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DRAFT  
FOR DISCUSSION ONLY

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

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NATIONAL CONFERENCE OF COMMISSIONERS  
ON UNIFORM STATE LAWS

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Draft of May 24, 2006

*With Introduction, Comments and Appendix of Conforming Amendments*

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*36The ideas and conclusions set forth in this draft, including the proposed statutory language and comments, have not been passed  
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38reflect the views of the Conference and its Commissioners, or the Drafting Committee and its Members and Reporter. Proposed  
39statutory language may not be used to ascertain the intent or meaning of any promulgated final statutory proposal.*

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

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1 **INTRODUCTION**

2

3 The Model Registered Agents Act (the “Act”) is one of several projects undertaken by  
4the Conference and the American Bar Association (“ABA”) to integrate state entity laws into a  
5more coherent and rational scheme. Other projects include the development of the Model Entity  
6Transactions Act jointly by the Conference and the ABA and the addition of Chapter 9 to the  
7Model Business Corporation Act by the Committee on Corporate Laws of the ABA.

8

9 The Act grew out of discussions within the International Association of Commercial  
10Administrators (“IACA”), which is the association of state corporation bureaus and similar filing  
11officers in the United States and Canada. IACA was approached by representatives of  
12corporation service companies who were seeking to solve several problems they have  
13encountered in their provision of registered agent services. IACA had also been considering on  
14its own how filing requirements in state corporation bureaus could be simplified and  
15standardized. IACA decided that the time was right for it to develop proposed statutory  
16provisions on two subjects:

17

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

22

23 The Ad Hoc Committee on Entity Rationalization of the ABA Section on Business Law  
24(the “ABA Committee”) had been working cooperatively with IACA for several years on other  
25projects of mutual interest. After IACA had prepared a first draft of provisions on registered  
26agents and annual reports, the ABA Committee joined the drafting effort. The ABA Committee  
27also approached the leadership of the Conference with the suggestion that the Conference also  
28join the drafting effort. The result was the development of the Act.

29

30 The original draft of the Act contained separate articles dealing with the two subjects  
31originally identified by IACA: (i) registered agents and (ii) annual report filings. After detailed  
32consideration, the drafting committee and its advisors were all agreed that a separate article on  
33annual reports was not necessary and should be omitted from the Act. Instead, the changes  
34needed to standardize annual report filings are included in the appendix of conforming  
35amendments to the Act. Thus, the Act has two parts:

36

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

45

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

3

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

10

11 The first function, that of being an agent for service of process, is the principal reason why the  
12 appointment of a registered agent is required under entity organic laws. The remaining two  
13 functions made sense at a time when the registered office address of an entity was often a  
14 business address for the entity. In recent years, however, it has become common for entities to  
15 use as their registered agents businesses whose principal activity is the provision of registered  
16 agent services, and thus the address of the registered agent has become divorced from any real  
17 connection with the business activities of the represented entity.

18

19 The conforming amendments in the Appendix to this Act accordingly eliminate the  
20 function of the registered office address as a means of determining where venue or publication is  
21 appropriate. Venue and publication will be determined by the location of an entity’s principal  
22 office; or, if the principal office is outside the state, venue and publication will be in a county  
23 specified by the legislature (for example, the county where the state capitol is located).

24

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



1 **MODEL REGISTERED AGENTS ACT**

2  
3 **SECTION 1. SHORT TITLE.** This [act] may be cited as the Registered Agents Act.

4 **SECTION 2. DEFINITIONS.**

5 (a) In this [act]:

6 (1) “Appointment of agent” means a statement appointing an agent for service of  
7process filed by:

8 (A) a domestic or foreign unincorporated nonprofit association [under  
9Section 10 of the Uniform Unincorporated Nonprofit Association Act]; or

10 (B) a domestic entity that is not a filing entity or a nonqualified foreign  
11entity under Section 12.

12 (2) “Commercial registered agent” means an individual or a domestic or foreign  
13entity that is listed under Section 6.

14 (3) “Domestic entity” means an entity whose internal affairs are governed by the  
15law of this state.

16 (4) “Entity” means a person that has a separate legal existence or has the power to  
17acquire an interest in real property in its own name other than:

18 (A) an individual;

19 (B) a testamentary, inter vivos, or charitable trust, with the exception of a  
20business trust or similar trust;

21 (C) an association or relationship that is not a partnership by reason of  
22[Section 202(c) of the Uniform Partnership Act (1997)] or a similar provision of the law of any  
23other jurisdiction;

1 (D) a decedent’s estate; or

2 (E) a public corporation, government or governmental subdivision,  
3 agency, or instrumentality, or a quasi-governmental instrumentality.

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

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

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

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

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

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

15 (11) “Noncommercial registered agent” means a person that is not listed as a  
16 commercial registered agent under Section 6 and that is:

17 (A) an individual or a domestic or foreign entity that serves in this state as  
18 the registered agent of an entity; or

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

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

23 (13) “Nonresident LLP statement” means:

1 (A) a statement of qualification of a domestic limited liability partnership  
2that does not have an office in this state; or

3 (B) a statement of foreign qualification of a foreign limited liability  
4partnership that does not have an office in this state.

5 (14) “Person” means an individual, corporation, estate, trust, partnership, limited  
6liability company, business or similar trust, association, joint venture, public corporation,  
7government or governmental subdivision, agency, or instrumentality, or any other legal or  
8commercial entity.

9 (15) “Public organic document” means the public record the filing of which  
10creates an entity, and any amendment to or restatement of that record.

11 (16) “Qualified foreign entity” means a foreign entity that is authorized to transact  
12business in this state pursuant to a filing with the [Secretary of State].

13 (17) “Record” means information that is inscribed on a tangible medium or that is  
14stored in an electronic or other medium and is retrievable in perceivable form.

15 (18) “Registered agent” means a commercial registered agent or a noncommercial  
16registered agent.

17 (19) “Registered agent filing” means:

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

19 (B) a nonresident LLP statement;

20 (C) a foreign qualification document; or

21 (D) an appointment of agent.

22 (20) “Represented entity” means:

23 (A) a domestic filing entity;

1 (B) a domestic or qualified foreign limited liability partnership that does  
2not have an office in this state;

3 (C) a qualified foreign entity;

4 (D) a domestic or foreign unincorporated nonprofit association for which  
5an appointment of agent has been filed;

6 (E) a domestic entity that is not a filing entity for which an appointment of  
7agent has been filed; or

8 (F) a nonqualified foreign entity for which an appointment of agent has  
9been filed.

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

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

12 (B) to attach to or logically associate with the record an electronic sound,  
13symbol, or process.

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

15 (A) recognized at common law; or

16 (B) organized under an organic law, whether or not some entities  
17organized under that organic law are subject to provisions of that law that create different

18categories of the form of entity.

19 (b) In this section:

20 (1) “Governance interest” means the right under the organic law or organic rules  
21of an entity, other than as a governor, agent, assignee, or proxy, to:

22 (A) receive or demand access to information concerning, or the books and  
23records of, the entity;

1 (B) vote for the election of the governors of the entity; or  
2 (C) receive notice of or vote on any or all issues involving the internal  
3affairs of the entity.

4 (2) “Interest” means:

5 (A) a governance interest in an unincorporated entity;

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

7 (C) a share or membership in a corporation.

8 (3) “Organic law” means the statutes, if any, other than this [act], governing the  
9internal affairs of an entity.

10 (4) “Organic rules” means the public organic document and private organic rules  
11of an entity.

12 (5) “Private organic rules” mean the rules, whether or not in a record, that govern  
13the internal affairs of an entity, are binding on all of its interest holders, and are not part of its  
14public organic document, if any.

15 (6) “Transferable interest” means the right under an entity’s organic law to  
16receive distributions from the entity.

#### 17 **Comment**

18  
19 **In general.** This section outlines the vocabulary of terms used in the Act.

20  
21 All of the definitions in subsection (b), as well as many of the definitions in subsection  
22(a), were developed for use in the Model Entity Transactions Act (META). States that have  
23adopted META should consider arranging their entity laws in such a manner that the definitions  
24in META will apply more broadly and do not need to be repeated in other laws. The definitions  
25that are common to this Act and META are:

26  
27 “domestic entity”  
28 “entity”  
29 “filing entity”  
30 “foreign entity”

1 “governance interest”  
2 “governor”  
3 “interest”  
4 “interest holder”  
5 “jurisdiction of organization”  
6 “nonqualified foreign entity”  
7 “organic law”  
8 “organic rules”  
9 “person”  
10 “private organic rules”  
11 “public organic document”  
12 “qualified foreign entity”  
13 “record”  
14 “sign”  
15 “transferable interest”  
16 “type”

17  
18 **Subsection (a).** The definitions in subsection (a) are used throughout the Act.  
19

20 **“Appointment of agent.” [(1)]** An appointment of agent is an optional filing that may  
21 be made by an entity that does not otherwise make a public filing in the state naming an agent for  
22 service of process. If a state has not enacted the Uniform Unincorporated Nonprofit Association  
23 Act, paragraph (A) of this definition should be omitted.  
24

25 **“Commercial registered agent.” [(2)]** A commercial registered agent is an individual  
26 or entity that is in the business of serving as a registered agent in the state and that files a  
27 statement under Section 6. Being listed as a commercial registered agent is voluntary and  
28 persons serving as registered agents are not required to be listed under Section 6. The benefits to  
29 the registered agent of being listed under Section 6, however, are substantial and most registered  
30 agents will elect to be so listed. Although this definition and Section 6 do not expressly require  
31 that a foreign entity that is listed as a commercial registered agent be qualified to do business in  
32 the state, the activity of serving as a registered agent is one that requires such registration.  
33

34 **“Domestic entity.” [(3)]** – The term “domestic entity” in this Act means an entity whose  
35 internal affairs are governed by the organic laws of the adopting jurisdiction. Except in the case  
36 of general partnerships and unincorporated nonprofit associations, this will mean an entity that is  
37 formed, organized, or incorporated under domestic law. In the case of a general partnership  
38 organized under the Uniform Partnership Act (1997) (“RUPA”), it will mean a general  
39 partnership whose governing law under RUPA § 106 is the law of the adopting state. Under  
40 RUPA § 106 the governing law is determined by the location of the partnership’s chief executive  
41 office, except for limited liability partnerships where the governing law is the state where the  
42 statement of qualification is filed. It is a factual question whether the activities and organization  
43 of an unincorporated nonprofit association make it a domestic or foreign entity.  
44

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

- 46
  - Business corporation.

- 1 • Business trust.
- 2 • General partnership, whether or not a limited liability partnership.
- 3 • Limited liability company.
- 4 • Limited partnership, whether or not a limited liability limited partnership.
- 5 • Nonprofit corporation.
- 6 • Unincorporated nonprofit association.

7The term does not include a sole proprietorship.

8

9 This definition is intended to include all forms of private organizations, regardless of  
10whether organized for profit, and artificial legal persons other than those excluded by paragraphs  
11(A) through (E). Thus, this definition is broader than the definition of “business entity” in, e.g.,  
12Code of Ala. § 10-15-2(2) which does not include nonprofit entities. This definition does not  
13exclude regulated entities such as public utilities, banks and insurance companies.

14

15 Inter vivos and testamentary trusts are treated in many states as having a separate legal  
16existence, but they have been excluded from the definition of “entity.” Trusts that carry on a  
17business, however, such as a Massachusetts trust, real estate investment trust, Illinois land trust,  
18or other common law or statutory business trusts are “entities.”

19

20 Section 4 of the Uniform Unincorporated Nonprofit Association Act gives an  
21unincorporated nonprofit association the power to acquire an estate in real property and thus an  
22unincorporated nonprofit association organized in a state that has adopted that act will be an  
23“entity.” At common law, an unincorporated nonprofit association was not a legal entity and did  
24not have the power to acquire real property. Most states that have not adopted the Uniform Act  
25have nonetheless modified the common law rule, but states that have not adopted the Uniform  
26Act should analyze whether they should modify the definition of “entity” to add an express  
27reference to unincorporated nonprofit associations.

28

29 There is some question as to whether a partnership subject to the Uniform Partnership  
30Act (1914) (UPA) is an entity or merely an aggregation of its partners. That question has been  
31resolved by Section 201 of the Uniform Partnership Act (1997) (RUPA), which makes clear that  
32a general partnership is an entity with its own separate legal existence. Section 8 of UPA gives  
33partnerships subject to it the power to acquire estates in real property and thus such a partnership  
34will be an “entity.” As a result, all general partnerships will be “entities” regardless of whether  
35the state in which they are organized has adopted RUPA.

36

37 Paragraph (C) of this definition excludes from the concept of an “entity” any form of co-  
38ownership of property or sharing of returns from property that is not a partnership under RUPA.  
39In that connection, Section 202(c) of RUPA provides in part:

40

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

42

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

46

46 (2) The sharing of gross returns does not by itself establish a partnership, even if  
the persons sharing them have a joint or common right or interest in property from

23

1 which the returns are derived.

2

3 Limited liability partnerships and limited liability limited partnerships are “entities”  
4because they are general partnerships and limited partnerships, respectively, that have made the  
5additional required election claiming LLP or LLLP status. A limited liability partnership is not,  
6therefore, a separate type of entity from the underlying general or limited partnership that has  
7elected limited liability partnership status.

8

9 **“Filing entity.” [(5)]** – Whether an entity is a filing entity is determined by reference to  
10whether its legal existence is attributable to the filing of a document with the state filing officer.  
11While the statute refers to an entity that is “created,” it is intended to encompass corporations  
12which are “incorporated,” limited liability companies which are “organized,” and limited  
13partnerships which are “formed” by a filing required by the organic law governing the entity.  
14Business trusts present a special problem. In some states, for example, a business trust is a filing  
15entity, while in other states business trusts are recognized only by common law.

16

17 The term does not include a limited liability partnership because an election filed by a  
18general partnership claiming that status (*e.g.*, a statement of qualification under Uniform  
19Partnership Act (1997), § 1001) does not create the entity. A limited liability limited partnership,  
20on the other hand, is a filing entity because the underlying limited partnership is created by filing  
21a certificate of limited partnership.

22

23 This definition is patterned after Model Business Corporation Act § 1.40(9A) (“filing  
24entity”).

25

26 **“Foreign entity.” [(6)]** – The term “foreign entity” includes any non-domestic entity of  
27any type. Where a foreign entity is a filing entity, the entity is governed by the laws of the state  
28of filing. A nonfiling foreign entity is governed by the laws of the state governing its internal  
29affairs. It is a factual question whether a general partnership whose internal affairs are governed  
30by the Uniform Partnership Act (1914) (UPA) is a domestic or foreign partnership. A UPA  
31partnership will likely be deemed to be a domestic entity where the greatest nexus of contacts are  
32found. Similar issues arise with respect to determining the domestic or foreign status of  
33unincorporated nonprofit associations. The domestic or foreign characterization of partnerships  
34under the Uniform Partnership Act (1997) (RUPA) that have not registered as limited liability  
35partnerships will be governed by RUPA § 106(a) (“state where the partnership’s chief executive  
36office is located”).

37

38 **“Foreign qualification document.” [(7)]** This definition should be construed broadly  
39to include filings in the state that are required when a foreign entity is conducting activities in the  
40state, regardless of whether the process is referred to as “obtaining a certificate of authority to do  
41business,” “qualifying to do business,” “being authorized to transact business,” or some other  
42formulation.

43

44 **“Governor.” [(8)]** – This term has been chosen to provide a way of referring to a person  
45who has the authority under an entity’s organic law to make management decisions regarding the  
46entity that is different from any of the existing terms used in connection with particular types of

1 entities. *Compare* Colo. § 7-90-102(35.7) which uses the term “manager” to refer to this  
2 concept, even though “manager” is also a term of art in connection with limited liability  
3 companies. Depending on the type of entity or its organic rules, the governors of an entity may  
4 have the power to act on their own authority, or they may be organized as a board or similar  
5 group and only have the power to act collectively, and then only through a designated agent. In  
6 other words, a person having only the power to bind the organization pursuant to the instruction  
7 of the governors is not a governor. Under the organic rules, particularly those of unincorporated  
8 entities, most or all of the management decisions may be reserved to the members or partners.  
9 Thus, if a manager of a limited liability company were limited to having authority to execute  
10 management decisions made by the members and did not have any authority to make  
11 independent management decisions, the manager would not be a governor under this definition.

12

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

- 14 • Director of a business corporation.
- 15 • Director or trustee of a nonprofit corporation.
- 16 • General partner of a general partnership.
- 17 • General partner of a limited partnership.
- 18 • Manager of a limited liability company.
- 19 • Member of a member-managed limited liability company.
- 20 • Trustee of a business trust.

21

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

26

27 The term “interest holder” includes:

- 28 • Beneficiary of a business trust.
- 29 • General partner of a general partnership.
- 30 • General partner of a limited partnership.
- 31 • Limited partner of a limited partnership.
- 32 • Member of a limited liability company.
- 33 • Member of a nonprofit corporation.
- 34 • Member of an unincorporated nonprofit association.
- 35 • Shareholder of a business corporation.

36

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

39

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

42

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

27

1

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

4

5       **“Nonresident LLP statement.” [(13)]** A nonresident LLP statement is the filing that is  
6 made by a limited liability partnership under Section 1001 of the Uniform Partnership Act  
7 (1997).

8

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

11

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

23

24       The term “public organic document” includes:

25

• Articles of incorporation of a business corporation.

26

• Articles of incorporation of a nonprofit corporation.

27

• Certificate of limited partnership.

28

• Certificate of organization of a limited liability company.

29

30 In those states where a deed of trust or other instrument is publicly filed to create a business  
31 trust, that filing will constitute a public organic document. But in those states where a business  
32 trust is not created by a public filing, the deed of trust or similar document will be part of the  
33 private organic rules of the business trust.

34

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

37

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

40

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

44

45       **“Registered agent filing.” [(19)]** – Some states require that filings in addition to those  
46 listed in this definition, such as articles of amendment or articles of merger, state the registered

1 agent information of the entity making the filing. In states where that is the case, this definition  
2 should be amended to add the following additional provision:

3

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

6

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

9

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

11

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

19

20 **Subsection (b).** The definitions in subsection (b) are used only in the other definitions  
21 in this section.

22

23 **“Governance interest.” [(1)]** – A governance interest is typically only part of the  
24 interest that a person will hold in an entity and is usually coupled with a transferable interest (or  
25 economic rights). However, memberships in some nonprofit corporations and unincorporated  
26 nonprofit associations consist solely of governance interests and in others may not include either  
27 governance interests or transferable interests. In some unincorporated business entities, there is a  
28 more limited right to transfer governance interests than there is to transfer transferable interests.  
29 An interest holder in such an unincorporated business entity who transfers only a transferable  
30 interest and retains the governance interest will also retain the status of an interest holder.  
31 Whether a transferee who acquires only a transferable interest will acquire the status of an  
32 interest holder is determined by the definition of “interest holder.”

33

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

37

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

44

45 **“Interest.” [(2)]** – In the usual case, the interest held by an interest holder will include  
46 both a governance interest and a transferable interest (or economic rights). Members in many

1 nonprofit corporations or unincorporated nonprofit associations do not have a transferable  
2 interest because they do not receive distributions, but they nonetheless may hold a governance  
3 interest in which case they would have the status of interest holders under this Act. An interest  
4 holder in an unincorporated business entity may transfer all or part of the interest holder’s  
5 transferable interest without the transferee’s acquiring the governance interest of the transferor.  
6 In that case, whether the transferor will retain the status of an interest holder will be determined  
7 by the applicable organic law and the transferee will have the status of an interest holder under  
8 paragraph (B) of this definition. That paragraph will also apply to subsequent transferees from  
9 the original transferee.

10

11 The term “interest” includes:

- 12 • Beneficial interest in a business trust.
- 13 • Membership in a nonprofit corporation.
- 14 • Membership in an unincorporated nonprofit association.
- 15 • Membership interest in a limited liability company.
- 16 • Partnership interest in a general partnership.
- 17 • Partnership interest in a limited partnership.
- 18 • Shares in a business corporation.

19

20 **“Organic law.” [(3)]** – Organic law includes statutes other than this Act that govern the  
21 internal affairs of an entity. Entity laws in a few states purport to require that some of their  
22 internal governance rules applicable to a domestic entity also apply to a foreign entity with  
23 significant ties to the state. *See, e.g.*, Cal. Gen. Corp. Law § 2115, N.Y. N-PCL §§ 1318-1321,  
24 15 Pa.C.S. § 6145. Such a “sticky fingers” law is included within the definition of “organic law”  
25 for purposes of this Act.

26

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

29

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

36

37 The term “private organic rules” includes:

- 38 • Bylaws of a business corporation.
- 39 • Bylaws of a business trust.
- 40 • Bylaws of a nonprofit corporation.
- 41 • Constitution and bylaws of an unincorporated nonprofit association.
- 42 • Operating agreement of a limited liability company.
- 43 • Partnership agreement of a general partnership.
- 44 • Partnership agreement of a limited partnership.

45

1           **“Transferable interest.”** [(6)] – The term “transferable interest” is taken from Section  
2102(22) of the Uniform Limited Partnership Act (2001).

3

4           **SECTION 3. FEES.**

5           (a) The [Secretary of State] shall collect the following fees when a filing is made under  
6this [act]:

7	<u>document</u>	<u>fee</u>
8	(1) commercial registered agent listing statement	\$__
9	(2) commercial registered agent termination	\$__
10	statement	
11	(3) statement of change	\$__
12	(4) statement of resignation	no fee
13	(5) statement appointing an agent for service	
14	of process	\$__

15           (b) The [Secretary of State] shall collect the following fees for copying and certifying a  
16copy of any document filed under this [act]:

17           (1) \$\_\_ a page for copying; and

18           (2) \$\_\_ for a certificate.

19**Legislative note:** *In a state where filing fees are sent by rule making, this section may be*  
20*replaced with the statement “The [Secretary of State] shall by rule set fees for filings, and the*  
21*services provided, under this [act].”*

22

23

**Comment**

24

25           Subsection (a) establishes the filing fees for all documents that may be filed under the  
26Act. The dollar amounts for each filing should be inserted by the adopting state with reference to  
27the filing fees charged for other filings with its Secretary of State.

28

29           Subsection (a)(3) provides that a fee is not required in connection with a filing of a  
30statement of resignation. That permits a person who is named as a registered agent without the  
31person’s consent, or who agrees to serve as registered agent for a fee and the fee is not paid, to  
32reflect properly the status of the person in the records of the Secretary of State without expense.

33

35

1 Subsection (b) establishes fees for copying and certifying documents filed under the Act.  
2 The dollar amounts for these fees should be inserted by the adopting state with reference to the  
3 fees charged for those services under the state's various entity laws.

4

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

6

7 **SECTION 4. ADDRESSES IN FILINGS.** Whenever this [act] requires that a filing  
8 state an address, the filing must state:

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

10 (2) a mailing address in this state, if different from the address under paragraph  
11 (1).

12

#### **Comment**

13

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

17

18 **SECTION 5. APPOINTMENT OF REGISTERED AGENT.**

19 (a) A registered agent filing must state:

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

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

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

23 or

24 (B) the title of an office or other position with the entity if service of

25 process is to be sent to the person holding that office or position, and the address of the business  
26 office of that person.

27 (b) The appointment of a registered agent pursuant to subsection (a)(1) or (2)(A) is an  
28 affirmation by the represented entity that the agent has consented to serve as such.

29 (c) The [Secretary of State] shall make available in a record as soon as practicable a daily

37

1 list of filings that contain the name of a registered agent. The list must:

- 2 (1) be kept available for at least two weeks;
- 3 (2) list in alphabetical order the names of the registered agents; and
- 4 (3) state the type of filing and name of the represented entity making the filing.

5 **Legislative note:** *Subsection (c) may be omitted if the records of the Secretary of State (i) are*  
6 *searchable electronically in a manner that permits filings to be identified by the name of the*  
7 *registered agent named in the filing, and (ii) the searchable database is updated frequently.*

8  
9

### 10 **Comment**

11

12 Subsection (a)(1) gives an entity the option of listing just the name of its commercial  
13 registered agent in its registered agent filing and omitting the address of the registered agent. If  
14 the commercial registered agent subsequently changes its address, that change will be reflected  
15 in the filing made by the agent under Section 6, but no change will be necessary in the registered  
16 agent filing of any of the entities represented by the commercial registered agent. The address of  
17 an entity's commercial registered agent may be ascertained from the records of the Secretary of  
18 State by consulting its listing under Section 6.

19

20 The address of an entity's noncommercial registered agent is usually not an address of the  
21 represented entity. On the other hand, subsection 5(a)(2)(B) permits an entity to designate a  
22 person within the organization, such as its general counsel, to serve as its registered agent; and in  
23 that circumstance the address of the registered agent may very well be a business address of the  
24 represented entity.

25

26 Subsection (c) creates a procedure that will permit registered agents to determine if they  
27 have been named in filings of which they were not aware by periodically consulting the list  
28 prepared by the Secretary of State. Subsection (c) requires the registered agents to be listed in  
29 alphabetical order to facilitate the use of the list by registered agents and also to indicate the type  
30 of filing (e.g., articles of incorporation, certificates of limited partnership, appointments of agents  
31 under Section 12 of this Act, etc.) in which each registered agent is named.

32

33 Subsection (a) is a generalization of Section 5.01 of the Model Business Corporation Act,  
34 Section 114 of the Uniform Limited Partnership Act, and Section 108 of the Uniform Limited  
35 Liability Company Act.

36

### 37 **SECTION 6. LISTING OF COMMERCIAL REGISTERED AGENT.**

38

39 (a) An individual or a domestic or foreign entity may become listed as a commercial

40

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 (1) the name of the individual or the name, type, and jurisdiction of organization  
2of the entity;

3 (2) that the person is in the business of serving as a commercial registered agent  
4in this state; and

5 (3) the address of a place of business of the person in this state to which service of  
6process and other notice and documents being served on or sent to entities represented by it may  
7be delivered.

8 (b) A commercial registered agent listing statement may include the information  
9regarding acceptance of service of process in a record by the commercial registered agent  
10provided for in Section 13(d).

11 (c) A commercial registered agent listing statement takes effect on filing.

12 (d) The [Secretary of State] shall note the filing of the commercial registered agent listing  
13statement in the index of filings maintained by the [Secretary of State] for each entity  
14represented by the registered agent at the time of the filing. The statement has the effect of  
15deleting the address of the registered agent from the registered agent filing of each of those  
16entities.

17 (e) A person that maintains more than one office in this state may file multiple  
18commercial registered agent listing statements if each statement includes with the name of the  
19person a unique geographic or other designator and states an address that is different from the  
20addresses stated in the other statements filed by the person. If a person files multiple statements:

21 (1) each statement shall be processed under subsection (d) as if it were filed by a  
22different person;

1 (2) one of the unique geographic or other designators included in the statements  
2 filed by the person must be used in the registered agent filings of each entity represented by the  
3 person; and

4 (3) sections 7 and 10 apply to the statements filed by the person as if each  
5 statement had been filed by a different person.

6 **Legislative note:** *If the Secretary of State is not able to identify from the records maintained by  
7 the Secretary of State all of the entities represented by a registered agent, subsection (d) should  
8 be amended to read:*

9 “(d) The commercial registered agent listing statement must be accompanied  
10 by a list in alphabetical order of the entities represented by the person. The  
11 [Secretary of State] shall note the filing of the commercial registered agent listing  
12 statement in the index of filings maintained by the [Secretary of State] for each  
13 listed entity. The statement has the effect of deleting the address of the registered  
14 agent from the registered agent filing of each of those entities.”

15  
16 **Comment**

17  
18 This section is a substantial simplification of practice because it removes the need to  
19 amend the filed record of every entity represented by a commercial registered agent when the  
20 agent changes its address.

21  
22 Subsection (d) is a transitional provision that deals with the effect on the entities  
23 represented by a registered agent at the time the agent is first listed under this section. The effect  
24 is to amend the registered agent filing of each such entity to delete the address of the registered  
25 agent consistent with Section 5(a)(1).

26  
27 Subsection (e) permits a person to file more than one statement under this section so long  
28 as each statement provides a different address for the commercial registered agent and a way of  
29 differentiating, by means of the names used by the agent, which address for service of process  
30 should be used for each represented entity. For example, Registered Agent Co. could file two  
31 statements, one under the name of “Registered Agent Co. East” and giving an address of 123  
32 Main Street, Eastern City, and the other under the name of “Registered Agent Co. West” with an  
33 address of 123 Central Avenue, Western City. A represented entity could then use either  
34 Registered Agent Co. East or Registered Agent Co. West as its commercial registered agent  
35 depending on which office of the agent it wished to receive service of process on its behalf.  
36 There is no requirement that a represented entity use the office closest to it within the state since  
37 some commercial registered agents will have only one office in the state to represent entities  
38 throughout the state.

39  
40 This section is patterned generally after 15 Pa.C.S. § 109.

41



1 (a) A represented entity may change the information currently on file under Section 5(a)  
2by filing with the [Secretary of State] a statement of change signed on behalf of the entity which  
3states:

4 (1) the name of the entity; and

5 (2) the information that is to be in effect as a result of the filing of the statement of  
6change.

7 (b) The interest holders or governors of a domestic entity need not approve the filing of:

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

9 (2) a similar filing changing the registered agent or registered office of the entity  
10in any other jurisdiction.

11 (c) The appointment of a registered agent pursuant to subsection (a) is an affirmation by  
12the represented entity that the agent has consented to serve as such.

13 (d) A statement of change filed under this section takes effect on filing.

14 (e) Instead of using the procedures in this section, a represented entity may change the  
15information currently on file under Section 5(a) by amending its most recent registered agent  
16filing in the manner provided by the laws of this state other than this [act] for amending that  
17filing.

## 18 **Comment**

19

20 Changes of the registered agent or the office address of a registered agent are usually  
21routine matters that do not affect the rights of the interest holders of the entity. This section  
22permits those changes to be made without a formal amendment of an entity's public organic  
23document, without approval of its interest holders, and, indeed, even without formal approval by  
24its governors (i.e., the persons managing the entity's affairs, such as the board of directors of a  
25corporation).

26

27 Subsection (c) avoids the need to file with a statement of change a consent of the new  
28registered agent being designated.

29

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

4

5 Subsection (a) is a generalization of Section 5.02(a) of the Model Business Corporation  
6 Act, Section 115 of the Uniform Limited Partnership Act, and Section 109 of the Uniform  
7 Limited Liability Company Act. As to subsection (c), compare Section 5.02(a)(5) of the Model  
8 Business Corporation Act. Subsection (d) is patterned after Section 115(b) of the Uniform  
9 Limited Partnership Act.

10

## 11 **SECTION 9. CHANGE OF NAME OR ADDRESS BY NONCOMMERCIAL**

### 12 **REGISTERED AGENT.**

13 (a) If a noncommercial registered agent changes its name or its address as currently in  
14 effect with respect to a represented entity pursuant to Section 5(a), the agent shall file with the  
15 [Secretary of State], with respect to each entity represented by the agent, a statement of change  
16 signed by or on behalf of the agent which states:

17 (1) the name of the entity;

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

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

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

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

23 (c) A noncommercial registered agent shall promptly furnish the represented entity with  
24 notice in a record of the filing of a statement of change and the changes made by the filing.

25

#### **Comment**

26

27 This section permits a noncommercial registered agent to change the name and address of  
28 the agent that appears in the registered agent filing of an entity represented by the agent.  
29 Because the noncommercial registered agent is not listed under Section 6, the agent will not be  
30 able to use the procedures in Section 10 which permit commercial registered agents to make only  
31 one filing to change their name and address for all entities represented by them. Thus the

49

20

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1 noncommercial registered agent will need to make a filing under this section for each entity  
2 represented by the agent.

3  
4 This section is patterned after 15 Pa.C.S. § 108.

5  
6 **SECTION 10. CHANGE OF NAME, ADDRESS, OR TYPE OF ORGANIZATION**  
7 **BY COMMERCIAL REGISTERED AGENT.**

8 (a) If a commercial registered agent changes its name, its address as currently listed under  
9 Section 6(a), or its type or jurisdiction of organization, the agent shall file with the [Secretary of  
10 State] a statement of change signed by or on behalf of the agent which states:

11 (1) the name of the agent as currently listed under Section 6(a);

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

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

14 (4) if the type or jurisdiction of organization of the agent has changed, the new  
15 type or jurisdiction of organization.

16 (b) The filing of a statement of change under subsection (a) is effective to change the  
17 information regarding the commercial registered agent with respect to each entity represented by  
18 the agent.

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

20 (d) A commercial registered agent shall promptly furnish each entity represented by it  
21 with notice in a record of the filing of a statement of change relating to the name or address of  
22 the agent and the changes made by the filing.

23 (e) If a commercial registered agent changes its address without filing a statement of  
24 change as required by this section, the [Secretary of State] may terminate the listing of the agent  
25 under Section 6. A cancellation under this subsection has the same effect as a termination under  
26 Section 7. Promptly after canceling the listing of an agent, the [Secretary of State] shall serve

1notice in a record in the manner provided in Section 13(b) or (c) on each entity represented by  
2the agent. The notice shall state that the agent has ceased to be an agent for service of process on  
3the entity and that, until the entity appoints a new registered agent, service of process may be  
4made on the entity as provided in Section 13.

5 **Comment**

6  
7 This section permits a commercial registered agent to make a single filing that has the  
8effect of changing the name or address of the agent for all of the entities represented by it.

9  
10 This section is patterned after 15 Pa.C.S. § 109(b).

11  
12 **SECTION 11. RESIGNATION OF REGISTERED AGENT.**

13 (a) A registered agent may resign at any time with respect to a represented entity by filing  
14with the [Secretary of State] a statement of resignation signed by or on behalf of the agent which  
15states:

16 (1) the name of the entity;

17 (2) the name of the agent;

18 (3) that the agent resigns from serving as agent for service of process for the  
19entity; and

20 (4) the name and address of the person to which the agent will send the notice  
21required by subsection (c).

22 (b) A statement of resignation takes effect on the earlier of the 31st day after the day on  
23which it is filed or the appointment of a new registered agent for the represented entity.

24 (c) The registered agent shall promptly furnish the represented entity with notice in a  
25record of the date on which a statement of resignation was filed.

1 (d) When a statement of resignation takes effect, the registered agent ceases to have  
2 responsibility for any matter tendered to it as agent for the represented entity. A resignation  
3 under this section does not affect any contractual rights the entity has against the agent.

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

### 6 **Comment**

7  
8 Resignation under this section may be accomplished solely by action of the registered  
9 agent and does not require the cooperation or consent of the represented entity. Whether a  
10 resignation violates a contract between the registered agent and the represented entity is beyond  
11 the scope of this Act and subsection (d) preserves whatever claims a represented entity may have  
12 against its registered agent for a wrongful termination. Even if a resignation were to violate such  
13 a contract, the resignation would still be effective if the provisions of this section are followed.

14  
15 Resignation under this section relates only to the entity named in the statement of  
16 resignation. Thus, the procedure in this section differs from the procedure in Section 7 which  
17 terminates the status of the agent as agent for all of the entities represented by it.

18  
19 Subsection (b) delays the effectiveness of a statement of resignation for 31 days to allow  
20 the notice of the resignation that must be sent under subsection (c) to reach the represented entity  
21 and to allow the represented entity to arrange for a substitute registered agent.

22  
23 Subsection (a) is a generalization of Section 5.03(a) of the Model Business Corporation  
24 Act, Section 116(a) of the Uniform Limited Partnership Act, and Section 110(a) of the Uniform  
25 Limited Liability Company Act. Subsection (b) is a generalization of Section 5.03(c) of the  
26 Model Business Corporation Act, Section 116(c) of the Uniform Limited Partnership Act, and  
27 Section 110(c) of the Uniform Limited Liability Company Act. Subsection (c) is derived from  
28 Section 5.03(b) of the Model Business Corporation Act, Section 116(b) of the Uniform Limited  
29 Partnership Act, and Section 110(b) of the Uniform Limited Liability Company Act, except that  
30 notice under this Act is to be given by the resigning registered agent rather than the Secretary of  
31 State.

32  
33 Subsection (e) makes clear that a registered agent may resign with respect to an entity  
34 that is not in good standing and supersedes the contrary administrative practice in some states of  
35 refusing to accept any filings with respect to an entity that is not in good standing until the  
36 problem with the entity's standing is cured.

## 37 **SECTION 12. APPOINTMENT OF AGENT BY NONFILING OR**

### 38 **NONQUALIFIED FOREIGN ENTITY.**

1 (a) A domestic entity that is not a filing entity or a nonqualified foreign entity may file  
2with the [Secretary of State] a statement appointing an agent for service of process signed on  
3behalf of the entity which states:

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

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

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

7 (c) The appointment of a registered agent under this section does not qualify a  
8nonqualified foreign entity to do business in this state and is not sufficient alone to create  
9personal jurisdiction over the nonqualified foreign entity in this state.

10 (d) A statement appointing an agent for service of process may not be rejected for filing  
11because the name of the entity filing the statement is not distinguishable on the records of the  
12[Secretary of State] from the name of another entity appearing in those records. The filing of a  
13statement appointing an agent for service of process does not make the name of the entity filing  
14the statement unavailable for use by another entity.

15 (e) A statement appointing an agent for service of process is effective for a period of five  
16years after the date of filing.

17 (f) A statement appointing an agent for service of process for a nonqualified foreign  
18entity terminates automatically on the date the entity becomes a qualified foreign entity.

19 **Comment**

20  
21 Filing under this section is elective, and no inference should be drawn from the failure of  
22an entity to make such a filing.

23  
24 Subsection (a) is patterned after Section 10 of the Uniform Unincorporated Nonprofit  
25Association Act.

26  
27 Subsection (e) is patterned after Section 9-515(a) of the Uniform Commercial Code.

28

1           **SECTION 13. SERVICE OF PROCESS ON ENTITIES.**

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

4           (b) If an entity that previously filed a registered agent filing with the [Secretary of State]  
5 no longer has a registered agent, or if its registered agent cannot with reasonable diligence be  
6 served, the entity may be served by registered or certified mail, return receipt requested,  
7 addressed to the governors of the entity by name at its principal office in accordance with any  
8 applicable judicial rules and procedures. The names of the governors and the address of the  
9 principal office may be as shown in the most recent annual report filed with the [Secretary of  
10 State]. Service is perfected under this subsection at the earliest of:

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

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

13                   (3) five days after its deposit with the United States Postal Service, if correctly  
14 addressed and with sufficient postage.

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

19           (d) Service of process, notice, or demand on a registered agent must be in the form of a  
20 written document, except that service may be made on a commercial registered agent in such  
21 other forms of a record, and subject to such requirements, as the agent has stated from time to  
22 time in its listing under Section 6 that it will accept.

23           (e) Service of process, notice, or demand may be perfected by any other means prescribed

1by law other than this [act].

2

### Comment

3

4 Subsection (c) provides a means for serving process on an entity that cannot be served  
5under subsection (a) or (b). Some entity organic laws require that service of process in that  
6circumstance be made on the Secretary of State, but that leaves unanswered the question of what  
7the Secretary of State should do with the process. Subsection (c) is patterned after Pa.  
8R.Civ.Proc. 423(3) and 424(2). A similar approach is taken by Fed. R.Civ.Proc. 4(h)(1).

9

10 Subsections (a) and (d) are a generalization of Section 5.04(a) and (c) of the Model  
11Business Corporation Act, Section 117(a) and (f) of the Uniform Limited Partnership Act, and  
12Section 111(a) and (e) of the Uniform Limited Liability Company Act. Subsection (b) is a  
13generalization of Section 5.04(b) of the Model Business Corporation Act.

14

### 15 SECTION 14. DUTIES OF REGISTERED AGENT.

16 (a) The only duties under this [act] of a registered agent who has complied with this [act]

17are:

18 (1) to forward to the represented entity at the address most recently supplied to the  
19agent by the entity any process, notice, or demand that is served on the agent;

20 (2) to provide the notices required by this [act] to the entity at the address most  
21recently supplied to the agent by the entity;

22 (3) if the agent is a noncommercial registered agent, to keep current the  
23information required by Section 5(a) in the most recent registered agent filing for the entity; and

24 (4) if the agent is a commercial registered agent, to keep current the information  
25listed for it under Section 6(a).

26 (b) A registered agent must retain its records relating to its representation of a represented  
27entity for five years after the agent ceases to represent the represented entity.

28

### Comment

29

30 Subsection (a) is limited to prescribing the duties of a registered agent under this Act. An  
31agent may undertake other responsibilities to a represented entity, such as by contract or course  
32of dealing, but those duties will be determined under other law.

61

1

2 Subsection (b) requires a registered agent to retain its records relating to its representation  
3 of a represented entity for five years after the representation ends. After that time, the registered  
4 agent may dispose of the records.

5

6 **SECTION 15. JURISDICTION AND VENUE.** The appointment or maintenance in  
7 this state of a registered agent does not by itself create the basis for personal jurisdiction over the  
8 represented entity in this state. The address of the agent does not determine venue in an action or  
9 proceeding involving the entity.

10

#### Comment

11

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

20

21 **SECTION 16. CONSISTENCY OF APPLICATION.** In applying and construing this  
22 [act], consideration must be given to the need to promote consistency of the law with respect to  
23 its subject matter among states that enact it.

24

#### Comment

25

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

30

31 **SECTION 17. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND**  
32 **NATIONAL COMMERCE ACT.** This [act] modifies, limits, and supersedes the federal  
33 Electronic Signatures in Global and National Commerce Act (15 U.S.C. Section 7001, et seq.),  
34 but does not modify, limit, or supersede Section 101(c) of that act (15 U.S.C. Section 7001(c)) or

63

1 authorize delivery of any of the notices described in Section 103(b) of that act (15 U.S.C. Section  
2 27003(b)).

3       **SECTION 18. SAVINGS CLAUSE.** This [act] does not affect an action or proceeding  
4 commenced or right accrued before the effective date of this [act].

5       **SECTION 19. EFFECTIVE DATE.** This [act] takes effect \_\_\_\_\_ .

1 APPENDIX

2  
3 CONFORMING AMENDMENTS AND REPEALS

4  
5

6 SECTION A1. MODEL BUSINESS CORPORATION ACT

7 (a) Sections 1.22, 1.25, 1.26, 1.41, and 2.02 of the Model Business Corporation Act  
8 are amended to read:

9 § 1.22. Filing, service, and copying fees.

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

12 \* \* \*

13 ~~(7) Corporation's statement of change of registered agent or~~  
14 ~~registered office or both \_\_\_\_\_ \$\_\_~~

15 ~~(8) Agent's statement of change of registered office for~~  
16 ~~each affected corporation not to exceed a total of \_\_\_\_\_ \$\_\_~~

17 ~~(9) Agent's statement of resignation \_\_\_\_\_ no fee~~

18 \* \* \*

19 § 1.25. Filing duty of Secretary of State.

20 \* \* \*

21 (b) The secretary of state files a document by recording it as filed on the date and  
22 time of receipt. After filing a document, except as provided in ~~sections 5.03 and section~~ 15.10,  
23 the secretary of state shall deliver to the domestic or foreign corporation or its representative a  
24 copy of the document with an acknowledgement of the date and time of filing.

25 \* \* \*

26 § 1.26. Appeal from Secretary of State's refusal to file document.

27 (a) If the secretary of state refuses to file a document delivered to his office for filing,  
28 the domestic or foreign corporation may appeal the refusal within 30 days after the return of the  
29 document to the [name or describe] court [of the county where the corporation's principal office  
30 ~~is or will be located~~ (or, if none in this state, ~~its registered office~~) ~~is or will be located~~] [of  
31 \_\_\_\_\_ county)]. The appeal is commenced by petitioning the court to compel filing the  
32 document and by attaching to the petition the document and the secretary of state's explanation  
33 of his refusal to file.

34 \* \* \*

35 § 1.41. Notice.

36 \* \* \*

37 (d) Written notice to a domestic or foreign corporation (authorized to transact  
38 business in this state) may be addressed to its registered agent ~~at its registered office~~ or to the  
39 corporation or its secretary at its principal office shown in its most recent annual report or, in the  
40 case of a foreign corporation that has not yet delivered an annual report, in its application for a  
41 certificate of authority.

42 \* \* \*

1 § 2.02. Articles of incorporation.

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

3 \* \* \*

4 (3) ~~the street address of the corporation's initial registered office and the name~~  
5 ~~of its initial registered agent at that office~~ the information required by [Section 5(a) of the  
6 Model Registered Agents Act]; and

7 \* \* \*

8

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

10 (c) Sections 7.03, 7.20, 8.09, 10.05, 11.07, 13.30, 14.07, 14.08, 14.20, 14.21, 14.22,

11 14.23, 14.31, 15.03 and 15.04 of the Model Business Corporation Act are amended to read:

12 § 7.03. Court-ordered meeting.

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

16 \* \* \*

17 § 7.20. Shareholders' list for meeting.

18 \* \* \*

19 (d) If the corporation refuses to allow a shareholder, his agent, or attorney to inspect  
20 the shareholders' list before or at the meeting (or copy the list as permitted by subsection (b)),  
21 the [name or describe] court of the county where a corporation's principal office is located (or, if  
22 none in this state, ~~its registered office~~) is located of \_\_\_\_\_ county), on application of the  
23 shareholder, may summarily order the inspection or copying at the corporation's expense and  
24 may postpone the meeting for which the list was prepared until the inspection or copying is  
25 complete.

26 \* \* \*

27 § 8.09. Removal of directors by judicial proceeding.

28 (a) The [name or describe] court of the county where a corporation's principal office  
29 is located (or, if none in this state, ~~its registered office~~) is located of \_\_\_\_\_ county) may  
30 remove a director of the corporation from office in a proceeding commenced by or in the right of  
31 the corporation if the court finds that (1) the director engaged in fraudulent conduct with respect  
32 to the corporation or its shareholders, grossly abused the position of director, or intentionally  
33 inflicted harm on the corporation; and (2) considering the director's course of conduct and the  
34 inadequacy of other available remedies, removal would be in the best interest of the corporation.

35 \* \* \*

36 § 10.05. Amendment by board of directors.

37 Unless the articles of incorporation provide otherwise, a corporation's board of directors  
38 may adopt amendments to the corporation's articles of incorporation without shareholder  
39 approval:

40 \* \* \*

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

1 \* \* \*

2 § 11.07. Effect of merger or share exchange.

3

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

6 (1) ~~appoint the secretary of state as its agent for~~ agree that service of process  
7 in a proceeding to enforce the rights of shareholders of each domestic corporation that is  
8 a party to the merger who exercise appraisal rights may be made in the manner provided  
9 in [Section 13 of the Model Registered Agents Act], and

10 \* \* \*

11 § 13.30. Court action.

12 \* \* \*

13 (b) The corporation shall commence the proceeding in the appropriate court of the  
14 county where the corporation's principal office is located (or, if none, ~~its registered office~~) ~~in this~~  
15 ~~state is located in this state, of~~ \_\_\_\_\_ county). If the corporation is a foreign corporation  
16 ~~without a registered office in this state~~, it shall commence the proceeding in the county in this  
17 state where the principal office ~~or registered office~~ of the domestic corporation merged with the  
18 foreign corporation was located or, if the domestic corporation did not have its principal office in  
19 this state at the time of the transaction, in \_\_\_\_\_ county.

20 \* \* \*

21 § 14.07. Other claims against dissolved corporation.

22 \* \* \*

23 (b) The notice must:

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

27 \* \* \*

28 § 14.08. Court proceedings.

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

38 \* \* \*

39 § 14.20. Grounds for administrative dissolution.

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

42 \* \* \*

43 (3) the corporation is without a registered agent ~~or registered office~~ in this  
44 state for 60 days or more;

45 (4) the corporation does not notify the secretary of state within 60 days that its  
46 registered agent ~~or registered office~~ has been changed; or that its registered agent has

1       resigned, or that its registered office has been discontinued; or

2       \* \* \*

3 § 14.21. Procedure for and effect of administrative dissolution.

4       (a)     If the secretary of state determines that one or more grounds exist under section  
5 14.20 for dissolving a corporation, he shall serve the corporation with written notice of his  
6 determination ~~under section 5.04~~.

7       (b)     If the corporation does not correct each ground for dissolution or demonstrate to  
8 the reasonable satisfaction of the secretary of state that each ground determined by the secretary  
9 of state does not exist within 60 days after service of the notice is perfected ~~under section 5.04~~,  
10 the secretary of state shall administratively dissolve the corporation by signing a certificate of  
11 dissolution that recites the ground or grounds for dissolution and its effective date. The secretary  
12 of state shall file the original of the certificate and serve a copy on the corporation ~~under section~~  
13 ~~5.04~~.

14       \* \* \*

15 § 14.22. Reinstatement following administrative dissolution.

16       \* \* \*

17       (b)     If the secretary of state determines that the application contains the information  
18 required by subsection (a) and that the information is correct, he shall cancel the certificate of  
19 dissolution and prepare a certificate of reinstatement that recites his determination and the  
20 effective date of reinstatement, file the original of the certificate, and serve a copy on the  
21 corporation ~~under section 5.04~~.

22       \* \* \*

23 § 14.23. Appeal from denial of reinstatement.

24       (a)     If the secretary of state denies a corporation's application for reinstatement  
25 following administrative dissolution, he shall serve the corporation ~~under section 5.04~~ with a  
26 written notice that explains the reason or reasons for denial.

27       \* \* \*

28 § 14.31. Procedure for judicial dissolution.

29       (a)     Venue for a proceeding by the attorney general to dissolve a corporation lies in  
30 [name the county or counties]. Venue for a proceeding brought by any other party named in  
31 section 14.30 lies in the county where a corporation's principal office is or was last located (or, if  
32 none in this state, ~~its registered office~~) is or was last located of \_\_\_\_\_ county.

33       \* \* \*

34 § 15.03. Application for certificate of authority.

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

38       \* \* \*

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

42       \* \* \*

43 § 15.04. Amended certificate of authority.

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

46               (1)     its corporate name;

- 1 (2) the period of its duration; ~~or~~  
2 (3) any of the information required by [Section 5(a) of the Model Registered  
3 Agents Act]; or  
4 (4) the state or country of its incorporation.

5 \* \* \*

6  
7 (d) Sections 15.07, 15.08, and 15.09 of the Model Business Corporation Act are  
8 repealed.

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

11 § 15.30. Grounds for revocation.

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

14 \* \* \*

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

17 (4) the foreign corporation does not inform the secretary of state ~~under section~~  
18 ~~15.08 or 15.09~~ by an appropriate filing that its registered agent ~~or registered office~~ has  
19 changed; or that its registered agent has resigned, ~~or that its registered office has been~~  
20 ~~discontinued~~ within 60 days of the change; or resignation, ~~or discontinuance~~;

21 \* \* \*

22 § 16.04. Court-ordered inspection.

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

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

35 \* \* \*

36 § 16.05. Inspection of records by directors.

37 \* \* \*

38 (b) The [name or describe the court] of the county where the corporation's principal  
39 office is located (or, if none in this state, ~~its registered office~~) is located of \_\_\_\_\_ county)  
40 may order inspection and copying of the books, records and documents at the corporation's  
41 expense, upon application of a director who has been refused such inspection rights, unless the

1corporation establishes that the director is not entitled to such inspection rights. The court shall  
2dispose of an application under this subsection on an expedited basis.

3 \* \* \*

4§ 16.21. Annual report for Secretary of State.

5 (a) Each domestic corporation, and each foreign corporation authorized to transact  
6business in this state, shall deliver to the secretary of state for filing an annual report that sets  
7forth:

8 (1) the name of the corporation;

9 (2) ~~and the state or country~~ the jurisdiction under whose law it is incorporated;

10 (2) ~~(3) the address of its registered office and the name of its registered agent at~~  
11 ~~that office in this state~~ the information required by [section 5(a) of the Model Registered  
12 Agents Act];

13 ~~(3) (4) the address of its principal office, wherever located;~~

14 ~~(4) (5) the names and business addresses of its directors and principal officers;~~

15 and

16 ~~(6) the names of its directors, except that in the case of a corporation that has~~  
17 ~~eliminated its board of directors pursuant to section 7.32 the annual report shall set forth~~  
18 ~~the names of the shareholders instead.~~

19 ~~(5) a brief description of the nature of its business;~~

20 ~~(6) the total number of authorized shares, itemized by class and series, if any,~~  
21 ~~within each class; and~~

22 ~~(7) the total number of issued and outstanding shares, itemized by class and~~  
23 ~~series, if any, within each class.~~

24 \* \* \*

25

26

## 27SECTION A2. MODEL NONPROFIT CORPORATION ACT

28

29 (a) Sections 1.22, 1.25, 1.26, and 2.02 of the Model Nonprofit Corporation Act are

30amended to read:

31§ 1.22. Filing, service, and copying fees.

32 (a) The secretary of state shall collect the following fees when the documents  
33described in this subsection are delivered to him for filing:

34 \* \* \*

35 ~~(7) Corporation's statement of change of registered agent or~~  
36 ~~registered office or both~~ \_\_\_\_\_ \$\_\_

37 ~~(8) Agent's statement of change of registered office for~~  
38 ~~each affected corporation not to exceed a total of~~ \_\_\_\_\_ \$\_\_

39 ~~(9) Agent's statement of resignation~~ \_\_\_\_\_ no fee

40 \* \* \*

41§ 1.25. Filing duty of Secretary of State.

42 \* \* \*

43 (b) The secretary of state files a document by stamping or otherwise endorsing  
44"Filed," together with the secretary of state's name and official title and the date and time of

77

34

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1 receipt, on both the original and copy of the document and on the receipt for the filing fee. After  
2 filing a document, except as provided in ~~sections 5.03 and~~ section 15.10, the secretary of state  
3 shall deliver the document copy, with the filing fee receipt (or acknowledgement of receipt if no  
4 fee is required) attached, to the domestic or foreign corporation or its representative.

5 \* \* \*

6 § 1.26. Appeal from Secretary of State's refusal to file document.

7 (a) If the secretary of state refuses to file a document delivered for filing to the  
8 secretary of state's office, the domestic or foreign corporation may appeal the refusal to the  
9 [name or describe] court in the county where the corporation's principal office is or will be  
10 located, or if there is none in this state, ~~its registered office, is or will be located of~~ \_\_\_\_\_  
11 county. The appeal is commenced by petitioning the court to compel filing the document and by  
12 attaching to the petition the document and the secretary of state's explanation of ~~his~~ the refusal to  
13 file.

14 \* \* \*

15 § 2.02. Articles of incorporation.

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

17 \* \* \*

18 (3) ~~the street address of the corporation's initial registered office and the name~~  
19 ~~of its initial registered agent at that office~~ the information required by [Section 5(a) of the  
20 Model Registered Agents Act];

21 \* \* \*

22

23 (b) Chapter 5 of the Model Nonprofit Corporation Act is repealed.

24 (c) Sections 7.03, 7.20, 10.02, 11.06, 14.08, 14.20, 14.21, 14.22, 14.23, 14.31, 15.03

25 and 15.04 of the Model Nonprofit Corporation Act are amended to read:

26 § 7.03. Court-ordered meeting.

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

30 \* \* \*

31 § 7.20. Members' list for meeting.

32 \* \* \*

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

41 \* \* \*

42 § 10.02. Amendment by directors.

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

3 \* \* \*

4 (3) ~~to delete the name and address of the initial registered agent or registered~~  
5 ~~office, if a statement of change is on file with the secretary of state; to change the~~  
6 information required by [Section 5(a) of the Model Registered Agents Act];

7 \* \* \*

8 § 11.06. Merger with foreign corporation.

9 \* \* \*

10 (b) Upon the merger taking effect, the surviving foreign business or nonprofit  
11 corporation is ~~deemed to have irrevocably appointed the secretary of state as its agent for service~~  
12 ~~of process~~ may be served with process in any proceeding brought against it as provided in  
13 [Section 13 of the Model Registered Agents Act].

14 § 14.08. Unknown claims against dissolved corporation.

15 \* \* \*

16 (b) The notice must:

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

20 \* \* \*

21 § 14.20. Grounds for administrative dissolution.

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

24 \* \* \*

25 (3) the corporation is without a registered agent ~~or registered office~~ in this  
26 state for 60 days or more;

27 (4) the corporation does not notify the secretary of state within 120 days that  
28 its registered agent ~~or registered office~~ has been changed; or that its registered agent has  
29 resigned; ~~or that its registered office has been discontinued~~; or

30 \* \* \*

31 § 14.21. Procedure for and effect of administrative dissolution.

32 (a) Upon determining that one or more grounds exist under section 14.20 for  
33 dissolving a corporation, the secretary of state shall serve the corporation with written notice of  
34 that determination ~~under section 5.04~~, and in the case of a public benefit corporation shall notify  
35 the attorney general in writing..

36 (b) If the corporation does not correct each ground for dissolution or demonstrate to  
37 the reasonable satisfaction of the secretary of state that each ground determined by the secretary  
38 of state does not exist within at least 60 days after service of the notice is perfected ~~under section~~  
39 ~~5.04~~, the secretary of state may administratively dissolve the corporation by signing a certificate  
40 of dissolution that recites the ground or grounds for dissolution and its effective date. The  
41 secretary of state shall file the original of the certificate and serve a copy on the corporation  
42 ~~under section 5.04~~, and in the case of a public benefit corporation shall notify the attorney  
43 general in writing.

44 \* \* \*

45 § 14.22. Reinstatement following administrative dissolution.

46 \* \* \*

1 (b) If the secretary of state determines that the application contains the information  
2 required by subsection (a) and that the information is correct, the secretary of state shall cancel  
3 the certificate of dissolution and prepare a certificate of reinstatement reciting that determination  
4 and the effective date of reinstatement, file the original of the certificate, and serve a copy on the  
5 corporation ~~under section 5.04~~.

6 \* \* \*

7 § 14.23. Appeal from denial of reinstatement.

8 (a) The secretary of state, upon denying a corporation's application for reinstatement  
9 following administrative dissolution, shall serve the corporation ~~under section 5.04~~ with a written  
10 notice that explains the reason or reasons for denial.

11 \* \* \*

12 § 14.31. Procedure for judicial dissolution.

13 (a) Venue for a proceeding by the attorney general to dissolve a corporation lies in  
14 [name the county or court]. Venue for a proceeding brought by any other party named in section  
15 14.30 lies in the county where a corporation's principal office is or was last located (or, if none  
16 in this state, ~~its registered office~~) is or was last located of \_\_\_\_\_ county).

17 \* \* \*

18 § 15.03. Application for certificate of authority.

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

21 \* \* \*

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

25 \* \* \*

26 § 15.04. Amended certificate of authority.

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

29 (1) its corporate name;

30 (2) the period of its duration; ~~or~~

31 (3) any of the information required by [Section 5(a) of the Model Registered  
32 Agents Act]; or

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

34 \* \* \*

35

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

38 (e) Sections 15.30, 16.04 and 16.22 of the Model Nonprofit Corporation Act are

39 amended to read:

40 § 15.30. Grounds for revocation.

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

1 \* \* \*

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

4 (4) the foreign corporation does not inform the secretary of state ~~under section~~  
5 ~~15.08 or 15.09~~ by an appropriate filing that its registered agent ~~or registered office~~ has  
6 changed; or that its registered agent has resigned; ~~or that its registered office has been~~  
7 ~~discontinued~~ within 90 days of the change; or resignation; ~~or discontinuance~~;

8 \* \* \*

9 § 16.04. Court-ordered inspection.

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

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

22 \* \* \*

23 § 16.22. Annual report for Secretary of State.

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

27 (1) the name of the corporation;

28 (2) ~~and the state or country~~ the jurisdiction under whose law it is incorporated;

29 (2) (3) ~~the address of its registered office and the name of its registered agent at~~  
30 ~~the office in this state~~ the information required by [Section 5(a) of the Model Registered  
31 Agents Act];

32 (3) (4) ~~the address of its principal office,~~ wherever located;

33 (4) (5) ~~the names and business or residence addresses of its directors and~~  
34 ~~principal officers;~~ and

35 (6) the names of its directors.

36 (5) ~~a brief description of the nature of its activities;~~

37 (6) ~~whether or not it has members;~~

38 (7) ~~if it is a domestic corporation, whether it is a public benefit, mutual benefit~~  
39 ~~or religious corporation; and~~

40 (8) ~~if it is a foreign corporation, whether it would be a public benefit, mutual~~  
41 ~~benefit or religious corporation had it been incorporated in this state.~~

42 \* \* \*

43

44

45 **SECTION A3. UNIFORM PARTNERSHIP ACT (1997)**

46

1 Sections 1001, 1003, and 1102 of the Uniform Partnership Act (1997) are amended to

2 read:

3 § 1001. Statement of qualification.

4 \* \* \*

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

7 \* \* \*

8 (3) if the partnership does not have an office in this State, ~~the name and street~~  
9 ~~address of the partnership's agent for service of process~~ the information required by  
10 [Section 5(a) of the Model Registered Agents Act];

11 \* \* \*

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

14 (Repealed.)

15 \* \* \*

16 § 1003. Annual report.

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

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

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

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

27 \* \* \*

28 § 1102. Statement of foreign qualification.

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

31 \* \* \*

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

34 (3) ~~if there is no office of the partnership in this State, the name and street~~  
35 ~~address of the partnership's agent for service of process~~ the information required by  
36 [Section 5(a) of the Model Registered Agents Act]; and

37 \* \* \*

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

41 \* \* \*

42

43

44 **SECTION A4. UNIFORM LIMITED PARTNERSHIP ACT (2001)**

1  
2 (a) Section 102(4) (“designated office”) of the Uniform Limited Partnership Act  
3(2001) is repealed.

4 (b) Sections 114, 115, 116, and 117 of the Uniform Limited Partnership Act (2001)  
5are repealed.

6 (c) Sections 201, 202, 206, 208, and 210 of the Uniform Limited Partnership Act  
7(2001) are amended to read:

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

9 (a) In order for a limited partnership to be formed, a certificate of limited partnership  
10must be delivered to the [Secretary of State] for filing. The certificate must state:

11 \* \* \*

12 (2) ~~the street and mailing address of the initial designated office and the name~~  
13 ~~and street and mailing address of the initial agent for service of process~~ the information  
14 required by [Section 5(a) of the Model Registered Agents Act];

15 \* \* \*

16§ 202. Amendment or restatement of certificate.

17 \* \* \*

18 (c) A general partner that knows that any information in a filed certificate of limited  
19partnership was false when the certificate was filed or has become false due to changed  
20circumstances shall promptly:

21 (1) cause the certificate to be amended; or

22 (2) if appropriate, deliver to the [Secretary of State] for filing ~~a statement of~~  
23 ~~change pursuant to Section 115 or a statement of correction pursuant to Section 207 or~~  
24 [Section 8 of the Model Registered Agents Act].

25 \* \* \*

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

27 \* \* \*

28 (c) Except as otherwise provided in ~~Sections 116 and~~ Section 207, a record delivered  
29to the [Secretary of State] for filing under this [Act] may specify an effective time and a delayed  
30effective date. Except as otherwise provided in this [Act], a record filed by the [Secretary of  
31State] is effective:

32 \* \* \*

33§ 208. Liability for false information in filed record.

34 (a) If a record delivered to the [Secretary of State] for filing under this [Act] and filed  
35by the [Secretary of State] contains false information, a person that suffers loss by reliance on the  
36information may recover damages for the loss from:

37 \* \* \*

38 (2) a general partner that has notice that the information was false when the  
39 record was filed or has become false because of changed circumstances, if the general  
40 partner has notice for a reasonably sufficient time before the information is relied upon to

1 enable the general partner to effect an amendment under Section 202, file a petition  
2 pursuant to Section 205, or deliver to the [Secretary of State] for filing a statement of  
3 change pursuant to [Section 115] [Section 8 of the Model Registered Agents Act] or a  
4 statement of correction pursuant to Section 207.

5 \* \* \*

6§ 210. Annual report for [Secretary of State].

7 (a) A limited partnership or a foreign limited partnership authorized to transact  
8 business in this State shall deliver to the [Secretary of State] for filing an annual report that  
9 states:

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

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

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

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

19 \* \* \*

20 (e) If a filed annual report contains ~~an address of a designated office or the name or~~  
21 ~~address of an agent for service of process~~ information provided under subsection (a)(2) which  
22 differs from the information shown in the records of the [Secretary of State] immediately before  
23 the filing, the differing information in the annual report is considered a statement of change  
24 under ~~Section 115~~ [Section 8 of the Model Registered Agents Act].

25

26 (d) Sections 304, 407, 807, 902, 906, 1104, 1105, 1108, and 1109 of the Uniform

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

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

29 (a) On 10 days' demand, made in a record received by the limited partnership, a  
30 limited partner may inspect and copy required information during regular business hours in the  
31 limited partnership's ~~designated~~ principal office. The limited partner need not have any  
32 particular purpose for seeking the information.

33 \* \* \*

34 (d) Subject to subsection (f), a person dissociated as a limited partner may inspect and  
35 copy required information during regular business hours in the limited partnership's ~~designated~~  
36 principal office if:

37 \* \* \*

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

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

41 (1) in the limited partnership's ~~designated~~ principal office, required  
42 information; and

43 \* \* \*

44§ 807. Other claims against dissolved limited partnership.

1 \* \* \*

2 (b) The notice must:

3 (1) be published at least once in a newspaper of general circulation in the  
4 [county] in which the dissolved limited partnership's principal office is located or, if it  
5 has none in this State, in the county in which the limited partnership's designated office is  
6 or was last located \_\_\_\_\_ county;

7 \* \* \*

8 § 902. Application for certificate of authority.

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

12 \* \* \*

13 (4) ~~the name and street and mailing address of the foreign limited-~~  
14 ~~partnership's initial agent for service of process in this State~~ the information required by  
15 [Section 5(a) of the Model Registered Agents Act];

16 \* \* \*

17 § 906. Revocation of certificate of authority.

18 (a) A certificate of authority of a foreign limited partnership to transact business in  
19 this State may be revoked by the [Secretary of State] in the manner provided in subsections (b)  
20 and (c) if the foreign limited partnership does not:

21 \* \* \*

22 (3) appoint and maintain an agent for service of process as required by  
23 ~~Section 114(b)~~ [Section 5(a) of the Model Registered Agents Act]; or

24 (4) deliver for filing a statement of change under ~~Section 115~~ [Section 8 of the  
25 Model Registered Agents Act] within 30 days after a change has occurred in the name or  
26 address of the agent.

27 (b) In order to revoke a certificate of authority, the [Secretary of State] must prepare,  
28 sign, and file a notice of revocation and send a copy to the foreign limited partnership's agent for  
29 service of process in this State, or if the foreign limited partnership does not appoint and  
30 maintain a proper agent in this State, to the foreign limited partnership's **[designated]** principal  
31 office. The notice must state:

32 \* \* \*

33 § 1104. Filings required for conversion; effective date.

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

35 (1) a converting limited partnership shall deliver to the [Secretary of State] for  
36 filing articles of conversion, which must include:

37 \* \* \*

38 (F) if the converted organization is a foreign organization not  
39 authorized to transact business in this State, the street and mailing address of an  
40 office which ~~the Secretary of State may use for the purposes of~~ may be used for  
41 service of process under Section 1105(c); and

42 \* \* \*

43 § 1105. Effect of conversion.

44 \* \* \*

45 (c) A converted organization that is a foreign organization consents to the jurisdiction  
46 of the courts of this State to enforce any obligation owed by the converting limited partnership, if

1 before the conversion the converting limited partnership was subject to suit in this State on the  
2 obligation. A converted organization that is a foreign organization and not authorized to transact  
3 business in this State appoints the Secretary of State as its agent for service of process for  
4 purposes of enforcing an obligation under this subsection. Service on the Secretary of State  
5 under this subsection is made in the same manner and with the same consequences as in Section  
6 117(e) and (d) may be served with process at the address required in the articles of conversion  
7 under Section 1104(a)(1)(F).

8 § 1108. Filings required for merger; effective date.

9 \* \* \*

10 (b) The articles of merger must include:

11 \* \* \*

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

16 \* \* \*

17 § 1109. Effect of merger

18 \* \* \*

19 (b) A surviving organization that is a foreign organization consents to the jurisdiction  
20 of the courts of this State to enforce any obligation owed by a constituent organization, if before  
21 the merger the constituent organization was subject to suit in this State on the obligation. A  
22 surviving organization that is a foreign organization and not authorized to transact business in  
23 this State appoints the Secretary of State as its agent for service of process for the purposes of  
24 enforcing an obligation under this subsection. Service on the Secretary of State under this  
25 subsection is made in the same manner and with the same consequences as in Section 117(e) and  
26 (d) may be served with process at the address required in the articles of merger under Section  
27 1108(b)(7).

28

29

### 30 SECTION A5. UNIFORM LIMITED LIABILITY COMPANY ACT

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

33 (b) Sections 203 and 211 of the Uniform Limited Liability Company Act are

34 amended to read:

35 § 203. Articles of organization.

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

37 \* \* \*

38 (2) ~~the address of the initial designated office; (Repealed.)~~

39 (3) ~~the name and street address of the initial agent for service of process the~~  
40 information required by [Section 5(a) of the Model Registered Agents Act];

41 \* \* \*

1 § 211. Annual report for [Secretary of State].

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

- 5 (1) the name of the company;  
6 (2) ~~and the State or country~~ the jurisdiction under whose law it is organized;  
7 ~~(2)-(3) the address of its designated office and the name and address of its agent~~  
8 ~~for service or process in this State~~ the information required by [Section 5(a) of the Model  
9 Registered Agents Act];  
10 ~~(3)-(4) the address of its principal office, wherever located;~~ and  
11 ~~(4)-(5) the names and business addresses of any managers.~~

12 \* \* \*

13  
14 (c) Sections 808, 906, 1002, and 1006 of the Uniform Limited Liability Company

15 Act are amended to read:

16 § 808. Other claims against dissolved limited liability company.

17 \* \* \*

18 (b) The notice must:

- 19 (1) be published at least once in a newspaper of general circulation in the  
20 [county] in which the dissolved limited liability company's principal office is or was  
21 located or, if none in this State, in which its designated office is or was last located in  
22 \_\_\_\_\_ county;

23 \* \* \*

24 § 906. Effect of merger.

25 \* \* \*

26 ~~The Secretary of State is an agent for service of process in an action or proceeding~~  
27 ~~against the surviving foreign entity to enforce an obligation of any party to a merger if~~ If the  
28 surviving foreign entity fails to appoint or maintain an agent designated for service or process in  
29 this State or the agent for service of process cannot with reasonable diligence be found at the  
30 designated office. Upon receipt of process, the Secretary of State shall send a copy of the process  
31 by registered or certified mail, return receipt requested, to the surviving entity at the address set  
32 forth in the articles of merger, service of process may be made on the foreign entity as provided  
33 in [Section 13(b) of the Model Registered Agents Act]. Service is effected under this subsection  
34 at the earliest of:

35 \* \* \*

36 § 1002. Application for certificate of authority.

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

40 \* \* \*

- 41 (4) ~~the address of its initial designated office in this State (Repealed.);~~  
42 (5) ~~the name and street address of its initial agent for service of process in this~~  
43 State the information required by [Section 5(a) of the Model Registered Agents Act];

44 \* \* \*

1 § 1006. Revocation of certificate of authority.

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

5 (1) the company fails to:

6 \* \* \*

7 (iii) appoint and maintain an agent for service of process as required by  
8 ~~this article~~ [Section 5(a) of the Model Registered Agents Act]; or

9 (iv) file a statement of change in the name or business address of the  
10 agent as required by ~~this article~~ [Section 8 of the Model Registered Agents Act]; or

11 \* \* \*

12 (b) The [Secretary of State] may not revoke a certificate of authority of a foreign  
13 limited liability company unless the [Secretary of State] sends the company notice of the  
14 revocation, at least 60 days before its effective date, by a record ~~addressed to its agent for service~~  
15 ~~of process in this State, or if the company fails to appoint and maintain a proper agent in this~~  
16 ~~State, addressed to the office required to be maintained by Section 108~~ served in accordance with  
17 [Section 13 of the Model Registered Agents Act]. The notice must specify the cause for the  
18 revocation of the certificate of authority. The authority of the company to transact business in  
19 this State ceases on the effective date of the revocation unless the foreign limited liability  
20 company cures the failure before that date.

21

22

## 23 SECTION A6. PROTOTYPE LIMITED LIABILITY COMPANY ACT

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

25 (b) Sections 202, 908, and 1002 of the Prototype Limited Liability Company Act are

26 amended to read:

27 § 202. Articles of organization.

28 The articles of organization shall set forth:

29 \* \* \*

30 (B) ~~The address of the registered office and the name and business, residence,~~  
31 ~~or mailing address of the registered agent required to be maintain by § 105. The~~  
32 information required by [Section 5(a) of the Model Registered Agents Act].

33 \* \* \*

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

35 \* \* \*

36 (B) The notice must:

37 (1) Be published once in a newspaper of general circulation in the county  
38 where the limited liability company's principal office ~~(or, if none in this state, its~~  
39 ~~registered office) is located~~ is located or, if none in this state, in \_\_\_\_\_ county;

40 \* \* \*

41 § 1002. Registration.

1 Before transacting business in this state, a foreign limited liability company shall register  
2with the Secretary of State by submitting to the Secretary of State an original signed copy of an  
3application for registration as a foreign limited liability company, together with a duplicate copy  
4that may be either a signed, photocopied, or conformed copy, executed by a person with  
5authority to do so under the laws of the state or other jurisdiction of its formation. The  
6application shall set forth:

7 \* \* \*

8 (C) ~~The name and address of a registered agent for service of process required~~  
9 ~~to be maintained by § 105~~ the information required by [Section 5(a) of the Model  
10 Registered Agents Act];

11 (D) ~~A statement that the Secretary of State is appointed the agent of the~~  
12 ~~foreign limited liability company for service of process if the foreign limited liability~~  
13 ~~company fails to appoint or maintain a registered agent in satisfaction of the requirements~~  
14 ~~of § 105 (Repealed.);~~

15 \* \* \*

16

17

## 18SECTION A7. UNIFORM UNINCORPORATED NONPROFIT ASSOCIATION ACT

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

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

21 \* \* \*

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

23 \* \* \*

24 (4) ~~the name of the person in this State authorized to receive service of~~  
25 ~~process and the person's address, including the street address, in this State~~ the  
26 information required by [Section 5(a) of the Model Registered Agents Act].

27 (c) A statement appointing an agent, ~~and an amendment or cancellation thereof,~~ must  
28be signed ~~and acknowledged sworn to~~ by a person authorized to manage the affairs of the  
29nonprofit association. ~~The statement must also be signed and acknowledged by the person~~  
30~~appointed agent, who thereby accepts the appointment. The appointed agent may resign by filing~~  
31~~a resignation in the office of the Secretary of State and giving notice to the nonprofit association.~~

32 (d) ~~—A filing officer may collect a fee for filing a statement appointing an agent to~~  
33~~receive service of process, an amendment, a cancellation, or a resignation in the amount charged~~  
34~~for filing similar documents. (Repealed.)~~

35 (e) ~~—An amendment to or cancellation of a statement appointing an agent to receive~~  
36~~service of process must meet the requirements for execution of an original statement. (Repealed.)~~