trust, or common-law business trust;

145 or

146 (K) any other direct holder of an interest.

147 ~~(18)~~ (19) “Jurisdiction”, used to refer to a political entity, means the United States, a

148 state, a foreign country, or a political subdivision of a foreign country.

149 ~~(19)~~ (20) “Jurisdiction of formation” means the jurisdiction whose law includes the

150 organic law of an entity.

151 ~~(20)~~ (21) “Limited cooperative association” means a domestic limited cooperative
152 association formed under or subject to [Article] 8 or a foreign limited cooperative association.

153 ~~(21)~~ (22) “Limited liability company” means a domestic limited liability company
154 formed under or subject to [Article] 7 or a foreign limited liability company.

155 ~~(22)~~ (23) “Limited liability limited partnership” means a domestic limited liability limited
156 partnership formed under or subject to [Article] 6 or a foreign limited liability limited
157 partnership.

158 ~~(23)~~ (24) “Limited liability partnership” means a domestic limited liability partnership
159 registered under or subject to [Article] 5 or a foreign limited liability partnership.

160 ~~(24)~~ (25) “Limited partnership” means a domestic limited partnership formed under or
161 subject to [Article] 6 or a foreign limited partnership. The term includes a limited liability limited
162 partnership.

163 ~~(25)~~ (26) “Noncommercial registered agent” means a person that is not a commercial
164 registered agent and is:

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

167 (B) ~~an~~ the individual who holds the office or other position in an entity ~~who~~ that is
168 designated as the registered agent ~~for service of process~~ pursuant to Section 1-404(a)(2)(B).

169 ~~(26)~~ (27) “Nonfiling entity” means an entity that is formed other than by filing a public
170 organic record.

171 ~~(27)~~ (28) “Nonprofit corporation” means a domestic nonprofit corporation incorporated
172 under or subject to [Article] 4 or a foreign nonprofit corporation.

(29) “Nonregistered foreign entity” means a foreign entity that is not registered to do business in this state pursuant to a statement of registration filed by the [Secretary of State].

~~(28)~~ (30) “Organic law” means the law of an entity’s jurisdiction of formation ~~which governs~~ governing the internal affairs of the entity.

~~(29)~~ (31) “Organic rules” means the public organic record and private organic rules of an entity.

~~(30)~~ (32) “Person” means an individual, business corporation, nonprofit corporation, partnership, limited partnership, limited liability company, [general cooperative association,] limited cooperative association, unincorporated nonprofit association, statutory trust, business trust; or common-law business trust, estate, trust, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

~~(31)~~ (33) “Principal office” means the principal executive office of an entity, whether or not the office is located in or outside this state, designated by a filing entity as its principal office in the most recent filed record that contains that designation.

~~(32)~~ (34) “Private organic rules” means 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 record, if any. The term includes:

(A) the bylaws of a business corporation;

(B) the bylaws of a nonprofit corporation;

(C) the partnership agreement of a general partnership;

(D) the partnership agreement of a limited partnership;

(E) the operating agreement of a limited liability company;

196 [(F) the bylaws of a general cooperative association;]
197 (G) the bylaws of a limited cooperative association;
198 (H) the governing principles of an unincorporated nonprofit association; and
199 (I) the ~~governing~~ trust instrument of a statutory trust, business trust, or common-
200 law business trust.

201 ~~(33)~~ (35) “Proceeding” includes a civil action, arbitration, mediation, administrative
202 proceeding, criminal prosecution, and investigatory action.

203 ~~(34)~~ (36) “Property” means all property, real, personal, or mixed, or tangible or
204 intangible, or any interest therein.

205 ~~(35)~~ (37) “Public organic record” means the record the ~~public~~ filing of which by the
206 [Secretary of State] forms an entity and any amendment to or restatement of that record. The
207 term includes:

208 (A) the articles of incorporation of a business corporation;
209 (B) the articles of incorporation of a nonprofit corporation;
210 (C) the certificate of limited partnership of a limited partnership;
211 (D) the certificate of organization of a limited liability company;
212 [(E) the articles of incorporation of a general cooperative association;]
213 (F) the articles of organization of a limited cooperative association; and
214 (G) the certificate of trust of a statutory trust; or business trust; ~~or common-law~~
215 ~~business trust~~.

216 ~~(36) “Qualified foreign entity” means a foreign entity that is authorized to do business in~~
217 ~~this state pursuant to a statement of registration filed by the [Secretary of State].~~

218 ~~(37)~~ (38) “Receipt”, as used in this [article], means actual receipt. “Receive” has a

219 corresponding meaning.

220 ~~(38)~~ (39) “Record”, used as a noun, means information that is inscribed on a tangible
221 medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

222 ~~(39)~~ (40) “Registered agent” means an agent of an entity which is authorized to receive
223 service of any process, notice, or demand required or permitted by law to be served on the entity.
224 The term includes a commercial registered agent and a noncommercial registered agent.

225 (41) “Registered foreign entity” means a foreign entity that is registered to do business in
226 this state pursuant to a statement of registration filed by the [Secretary of State].

227 ~~(40)~~ (42) “Sign” means, with present intent to authenticate or adopt a record:

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

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

231 ~~(41)~~ (43) “State” means a state of the United States, the District of Columbia, Puerto
232 Rico, the United States Virgin Islands, or any territory or insular possession subject to the
233 jurisdiction of the United States.

234 ~~(42)~~ (44) “Statutory trust” means a domestic statutory trust formed under or subject to
235 [Article] 10 or a foreign statutory trust.”

236 ~~(43)~~ (45) “Transfer” includes:

237 (A) an assignment;

238 (B) a conveyance;

239 (C) a sale;

240 (D) a lease, mortgage, and ;

241 (E) an encumbrance, including by mortgaging or granting a security interest;

(F) a gift; and

(G) a transfer by operation of law.

~~(44) “Transferable interest” means the right under an unincorporated entity’s organic law to receive distributions from the entity.~~

~~(45)~~ (46) “Type of entity” means a generic form of entity:

(A) recognized at common law; or

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

~~(46)~~ (47) “Unincorporated nonprofit association” means a domestic unincorporated nonprofit association formed under or subject to [Article] 9 or a foreign unincorporated nonprofit association.

Reporters’ Note

Substitution of “distributional interest” for “transferable interest” made for purposes of clarity. Similar changes have been made in META § 1-102, MORAA § 2, UPA § __, ULPA § __, and ULLCA § __.

“Entity” changed to “person” in paragraph (B)(vi) of the definition of “entity” to reflect the scope of Section 1-106.

“*Governance interest.*” Change in paragraph (C) is intended to clarify the language.

“*Governor.*” “Business” changed to “activities” in paragraph (K) to reflect that nonprofit entities are included within the scope of the definition.

“*Interest.*” Paragraph (J) picks up governance interests in any type of unincorporated entity that is not included by name in paragraphs (C) – (I). Paragraph (K), in contrast, includes distributional interests in all unincorporated entities.

“*Noncommercial registered agent.*” References to an “agent for service of process” have been changed to “registered agent” throughout the acts because an agent may also receive notices and demands under the organic law of a represented entity.

275 “*Nonregistered foreign entity.*” This definition has been added to simplify the language
276 of other provisions of the act and is patterned after MORAA § 2.

277
278 “*Principal office.*” Change is intended to avoid the possibility that an entity could
279 designate an office where significant activities are not conducted.

280
281 “Registered foreign entity” substituted for “qualified foreign entity” to reflect the usage
282 in Part 5.

283
284 “*Transfer.*” Patterned after harmonized ULLCA § 102.

285
286 **SECTION 1-103. APPLICABILITY OF [ARTICLE].** This [article] applies to an
287 entity formed under or subject to this [act].

288 **SECTION 1-104. DELIVERY OF RECORD.**

289 (a) Except as otherwise provided in this [act], permissible means of delivery of a record
290 include delivery by hand, mail by the United States Postal Service, commercial delivery, and
291 electronic transmission.

292 (b) Delivery to the [Secretary of State] is effective only when the record is received by
293 the [Secretary of State].

294 **SECTION 1-105. RULES AND PROCEDURES.** The [Secretary of State] may adopt
295 rules in accordance with [this state’s administrative procedure act] and may prescribe procedures
296 not required to be adopted as rules which are reasonably necessary to perform the duties required
297 of the [Secretary of State] under this [act].

298 **[SECTION 1-106. ~~ENTITIES EXCLUSIONS.~~** This [act] does not apply to ~~the~~
299 ~~following entities:~~

300 (1) _____;

301 (2) _____;

302 (3) _____.]

303 **Reporters' Note**

304 References to “entities” have been deleted because the purpose of this section is to
305 exclude from the scope of the act legal persons that may not be “entities” as defined in Section 1-
306 102.

307
308
309 **[PART] 2**

310 **FILING**

311 **SECTION 1-201. ENTITY FILING REQUIREMENTS.**

312 (a) To be filed by the [Secretary of State] pursuant to this [article], an entity filing must
313 be received by the [Secretary of State] and must comply with this [act] and satisfy the following:

314 (1) The entity filing must be required or permitted by this [act].

315 (2) The entity filing must be physically delivered in written form unless and to the
316 extent the [Secretary of State] permits electronic delivery of entity filings in other than written
317 form.

318 (3) The words in the entity filing must be in English, and numbers must be in
319 Arabic or Roman numerals, but the name of the entity need not be in English if written in
320 English letters or Arabic or Roman numerals.

321 (4) The entity filing must be signed by ~~an individual~~ a person authorized under
322 this [act] to sign the filing.

323 (5) The entity filing must state the name and capacity, if any, of the individual
324 who signed it, either on his or her own behalf or on behalf of a person authorized to sign the
325 filing, but need not contain a seal, attestation, acknowledgment, or verification.

326 (b) If law other than this [act] prohibits the disclosure by the [Secretary of State] of
327 information contained in an entity filing, the [Secretary of State] shall accept the filing if the
328 filing otherwise complies with this section but may redact the information.

(c) When an entity filing is delivered to the [Secretary of State] for filing, any fee required under this [article] and any fee, tax, or penalty required to be paid under this [article] or law other than this [act] must be paid in a manner permitted by the [Secretary of State] or by that law.

(d) The [Secretary of State] may require that an entity filing delivered in written form be accompanied by an identical or conformed copy.

Reporters' Note

Changes to subsection (a)(4) and (5) reflect the fact that entity filings may be signed by persons who are not individuals (e.g., a certificate of limited partnership signed by a general partner that is a limited liability company). Where an entity filing is signed by an entity, the name and address of the individual signing on behalf of the entity is required (e.g., the name and address of the individual signing on behalf of the limited liability company that is the general partner signing a certificate of limited partnership).

SECTION 1-202. FORMS.

(a) The [Secretary of State] may provide forms for entity filings required or permitted to be made by this [act], but, except as otherwise provided in subsection (b), their use is not required.

(b) The [Secretary of State] may require that a cover sheet for an entity filing and [an annual] [a biennial] report be on forms prescribed by the [Secretary of State].

SECTION 1-203. EFFECTIVE TIME AND DATE. Except as otherwise provided in ~~Section 1-204~~ this [act] and subject to Section 1-205(e)(d), an entity filing is effective:

(1) on the date and at the time of its filing by the [Secretary of State] as provided in Section 1-206;

(2) on the date of filing and at the time specified in the entity filing as its effective time, if later than the time under paragraph (1);

(3) if permitted by this [act], at a specified delayed effective time and date, which may

not be more than 90 days after the date of filing; or

(4) if a delayed effective date as permitted by this [act] is specified, but no time is specified, at 12:01 a.m. on the date specified.

Reporters' Note

Change to the lead-in language reflects the fact that other sections of the act have special rules on the effectiveness of entity filings. See §§ 1-406(b) and 1-410(b).

SECTION 1-204. WITHDRAWAL OF FILED RECORD BEFORE EFFECTIVENESS.

(a) ~~The parties to a filed record may withdraw the record~~ A filed record may be withdrawn before it takes effect by delivering to the [Secretary of State] for filing a statement of withdrawal.

~~(b) To withdraw a filed record, the parties to the record must deliver to the [Secretary of State] for filing a statement of withdrawal.~~

~~(c)~~ (b) A statement of withdrawal must:

(1) ~~except as otherwise agreed by the parties,~~ be signed ~~on behalf of~~ by each ~~party~~ person that signed the ~~filed~~ record being withdrawn, except as otherwise agreed by those persons;

(2) identify the filed record to be withdrawn; and the date of its filing; ~~and the parties to it;~~ and

(3) if ~~filed by fewer than all parties~~ not signed by each person that signed the record being withdrawn, state that the ~~filed~~ record ~~has been~~ is withdrawn in accordance with the agreement of all the parties persons who signed the record.

~~(d)~~ (c) On ~~the delivery for~~ filing ~~to~~ by the [Secretary of State] of a statement of withdrawal, the action or transaction evidenced by the original filed record does not take effect.

381 **Reporters' Note**

382 The changes conform the language of this section to harmonized ULLCA § 207.

383 **SECTION 1-205. CORRECTING FILED RECORD.**

384 (a) A person on whose behalf a filed record was delivered to the [Secretary of State] for
385 filing may correct the record if:

386 (1) the record at the time of filing ~~contained an inaccuracy~~ was inaccurate;

387 (2) the record was defectively signed; or

388 (3) the electronic transmission of the record to the [Secretary of State] was
389 defective.

390 (b) To correct a filed record, ~~the parties to the record must deliver~~ a person on whose
391 behalf the record was delivered to the [Secretary of State] must deliver to the [Secretary of State]
392 for filing a statement of correction.

393 (c) A statement of correction:

394 (1) may not state a delayed effective date;

395 (2) must be signed ~~on behalf of~~ by the person correcting the filed record;

396 (3) must identify the filed record to be corrected or have attached a copy and state
397 the date of its filing;

398 (4) must specify the inaccuracy or defect to be corrected; and

399 (5) must correct the inaccuracy or defect.

400 (d) A statement of correction is effective as of the effective date of the filed record that it
401 corrects except as to persons relying on the uncorrected filed record and adversely affected by
402 the correction. As to those persons, the statement of correction is effective when filed.

403 **Reporters' Note**

404 Changes are intended to clarify the language of the section and conform to § 1-204 as
405 revised. Conforming changes have been made to other acts.

406
407 **SECTION 1-206. DUTY OF [SECRETARY OF STATE] TO FILE; REVIEW OF**
408 **REFUSAL TO FILE.**

409 (a) The [Secretary of State] shall file an entity filing delivered to the [Secretary of State]
410 for filing which satisfies Section 1-201. The duty of the [Secretary of State] under this section is
411 ministerial.

412 (b) When the [Secretary of State] files an entity filing, the [Secretary of State] shall
413 record it as filed on the date and time of its delivery. After filing an entity filing, the [Secretary
414 of State] shall deliver to the domestic or foreign entity or its representative a copy of the filing
415 with an acknowledgment of the date and time of filing.

416 (c) If the [Secretary of State] refuses to file an entity filing, the [Secretary of State] shall
417 return the entity filing or notify the person that submitted the filing not later than [15] business
418 days after the filing is delivered, together with a brief explanation in a record of the reason for
419 the refusal.

420 (d) If the [Secretary of State] refuses to file an entity filing, the person that submitted the
421 filing may seek review of the refusal by the [appropriate court] under the following procedures:

422 (1) The review proceeding is commenced by petitioning the court to compel filing
423 of the filing and by attaching to the petition the filing and the explanation of the [Secretary of
424 State] of the refusal to file.

425 (2) The court may summarily order the [Secretary of State] to file the filing or
426 take other action the court considers appropriate.

427 (3) The final decision of the court may be appealed as in other civil proceedings.

(e) The filing of or refusal to file an entity filing does not:

(1) affect the validity or invalidity of the filing in whole or in part;

(2) affect the correctness or incorrectness of information contained in the filing; or

(3) create a presumption that the filing is valid or invalid or that information

contained in the filing is correct or incorrect.

SECTION 1-207. EVIDENTIARY EFFECT OF COPY OF FILED RECORD. A

certification from the [Secretary of State] accompanying a copy of a filed record is conclusive evidence that the copy is an accurate representation of the original record on file with the [Secretary of State].

SECTION 1-208. CERTIFICATE OF GOOD STANDING OR REGISTRATION.

(a) On request of any person, the [Secretary of State] shall issue a certificate of good standing for a domestic filing entity or a certificate of registration for a ~~qualified~~ registered foreign entity.

(b) A certificate under subsection (a) must state:

(1) the domestic filing entity's name or the ~~qualified~~ registered foreign entity's name used in this state;

(2) that:

(A) in the case of a ~~the~~ domestic filing entity, it is formed under the law of this state, the date of its formation, and the period of its duration if the records of the [Secretary of State] indicate that its period of duration is less than perpetual, or

(B) that the ~~qualified~~ in the case of a registered foreign entity, it is registered to do business in this state;

(3) that all fees, taxes, interest, and penalties owed to this state collected through

the [Secretary of State] have been paid, if:

(A) payment is reflected in the records of the [Secretary of State]; and

(B) nonpayment affects the good standing or registration of the domestic or foreign entity;

(4) that the entity's most recent [annual] [biennial] report required by Section 1-211 has been delivered for filing to the [Secretary of State];

(5) that the records of the [Secretary of State] do not indicate that the entity has not been dissolved; and

(6) other facts of record pertaining to the entity with the [Secretary of State] which the person requesting the certificate reasonably requests.

(c) Subject to any qualification stated in the certificate, a certificate issued by the [Secretary of State] under subsection (a) may be relied upon as conclusive evidence ~~that the domestic filing entity is in existence or the qualified foreign entity is registered to do business in this state~~ of the facts stated in the certificate.

Reporters' Note

Changes are intended to clarify the language of the section. Conforming changes have been made to other acts.

SECTION 1-209. SIGNING CONSTITUTES AFFIRMATION. Signing an entity filing is an affirmation under the penalties of perjury that the facts stated in the filing are true in all material respects.

SECTION 1-210. DELIVERY BY [SECRETARY OF STATE]. Except as otherwise provided by Section 1-602 or by law other than this [act], the [Secretary of State] may deliver any record to a person by delivering it to the person that submitted it, to the address of the person's registered agent, to the principal office address of the person, or to another address the

person provides to the [Secretary of State] for delivery.

SECTION 1-211. [ANNUAL] [BIENNIAL] REPORT FOR [SECRETARY OF STATE].

(a) Each domestic filing entity and ~~qualified~~ registered foreign entity shall deliver to the [Secretary of State] for filing [an annual] [a biennial] report that sets forth:

(1) the name of the entity and its jurisdiction of formation;

(2) the name and street and mailing address of the entity's registered agent in this state;

(3) the street and mailing address of the entity's principal office; and

(4) the ~~names of governors~~ name of at least one governor.

(b) Information in the [annual] [biennial] report must be current as of the date the report is signed ~~on behalf of~~ by the entity.

(c) The first [annual] [biennial] report must be delivered to the [Secretary of State] after [January 1] and before [April 1] of the year following the calendar year in which the domestic filing entity was formed or the foreign filing entity registered to do business in this state.

Subsequent [annual] [biennial] reports must be delivered to the [Secretary of State] after [January 1] and before [April 1] of each [second] calendar year thereafter.

(d) If [an annual] [a biennial] report does not contain the information required by this [part], the [Secretary of State] promptly shall notify the reporting domestic or ~~qualified~~ registered foreign entity in a record and return the report for correction.

(e) If [an annual] [a biennial] report under this section contains the name or address of a registered agent which differs from the information shown in the records of the [Secretary of State] immediately before the [annual] [biennial] report becomes effective, the differing

[information in the \[annual\] \[biennial\] report is considered a statement of change under Section 1-407.](#)

Reporters' Note

Subsection (a)(4). Change reflects the fact that it is sometimes difficult to determine who all of the governors of an unincorporated entity are. The new language is a compromise between the former provisions of the HUB which required all governors to be listed and ULLCA which did not require any governors to be listed.

Subsection (e). Patterned after harmonized ULLCA § 212(e)

[SECTION 1-212. FEES.

Alternative A

(a) The [Secretary of State] shall collect the following fees for copying and certifying the copy of any filed record:

(1) \$ [] per page for copying; and

(2) \$ [] for the certification.

(b) The [Secretary of State] shall collect the following fees when an entity filing is delivered for filing:

(1) Statement of merger, \$ [].

(2) Statement of withdrawal of merger, \$ [].

(3) Statement of interest exchange, \$ [].

(4) Statement of withdrawal of interest exchange, \$ [].

(5) Statement of conversion, \$ [].

(6) Statement of withdrawal of conversion, \$ [].

(7) Statement of domestication, \$ [].

(8) Statement of withdrawal of domestication, \$ [].

(9) [Annual] [Biennial] report, \$ [].

526 (10) Articles of incorporation of a business corporation, \$ [].

527 (11) Articles of incorporation of a nonprofit corporation, \$ [].

528 (12) Statement of qualification of a limited liability partnership, \$ [].

529 (13) Certificate of limited partnership of a limited partnership, \$ [].

530 (14) Certificate of organization of a limited liability company, \$ [].

531 [(15) Articles of incorporation of a general cooperative association, \$ [].]

532 (16) Articles of organization of a limited cooperative association, \$ [].

533 (17) Certificate of trust of a statutory trust, \$ [].

534 (18) Other public organic document, \$ [].

535 (19) Commercial-registered-agent listing statement, \$ [].

536 (20) Commercial-registered-agent termination statement, \$ [].

537 (21) Registered agent statement of change, \$ [].

538 (22) Registered agent statement of resignation, no fee

539 (23) Statement ~~appointing an~~ designating a registered agent ~~for service of process,~~

540 \$ [].

541 (24) Foreign entity registration statement, \$ [].

542 (25) Amendment of foreign entity registration statement, \$ [].

543 (26) Notice of cancellation of foreign entity registration statement, \$ [].

544 [(27) Other entity filings, \$ [].]

545 (c) The withdrawal under Section 1-204 of a filed record before it is effective or the

546 correction of a filed record under Section 1-205 does not entitle the person on whose behalf the

547 record was filed to a refund of the filing fee.

548 **Alternative B**

549 (a) The [Secretary of State] shall adopt rules in accordance with [this state's
550 administrative procedure act] setting fees for entity filings authorized to be delivered to the
551 [Secretary of State] for filing under this [act] and for copying and certifying a copy of any entity
552 filing under this [act].

553 (b) There is no fee for filing a registered agent's statement of resignation.

554 (c) The withdrawal under Section 1-204 of a filed record before it is effective or the
555 correction of a filed record under Section 1-205 does not entitle the person on whose behalf the
556 record was filed to a refund of the filing fee.

557 **End of Alternatives]**

558
559 **[PART] 3**

560 **NAME OF ENTITY**

561 **SECTION 1-301. PERMITTED NAMES.**

562 (a) Except as otherwise provided in subsections (b) and (d), the name of a domestic filing
563 entity or domestic limited liability partnership, and the name under which a foreign filing entity
564 or foreign limited liability partnership may register to do business in this state, must be
565 distinguishable on the records of the [Secretary of State] from any:

566 (1) name of another domestic filing entity or limited liability partnership;

567 (2) name of a foreign filing entity or foreign limited liability partnership that is
568 registered to do business in this state under [Part] 5;

569 (3) name that is reserved under Section 1-303;

570 (4) name that is registered under Section 1-304; or

571 (5) assumed name registered under [this state's assumed name statute].

(b) Subsection (a) does not apply if the other entity or the person for which the name is reserved or registered consents in a record to the use of the name and submits an undertaking in a form satisfactory to the [Secretary of State] to change its name to a name that is distinguishable on the records of the [Secretary of State] from any name in any category of names in subsection (a).

(c) Except as otherwise provided in subsection (d), in determining whether a name is the same as or not distinguishable on the records of the [Secretary of State] from the name of another entity, words, phrases, or abbreviations indicating the type of entity, such as “corporation”, “corp.”, “incorporated”, “Inc.”, “professional corporation”, “PC”, “professional association”, “PA”, “Limited”, “Ltd.”, “limited partnership”, “limited liability partnership”, “LLP”, “registered limited liability partnership”, “RLLP”, “limited liability limited partnership”, “LLLLP”, “registered limited liability limited partnership”, “RLLLLP”, “limited liability company”, or “LLC”, may not be taken into account.

(d) The holder of a name under subsection (a) may consent in a record to the use of a name that is not distinguishable on the records of the [Secretary of State] from its name except for the addition of a word, phrase, or abbreviation indicating the type of entity described in subsection (c). In such a case, the holder need not change its name pursuant to subsection (b).

(e) An entity name may not contain the words [insert prohibited words or words that may be used only with approval by the appropriate state agency].

SECTION 1-302. NAME REQUIREMENTS FOR CERTAIN TYPES OF ENTITIES.

(a) The name of a business corporation must contain the word "corporation", "incorporated", "company", or "limited", or the abbreviation "Corp.", "Inc.", "Co.", or "Ltd.", or

words or abbreviations of similar import in another language.

(b) The name of a limited partnership may contain the name of any partner. If the limited partnership is not a limited liability limited partnership, the name must contain the phrase “limited partnership” or the abbreviation “L.P.” or “LP” and may not contain the phrase “limited liability limited partnership” or “registered limited liability partnership” or the abbreviation “L.L.L.P.”, “LLLP”, “R.L.L.L.P.” or RLLLP”. If the limited partnership is a limited liability limited partnership, the name must contain the phrase “limited liability limited partnership” or the abbreviation “L.L.L.P.”, “LLLP” “R.L.L.L.P.”, or “RLLLP” and may not contain the abbreviation “L.P.” or “LP”.

(c) The name of a limited liability partnership that is not a limited liability limited partnership must contain the words “limited liability partnership” or “registered limited liability partnership” or the abbreviation “L.L.P.”, “R.L.L.P.”, “LLP”, or “RLLP”.

(d) The name of a limited liability company must contain the words “limited liability company” or “limited company” or the abbreviation “L.L.C.”, “LLC”, “L.C.”, or “LC”. “Limited” may be abbreviated as “Ltd.”, and “company” may be abbreviated as “Co.”.

(e) The name of a limited cooperative association must contain the words “limited cooperative association” or “limited cooperative” or the abbreviation “L.C.A.” or “LCA”. “Limited” may be abbreviated as “Ltd.”. “Cooperative” may be abbreviated as “Co-op.”, “Coop.”, “Co-op”, or “Coop”. “Association” may be abbreviated as “Assoc.”, “Assoc”, “Assn.”, or “Assn”.

(f) The name of a statutory trust may contain the words “company”, “association”, “club”, “foundation”, “fund”, “institute”, “society”, “union”, “syndicate”, “limited”, or “trust”, or words of similar import, and may contain the name of a beneficial owner, a trustee, or any

618 other person.

619 [(g) Insert requirements for names of other types of entities that may be included in this
620 [act], such as general cooperative associations.]

621 **SECTION 1-303. RESERVATION OF NAME.**

622 (a) A person may reserve the exclusive use of an entity name by delivering an application
623 to the [Secretary of State] for filing. The application must state the name and address of the
624 applicant and the name proposed to be reserved. If the [Secretary of State] finds that the entity
625 name applied for is available, the [Secretary of State] shall reserve the name for the applicant's
626 exclusive use for a ~~[120]-day~~ period of [120] days.

627 (b) The owner of a reserved entity name may transfer the reservation to another person by
628 delivering to the [Secretary of State] a signed notice in a record of the transfer which states the
629 name and address of the transferee.

630 **SECTION 1-304. REGISTRATION OF NAME.**

631 (a) A foreign filing entity or foreign limited liability partnership not registered to do
632 business in this state under [Part] 5 may register its name, or an alternate name required by
633 Section 1-506, if the name is distinguishable upon the records of the [Secretary of State] from the
634 names that are not available under Section 1-301.

635 (b) To register its name or an alternate name required by Section 1-506, a foreign filing
636 entity or foreign limited liability partnership must deliver to the [Secretary of State] for filing an
637 application stating its name, or its name with any addition required by Section 1-506, and the
638 jurisdiction and date of its formation. If the [Secretary of State] finds that the name applied for is
639 available, the [Secretary of State] shall register the name for the applicant's exclusive use.

640 (c) The registration of a name under this section is effective for [one year] after the date

of filing.

(d) A foreign filing entity or foreign limited liability partnership whose name registration is effective may renew the registration for successive one-year periods by delivering, not earlier than [three months] before the expiration of the registration year, to the [Secretary of State] for filing a renewal application that complies with this section. When filed, the renewal application renews the registration for a succeeding one-year period.

(e) A foreign filing entity or foreign limited liability partnership whose name registration is effective may register as a foreign filing entity or foreign limited liability partnership under the registered name or consent in a signed record to the use of that name by:

(1) a domestic filing entity formed under this [act];

(2) a limited liability partnership subject to this [act]; or

(3) another foreign filing entity or foreign limited liability partnership authorized to do business in this state.

[PART] 4

REGISTERED AGENT OF ENTITY

SECTION 1-401. DEFINITIONS. In this [part]:

(1) “~~Appointment~~ Designation of agent” means a statement ~~appointing an~~ designating a registered agent ~~for service of process~~ filed under Section 1-411 by a ~~nonqualified~~ nonregistered foreign entity or domestic nonfiling entity.

(2) “~~Nonqualified~~ Nonregistered foreign entity” means a foreign entity that is not a ~~qualified foreign entity~~ registered to do business in this state pursuant to a statement of registration filed by the [Secretary of State].

(3) “Nonresident limited liability partnership statement” means:

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

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

669 (4) “Registered agent filing” means:

670 (A) the public organic record of a domestic filing entity;

671 (B) a nonresident limited liability partnership statement;

672 (C) a registration statement filed pursuant to Section 1-503; or

673 (D) ~~an appointment~~ a designation of a registered agent.

674 (5) “Represented entity” means:

675 (A) a domestic filing entity;

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

678 (C) a ~~qualified~~ registered foreign entity;

679 (D) a domestic or foreign unincorporated nonprofit association for which ~~an~~
680 ~~appointment~~ a designation of an agent has been filed;

681 (E) a domestic nonfiling entity for which ~~an appointment~~ a designation of an
682 agent has been filed; or

683 (F) a ~~nonqualified nonregistered~~ foreign entity for which ~~an appointment a~~
684 designation of an agent has been filed.

685 **Reporters’ Note**

686 “Nonresident limited liability partnership statement.” This definition is limited to those
687 LLPs that do not have an office in the state because LLPs that have an in-state office are not
688 required to designate a registered agent. See UPA §§ 1001(c)(3) and 1102(a)(3). Consideration
689 should be given to requiring a registered agent for all LLPs.

690 **SECTION 1-402. ENTITIES REQUIRED TO DESIGNATE AND MAINTAIN**

691 **REGISTERED AGENT.** The following shall designate and maintain a registered agent in this
692 state:

693 (1) a domestic filing entity;

694 (2) a domestic limited liability partnership that does not maintain a place of business in
695 this state; and

696 (3) a ~~qualified~~ registered foreign entity.

697 **SECTION 1-403. ADDRESSES IN FILINGS.** If a provision of this [part] other than
698 Section 1-410(a)(4) requires that a record state an address, the record must state:

699 (1) a street address in this state; and

700 (2) a mailing address in this state, if different from the address described in paragraph (1).

701 **SECTION 1-404. ~~APPOINTMENT~~ DESIGNATION OF REGISTERED AGENT.**

702 (a) A registered agent filing must state:

703 (1) the name of the represented entity's commercial registered agent; or

704 (2) if the entity does not have a commercial registered agent:

705 (A) the name and address of the entity's noncommercial registered agent;

706 or

707 (B) ~~if the entity designates an officer or employee to accept service of~~
708 ~~process~~, the title of the an office or other position with the entity if service of process, notices
709 and demands are to be sent to the individual holding that office or position, and the address of
710 the business office of that ~~person~~ individual.

711 (b) The ~~appointment~~ designation of a registered agent pursuant to subsection (a)(1) or

712 (2)(A) is an affirmation ~~under Section 1-209~~ of fact by the represented entity that the agent has

consented to serve.

(c) The [Secretary of State] shall make available in a record as soon as practicable a daily list of filings that contain the name of a registered agent. The list must:

(1) be available for at least 14 calendar days;

(2) list in alphabetical order the names of the registered agents; and

(3) state the type of filing and name of the represented entity making the filing.

Reporters' Note

Change from "appointment" to "designation" conforms to the usage in Section 1-402.

Subsection (a). Changes conform to MORA § 5.

Subsection (b). Reference to Section 1-209 deleted because it does not correctly reflect the effect of Section 1-209.

SECTION 1-405. LISTING OF COMMERCIAL REGISTERED AGENT.

(a) A person may become listed as a commercial registered agent by filing with the [Secretary of State] a commercial-registered-agent listing statement signed by ~~or on behalf of~~ the person which states:

(1) the name of the individual or the name of the entity, type of entity, and jurisdiction of formation of the entity;

(2) that the person is in the business of serving as a commercial registered agent in this state; and

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

(b) A commercial-registered-agent listing statement may include the information regarding acceptance ~~by the agent~~ of service of process, notices, and demands in a form other

than a written record as provided for in Section 1-412(d).

(c) If the name of a person filing a commercial-registered-agent listing statement is not distinguishable on the records of the [Secretary of State] from the name of another commercial registered agent listed under this section, the person shall adopt a fictitious name that is distinguishable and use that name in its statement and when it does business in this state as a commercial registered agent.

~~(d) A listing statement takes effect on filing by the [Secretary of State].~~

~~(e)~~ (d) The [Secretary of State] shall note the filing of the commercial-registered-agent listing statement in the index of filings maintained by the [Secretary of State] for each entity represented by the agent at the time of the filing. The statement has the effect of deleting the address of the agent from the filing of each of those entities.

Reporters' Note

Subsection (d) deleted because it duplicates Section 1-203.

SECTION 1-406. TERMINATION OF LISTING OF COMMERCIAL REGISTERED AGENT.

(a) A commercial registered agent may terminate its listing as a commercial registered agent by delivering to the [Secretary of State] for filing a commercial-registered-agent termination statement signed by ~~or on behalf of~~ the agent which states:

(1) the name of the agent as listed under Section 1-405; and

(2) that the agent is no longer in the business of serving as a commercial registered agent in this state.

(b) A commercial-registered-agent termination statement takes effect at 12:01 a.m. on the 31st day after the day on which it is delivered to the [Secretary of State] for filing.

(c) The commercial registered agent promptly shall furnish each entity represented by the agent notice in a record of the filing of the commercial-registered-agent termination statement.

(d) When a commercial-registered-agent termination statement takes effect, the commercial registered agent ceases to be ~~an~~ the registered agent for ~~service of process on each~~ entity formerly represented by it. Until an entity formerly represented by a terminated commercial registered agent ~~appoints~~ designates a new registered agent, service of process may be made on the entity pursuant to Section 1-412. Termination of the listing of a commercial registered agent under this section does not affect any contractual rights a represented entity has against the agent or that the agent has against the entity.

Reporters' Note

Section 1-203 has been changed to conform to subsection (b).

SECTION 1-407. CHANGE OF REGISTERED AGENT BY ENTITY.

(a) A represented entity may change the information on file under Section 1-404(a) by delivering to the [Secretary of State] for filing a statement of change signed ~~on behalf of~~ by the entity which states:

(1) the name of the entity; and

(2) the information that is to be in effect as a result of the filing of the statement of change.

(b) The interest holders or governors of a domestic entity 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 of the entity in any other jurisdiction.

(c) A statement of change under this section ~~appointing~~ designating a new registered

agent is an affirmation ~~under Section 1-209~~ of fact by the represented entity that the agent has consented to serve.

~~(d) A statement of change under this section takes effect on delivery to the [Secretary of State] for filing.~~

~~(e)~~ (d) As an alternative to using the procedure in this section, a represented entity may change the information on file under Section 1-404(a) by amending its most recent registered agent filing in a manner provided by law of this state other than this [act] for amending the filing.

Reporters' Note

Subsection (d) deleted because it duplicates Section 1-203.

SECTION 1-408. CHANGE OF NAME OR ADDRESS BY NONCOMMERCIAL REGISTERED AGENT.

(a) If a noncommercial registered agent changes its name or its address in effect with respect to a represented entity under Section 1-404(a), the agent shall deliver to the [Secretary of State] for filing, with respect to each entity represented by the agent, a statement of change signed by ~~or on behalf of~~ the agent which states:

(1) the name of the entity;

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

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

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

~~(b) A statement of change under this section takes effect on delivery to the [Secretary of State] for filing.~~

~~(e)~~ (b) A noncommercial registered agent promptly shall furnish the represented entity with notice in a record of the delivery of the [Secretary of State] for filing of a statement of

change and the changes made in the statement.

Reporters' Note

Subsection (b) deleted because it duplicates Section 1-203.

SECTION 1-409. CHANGE OF NAME, ADDRESS, TYPE OF ENTITY, OR JURISDICTION OF FORMATION BY COMMERCIAL REGISTERED AGENT.

(a) If a commercial registered agent changes its name, its address as listed under Section 1-405(a), its type of entity, or its jurisdiction of formation, the agent shall deliver to the [Secretary of State] for filing a statement of change signed by ~~or on behalf of~~ the agent which states:

(1) the name of the agent as listed under Section 1-405(a);

(2) if the name of the agent has changed, the new name;

(3) if the address of the agent has changed, the new address;

(4) if the agent is an entity:

(A) if the type of entity of the agent has changed, the new type of entity;

and

~~(5)~~ (B) if the jurisdiction of formation of the ~~entity~~ agent has changed, the new jurisdiction of formation.

(b) The delivery to the [Secretary of State] for filing by a commercial registered agent of a statement of change under subsection (a) is effective to change the information regarding the agent with respect to each entity represented by the agent.

(c) A commercial registered agent promptly shall furnish each entity represented by it notice in a record of the delivery to the [Secretary of State] for filing of a statement of change relating to the name or address of the agent and the changes made in the statement.

(d) If a commercial registered agent changes its address without delivering for filing a statement of change as required by this section, the [Secretary of State] may cancel the listing of the agent under Section 1-405. A cancellation under this subsection has the same effect as a termination under Section 1-406. Promptly after canceling the listing of an agent, the [Secretary of State] shall serve notice in a record in the manner provided in Section 1-412(b) or (c) on:

(1) each entity represented by the agent, stating that the agent has ceased to be ~~an~~ the registered agent for ~~service of process on~~ the entity and that, until the entity ~~appoints~~ designates a new registered agent, service of process may be made on the entity as provided in Section 1-412; and

(2) the agent, stating that the listing of the agent has been canceled under this section.

Reporters' Note

Should subsection (a)(4) also be a requirement for noncommercial registered agents?

SECTION 1-410. RESIGNATION OF REGISTERED AGENT.

(a) A registered agent may resign as agent for a represented entity by delivering to the [Secretary of State] for filing a statement of resignation signed by ~~or on behalf of~~ the agent which states:

- (1) the name of the entity;
- (2) the name of the agent;
- (3) that the agent resigns from serving as registered agent ~~for service of process~~ for the entity; and
- (4) the address of the entity to which the agent will send the notice required by subsection (c).

(b) A statement of resignation takes effect on the earlier of the 31st day after the day on which it is ~~delivered to~~ filed by the [Secretary of State] ~~for filing~~ or the appointment designation of a new registered agent for the represented entity.

(c) A registered agent promptly shall furnish the represented entity notice in a record of the date on which a statement of resignation was ~~delivered to the~~ [Secretary of State] ~~for filing~~ filed.

(d) When a statement of resignation takes effect, the registered agent ceases to have responsibility for any matter tendered to it as agent for the represented entity. The resignation does not affect any contractual rights the entity has against the agent or that the agent has against the entity.

(e) A registered agent may resign with respect to a represented entity whether or not the entity is in good standing.

**SECTION 1-411. APPOINTMENT DESIGNATION OF REGISTERED AGENT
BY ~~NONQUALIFIED~~ NONREGISTERED FOREIGN ENTITY OR NONFILING
DOMESTIC ENTITY.**

(a) A ~~nonqualified~~ nonregistered foreign entity or domestic nonfiling entity may deliver to the [Secretary of State] for filing a statement ~~appointing~~ designating a registered agent signed ~~on behalf of~~ by the entity which states:

(1) the name, type of entity, and jurisdiction of formation of the entity; and

(2) the information required by Section 1-404(a).

(b) A statement ~~appointing~~ designating a registered agent ~~takes effect on filing by the~~ [Secretary of State] ~~and~~ is effective for five years after the date of filing unless canceled or terminated earlier.

(c) ~~Appointment~~ Designation of a registered agent under this section does not ~~qualify~~
register a ~~nonqualified~~ nonregistered foreign entity to do business in this state.

(d) A statement ~~appointing~~ designating a registered agent may not be rejected for filing
because the name of the entity ~~filing~~ signing the statement is not distinguishable on the records
of the [Secretary of State] from the name of another entity appearing in those records. The filing
of such a statement does not make the name of the entity ~~filing~~ signing the statement unavailable
for use by another entity.

(e) An entity that delivers to the [Secretary of State] for filing a statement under
subsection (a) ~~appointing~~ designating a registered agent may cancel the statement by delivering
to the [Secretary of State] for filing a statement of cancellation that states the name of the entity
and that the entity is canceling its ~~appointment~~ designation of ~~an a registered agent for service of~~
~~process~~ in this state. ~~The statement takes effect on filing by the [Secretary of State].~~

(f) A statement ~~appointing~~ designating a registered agent for a ~~nonqualified~~ nonregistered
foreign entity terminates on the date the entity becomes a ~~qualified~~ registered foreign entity.

Reporters' Note

References to effectiveness of filings deleted because they duplicate Section 1-203.

SECTION 1-412. SERVICE OF PROCESS, NOTICE, OR DEMAND ON ENTITY.

(a) A represented entity may be served with any process, notice, or demand required or
permitted by law by serving its registered agent.

(b) If ~~an a represented~~ entity ~~that delivered to the [Secretary of State] for filing a~~
~~registered agent filing no longer has~~ ceases to have a registered agent, or if its registered agent
cannot with reasonable diligence be served, the entity may be served by registered or certified

mail, return receipt requested, or by similar commercial delivery service, addressed to the governors of the entity by name at its principal office ~~in accordance with any applicable judicial rules and procedures~~. The names of the governors and the address of the principal office may be as shown in the most recent [annual] [biennial] report filed with the [Secretary of State]. Service is effected under this subsection on the earliest of:

(1) the date the entity receives the mail or delivery by a similar commercial delivery service;

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

(3) five days after its deposit with the United States Postal Service, or similar commercial delivery service, if correctly addressed and with sufficient postage or payment.

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

(d) Service of process, notice, or demand on a registered agent must be in a written record, but service may be made on a commercial registered agent in other forms, and subject to such requirements, as the agent has stated in its listing under Section 1-405 that it will accept.

(e) Service of process, notice, or demand may be made by other means under law other than this [act].

Reporters' Note

Subsection (c) has been revised to track more closely the language of Fed. R. Civ. Proc. 4(h)(1).

SECTION 1-413. DUTIES OF REGISTERED AGENT. The only duties under this [part] of a registered agent that has complied with this [part] are:

(1) to forward to the represented entity at the address most recently supplied to the agent by the entity any process, notice, or demand ~~that~~ pertaining to the entity which is served on or received by the agent;

(2) to provide the notices required by this [act] to the entity at the address most recently supplied to the agent by the entity;

(3) if the agent is a noncommercial registered agent, to keep current the information required by Section 1-404(a) in the most recent registered agent filing for the entity; and

(4) if the agent is a commercial registered agent, to keep current the information listed for it under Section 1-405(a).

Reporters' Note

The changes to the introductory paragraph are patterned after MORA § 14. The rule stated in this section relates only to duties under Part 4 and does not preclude duties being imposed on a registered agent by other law, contract with a represented entity, etc.

SECTION 1-414. JURISDICTION AND VENUE. The ~~appointment~~ designation or maintenance in this state of a registered agent does not by itself create the basis for personal jurisdiction over the represented entity in this state. The address of the agent does not determine venue in a proceeding involving the entity.

[PART] 5

FOREIGN ENTITIES

SECTION 1-501. GOVERNING LAW.

(a) The law of the jurisdiction of formation of an entity governs:

- (1) the internal affairs of the entity;
- (2) the liability that a person has as an interest holder or governor for a debt, obligation, or other liability of the entity; [and]

(3) [the liability of a series of a series limited liability company; and

(4)] the liability of a series of a statutory trust.

(b) A foreign entity is not precluded from registering to do business in this state because of any difference between the ~~laws~~ law of the entity's jurisdiction of formation and the ~~laws~~ law of this state.

(c) Registration of a foreign entity to do business in this state does not authorize it to engage in any activity or exercise any power that a domestic entity of the same type may not engage in or exercise in this state.

Reporters' Note

A Legislative Note will explain that a state may choose to include (a)(3) if it wishes to recognize series entities.

SECTION 1-502. REGISTRATION TO DO BUSINESS IN THIS STATE.

(a) A foreign filing entity or foreign limited liability partnership may not do business in this state until it registers with the [Secretary of State] under this [article].

(b) A foreign filing entity or foreign limited liability partnership doing business in this state may not maintain an action in this state unless it is registered to do business in this state.

(c) The failure of a foreign filing entity or foreign limited liability partnership to register to do business in this state does not impair the validity of a contract or act of the foreign filing entity or foreign limited liability partnership or preclude it from defending a an action or proceeding in this state.

(d) The liability of an interest holder or governor of a foreign filing entity or of a partner of a foreign limited liability partnership is governed by the laws of its jurisdiction of formation. Any limitation on that liability is not waived solely because the foreign filing entity or foreign limited liability partnership does business in this state without registering.

(e) Section 1-501(a) and (b) applies even if a foreign entity fails to register under this [article].

SECTION 1-503. FOREIGN REGISTRATION STATEMENT. To register to do business in this state, a foreign filing entity or foreign limited liability partnership must deliver a foreign registration statement to the [Secretary of State] for filing. The statement must state:

(1) the name of the foreign filing entity or foreign limited liability partnership and, if the name does not comply with Section 1-301, an alternate name adopted pursuant to Section 1-506(a);

(2) the type of entity and, if it is a limited partnership, whether it is a limited liability limited partnership;

(3) the entity's jurisdiction of formation;

(4) the street and mailing address of the principal office of the foreign filing entity or foreign limited liability partnership and, if the ~~laws~~ law of its jurisdiction of formation ~~require~~ requires it to maintain an office in that jurisdiction, the street and mailing address of the office; and

(5) the information required by Section 1-404(a).

SECTION 1-504. AMENDMENT OF FOREIGN REGISTRATION STATEMENT.

(a) A registered foreign entity ~~registered to do business in this state~~ shall deliver to the [Secretary of State] for filing an amendment to its foreign registration statement if there is a change in:

(1) the name of the entity;

(2) the type of entity, including, if it is a limited partnership, whether the entity became or ceased to be a limited liability limited partnership;

- 999 (3) the jurisdiction of formation;
- 1000 (4) the address or addresses required by Section 1-503(4); or
- 1001 (5) the information required by Section 1-404(a).
- 1002 (b) The requirements of Section 1-503 for an original foreign registration statement apply
- 1003 to an amendment of a foreign registration statement under this section.

1004 **Reporters' Note**

1005 See the new definition of "registered foreign entity" in Section 1-102.

1006 **SECTION 1-505. ACTIVITIES NOT CONSTITUTING DOING BUSINESS.**

1007 (a) Activities of a foreign filing entity or foreign limited liability partnership which do not

1008 constitute doing business in this state under this [article] include:

- 1009 (1) maintaining, defending, mediating, arbitrating, or settling ~~a~~ an action or
- 1010 proceeding;
- 1011 (2) carrying on any activity concerning its internal affairs, including holding
- 1012 meetings of its interest holders or governors;
- 1013 (3) maintaining accounts in financial institutions;
- 1014 (4) maintaining offices or agencies for the transfer, exchange, and registration of
- 1015 ~~interests in~~ securities of the entity or maintaining trustees or depositories with respect to those
- 1016 ~~interests~~ securities;
- 1017 (5) selling through independent contractors;
- 1018 (6) soliciting or obtaining orders by any means if the orders require acceptance
- 1019 outside this state before they become contracts;
- 1020 (7) creating or acquiring indebtedness, mortgages, or security interests in
- 1021 property;

1022 (8) securing or collecting debts or enforcing mortgages or other security interests
1023 in property securing the debts, and holding, protecting, or maintaining property so acquired;
1024 (9) conducting an isolated transaction that is not in the course of similar
1025 transactions; ~~and~~
1026 (10) owning, without more, property; and
1027 (11) doing business in interstate commerce.

1028 (b) This section does not apply in determining the contacts or activities that may subject a
1029 foreign filing entity or foreign limited liability partnership to service of process, taxation, or
1030 regulation under law of this state other than this [act].

1031 **Reporters' Note**

1032 New paragraph (a)(10) patterned after harmonized ULLCA § 805(a)(10).

1033 **SECTION 1-506. NONCOMPLYING NAME OF FOREIGN ENTITY.**

1034 (a) A foreign filing entity or foreign limited liability partnership whose name does not
1035 comply with Section 1-301 for an entity of its type may not register to do business in this state
1036 until it adopts, for the purpose of doing business in this state, an alternate name that complies
1037 with Section 1-301. A foreign filing entity or foreign limited liability partnership that registers
1038 under an alternate name under this subsection need not comply with [this state's fictitious or
1039 assumed name statute]. After registering to do business in this state with an alternate name, a
1040 foreign filing entity or foreign limited liability partnership may do business in this state under:

- 1041 (1) the alternate name;
- 1042 (2) its entity name, with the addition of its jurisdiction of formation clearly
1043 identified; or
- 1044 (3) an assumed or fictitious name the entity is authorized to use under [this state's

1045 fictitious or assumed name statute].

1046 (b) If a registered foreign filing entity ~~registered to do business in this state~~ changes its
1047 name to one that does not comply with Section 1-301, it may not do business in this state until it
1048 complies with subsection (a) by amending its registration to adopt an alternate name that
1049 complies with Section 1-301.

1050 **Reporters' Note**

1051 Subsection (b). See the new definition of “registered foreign entity” in Section 1-102.

1052 **SECTION 1-507. WITHDRAWAL OF REGISTRATION OF REGISTERED**
1053 **FOREIGN ENTITY.**

1054 (a) A registered foreign entity ~~registered to do business in this state~~ may withdraw its
1055 registration by delivering a statement of withdrawal to the [Secretary of State] for filing. The
1056 statement of withdrawal must state:

1057 (1) the name of the foreign entity and the name of the jurisdiction under whose
1058 law it is formed;

1059 (2) the type of entity including, if it is a limited partnership, whether it is a limited
1060 liability limited partnership;

1061 (3) that the entity is not doing business in this state and that it withdraws its
1062 registration to do business in this state;

1063 (4) that the entity revokes the authority of its registered agent to accept service on
1064 its behalf; and

1065 (5) an address to which service of process may be made under subsection (b).

1066 (b) After the withdrawal of the registration of an entity, service of process in any action
1067 or proceeding based on a cause of action arising during the time it was registered to do business

in this state may be made pursuant to Section 1-412.

Reporters' Note

Subsection (a). See the new definition of “registered foreign entity” in Section 1-102.

**SECTION 1-508. WITHDRAWAL DEEMED ON CONVERSION TO
DOMESTIC FILING ENTITY OR DOMESTIC LIMITED LIABILITY PARTNERSHIP.**

A ~~qualified~~ registered foreign entity ~~registered to do business in this state which~~ that converts to any type of domestic filing entity or to a domestic registered limited liability partnership is deemed to have withdrawn its registration on the effective date of the conversion.

Reporters' Note

See the new definition of “registered foreign entity” in Section 1-102.

**SECTION 1-509. WITHDRAWAL ON DISSOLUTION OR CONVERSION TO
NONFILING ENTITY OTHER THAN LIMITED LIABILITY PARTNERSHIP.**

(a) A registered foreign entity ~~registered to do business in this state which dissolves that~~ has dissolved and completed winding up or converts that has converted to a domestic or foreign nonfiling entity other than a limited liability partnership shall deliver a statement of withdrawal to the [Secretary of State] for filing. The statement must state:

(1) the name of the foreign entity and the name of the jurisdiction under whose law it was formed before the dissolution or conversion;

(2) the type of entity the foreign entity was before the dissolution or conversion;

(3) that the foreign entity surrenders its registration to do business in this state as a ~~qualified~~ registered entity; and

(4) if the foreign entity has converted to a foreign nonfiling entity other than a foreign limited liability partnership:

1091 (A) the type of nonfiling entity to which it has converted and the
1092 jurisdiction whose laws govern its internal affairs;
1093 (B) that it revokes the authority of its registered agent to accept service on
1094 its behalf; and
1095 (C) a mailing address to which service of process may be made under
1096 subsection (b).

1097 (b) After the withdrawal under this section of a foreign filing entity that has converted to
1098 a foreign nonfiling entity is effective, service of process in any proceeding based on a cause of
1099 action arising during the time it was registered to do business in this state may be made pursuant
1100 to Section 1-412.

1101 (c) After the withdrawal under this section of a foreign filing entity that has converted to
1102 a domestic nonfiling entity other than a limited liability partnership is effective, service of
1103 process may be made on the nonfiling entity pursuant to Section 1-412.

1104 **Reporters' Note**

1105 See the new definition of "registered foreign entity" in Section 1-102. Reference to a
1106 dissolved entity revised to make clear that the requirement to file a statement of withdrawal only
1107 applies when the entity has completed winding up.

1108 **SECTION 1-510. TRANSFER OF REGISTRATION.**

1110 (a) ~~A When a registered foreign filing entity or foreign limited liability partnership~~
1111 ~~registered to do business in this state that merges with~~ has merged into a nonregistered foreign
1112 entity or converts has converted to a foreign entity required to register with the [Secretary of
1113 State] to do business in this state, the foreign entity shall deliver to the [Secretary of State] for
1114 filing an application for transfer of registration. The application must state:

1115 (1) the name of the applicant entity;

1116 (2) the type of entity it was before the merger or conversion;
1117 (3) the name of the entity into which it has merged or to which it has been
1118 converted, and, if the name does not comply with Section 1-301, an alternate name adopted
1119 pursuant to Section 1-506(a);
1120 (4) the type of entity into which it has merged or to which it has been converted
1121 and the jurisdiction whose law governs its internal affairs; and
1122 (5) the following information regarding the entity into which it has merged or to
1123 which it has been converted, if different than the information for the applicant entity:
1124 (A) the street and mailing address of the principal office of the entity and,
1125 if the law of the entity's jurisdiction of formation requires it to maintain an office in that
1126 jurisdiction, the street and mailing address of that office; and
1127 (B) the name and street and mailing address of its registered agent in this
1128 state.
1129 ~~(b) An application for transfer of registration must be delivered to the [Secretary of State]~~
1130 ~~for filing and takes effect at the time provided in Section 1-203.~~
1131 ~~(e)~~ (b) When an application for transfer of registration takes effect, the registration of the
1132 applicant entity to do business in this state is transferred without interruption to the entity into
1133 which it has merged or to which it has been converted.

1134 **Reporters' Note**

1135 *Subsection (a).* See the new definition of "registered foreign entity" in Section 1-102.

1136 Subsection (b) deleted because it duplicates Section 1-203.

1137 **SECTION 1-511. TERMINATION OF REGISTRATION.**

1138
1139 (a) The [Secretary of State] may terminate the registration of a foreign filing entity or
1140

1141 foreign limited liability partnership to do business in this state in the manner provided in
1142 subsections (b) and (c) if the entity does not:

1143 (1) pay, not later than [60 days] after the due date, any fee, tax, or penalty
1144 required to be paid to the [Secretary of State] under this [article] or law other than this [act];

1145 (2) deliver to the [Secretary of State] for filing, not later than [60 days] after the
1146 due date, the [annual] [biennial] report, if any, required of foreign entities of its type; ~~or~~

1147 (3) have a registered agent as required by Section 1-402; or

1148 (4) deliver to the [Secretary of State] for filing a statement of change under
1149 Section 1-407 within 30 days after a change has occurred in the name or address of the registered
1150 agent.

1151 (b) The [Secretary of State] may terminate the registration of a foreign filing entity or
1152 foreign limited liability partnership, by filing a notice of termination or noting the termination in
1153 the records of the [Secretary of State] and by delivering a copy of the notice or the information in
1154 the notation to the entity's registered agent ~~in this state~~, or if the entity does not have a registered
1155 agent ~~in this state~~, to the entity's principal office as designated in Section 1-503(4). The notice
1156 must state or the information in the notation must include:

1157 (1) the effective date of the termination, which must be at least [60 days] after the
1158 date the [Secretary of State] delivers the copy; and

1159 (2) the grounds for termination under subsection (a).

1160 (c) The authority of a foreign filing entity or foreign limited liability partnership to do
1161 business in this state ceases on the effective date of the notice of termination unless before that
1162 date the entity cures each ground for termination stated in the notice filed under subsection (b). If
1163 the entity cures each ground, the [Secretary of State] shall file a record so stating.

1164 **Reporters' Note**

1165 Subsection (a)(4) patterned after harmonized ULLCA § 810(a)(4).

1166 **[SECTION 1-512. ACTION BY [ATTORNEY GENERAL].** The [Attorney General]
1167 may maintain an action to enjoin a foreign filing entity or foreign limited liability partnership
1168 from doing business in this state in violation of this [act].]

1169
1170 **[PART] 6**

1171 **ADMINISTRATIVE DISSOLUTION**

1172 **SECTION 1-601. GROUNDS.** The [Secretary of State] may commence a proceeding
1173 under Section 1-602 to dissolve a domestic filing entity administratively if the entity does not:

1174 (1) pay any fee, tax, or penalty required to be paid to the [Secretary of State] not later
1175 than [six months] after it is due;

1176 (2) deliver [an annual] [a biennial] report to the [Secretary of State] not later than [six
1177 months] after it is due; or

1178 (3) have a registered agent in this state for [60] consecutive days.

1179 **Reporters' Note**

1180 Change intended as a clarification.

1181 **SECTION 1-602. PROCEDURE AND EFFECT.**

1182 (a) If the [Secretary of State] determines that one or more grounds exist under Section 1-
1183 601 for dissolving a domestic filing entity, the [Secretary of State] shall serve the entity pursuant
1184 to Section 1-412 with notice in a record of the [Secretary of State's] determination.

1185 (b) If a domestic filing entity, not later than [60] days after service of the notice is
1186 effected under Section 1-412, does not correct each ground for dissolution or demonstrate to the
1187 satisfaction of the [Secretary of State] that each ground determined by the [Secretary of State]

does not exist, the [Secretary of State] shall dissolve the entity administratively by signing a statement of dissolution that recites the ground or grounds for dissolution and its effective date. The [Secretary of State] shall file the original of the statement and serve a copy on the entity pursuant to Section 1-412.

(c) A domestic filing entity that is dissolved administratively continues its existence as an entity but may not carry on any ~~business~~ activities except as necessary to wind up its activities and liquidate its ~~business and affairs~~ assets in the manner provided in its organic law or to apply for reinstatement under Section 1-603.

(d) The administrative dissolution of a domestic filing entity does not terminate the authority of its registered agent.

SECTION 1-603. REINSTATEMENT.

(a) A domestic filing entity that is dissolved administratively under Section 1-602 may apply to the [Secretary of State] for reinstatement [not later than [two] years after the effective date of dissolution]. The application must state:

(1) the name of the entity at the time of its administrative dissolution and, if needed, a different name that satisfies Section 1-301;

(2) the address of the principal office of the entity and the name and address of the registered agent;

(3) the effective date of the entity's administrative dissolution; and

(4) that the grounds for dissolution either did not exist or have been eliminated.

(b) To be reinstated, an entity must pay all fees, taxes, and penalties that were due to the [Secretary of State] at the time of its administrative dissolution and all fees, taxes, and penalties that would have been due to the [Secretary of State] while the entity was dissolved

1211 administratively.

1212 (c) If the [Secretary of State] determines that the application contains the information
1213 required by subsection (a), is satisfied that the information is correct, and determines that all
1214 payments required to be made to the [Secretary of State] by subsection (b) have been made, the
1215 [Secretary of State] shall cancel the statement of dissolution and prepare a statement of
1216 reinstatement that states the [Secretary of State's] determination and the effective date of
1217 reinstatement, file the original of the statement, and serve a copy on the entity pursuant to
1218 Section 1-412.

1219 (d) When reinstatement under this section is effective, it relates back to and takes effect
1220 as of the effective date of the administrative dissolution, and the domestic filing entity resumes
1221 carrying on its business as if the administrative dissolution had never occurred, except for the
1222 rights of a person arising out of an act or omission in reliance on the dissolution before the
1223 person knew or had reason to know of the reinstatement.

1224 **Reporters' Note**

1225 Legislative Note will discuss the policy issue of whether to limit the time within which
1226 reinstatement may be sought and, if such a time limit is imposed, what the limit should be.

1227
1228 **SECTION 1-604. JUDICIAL REVIEW OF DENIAL OF REINSTATEMENT.**

1229 (a) If the [Secretary of State] denies a domestic filing entity's application for
1230 reinstatement following administrative dissolution, the [Secretary of State] shall serve the entity
1231 pursuant to Section 1-412 with a notice in a record that explains the reason or reasons for denial.

1232 (b) An entity may seek judicial review of denial of reinstatement in the [appropriate
1233 court] not later than [30] days after service of the notice of denial.

1234

1235 **[PART] 7**

1236 **MISCELLANEOUS PROVISIONS**

1237 **SECTION 1-701. RESERVATION OF POWER TO AMEND OR REPEAL.** The
1238 [legislature of this state] has power to amend or repeal all or part of this [act] at any time, and all
1239 domestic and foreign entities subject to this [act] are governed by the amendment or repeal.

1240 **SECTION 1-702. SUPPLEMENTAL PRINCIPLES OF LAW.** Unless displaced by
1241 particular provisions of this [act] the principles of law and equity supplement this [act].

1242 **SECTION 1-703. UNIFORMITY OR CONSISTENCY OF APPLICATION AND**
1243 **CONSTRUCTION.** In applying and construing the [articles] of this [act] based on uniform or
1244 model acts, consideration must be given to the need to promote uniformity or consistency of the
1245 law with respect to its subject matter among states that enact it.

1246 **SECTION 1-704. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL**
1247 **AND NATIONAL COMMERCE ACT.** This [act] modifies, limits, and supersedes the federal
1248 Electronic Signatures in Global and National Commerce act, 15 U.S.C. Section 7001 et seq., but
1249 does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or
1250 authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15
1251 U.S.C. Section 7003(b).

1252 **SECTION 1-705. SAVINGS CLAUSE.** The repeal of a statute by this [act] does not
1253 affect:

- 1254 (1) the operation of the statute or any action taken under it before its repeal;
- 1255 (2) any ratification, right, remedy, privilege, obligation, or liability acquired, accrued, or
1256 incurred under the statute before its repeal;
- 1257 (3) any violation of the statute or any penalty, forfeiture, or punishment incurred because

1258 of the violation before its repeal; or

1259 (4) any proceeding, reorganization, or dissolution commenced under the statute before its
1260 repeal, and the proceeding, reorganization, or dissolution may be completed in accordance with
1261 the statute as if it had not been repealed.

1262 **SECTION 1-706. EFFECTIVE DATE.** This [act] takes effect

1263

1264	[ARTICLE] 2
1265	ENTITY TRANSACTIONS
1266	
1267	[ARTICLE] 3
1268	BUSINESS CORPORATIONS
1269	
1270	[ARTICLE] 4
1271	NONPROFIT CORPORATIONS
1272	
1273	[ARTICLE] 5
1274	GENERAL PARTNERSHIPS
1275	
1276	[ARTICLE] 6
1277	LIMITED PARTNERSHIPS
1278	
1279	[ARTICLE] 7
1280	LIMITED LIABILITY COMPANIES
1281	
1282	[ARTICLE] 8
1283	LIMITED COOPERATIVE ASSOCIATIONS
1284	
1285	[ARTICLE] 9
1286	UNINCORPORATED NONPROFIT ASSOCIATIONS
1287	
1288	[ARTICLE] 10
1289	STATUTORY TRUST ENTITIES