ENROLLED ORIGINAL

AN ACT

D.C. ACT 18-724

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

FEBRUARY 27, 2011

To enact Title 29, "Business Organizations", of the District of Columbia Official Code into law, to update, streamline, and harmonize the law relating to business corporations, nonprofit corporations, professional corporations, general partnerships, limited partnerships, limited liability companies, general cooperative associations, limited cooperative associations, unincorporated nonprofit associations, and statutory trusts, to provide for mergers, interest exchanges, conversions, and domestications involving these entities; to amend the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, the Child Abuse and Neglect Prevention Children's Trust Fund Act of 1993, the National Capital Area Transit Act of 1972, the Establishment of the John A. Wilson Building Foundation Act of 1996, the District of Columbia Theft and White Collar Crimes Act of 1982, the District of Columbia Regional Interstate Banking Act of 1985, An Act To regulate the business of loaning money on security of any kind by persons, firms, and corporations other than national banks, licensed bankers, trust companies, savings banks, building and loan associations, and real estate brokers in the District of Columbia, Chapter 33 of Subtitle II of Title 28 of the District of Columbia Official Code The District of Columbia Business Corporations Act, and An Act To establish a code of law for the District of Columbia, to repeal the District of Columbia Nonprofit Corporation Act, to amend An Act To facilitate the amendment of the governing instruments of certain charitable trusts and corporations subject to the jurisdiction of the District of Columbia, in order to conform to the requirements of section 508 and section 664 of the Internal Revenue Code of 1954, as added by the Tax Reform Act of 1969, to repeal the District of Columbia Professional Corporations Act, to amend the District of Columbia Revenue Act of 1970 and the Revised Statutes of the District of Columbia, to repeal the Uniform Unincorporated Nonprofit Associations Act of 2000 and the Limited Liability Company Act of 1994, to amend An Act to provide for semi-annual statements by foreign corporations doing business in the District of Columbia, the Reciprocal Insurance Company Conversion Act of 1998, the Investments of Insurers Act of 2002, and the Captive Insurance Company Act of 2004, to repeal the Uniform Partnership Act of 1996 and the Uniform Limited Partnership Act of 1987, and to amend the Cable Television Communications Act of 1981, An Act To permit the

merger of street railway corporations operating in the District of Columbia, and for other purposes, the District of Columbia Public Postsecondary Education Reorganization Act, the Education Licensure Commission Act of 1976, the District of Columbia School Reform Act of 1995, the Museum of the City of Washington Act of 1980, An Act To amend the laws relating to the fees charged for services rendered by the Office of the Recorder of Deeds for the District of Columbia and the laws relating to appointment of personnel in such office, and for other purposes, the District of Columbia Real Estate Licensure Act of 1982, the Homestead Housing Preservation Act of 1986, the Multiple Dwelling Residence Water Lead Level Test Act of 2004, and Title 47 of the District of Columbia Official Code to make conforming amendments; and to direct that the Foreign Trade Zones Act of 1995 be recodified.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "District of Columbia Official Code Title 29 (Business Organizations) Enactment Act of 2010".

Sec. 2. Title 29 of the District of Columbia Official Code is enacted into law to read as follows:

"TITLE 29
BUSINESS ORGANIZATIONS

Chapter
1. General Provisions.
2. Entity Transactions.
3. Business Corporations.
4. Nonprofit Corporations.
5. Professional Corporations.
6. General Partnerships.
7. Limited Partnerships.
8. Limited Liability Companies.
9. General Cooperative Associations.
10. Limited Cooperative Associations.
11. Unincorporated Nonprofit Associations.
12. Statutory Trusts.

CHAPTER 1. GENERAL PROVISIONS.

Section

Subchapter I. General Provisions.

29-101.01. Short titles.
29-101.02. Definitions.
29-101.03. Applicability of chapter.
29-101.04. Delivery of record.
29-101.05. Rules and procedures.
29-101.06. Civil fines for violations of title.

Subchapter II. Filing.

29-102.01. Entity filing requirements.
29-102.02. Forms.
29-102.03. Effective time and date.
29-102.04. Withdrawal of filed record before effectiveness.
29-102.05. Correcting filed record.
29-102.06. Duty of Mayor to file; review of refusal to file.
29-102.07. Evidentiary effect of copy of filed record.
29-102.08. Certificate of good standing or registration.
29-102.09. Signing constitutes affirmation.
29-102.10. Delivery by Mayor.
29-102.11. Biennial report for Mayor.
29-102.12. Fees.
29-102.13. Establishment of Corporate Recordation Fund; disposition of entity filing fees

Subchapter III. Name of Entity.

29-103.01. Permitted names.
29.103.02. Name requirements for certain types of entities.
29-103.03. Reservation of name.
29-103.04. Registration of name.

Subchapter IV. Registered Agent.

29-104.01. Definitions.
29-104.02. Entities required to designate and maintain registered agent.
29-104.03. Addresses in filings.
29-104.04. Appointment of registered agent.
29-104.05. Listing of commercial registered agent.
29-104.06. Termination of listing of commercial registered agent.
29-104.07. Change of registered agent by entity.
29-104.08. Change of name or address by noncommercial registered agent.
29-104.09. Change of name, address, type of entity, or jurisdiction of formation by commercial registered agent.

29-104.10. Resignation of registered agent.
29-104.11. Appointment of registered agent by nonqualified foreign entity or nonfiling domestic entity.
29-104.12. Service of process, notice, or demand on entity.
29-104.13. Duties of registered agent.
29-104.14. Personal jurisdiction.
Subchapter V. Foreign Entities.
29-105.01. Governing law.
29-105.02. Registration to do business in the District.
29-105.03. Foreign registration statement.
29-105.04. Amendment of registration statement.
29-105.05. Activities not constituting doing business.
29-105.06. Noncomplying name of foreign entity.
29-105.07. Withdrawal of registration of registered foreign entity.
29-105.08. Withdrawal deemed on conversion to domestic filing entity or domestic limited liability partnership.
29-105.09. Withdrawal on dissolution or conversion to nonfiling entity other than limited liability partnership.
29-105.10. Transfer of registration.
29-105.11. Termination of registration.
29-105.12. Action by Attorney General.
Subchapter VI. Administrative Dissolution
29-106.01. Grounds.
29-106.02. Procedure and effect.
29-106.03. Reinstatement.
29-106.04. Judicial review of denial of reinstatement.
Subchapter VII. Miscellaneous Provisions
29-107.01. Reservation of power to amend or repeal.
29-107.02. Supplemental principles of law.
29-107.03. Uniformity or consistency of application and construction.
29-107.04. Relation to Electronic Signatures in Global and National Commerce Act.
29-107.05. Savings clause.

CHAPTER 1. GENERAL PROVISIONS.

Subchapter I. General Provisions.

§ 29-101.01. Short titles.

(a) This title may be cited as the "Business Organizations Code".

(b) This chapter may be cited as the "Business Organizations Code General Provisions Act of 2010".

(c) Subchapter IV of this chapter may be cited as the "Registered Agent Act of 2010".

§ 29-101.02. Definitions.

Except as otherwise provided in definitions of the same terms in other chapters of this title, for the purposes of this title, the term:

(1) "Biennial report" means the report required by § 29-102.11.

(2) "Business corporation" means:

(A) A domestic business corporation incorporated under or subject to Chapter 3 of this title; or

(B) A foreign business corporation.

(3) "Commercial registered agent" means a person listed under § 29-104.05.

(4) "Debtor in bankruptcy" means a person that is the subject of:

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

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

(5) "Domestic", with respect to an entity, means governed as to its internal affairs by the law of the District.

(6) "Effective date", when referring to a record filed by the Mayor, means the time and date determined in accordance with § 29-102.03.

(7)(A) "Entity" means:

(i) A business corporation;

(ii) A nonprofit corporation;

(iii) A general partnership, including a limited liability partnership;

(iv) A limited partnership, including a limited liability limited partnership;

(v) A limited liability company;

(vi) A general cooperative association;

(vii) A limited cooperative association;

(viii) An unincorporated nonprofit association;

(ix) A statutory trust, business trust, or common-law business trust; or

(x) Any other person that has a legal existence separate from any interest holder of that person or that has the power to acquire an interest in real property in its own name.

(B) The term "entity" shall not include:

(i) An individual;

(ii) A testamentary, inter vivos, or charitable trust, except a

statutory trust, business trust, or common-law business trust;

(iii) An association or relationship that is not a partnership solely by reason of § 29-602.02(c) or a similar provision of the law of another jurisdiction;

(iv) A decedent's estate; or

(v) A government or a governmental subdivision, agency, or instrumentality.

(8) "Entity filing" means a record delivered for filing to the Mayor pursuant to this title.

(9) "Filed record" means a record filed by the Mayor pursuant to this title.

(10) "Filing entity" means an entity that is formed by filing a public organic record.

(11) "Foreign", with respect to an entity, means:

(A) Governed as to its internal affairs by the law of a jurisdiction other than the District; or

(B) Chartered by a special act of Congress.

(12) "General cooperative association" means a domestic general cooperative association formed under or subject to Chapter 9 of this title or a foreign general cooperative association.

(13) "General partnership" means a domestic general partnership formed under or subject to Chapter 6 of this title or a foreign general partnership. The term "general partnership" includes a limited liability partnership.

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

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

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

(C) Receive notice of or vote on issues involving the internal affairs of the entity.

(15) "Governor" means a:

(A) Director of a business corporation;

(B) Director or trustee of a nonprofit corporation;

(C) General partner of a general partnership;

(D) General partner of a limited partnership;

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

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

(G) Director of a general cooperative association;

(H) Director of a limited cooperative association;

(I) Manager of an unincorporated nonprofit association;

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

trust; or

(K) A person under whose authority the powers of an entity are exercised and under whose direction the business and affairs of the entity are managed pursuant to the entity's organic law and organic rules.

(16) "Interest" means a:

(A) Share in a business corporation;

(B) Membership in a nonprofit corporation;

(C) Partnership interest in a general partnership;

(D) Partnership interest in a limited partnership;

(E) Membership interest in a limited liability company;

(F) Share in a general cooperative association;

(G) Member's interest in a limited cooperative association;

(H) Membership in an unincorporated nonprofit association;

(I) Beneficial interest in a statutory trust, business trust, or common law business trust; or

(J) Governance interest or transferable interest in any other type of unincorporated entity.

(17) "Interest holder" means:

(A) A shareholder of a business corporation;

(B) A member of a nonprofit corporation;

(C) A general partner of a general partnership;

(D) A general partner of a limited partnership;

(E) A limited partner of a limited partnership;

(F) A member of a limited liability company;

(G) A shareholder of a general cooperative association;

(H) A member of a limited cooperative association;

(I) A member of an unincorporated nonprofit association;

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

(K) Any other direct holder of an interest.

(18) "Jurisdiction", used to refer to a political entity, means the United States, a state, a foreign country, or a political subdivision of a foreign country.

(19) "Jurisdiction of formation" means the jurisdiction whose law includes the organic law of an entity.

(20) "Limited cooperative association" means a domestic limited cooperative association formed under or subject to Chapter 10 of this title or a foreign limited cooperative association.

(21) "Limited liability company" means a domestic limited liability company formed under or subject to Chapter 8 of this title or a foreign limited liability company.

(22) "Limited liability limited partnership" means a domestic limited liability limited partnership formed under or subject to Chapter 7 of this title or a foreign limited liability limited partnership.

(23) "Limited liability partnership" means a domestic limited liability partnership registered under or subject to Chapter 6 of this title or a foreign limited liability partnership.

(24) "Limited partnership" means a domestic limited partnership formed under or subject to Chapter 7 of this title or a foreign limited partnership. The term includes a limited liability limited partnership.

(25) "Noncommercial registered agent" means a person that is not a commercial registered agent and is:

(A) An individual or domestic or foreign entity that serves in the District as the agent for service of process of an entity;

(B) An individual who holds the office or other position in an entity who is designated as the agent for service of process pursuant to § 29-104.04(a)(2)(B); or

(C) A member in good standing of the District of Columbia Bar who maintains an office in the District of Columbia.

(26) "Nonfiling entity" means an entity that is formed other than by filing a public organic record.

(27) "Nonprofit corporation" means a domestic nonprofit corporation incorporated under or subject to Chapter 4 of this title or a foreign nonprofit corporation.

(28) "Organic law" means the law of an entity's jurisdiction of formation which governs the internal affairs of the entity.

(29) "Organic rules" means the public organic record and private organic rules of an entity.

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

(31) "Principal office" means the principal executive office of an entity, whether or not the office is located in the District.

(32) "Private organic rules" means the rules, whether or not in a record, that govern the internal affairs of an entity, are binding on all of its interest holders, and are not part of its public organic record, if any. The term "private organic rules" shall include:

(A) Bylaws of a business corporation;

(B) Bylaws of a nonprofit corporation;

(C) Partnership agreement of a general partnership;

(D) Partnership agreement of a limited partnership;

(E) Operating agreement of a limited liability company;

(F) Bylaws of a general cooperative association;

(G) Bylaws of a limited cooperative association;

(H) Governing principles of an unincorporated nonprofit association; and

(I) Governing instrument of a statutory trust, business trust, or common-law business trust.

(33) "Proceeding" includes a civil action, arbitration, mediation, administrative proceeding, criminal prosecution, and investigatory action.

(34) "Professional limited liability company" means a limited liability company organized under Chapter 8 of this title solely for the purpose of rendering professional services through its members, managers, employees, or agents.

(35) "Property" means all property, whether real, personal, or mixed, or tangible or intangible, or any interest therein.

(36) "Public organic record" means the record the public filing of which forms an entity and any amendment or restatement of that record. The term "public organic record" shall include the:

(A) Articles of incorporation of a business corporation;

(B) Articles of incorporation of a nonprofit corporation;

(C) Certificate of limited partnership of a limited partnership;

(D) Certificate of organization of a limited liability company;

(E) Articles of incorporation of a general cooperative association;

(F) Articles of organization of a limited cooperative association; and

(G) Certificate of trust of a statutory trust, business trust, or common-law business trust.

(37) "Qualified foreign entity" means a foreign entity that is registered to do business in the District pursuant to a statement of registration filed by the Mayor.

(38) "Receipt" or "receive", as used in this chapter, means actual receipt.

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

(40) "Registered agent" means an agent of an entity which is authorized to receive service of any process, notice, or demand required or permitted by law to be served on the entity. The term "registered agent" shall include a commercial registered agent and a noncommercial registered agent.

(41) "Sign" means, with present intent to authenticate or adopt a record to:

(A) Execute or adopt a tangible symbol; or

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

(42) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the

jurisdiction of the United States.

(43) "Statutory trust" means a domestic statutory trust formed under or subject to Chapter 12 of this title or a foreign statutory trust.

(44) "Superior Court" means the Superior Court of the District of Columbia.

(45) "Transfer" includes an assignment, conveyance, sale, lease, mortgage, and encumbrance.

(46) "Transferable interest" means the right under an unincorporated entity's organic law to receive distributions from the entity.

(47) "Type of entity" means a generic form of entity:

(A) Recognized at common law; or

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

(48) "Unincorporated nonprofit association" means a domestic unincorporated nonprofit association formed under or subject to Chapter 11 of this title or a foreign unincorporated nonprofit association.

§ 29-101.03. Applicability of chapter.

This chapter shall apply to an entity formed under or subject to this title.

§ 29-101.04. Delivery of record.

(a) Except as otherwise provided in this title, permissible means of delivery of a record include delivery by hand, mail by the United States Postal Service, commercial delivery service, and electronic transmission.

(b) Delivery to the Mayor shall be effective only when the record is received by the Mayor.

§ 29-101.05. Rules and procedures.

The Mayor may adopt rules in accordance with the subchapter I of Chapter 5 and may prescribe procedures not required to be adopted as rules which are reasonably necessary to perform the duties required of the Mayor under this title.

§ 29-101.06. Civil fines for violations of title.

(a) The Mayor, pursuant to rules adopted in accordance with subchapter I of Chapter 5 of Title 2, may impose civil fines and penalties pursuant to Chapter 18 of Title 2, on any person who:

(1) Signs any filing pursuant to this title knowing it to contain a material misstatement of fact;

(2) Does business in the District of Columbia and:

(A) If a domestic business corporation or professional corporation, does not have articles of incorporation filed under § 29-302.02;

(B) If a domestic nonprofit corporation, does not have articles of incorporation filed under § 29-402.02;

(C) If a domestic limited partnership, does not have a certificate of limited partnership filed under § 29-702.01;

(D) If a domestic limited liability company, does not have a certificate of organization filed under § 29-802.01;

(E) If a domestic general cooperative association, does not have articles of incorporation filed under § 29-906;

(F) If a domestic limited cooperative association, does not have articles of organization filed under § 29-1003.02; or

(G) If a domestic statutory trust, does not have a certificate of trust filed under § 29-1202.01;

(3) If a domestic entity of a type described in paragraph (2) of this subsection, does business in the District of Columbia after it has been dissolved, whether voluntarily, judicially, or administratively, unless the dissolution has been revoked or the entity has been reinstated in accordance with this title;

(4) If a foreign filing entity, does business in the District of Columbia:

(A) Without having obtained a certificate of registration under § 29-105.02; or

(B) After its certificate of registration has been terminated under § 29-105.11; or

(5) Fails to appoint and maintain a registered agent as required by this title.

(b) Civil fines, penalties, and fees imposed by the Mayor under subsection (a) of this section shall be adjudicated pursuant to subchapter I of Chapter 18 of Title 2

(c) The rules proposed pursuant to subsection (a) of this section shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve the proposed rules, in whole or in part, by resolution within this 45-day review period, the proposed rules shall be deemed disapproved.

Subchapter II. Filing.

§ 29-102.01. Entity filing requirements.

(a) To be filed by the Mayor pursuant to this title, an entity filing shall be received by the office of the Mayor, and shall comply with this title, and satisfy the following:

(1) The entity filing shall be required or permitted by this title.

(2) The entity filing shall be physically delivered in written form unless and to the extent the Mayor permits electronic delivery of entity filings in other than written form.

(3) The words in the entity filing shall be in English and numbers shall be in

Arabic or Roman numerals, but the name of the entity need not be in English if written in English letters or Arabic or Roman numerals.

(4) The entity filing shall be signed by an individual authorized under this title to sign the filing.

(5) The entity filing shall state the name and capacity, if any, of the individual who signed it, but need not contain a seal, attestation, acknowledgment, or verification.

(b) If a law other than this title prohibits the disclosure by the Mayor of information contained in an entity filing, the Mayor shall accept the filing if it otherwise complies with this section, but the Mayor may redact the information.

(c) When an entity filing is delivered to the Mayor for filing, any fee required under this chapter and any fee, tax, or penalty required to be paid under this title or law other than this title shall be paid in a manner permitted by the Mayor or by that law.

(d) The Mayor may require that an entity filing delivered in written form be accompanied by an identical or conformed copy.

§ 29-102.02. Forms.

(a) The Mayor may provide forms for entity filings required or permitted to be made by this title, but, except as otherwise provided in subsection (b) or (c) of this section, their use shall not be required.

(b) The Mayor may require that a cover sheet for an entity filing and a biennial report be on forms prescribed by the Mayor.

(c) The Mayor may require that any filing by a foreign entity under this title be on a form prescribed by the Mayor.

(d) The Mayor, by rule, may authorize, but not require, any filing required or permitted by this title to be filed by electronic means and may prescribe forms and procedures for the electronic filings.

§ 29-102.03. Effective time and date.

Except as otherwise provided in § 29-102.04 and subject to § 29-102.05(c), an entity filing shall be effective:

(1) On the date and at the time of its filing by the Mayor as provided in § 29-102.06;

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

(3) If permitted by this title, at a specified delayed effective time and date, which shall not be more than 90 days after the date of filing; or

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

§ 29-102.04. Withdrawal of filed record before effectiveness.

(a) The parties to a filed record may withdraw the record before it takes effect.

(b) To withdraw a filed record, the parties to the record shall deliver to the Mayor for filing a statement of withdrawal.

(c) A statement of withdrawal shall:

(1) Except as otherwise agreed by the parties, be signed on behalf of each party that signed the filed record being withdrawn;

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

(3) If not filed by all parties, state that the filed record has been withdrawn in accordance with the agreement of the parties.

(d) On the delivery for filing to the Mayor of a statement of withdrawal, the action or transaction evidenced by the original filed record shall not take effect.

§ 29-102.05. Correcting filed record.

(a) A person on whose behalf a filed record was delivered to the Mayor for filing may correct the record if the:

(1) Record at the time of filing contained an inaccuracy;

(2) Record was defectively signed; or

(3) Electronic transmission of the record to the Mayor was defective.

(b) To correct a filed record, the parties to the record shall deliver to the Mayor a statement of correction.

(c) A statement of correction shall:

(1) Not state a delayed effective date;

(2) Be signed on behalf of the person correcting the filed record;

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

(4) Specify the inaccuracy or defect to be corrected; and

(5) Correct the inaccuracy or defect.

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

§ 29-102.06. Duty of Mayor to file; review of refusal to file.

(a) The Mayor shall file an entity filing delivered to the Mayor for filing which satisfies § 29-102.01. The duty of the Mayor under this section is ministerial.

(b) When the Mayor files an entity filing, the Mayor shall record it as filed on the date and time of its delivery. After filing an entity filing, the Mayor shall deliver to the domestic or foreign entity or its representative a copy of the filing with an acknowledgment of the date and

time of filing.

(c) If the Mayor refuses to file an entity filing, the Mayor shall return the entity filing or notify the person that submitted the filing not later than 15 business days after the filing is delivered, together with a brief explanation in a record of the reason for the refusal. If an entity files a corrected entity filing within 60 days of the date the document was initially rejected for filing, it shall not be required to pay a filing fee. If the entity files a corrected entity filing after that date, it shall be required to pay the applicable filing fee.

(d) If the Mayor refuses to file an entity filing, the person that submitted the filing may seek review of the refusal by the Superior Court under the following procedures:

(1) The review proceeding shall be commenced by petitioning the court to compel filing of the filing and by attaching to the petition the filing and the explanation of the Mayor of the refusal to file.

(2) The court may summarily order the Mayor to file the filing or take other action the court considers appropriate.

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

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

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

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

(3) Create a presumption that the filing is valid or invalid or that information contained in the filing is correct or incorrect.

§ 29-102.07. Evidentiary effect of copy of filed record.

A certification from the Mayor accompanying a copy of a filed record shall be conclusive evidence that the copy is an accurate representation of the original record on file with the Mayor.

§ 29-102.08. Certificate of good standing or registration.

(a) On request of any person, the Mayor shall issue a certificate of good standing for a domestic filing entity or a certificate of registration for a qualified foreign entity.

(b) A certificate under subsection (a) of this section shall state:

(1) The domestic filing entity's name or the qualified foreign entity's name used in the District;

(2) That the domestic filing entity is formed under the law of the District, the date of its formation, and the period of its duration if less than perpetual, or that the qualified foreign entity is registered to do business in the District;

(3) That all fees, taxes, and penalties owed to the District for entity filings collected through the Mayor have been paid if:

(A) Payment is reflected in the records of the Mayor; and

(B) Nonpayment affects the good standing or registration of the domestic

or foreign entity;

(4) That the entity's most recent biennial report required by § 29-102.11 has been delivered for filing to the Mayor; and

(5) That the entity has not been dissolved.

(c) Subject to any qualification stated in the certificate, a certificate issued by the Mayor under subsection (a) of this section may be relied upon as conclusive evidence that the domestic filing entity is in existence or the qualified foreign entity is registered to do business in the District.

§ 29-102.09. Signing constitutes affirmation.

Signing an entity filing shall be an affirmation under the penalties for making false statements that the facts stated in the filing are true in all material respects.

§ 29-102.10. Delivery by Mayor.

Except as otherwise provided by § 29-106.02 or by law other than this title, the Mayor may deliver any record to a person by delivering it to the person that submitted it, to the address of the person's registered agent, to the principal office address of the person, or to another address the person provides to the Mayor for delivery.

§ 29-102.11. Biennial report for Mayor.

(a) Each domestic filing entity and limited liability partnership and qualified foreign entity shall deliver to the Mayor for filing a biennial report that sets forth:

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

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

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

(4) The name of at least one governor, if the entity is a business corporation, nonprofit corporation, professional corporation, general cooperative association, or limited liability company; and

(5) In the case of a qualified foreign entity, a statement that the entity is in good standing in its state of formation or, if the entity is not in good standing, a description of the efforts of the entity to bring itself into good standing.

(b) Information in the biennial report shall be current as of the date the report is signed on behalf of the entity.

(c) The 1st biennial report shall be delivered to the Mayor for filing by April 1 of the year following the calendar year in which the domestic filing entity was formed or the foreign filing entity registered to do business in the District. Subsequent biennial reports shall be delivered to the Mayor by April 1st of each 2nd calendar year thereafter.

(d) If a biennial report does not contain the information required by this subchapter, the Mayor promptly shall notify the reporting domestic or qualified foreign entity in a record and return the report for correction.

(e) If a filed biennial report contains the name or address of a registered agent which differs from the information shown in the records of the Mayor immediately before the filing, the differing information in the biennial report shall be considered a statement of change under § 29-104.07, 29-104.08, or 29-104.09.

§ 29-102.12. Fees.

(a) The Mayor, pursuant to Chapter 5 of Title 2, shall adopt rules, to establish or revise fees for entity filings authorized to be delivered to the Mayor for filing under this title and for copying and certifying a copy of any entity filing under this title.

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

(c) The withdrawal under § 29-102.04 of a filed record before it is effective or the correction of a filed record under § 29-102.05 shall not entitle the person on whose behalf the record was filed to a refund of the filing fee.

(d) The rules proposed pursuant to subsection (a) of this section shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve the proposed rules, in whole or in part, by resolution within this 45-day review period, the proposed rules shall be deemed disapproved.

§ 29-102.13. Establishment of Corporate Recordation Fund; disposition of entity filing fees.

(a) There is established the Corporate Recordation Fund ("Fund"), which shall be classified as a proprietary fund and a type of enterprise fund for the purposes of § 47-373(1). The Fund shall be credited with all fees:

(1) That are identified in § 29-102.12 that are collected for Chapters 10 and 12;

(2) That are identified as expedited fees and the fees collected for the enforcement of Chapters 10 and 12; and

(3) Collected for the processing of corporate filings, including renewals, fines, and option service fees.

(b) Revenue credited to the Fund shall be expended by the Department of Consumer and Regulatory Affairs as designated by an appropriations act of Congress for the purposes of maintaining and upgrading the corporate filing system, including copying fees, automation upgrades, personnel costs, and supplies.

(c) Fees and charges payable to the Mayor shall be paid at the time of presenting a document for filing or making a request for information for which a fee or charge is payable.

(d) Overpayments and duplicate and erroneous payments shall be refunded. A mere change of purpose after the payment of money, as when a party desires to withdraw a filing, shall

not entitle a party to a refund.

(e) Except noted under subsection (d) of this section, all other fees shall be deemed processing fees and shall be nonrefundable.

(f) The Mayor may cancel a processed filing due to nonpayment.

Subchapter III. Name of Entity.

§ 29-103.01. Permitted names.

(a) Except as otherwise provided in subsections (b) and (d) of this section, the name of a domestic filing entity or domestic limited liability partnership, and the name under which a foreign filing entity or foreign limited liability partnership may register to do business in the District, shall be distinguishable on the records of the Mayor from any:

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

(2) Name of a foreign filing entity or foreign limited liability partnership that is registered to do business in the District under subchapter V of this chapter;

(3) Name that is reserved under § 29-103.03;

(4) Name that is registered under § 29-103.04; or

(5) Assumed name registered under subchapter I-C of Chapter 28 of Title 47.

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

(c) Except as otherwise provided in subsection (d) of this section, in determining whether a name is the same as or not distinguishable on the records of the Mayor from the name of another entity, words, phrases, or abbreviations indicating the type of entity, such as "corporation", "corp.", "incorporated", "Inc.", "professional corporation", "PC", "professional association", "PA", "Limited", "Ltd.", "limited partnership", "limited liability partnership", "LLP", "registered limited liability partnership", "RLLP", "limited liability limited partnership", "LLLP", "registered limited liability limited partnership", "RLLLP", "limited liability company", or "LLC", shall not be taken into account.

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

(e) An entity name shall not contain the words "bank", "banking", "credit union", "insurance", or words of similar import, without the prior approval of the Mayor.

§ 29-103.02. Name requirements for certain types of entities.

(a) The name of a business corporation shall contain the word "corporation", "incorporated", "company", or "limited", or the abbreviation "Corp.", "Inc.", "Co.", or "Ltd.", or words or abbreviations of similar import in another language.

(b) The name of a nonprofit corporation need not contain any particular word or abbreviation.

(c) The name of a professional corporation shall contain the phrase "professional corporation" or the abbreviation "P.C.", or the word "chartered", or the abbreviation "Chtd", and may not contain the word "company", "incorporated", "corporation", or "limited", or an abbreviation of those words.

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

(e) The name of a limited liability partnership that is not a limited liability limited partnership shall contain the words "limited liability partnership" or "registered limited liability partnership" or the abbreviation "L.L.P.", "R.L.L.P.", "LLP", or "RLLP".

(f) The name of a limited liability company other than a professional limited liability company shall contain the words "limited liability company" or "limited company" or the abbreviation "L.L.C.", "LLC", "L.C.", or "LC". The name of a professional limited liability company shall contain the words "professional limited liability company" or the abbreviation "P.L.L.C." or "PLLC". "Limited" may be abbreviated as "Ltd.", and "company" may be abbreviated as "Co.".

(g) The name of a general cooperative shall contain the words "cooperative association". "Cooperative" may be abbreviated as "Co-op" or "Coop". "Association" may be abbreviated as "Assoc.", "Assoc", "Assn.", or "Assn".

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

(i) The name of a statutory trust may contain the words "company", "association", "club", "foundation", "fund", "institute", "society", "union", "syndicate", "limited", or "trust", or words of similar import, and may contain the name of a beneficial owner, a trustee, or any other person.

§ 29-103.03. Reservation of name.

(a) A person may reserve the exclusive use of an entity name by delivering an application to the Mayor for filing. The application shall state the name and address of the applicant and the name proposed to be reserved. If the Mayor finds that the entity name applied for is available, the Mayor shall reserve the name for the applicant's exclusive use for a 120-day period.

(b) The owner of a reserved entity name may transfer the reservation to another person by delivering to the Mayor a signed notice in a record of the transfer which states the name and address of the transferee.

§ 29-103.04. Registration of name.

(a) A foreign filing entity or foreign limited liability partnership not registered to do business in the District under subchapter VI of this chapter may register its name, or an alternate name required by § 29-105.06, if the name is distinguishable upon the records of the Mayor from the names that are not available under § 29-103.01.

(b) To register its name or an alternate name required by § 29-105.06, a foreign filing entity or foreign limited liability partnership shall deliver to the Mayor for filing an application setting forth its name, or its name with any addition required by § 29-105.06, and the jurisdiction and date of its formation. If the Mayor finds that the name applied for is available, the Mayor shall register the name for the applicant's exclusive use.

(c) The registration of a name under this section shall be effective for one year after the date of filing.

(d) A foreign filing entity or foreign limited liability partnership whose name registration is effective may renew the registration for successive one-year periods by delivering, not earlier than 3 months before the expiration of the registration year, to the Mayor for filing a renewal application that complies with this section. When filed, the renewal application renews the registration for a succeeding one-year period.

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

(1) A domestic filing entity formed under this title;

(2) A limited liability partnership subject to this title; or

(3) Another foreign filing entity or foreign limited liability partnership authorized to do business in the District.

Subchapter IV. Registered Agent.

§ 29-104.01. Definitions.

For the purposes of this subchapter, the term:

(1) "Appointment of agent" means a statement appointing an agent for service of process filed under § 29-104.11 by a nonqualified foreign entity or domestic nonfiling entity.

(2) "Nonqualified foreign entity" means a foreign entity that is not a qualified foreign entity.

(3) "Nonresident limited liability partnership statement" means a statement of:

(A) Qualification of a domestic limited liability partnership that does not have an office in the District; or

(B) Foreign qualification of a foreign limited liability partnership that does not have an office in the District.

(4) "Registered agent filing" means:

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

(B) A nonresident limited liability partnership statement;

(C) A foreign registration statement filed pursuant to § 29-105.03; or

(D) An appointment of a registered agent.

(5) "Represented entity" means a:

(A) Domestic filing entity;

(B) Domestic or qualified foreign limited liability partnership that does not have an office in the District;

(C) Qualified foreign entity;

(D) Domestic or foreign unincorporated nonprofit association for which an appointment of an agent has been filed;

(E) Domestic nonfiling entity for which an appointment of an agent has been filed; or

(F) Nonqualified foreign entity for which an appointment of an agent has been filed.

§ 29-104.02. Entities required to designate and maintain registered agent.

The following shall designate and maintain a registered agent in the District:

(1) A domestic filing entity;

(2) A domestic limited liability partnership that does not maintain a place of business in the District; and

(3) A qualified foreign entity.

§ 29-104.03. Addresses in filings.

If a provision of this subchapter other than § 29-104.10(a)(4) requires that a record state an address, the record shall state a:

(1) Street address in the District; and

(2) Mailing address in the District, if different from the address described in paragraph (1) of this section.

§ 29-104.04. Appointment of registered agent.

(a) A registered agent filing shall state:

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

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

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

(B) If the entity designates an officer or employee to accept service of process, the title of the office or other position and the address of the business office of that person.

(b) The appointment of a registered agent pursuant to subsection (a)(1) or (2)(A) of this section shall be an affirmation under § 29-102.09 by the represented entity that the agent has consented to serve.

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

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

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

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

§ 29-104.05. Listing of commercial registered agent.

(a) A person may become listed as a commercial registered agent by filing with the Mayor a commercial registered agent listing statement signed by or on behalf of the person which states:

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

(2) That the person is in the business of serving as a commercial registered agent in the District; and

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

(b) A commercial registered agent listing statement may include the information regarding acceptance by the agent of service of process in a form other than a written record as provided for in § 29-104.12(e).

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

(d) A listing statement shall be effective on filing by the Mayor.

(e) The Mayor shall note the filing of the commercial registered agent listing statement in the index of filings maintained by the Mayor for each entity represented by the agent at the time

of the filing. The statement shall be deemed to delete the address of the agent from the filing of each of those entities.

§ 29-104.06. Termination of listing of commercial registered agent.

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

(1) The name of the agent as listed under § 29-104.05; and

(2) That the agent is no longer in the business of serving as a commercial registered agent in the District.

(b) A commercial registered agent termination statement shall be effective at 12:01 a.m. on the 31st day after the day on which it is delivered to the Mayor for filing.

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

(d) When a commercial registered agent termination statement takes effect, the commercial registered agent ceases to be an agent for service of process on each entity formerly represented by it. Until an entity formerly represented by a terminated commercial registered agent appoints a new registered agent, service of process may be made on the entity pursuant to § 29-104.12. Termination of the listing of a commercial registered agent under this section shall not affect any contractual rights a represented entity has against the agent or that the agent has against the entity.

§ 29-104.07. Change of registered agent by entity.

(a) A represented entity may change the information on file under § 29-104.04(a) by delivering to the Mayor for filing a statement of change signed by an authorized person on behalf of the entity which states the:

(1) Name of the entity; and

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

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

(1) Statement of change under this section; or

(2) Similar filing changing the registered agent or registered office of the entity in any other jurisdiction.

(c) A statement of change under this section appointing a new registered agent shall be an affirmation under § 29-102.09 by the represented entity that the agent has consented to serve.

(d) A statement of change under this section shall be effective on delivery to the Mayor for filing.

(e) As an alternative to using the procedure in this section, a represented entity may

change the information on file under § 29-104.04(a) by amending its most recent registered agent filing in a manner provided by law of the District other than this title for amending the filing.

§ 29-104.08. Change of name or address by noncommercial registered agent.

(a) If a noncommercial registered agent changes its name or its address in effect with respect to a represented entity under § 29-104.04(a), the agent shall deliver to the Mayor for filing, with respect to each entity represented by the agent, a statement of change signed by or on behalf of the agent which states:

(1) The name of the entity;

(2) The name and address of the agent;

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

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

(b) A statement of change under this section takes effect on delivery to the Mayor for filing.

(c) A noncommercial registered agent promptly shall furnish the represented entity with notice in a record of the delivery to the Mayor for filing of a statement of change and the changes made in the statement.

§ 29-104.09. Change of name, address, type of entity, or jurisdiction of formation by commercial registered agent.

(a) If a commercial registered agent changes its name, its address as listed under § 29-104.05(a)(3), its type of entity, or its jurisdiction of formation, the agent shall deliver to the Mayor for filing a statement of change signed by or on behalf of the agent which states:

(1) The name of the agent as listed under § 29-104.05(a)(1);

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

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

(4) If the type of entity has changed, the new type of entity; and

(5) If the jurisdiction of formation of the entity has changed, the new jurisdiction of formation.

(b) The delivery to the Mayor for filing by a commercial registered agent of a statement of change under subsection (a) of this section shall change the information regarding the agent with respect to each entity represented by the agent.

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

(d) If a commercial registered agent changes its address without delivering for filing a statement of change as required by this section, the Mayor may cancel the listing of the agent under § 29-104.05. A cancellation under this subsection shall have the same effect as a termination under § 29-104.06. Promptly after canceling the listing of an agent, the Mayor shall

serve notice in a record in the manner provided in § 29-104.12(b) or (c) on:

(1) Each entity represented by the agent, stating that the agent has ceased to be an agent for service of process on the entity and that, until the entity appoints a new registered agent, service of process may be made on the entity as provided in § 29-104.12; and

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

§ 29-104.10. Resignation of registered agent.

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

(1) The name of the entity;

(2) The name of the agent;

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

(4) The address of the entity to which the agent will send the notice required by subsection (c) of this section.

(b) A statement of resignation shall be effective on the earlier of the 31st day after the day on which it is delivered to the Mayor for filing or the appointment of a new registered agent for the represented entity.

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

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

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

§ 29-104.11. Appointment of registered agent by nonqualified foreign entity or nonfiling domestic entity.

(a) A nonqualified foreign entity or domestic nonfiling entity may deliver to the Mayor for filing a statement appointing a registered agent signed on behalf of the entity which states the:

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

(2) Information required by § 29-104.04(a).

(b) A statement appointing a registered agent shall be effective on filing by the Mayor and shall be effective for 5 years after the date of filing unless canceled or terminated earlier.

(c) Appointment of a registered agent under this section shall not qualify a nonqualified foreign entity to do business in the District.

(d) A statement appointing a registered agent shall not be rejected for filing because the

name of the entity filing the statement is not distinguishable on the records of the Mayor from the name of another entity appearing in those records. The filing of the statement shall not make the name of the entity filing the statement unavailable for use by another entity.

(e) An entity that delivers to the Mayor for filing a statement under subsection (a) of this section appointing a registered agent may cancel the statement by delivering to the Mayor for filing a statement of cancellation that states the name of the entity and that the entity is canceling its appointment of an agent for service of process in the District. The statement shall be effective on filing by the Mayor.

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

§ 29-104.12. Service of process, notice, or demand on entity.

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

(b) If an entity that delivered to the Mayor for filing a registered-agent filing no longer has a registered agent, or if its registered agent cannot with reasonable diligence be served, the entity may be served by registered or certified mail, return receipt requested, or by similar commercial delivery service, addressed to the governors of the entity by name at its principal office in accordance with any applicable judicial rules and procedures. The names of the governors and the address of the principal office may be as shown in the most recent biennial report filed with the Mayor. Service shall be effective under this subsection on the earliest of:

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

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

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

(c) Service may be made by handing a copy of the process, notice, or demand to an officer of the entity, a managing or general agent of the entity, or any other agent authorized by appointment or by law to receive service of process for the entity if the individual served is not a plaintiff in the action.

(d) If a represented entity fails to appoint or maintain a registered agent in the District as required by law, or if a represented entity's registered agent in the District cannot with reasonable diligence be found, and if the person seeking service submits a declaration under penalty of making false statements showing that a registered agent for the represented entity cannot be found, the Mayor shall be an agent of the entity upon whom any process against the entity may be served and upon whom any notice or demand required or permitted by law to be served upon the entity may be served. Service on the Mayor of the process, notice, or demand shall be made by delivering or leaving with the Mayor, or his designee, duplicate copies of the process, notice, or demand. If any process, notice, or demand is so served, the Mayor shall immediately cause one

of the copies to be forwarded by registered or certified mail to the entity at its principal office or at its last known address.

(e) Service of process, notice, or demand on a registered agent shall be in a written record, but service may be made on a commercial registered agent in other forms, and subject to such requirements, as the agent has stated in its listing under § 29-104.05 that it will accept.

(f) Service of process, notice, or demand may be made by other means under law other than this title.

§ 29-104.13. Duties of registered agent.

The duties of a registered agent shall be to:

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

(2) Provide the notices required by this title to the entity at the address most recently supplied to the agent by the entity;

(3) If the agent is a noncommercial registered agent, keep current the information required by § 29-104.04(a) in the most recent registered agent filing for the entity; and

(4) If the agent is a commercial registered agent, keep current the information listed for it under § 29-104.05(a).

§ 29-104.14. Personal jurisdiction.

The appointment or maintenance in the District of a registered agent shall not by itself create the basis for personal jurisdiction over the represented entity in the District.

Subchapter V. Foreign Entities.

§ 29-105.01. Governing law.

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

(1) Internal affairs of the entity;

(2) Liability that a person has as an interest holder or governor for a debt, obligation, or other liability of the entity;

(3) Liability of a series of a series limited liability company; and

(4) Liability of a series of a statutory trust.

(b) A foreign entity shall not be precluded from registering to do business in the District because of any difference between the laws of the entity's jurisdiction of formation and the laws of the District.

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

§ 29-105.02. Registration to do business in the District.

(a) A foreign filing entity or foreign limited liability partnership shall not do business in the District until it registers with the Mayor under this chapter.

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

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

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

(e) Section 29-105.01(a) and (b) shall apply even if a foreign entity fails to register under this chapter.

(f) A foreign filing entity that does business in the District without being registered under § 29-105.03 shall be liable for all fees, penalties, and other charges for which the entity would have been liable if it had registered and had filed all reports required by this chapter for the period during which it did business in the District. The Attorney General for the District of Columbia may bring an action in the Superior Court of the District of Columbia to recover these fees, penalties, and other charges. A foreign entity shall not be registered under this chapter until it has paid these fees, penalties, and other charges.

§ 29-105.03. Foreign registration statement.

To register to do business in the District, a foreign filing entity or foreign limited liability partnership shall deliver a foreign registration statement to the Mayor for filing. The statement shall state:

(1) The name of the foreign filing entity or foreign limited liability partnership and, if the name does not comply with § 29-103.01, an alternate name adopted pursuant to § 29-105.06(a);

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

(3) The entity's jurisdiction of formation;

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

(5) The information required by § 29-104.04(a);

(6) The names and street and mailing addresses of a governor;

(7) A certificate, issued not later than 90 days prior to the filing date, by an authorized officer of the jurisdiction of formation, evidencing its existence as a filing entity;

(8) A brief statement of the business the entity proposes to do in the District; and

(9) A statement of the date it commenced or intends to do business in the District.

§ 29-105.04. Amendment of foreign registration statement.

(a) A foreign entity registered to do business in the District shall deliver to the Mayor for filing an amendment to its foreign registration statement if there is a change in the:

(1) Name of the entity;

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

(3) Jurisdiction of formation;

(4) Address or addresses required by § 29-105.03(4); or

(5) Information required by § 29-104.04(a).

(b) The requirements of § 29-105.03 for an original foreign registration statement apply to an amendment of a foreign registration statement under this section.

§ 29-105.05. Activities not constituting doing business.

(a) Without excluding other activities that do not have the intra-District presence necessary to constitute doing business in the District under this title, a foreign filing entity or foreign limited liability partnership shall not be considered to be doing business in the District under this title solely by reason of carrying on in the District any one or more of the following activities:

(1) Maintaining, defending, mediating, arbitrating, or settling a proceeding;

(2) Carrying on any activity concerning its internal affairs, including holding meetings of its interest holders or governors;

(3) Maintaining accounts in financial institutions;

(4) Maintaining offices or agencies for the transfer, exchange, and registration of interests in the entity or maintaining trustees or depositories with respect to those interests;

(5) Selling through independent contractors;

(6) Soliciting or obtaining orders by any means if the orders require acceptance outside the District before they become contracts;

(7) Creating or acquiring indebtedness, mortgages, or security interests in property;

(8) Securing or collecting debts or enforcing mortgages or other security interests in property securing the debts and holding, protecting, or maintaining property so acquired;

(9) Conducting an isolated transaction that is not in the course of similar

transactions; and

(10) Doing business in interstate commerce.

(b) This section shall not apply in determining the contacts or activities that may subject a foreign filing entity or foreign limited liability partnership to service of process, taxation, or regulation under law of the District other than this title.

§ 29-105.06. Noncomplying name of foreign entity.

(a) A foreign filing entity or foreign limited liability partnership whose name does not comply with § 29-103.01 for an entity of its type shall not register to do business in the District until it adopts, for the purpose of doing business in the District, an alternate name that complies with § 29-103.01. A foreign filing entity or foreign limited liability partnership that registers under an alternate name under this subsection need not comply with subchapter I-C of Chapter 48 of Title 47. After registering to do business in the District with an alternate name, a foreign filing entity or foreign limited liability partnership may do business in the District under:

(1) The alternate name;

(2) Its entity name, with the addition of its jurisdiction of formation clearly identified; or

(3) An assumed or fictitious name the entity is authorized to use under subchapter I-C of Chapter 48 of Title 47.

(b) If a foreign filing entity registered to do business in the District changes its name to one that does not comply with § 29-103.01, it shall not do business in the District until it complies with subsection (a) of this section by amending its registration to adopt an alternate name that complies with § 29-103.01.

§ 29-105.07. Withdrawal of registration of registered foreign entity.

(a) A foreign entity registered to do business in the District may withdraw its registration by delivering a statement of withdrawal to the Mayor for filing. The statement of withdrawal shall state:

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

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

(3) That the entity is not doing business in the District and that it withdraws its registration to do business in the District;

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

(5) An address to which service of process may be made under subsection (b) of this section.

(b) After the withdrawal of the registration of an entity, service of process in any

proceeding based on a cause of action arising during the time it was registered to do business in the District may be made pursuant to § 29-104.12.

§ 29-105.08. Withdrawal deemed on conversion to domestic filing entity or domestic limited liability partnership.

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

§ 29-105.09. Withdrawal on dissolution or conversion to nonfiling entity other than limited liability partnership.

(a) A foreign entity registered to do business in the District which dissolves or converts to a domestic or foreign nonfiling entity other than a limited liability partnership shall deliver a statement of withdrawal to the Mayor for filing. The statement shall state:

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

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

(3) That the foreign entity surrenders its registration to do business in the District as a qualified entity; and

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

(A) The type of nonfiling entity to which it has converted and the jurisdiction whose laws govern its internal affairs;

(B) That the foreign entity revokes the authority of its registered agent to accept service on its behalf; and

(C) A mailing address to which service of process may be made under subsection (b) of this section.

(b) After the withdrawal under this section of a foreign filing entity that has converted to a foreign nonfiling entity is effective, service of process in any proceeding based on a cause of action arising during the time it was registered to do business in the District may be made pursuant to § 29-104.12.

(c) After the withdrawal under this section of a foreign filing entity that has converted to a domestic nonfiling entity other than a limited liability partnership is effective, service of process may be made on the nonfiling entity pursuant to § 29-104.12.

§ 29-105.10. Transfer of registration.

(a) A foreign filing entity or foreign limited liability partnership registered to do business in the District that merges with or converts to a foreign entity required to register with the Mayor

to do business in the District shall deliver to the Mayor for filing an application for transfer of registration. The application shall state the:

(1) Name of the applicant entity;

(2) Type of entity it was before the merger or conversion;

(3) Name of the entity into which it has merged or to which it has been converted and, if the name does not comply with § 29-103.01, an alternate name adopted pursuant to § 29-105.06(a);

(4) Type of entity into which it has merged or to which it has been converted and the jurisdiction whose law governs its internal affairs; and

(5) Following information regarding the entity into which it has merged or to which it has been converted, if different than the information for the applicant entity:

(A) The street and mailing address of the principal office of the entity and, if the law of the entity's jurisdiction of formation requires it to maintain an office in that jurisdiction, the street and mailing address of that office; and

(B) The name and street and mailing address of its registered agent in the District.

(b) An application for transfer of registration shall be delivered to the Mayor for filing and takes effect at the time provided in § 29-102.03.

(c) When an application for transfer of registration takes effect, the registration of the applicant entity to do business in the District shall be transferred without interruption to the entity into which it has merged or to which it has been converted.

§ 29-105.11. Termination of registration.

(a) The Mayor may terminate the registration of a foreign filing entity or foreign limited liability partnership to do business in the District in the manner provided in subsections (b) and (c) of this section if the entity does not:

(1) Pay, not later than 60 days after the due date, any fee, tax, or penalty required to be paid to the Mayor under this chapter or law other than this title;

(2) Deliver to the Mayor for filing, not later than 60 days after the due date, the biennial report, if any, required of foreign entities of its type; or

(3) Have a registered agent as required by § 29-104.02.

(b) The Mayor may terminate the registration of a foreign filing entity or foreign limited liability partnership by filing a notice of termination or noting the termination in the records of the Mayor and by delivering a copy of the notice or the information in the notation to the entity's registered agent in the District or, if the entity does not have a registered agent in the District, to the entity's principal office as designated in § 29-105.03(4). The notice shall state or the information in the notation shall include the:

(1) Effective date of the termination, which must be at least 60 days after the date the Mayor delivers the copy; and

(2) Grounds for termination under subsection (a) of this section.

(c) The authority of a foreign filing entity or foreign limited liability partnership to do business in the District shall cease on the effective date of the notice of termination unless, before that date, the entity cures each ground for termination stated in the notice filed under subsection (b) of this section. If the entity cures each ground, the Mayor shall file a record so stating.

§ 29-105.12. Action by Attorney General.

The Attorney General for the District of Columbia may maintain an action to enjoin a foreign filing entity or foreign limited liability partnership from doing business in the District in violation of this title.

Subchapter VI. Administrative Dissolution.

§ 29-106.01. Grounds.

The Mayor may commence a proceeding under § 29-106.02 to dissolve a domestic filing entity administratively if the entity does not:

(1) Pay any fee, tax, or penalty required to be paid to the Mayor not later than 5 months after it is due;

(2) Deliver a biennial report to the Mayor not later than 6 months after it is due; or

(3) Have a registered agent in the District for 60 days.

§ 29-106.02. Procedure and effect.

(a) If the Mayor determines that one or more grounds exist under § 29-106.01 for dissolving a domestic filing entity, the Mayor shall serve the entity pursuant to § 29-104.12 with notice in a record of the Mayor's determination.

(b) If a domestic filing entity, not later than 60 days after service of the notice is effected under § 29-104.12, does not correct each ground for dissolution or demonstrate to the satisfaction of the Mayor that each ground determined by the Mayor does not exist, after the expiration of the 60-day period, the Mayor shall dissolve the entity administratively by signing a statement of dissolution that recites the grounds for dissolution and its effective date. The Mayor shall file the original of the statement and serve a copy on the entity pursuant to § 29-104.12 and publish a notice of the statement on an appropriate website.

(c) A domestic filing entity that is dissolved administratively continues its existence as an entity, but shall not carry on any business except as necessary to wind up and liquidate its business and affairs in the manner provided in its organic law or to apply for reinstatement under § 29-106.03.

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

§ 29-106.03. Reinstatement.

(a) A domestic filing entity that is dissolved administratively under § 29-106.02 may apply to the Mayor for reinstatement. The application shall state:

(1) The name of the entity at the time of its administrative dissolution and, if needed, a different name that satisfies § 29-103.01;

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

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

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

(b) To be reinstated, an entity shall pay all fees, taxes, and penalties that were due to the Mayor at the time of its administrative dissolution and all fees, taxes, and penalties that would have been due to the Mayor while the entity was dissolved administratively.

(c) If the Mayor determines that the application contains the information required by subsection (a) of this section, is satisfied that the information is correct, and determines that all payments required to be made to the Mayor by subsection (b) of this section have been made, the Mayor shall cancel the statement of dissolution and prepare a statement of reinstatement that states the Mayor's determination and the effective date of reinstatement, file the original of the statement, and serve a copy on the entity pursuant to § 29-104.12.

(d) When reinstatement under this section is effective, it shall relate back to, and be effective, as of the effective date of the administrative dissolution, and the domestic filing entity shall resume carrying on its business as if the administrative dissolution had never occurred, except for the rights of a person arising out of an act or omission in reliance on the dissolution before the person knew or had reason to know of the reinstatement.

§ 29-106.04. Judicial review of denial of reinstatement.

(a) If the Mayor denies a domestic filing entity's application for reinstatement following administrative dissolution, the Mayor shall serve the entity pursuant to § 29-104.12 with a notice in a record that explains the reason or reasons for denial.

(b) An entity may seek judicial review of denial of reinstatement in the Superior Court not later than 30 days after service of the notice of denial.

Subchapter VII. Miscellaneous Provisions.

§ 29-107.01. Reservation of power to amend or repeal.

(a) The Council may amend or repeal all or part of this title at any time and all domestic and foreign entities subject to this title shall be governed by the amendment or repeal.

(b) A business corporation formed before the effective date of the District of Columbia Business Corporations Act, approved June 8, 1954 (Pub. L. 83-389; 68 Stat. 179), or a nonprofit corporation formed before the effective date of the District of Columbia Nonprofit Corporation Act, approved August 6, 1962 (Pub. L. No. 87-569; 76 Stat. 265), that has not elected to avail

itself of the provisions of those laws, within 2 years of the applicability date of this title, shall file a notice with the Mayor that includes the corporation's articles of incorporation, or other public organic record, and the names and street and mailing addresses of its current directors and officers. A corporation that does not fully comply with these requirements within the specified period shall thereafter be barred from asserting that it is not subject to this title. If the corporation desires to do business in the District, the corporation must file articles of incorporation with the Mayor and otherwise comply with this title.

§ 29-107.02. Supplemental principles of law.

Unless displaced by particular provisions of this title, the principles of law and equity shall supplement this title.

§ 29-107.03. Uniformity or consistency of application and construction.

In applying and construing the chapters of this title based on uniform or model acts, consideration shall be given to the need to promote uniformity or consistency of the law with respect to its subject matter among states that enact it.

§ 29-107.04. Relation to Electronic Signatures in Global and National Commerce Act.

This title shall modify, limit, and supersede the federal Electronic Signatures in Global and National Commerce Act, approved June 30, 2000 (114 Stat. 464; 15 U.S.C. § 7001 *et seq.),* ("Act"), but shall not modify, limit, or supersede section 101(c) of the Act, or authorize electronic delivery of any of the notices described in section 103(b) of the Act.

§ 29-107.05. Savings clause.

The repeal of a law by this title shall not affect:

(1) The operation of the law or any action taken under it before its repeal;

(2) Any ratification, right, remedy, privilege, obligation, or liability acquired, accrued, or incurred under the statute before its repeal;

(3) Any violation of the law or any penalty, forfeiture, or punishment incurred because of the violation before its repeal; or

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

CHAPTER 2. ENTITY TRANSACTIONS.

Section

Subchapter I. General Provisions.

29-201.01. Short title.
29-201.02. Definitions.
29-201.03. Relationship of chapter to other laws.
29-201.04. Required notice or approval.
29-201.05. Status of filings.
29-201.06. Nonexclusivity.
29-201.07. Reference to external facts.
29-201.08. Alternative means of approval of transactions.
29-201.09. Appraisal rights.

Subchapter II. Merger.

29-202.01. Merger authorized.
29-202.02. Plan of merger.
29-202.03. Approval of merger.
29-202.04. Amendment or abandonment of plan of merger.
29-202.05. Statement of merger; effective date.
29-202.06. Effect of merger.

Subchapter III. Interest Exchange.

29-203.01. Interest exchange authorized.
29-203.02. Plan of interest exchange.
29-203.03. Approval of interest exchange.
29-203.04. Amendment or abandonment of plan of interest exchange.
29-203.05. Statement of interest exchange; effective date.
29-203.06. Effect of interest exchange.

Subchapter IV. Conversion.

29-204.01. Conversion authorized.
29-204.02. Plan of conversion.
29-204.03. Approval of conversion.
29-204.04. Amendment or abandonment of plan of conversion.
29-204.05. Statement of conversion; effective date.
29-204.06. Effect of conversion.

Subchapter V. Domestication.

29-205.01. Domestication authorized.
29-205.02. Plan of domestication.
29-205.03. Approval of domestication.
29-205.04. Amendment or abandonment of plan of domestication.
29-205.05. Statement of domestication; effective date.

29-205.06. Effect of domestication.

CHAPTER 2. ENTITY TRANSACTIONS.

Subchapter I. General Provisions.

§ 29-201.01. Short title.

This chapter may be cited as the "Entity Transactions Act of 2010".

§ 29-201.02. Definitions.

For the purpose of this chapter, the term:

(1) "Acquired entity" means the entity, all of one or more classes or series of interests in which are acquired in an interest exchange.

(2) "Acquiring entity" means the entity that acquires all of one or more classes or series of interests of the acquired entity in an interest exchange.

(3) "Approve" means, in the case of an entity, for its governors and interest holders to take whatever steps are necessary under its organic rules, organic law, and other law to:

(A) Propose a transaction subject to this chapter;

(B) Adopt and approve the terms and conditions of the transaction; and

(C) Conduct any required proceedings or otherwise obtain any required votes or consents of the governors or interest holders.

(4) "Conversion" means a transaction authorized by subchapter IV of this chapter.

(5) "Converted entity" means the converting entity as it continues in existence after a conversion.

(6) "Converting entity" means the domestic entity that approves a plan of conversion pursuant to § 29-204.03 or the foreign entity that approves a conversion pursuant to the law of its jurisdiction of organization.

(7) "Domestic entity" means an entity whose internal affairs are governed by the law of the District.

(8) "Domesticated entity" means the domesticating entity as it continues in existence after a domestication.

(9) "Domesticating entity" means the domestic entity that approves a plan of domestication pursuant to § 29-205.03 or the foreign entity that approves a domestication pursuant to the law of its jurisdiction of organization.

(10) "Domestication" means a transaction authorized by subchapter V of this chapter.

(11) "Interest exchange" means a transaction authorized by subchapter III of this chapter.

(12) "Interest holder liability" means:

(A) Personal liability for a liability of an entity that is imposed on a

person:

(i) Solely by reason of the status of the person as an interest holder; or

(ii) By the organic rules of the entity pursuant to a provision of the organic law authorizing the organic rules to make one or more specified interest holders or categories of interest holders liable in their capacity as interest holders for all or specified liabilities of the entity; or

(B) An obligation of an interest holder under the organic rules of an entity to contribute to the entity.

(13) "Liability" means a debt, obligation, or any other liability arising in any manner, regardless of whether it is secured or whether it is contingent.

(14) "Merger" means a transaction in which 2 or more merging entities are combined into a surviving entity pursuant to a filing with the Mayor.

(15) "Merging entity" means an entity that is a party to a merger and exists immediately before the merger becomes effective.

(16) "Plan" means a plan of merger, interest exchange, conversion, or domestication.

(17) "Protected agreement" means:

(A) A record evidencing indebtedness and any related agreement in effect on the effective date of this chapter;

(B) An agreement that is binding on an entity on the effective date of this chapter;

(C) The organic rules of an entity in effect on the effective date of this chapter; or

(D) An agreement that is binding on any of the governors or interest holders of an entity on the effective date of this chapter.

(18) "Surviving entity" means the entity that continues in existence after, or is created by, a merger.

§ 29-201.03. Relationship of chapter to other laws.

(a) Unless displaced by particular provisions of this chapter, the principles of law and equity supplement this chapter.

(b) This chapter shall not authorize an act prohibited by, and does not affect the application or requirements of, law other than this chapter.

(c) A transaction effected under this chapter shall not create or impair any right or obligation on the part of a person under a provision of the law of the District other than this chapter relating to a change in control, takeover, business combination, control-share acquisition, or similar transaction involving a domestic merging, acquired, converting, or domesticating corporation unless:

(1) If the corporation does not survive the transaction, the transaction satisfies any requirements of the provision; or

(2) If the corporation survives the transaction, the approval of the plan is by a vote of the shareholders or directors which would be sufficient to create or impair the right or obligation directly under the provision.

§ 29-201.04. Required notice or approval.

(a) A domestic or foreign entity that is required to give notice to, or obtain the approval of, a governmental agency or officer to be a party to a merger shall give the notice, or obtain the approval, to be a party to an interest exchange, conversion, or domestication.

(b) Property held for a charitable purpose under the law of the District by a domestic or foreign entity immediately before a transaction under this chapter becomes effective shall not, as a result of the transaction, be diverted from the objects for which it was donated, granted, or devised, unless, to the extent required by or pursuant to the law of the District concerning cy pres or other law dealing with nondiversion of charitable assets, the entity obtains an appropriate order of the Superior Court specifying the disposition of the property.

§ 29-201.05. Status of filings.

A filing under this chapter signed by a domestic entity shall become part of the public organic document of the entity if the entity's organic law provides that similar filings under that law become part of the public organic document of the entity.

§ 29-201.06. Nonexclusivity.

The fact that a transaction under this chapter produces a certain result shall not preclude the same result from being accomplished in any other manner permitted by law other than this chapter.

§ 29-201.07. Reference to external facts.

A plan may refer to facts ascertainable outside of the plan if the manner in which the facts will operate upon the plan is specified in the plan. The facts may include the occurrence of an event or a determination or action by a person, whether or not the event, determination, or action is within the control of a party to the transaction.

§ 29-201.08. Alternative means of approval of transactions.

Except as otherwise provided in the organic law or organic rules of a domestic entity, approval of a transaction under this chapter by the unanimous vote or consent of its interest holders shall satisfy this chapter for approval of the transaction.

§ 29-201.09. Appraisal rights.

(a) An interest holder of a domestic merging, acquired, converting, or domesticating entity shall be entitled to appraisal rights in connection with the transaction if the interest holder would have been entitled to appraisal rights under the entity's organic law in connection with a merger in which the interest of the interest holder was changed, converted, or exchanged unless:

(1) The organic law permits the organic rules to limit the availability of appraisal rights; and

(2) The organic rules provide such limit.

(b) An interest holder of a domestic merging, acquired, converting, or domesticating entity shall be entitled to contractual appraisal rights in connection with a transaction under this chapter to the extent provided:

(1) In the entity's organic rules;

(2) In the plan; or

(3) In the case of a business corporation, by action of its governors.

(c) If an interest holder is entitled to contractual appraisal rights under subsection (b) of this section and the entity's organic law does not provide procedures for the conduct of an appraisal rights proceeding, subchapter XI of Chapter 3 of this title shall apply to the extent practicable or as otherwise provided in the entity's organic rules or the plan.

Subchapter II. Merger.

§ 29-202.01. Merger authorized.

(a) Except as otherwise provided in this section, by complying with this subchapter:

(1) One or more domestic entities may merge with one or more domestic or foreign entities into a domestic or foreign surviving entity; and

(2) Two or more foreign entities may merge into a domestic entity.

(b) Except as otherwise provided in this section, by complying with the provisions of this subchapter applicable to foreign entities a foreign entity may be a party to a merger under this subchapter or may be the surviving entity in such merger if the merger is authorized by the law of the foreign entity's jurisdiction of organization.

(c) This subchapter shall not apply to a transaction under:

(1) Subchapter IX of Chapter 3 of this title;

(2) Subchapter IX of Chapter 4 of this title;

(3) Section 29-512;

(4) Subchapter IX of Chapter 6 of this title;

(5) Subchapter X of Chapter 7 of this title;

(6) Subchapter IX of Chapter 8 of this title;

(7) Subchapter XV Chapter 10 of this title;

(8) Section 29-1126; or

(9) Subchapter XII of Chapter 12 of this title.

§ 29-202.02. Plan of merger.

(a) A domestic entity may become a party to a merger under this subchapter by approving a plan of merger. The plan shall be in a record and contain:

(1) As to each merging entity, its name, jurisdiction of organization, and type;

(2) If the surviving entity is to be created in the merger, a statement to that effect and its name, jurisdiction of organization, and type;

(3) The manner of converting the interests in each party to the merger into interests, securities, obligations, rights to acquire interests or securities, cash, or other property, or any combination of the foregoing;

(4) If the surviving entity exists before the merger, any proposed amendments to its public organic document or to its private organic rules that are, or are proposed to be, in a record;

(5) If the surviving entity is to be created in the merger, its proposed public organic document, if any, and the full text of its private organic rules that are proposed to be in a record;

(6) The other terms and conditions of the merger; and

(7) Any other provision required by the law of a merging entity's jurisdiction of organization or the organic rules of a merging entity.

(b) A plan of merger may contain any other provision not prohibited by law.

§ 29-202.03. Approval of merger.

(a) A plan of merger shall not be effective unless it has been approved:

(1) By a domestic merging entity:

(A) In accordance with the requirements, if any, in its organic law and organic rules for approval of:

(i) In the case of an entity that is not a business corporation, a merger; or

(ii) In the case of a business corporation, a merger requiring approval by a vote of the interest holders of the business corporation; or

(B) If its organic law or organic rules do not provide for approval of a merger described in subparagraph (A)(ii) of this paragraph, by all of the interest holders of the entity entitled to vote on or consent to any matter; and

(2) In a record, by each interest holder of a domestic merging entity that will have interest holder liability for liabilities that arise after the merger becomes effective, unless, in the case of an entity that is not a business corporation or nonprofit corporation:

(A) The organic rules of the entity provide in a record for the approval of a merger in which some or all of its interest holders become subject to interest holder liability by the vote or consent of less than all of the interest holders; and

(B) The interest holder voted for or consented in a record to that provision

of the organic rules or became an interest holder after the adoption of that provision.

(b) A merger involving a foreign merging entity shall not be effective unless it is approved by the foreign entity in accordance with the law of the foreign entity's jurisdiction of organization.

§ 29-202.04. Amendment or abandonment of plan of merger.

(a) A plan of merger of a domestic merging entity may be amended:

(1) In the same manner as the plan was approved, if the plan does not provide for the manner in which it may be amended; or

(2) By the governors or interest holders of the entity in the manner provided in the plan, but an interest holder that was entitled to vote on or consent to approval of the merger shall be entitled to vote on or consent to any amendment of the plan that will change:

(A) The amount or kind of interests, securities, obligations, rights to acquire interests or securities, cash, or other property, or any combination of the foregoing, to be received by the interest holders of any party to the plan;

(B) The public organic document or private organic rules of the surviving entity that will be in effect immediately after the merger becomes effective, except for changes that do not require approval of the interest holders of the surviving entity under its organic law or organic rules; or

(C) Any other terms or conditions of the plan, if the change would adversely affect the interest holder in any material respect.

(b) After a plan of merger has been approved by a domestic merging entity and before a statement of merger becomes effective, the plan may be abandoned:

(1) As provided in the plan; or

(2) Unless prohibited by the plan, in the same manner as the plan was approved.

(c) If a plan of merger is abandoned after a statement of merger has been filed with the Mayor and before the filing becomes effective, a statement of abandonment, signed on behalf of a merging entity, shall be filed with the Mayor before the time the statement of merger becomes effective. The statement of abandonment shall be effective upon filing, and the merger shall be abandoned and shall not become effective. The statement of abandonment shall contain:

(1) The name of each merging or surviving entity that is a domestic entity or a qualified foreign entity;

(2) The date on which the statement of merger was filed; and

(3) A statement that the merger has been abandoned in accordance with this section.

§ 29-202.05. Statement of merger; effective date.

(a) A statement of merger shall be signed on behalf of each merging entity and filed with the Mayor.

(b) A statement of merger shall contain:

(1) The name, jurisdiction of organization, and type of each merging entity that is not the surviving entity;

(2) The name, jurisdiction of organization, and type of the surviving entity;

(3) If the statement of merger is not to be effective upon filing, the later date and time on which it will become effective, which may not be more than 90 days after the date of filing;

(4) A statement that the merger was approved by each domestic merging entity, if any, in accordance with this subchapter and by each foreign merging entity, if any, in accordance with the law of its jurisdiction of organization;

(5) If the surviving entity exists before the merger and is a domestic filing entity, any amendment to its public organic document approved as part of the plan of merger;

(6) If the surviving entity is created by the merger and is a domestic filing entity, its public organic document as an attachment;

(7) If the surviving entity is created by the merger and is a domestic limited liability partnership, its statement of qualification as an attachment; and

(8) If the surviving entity is a foreign entity that is not a qualified foreign entity, a mailing address to which process may be served pursuant to § 29-202.06(e).

(c) In addition to the requirements of subsection (b) of this section, a statement of merger may contain any other provision not prohibited by law.

(d) If the surviving entity is a domestic entity, its public organic document, if any, shall satisfy the requirements of the law of the District, except that it does not need to be signed and may omit any provision that is not required to be included in a restatement of the public organic document.

(e) A plan of merger that is signed on behalf of all of the merging entities and meets all of the requirements of subsection (b) of this section may be filed with the Mayor instead of a statement of merger and, upon filing, shall have the same effect. If a plan of merger is filed as provided in this subsection, references in this chapter to a statement of merger refer to the plan of merger filed under this subsection.

(f) A statement of merger shall be effective upon the date and time of filing or the later date and time specified in the statement of merger.

§ 29-202.06. Effect of merger.

(a) When a merger becomes effective:

(1) The surviving entity shall continue or come into existence;

(2) Each merging entity that is not the surviving entity shall cease to exist;

(3) All property of each merging entity shall vest in the surviving entity without assignment, reversion, or impairment;

(4) All liabilities of each merging entity shall be liabilities of the surviving entity;

(5) Except as otherwise provided in law other than this chapter or the plan of merger, all of the rights, privileges, immunities, powers, and purposes of each merging entity shall vest in the surviving entity;

(6) If the surviving entity exists before the merger:

(A) All of its property shall continue to be vested in it without reversion or impairment;

(B) It shall remain subject to all of its liabilities; and

(C) All of its rights, privileges, immunities, powers, and purposes shall continue to be vested in it;

(7) The name of the surviving entity may be substituted for the name of any merging entity that is a party to any pending action or proceeding;

(8) If the surviving entity exists before the merger:

(A) Its public organic document, if any, shall be amended as provided in the statement of merger and is binding on its interest holders; and

(B) Its private organic rules that are to be in a record, if any, shall be amended to the extent provided in the plan of merger and are binding on and enforceable by:

(i) Its interest holders; and

(ii) In the case of a surviving entity that is not a business corporation or a nonprofit corporation, any other person that is a party to an agreement that is part of the surviving entity's private organic rules;

(9) If the surviving entity is created by the merger:

(A) Its public organic document, if any, shall be effective and shall be binding on its interest holders; and

(B) Its private organic rules shall be effective and shall be binding on and enforceable by:

(i) Its interest holders; and

(ii) In the case of a surviving entity that is not a business corporation or a nonprofit corporation, any other person that was a party to an agreement that was part of the organic rules of a merging entity if that person has agreed to be a party to an agreement that is part of the surviving entity's private organic rules; and

(10) The interests in each merging entity that are to be converted in the merger shall be converted, and the interest holders of those interests shall be entitled only to the rights provided to them under the plan of merger and to any appraisal rights they have under § 29-201.09 and the merging entity's organic law.

(b) Except as otherwise provided in the organic law or organic rules of a merging entity, the merger shall not give rise to any rights that an interest holder, governor, or third party would otherwise have upon a dissolution, liquidation, or winding-up of the merging entity.

(c) When a merger becomes effective, a person that did not have interest holder liability with respect to any of the merging entities and that becomes subject to interest holder liability with respect to a domestic entity as a result of a merger has interest holder liability only to the

extent provided by the organic law of the entity and only for those liabilities that arise after the merger becomes effective.

(d) When a merger becomes effective, the interest holder liability of a person that ceases to hold an interest in a domestic merging entity with respect to which the person had interest holder liability shall be as follows:

(1) The merger shall not discharge any interest holder liability under the organic law of the domestic merging entity to the extent the interest holder liability arose before the merger became effective;

(2) The person shall have not have interest holder liability under the organic law of the domestic merging entity for any liability that arises after the merger becomes effective;

(3) The organic law of the domestic merging entity shall continue to apply to the release, collection, or discharge of any interest holder liability preserved under paragraph (1) of this subsection as if the merger had not occurred and the surviving entity were the domestic merging entity; and

(4) The person shall have whatever rights of contribution from any other person as are provided by the organic law or organic rules of the domestic merging entity with respect to any interest holder liability preserved under paragraph (1) of this subsection as if the merger had not occurred.

(e) When a merger becomes effective, a foreign entity that is the surviving entity may be served with process in the District for the collection and enforcement of any liabilities of a domestic merging entity in the manner provided in § 29-104.12.

(f) When a merger becomes effective, the certificate of registration or other foreign qualification of any foreign merging entity that is not the surviving entity is canceled.

Subchapter III. Interest Exchange.

§ 29-203.01. Interest exchange authorized.

(a) Except as otherwise provided in this section, by complying with this subchapter:

(1) A domestic entity may acquire all of one or more classes or series of interests of another domestic or foreign entity in exchange for interests, securities, obligations, rights to acquire interests or securities, cash, or other property, or any combination of the foregoing; or

(2) All of one or more classes or series of interests of a domestic entity may be acquired by another domestic or foreign entity in exchange for interests, securities, obligations, rights to acquire interests or securities, cash, or other property, or any combination of the foregoing.

(b) Except as otherwise provided in this section, by complying with the provisions of this subchapter applicable to foreign entities a foreign entity may be the acquiring or acquired entity in an interest exchange under this subchapter if the interest exchange is authorized by the law of the foreign entity's jurisdiction of organization.

(c) If a protected agreement contains a provision that applies to a merger of a domestic entity, but does not refer to an interest exchange, the provision shall apply to an interest exchange

in which the domestic entity is the acquired entity as if the interest exchange were a merger until the provision is amended after the effective date of this chapter.

(d) This subchapter shall not apply to a transaction under:

(1) Subchapter IX of Chapter 3 of this title; or

(2) Section 29-609.05, to the extent inconsistent with that section.

§ 29-203.02. Plan of interest exchange.

(a) A domestic entity may be the acquired entity in an interest exchange under this subchapter by approving a plan of interest exchange. The plan shall be in a record and contain:

(1) The name and type of the acquired entity;

(2) The name, jurisdiction of organization, and type of the acquiring entity;

(3) The manner of converting the interests in the acquired entity into interests, securities, obligations, rights to acquire interests or securities, cash, or other property, or any combination of the foregoing;

(4) Any proposed amendments to the public organic document or private organic rules that are, or are proposed to be, in a record of the acquired entity;

(5) The other terms and conditions of the interest exchange; and

(6) Any other provision required by the law of the District or the organic rules of the acquired entity.

(b) A plan of interest exchange may contain any other provision not prohibited by law.

§ 29-203.03. Approval of interest exchange.

(a) A plan of interest exchange shall not be effective unless it has been approved:

(1) By a domestic acquired entity:

(A) In accordance with the requirements, if any, in its organic law and organic rules for approval of an interest exchange;

(B) Except as otherwise provided in subsection (d) of this section, if its organic law or organic rules do not provide for approval of an interest exchange in accordance with the requirements, if any, in its organic law and organic rules for approval of:

(i) In the case of an entity that is not a business corporation, a merger, as if the interest exchange were a merger; or

(ii) In the case of a business corporation, a merger requiring approval by a vote of the interest holders of the business corporation, as if the interest exchange were that type of merger; or

(C) If its organic law or organic rules do not provide for approval of an interest exchange or a merger described in subparagraph (B)(ii) of this paragraph, by all of the interest holders of the entity entitled to vote on or consent to any matter; and

(2) In a record, by each interest holder of a domestic acquired entity that will have interest holder liability for liabilities that arise after the interest exchange becomes effective, unless, in the case of an entity that is not a business corporation or nonprofit corporation:

(A) The organic rules of the entity provide in a record for the approval of an interest exchange or a merger in which some or all of its interest holders become subject to interest holder liability by the vote or consent of less than all of the interest holders; and

(B) The interest holder voted for or consented in a record to that provision of the organic rules or became an interest holder after the adoption of that provision.

(b) An interest exchange involving a foreign acquired entity shall not be effective unless it is approved by the foreign entity in accordance with the law of the foreign entity's jurisdiction of organization.

(c) Except as otherwise provided in its organic law or organic rules, the interest holders of the acquiring entity shall not be required to approve the interest exchange.

(d) A provision of the organic law of a domestic acquired entity that would permit a merger between the acquired entity and the acquiring entity to be approved without the vote or consent of the interest holders of the acquired entity because of the percentage of interests in the acquired entity held by the acquiring entity shall not apply to approval of an interest exchange under subsection (a)(1)(B) of this section.

§ 29-203.04. Amendment or abandonment of plan of interest exchange.

(a) A plan of interest exchange of a domestic acquired entity may be amended:

(1) In the same manner as the plan was approved if the plan does not provide for the manner in which it may be amended; or

(2) By the governors or interest holders of the entity in the manner provided in the plan, but an interest holder that was entitled to vote on or consent to approval of the interest exchange shall be entitled to vote on or consent to any amendment of the plan that will change:

(A) The amount or kind of interests, securities, obligations, rights to acquire interests or securities, cash, or other property, or any combination of the foregoing, to be received by any of the interest holders of the acquired entity under the plan;

(B) The public organic document or private organic rules of the acquired entity that will be in effect immediately after the interest exchange becomes effective, except for changes that do not require approval of the interest holders of the acquired entity under its organic law or organic rules; or

(C) Any other terms or conditions of the plan if the change would adversely affect the interest holder in any material respect.

(b) After a plan of interest exchange has been approved by a domestic acquired entity and before a statement of interest exchange becomes effective, the plan may be abandoned:

(1) As provided in the plan; or

(2) Unless prohibited by the plan, in the same manner as the plan was approved.

(c) If a plan of interest exchange is abandoned after a statement of interest exchange has been filed with the Mayor and before the filing becomes effective, a statement of abandonment, signed on behalf of the acquired entity, shall be filed with the Mayor before the time the statement of interest exchange becomes effective. The statement of abandonment shall be

effective upon filing, and the interest exchange shall be abandoned and shall not become effective. The statement of abandonment shall contain:

(1) The name of the acquired entity;

(2) The date on which the statement of interest exchange was filed; and

(3) A statement that the interest exchange has been abandoned in accordance with this section.

§ 29-203.05. Statement of interest exchange; effective date.

(a) A statement of interest exchange shall be signed on behalf of a domestic acquired entity and filed with the Mayor.

(b) A statement of interest exchange shall contain:

(1) The name and type of the acquired entity;

(2) The name, jurisdiction of organization, and type of the acquiring entity;

(3) If the statement of interest exchange is not to be effective upon filing, the later date and time on which it will become effective, which shall not be more than 90 days after the date of filing;

(4) A statement that the plan of interest exchange was approved by the acquired entity in accordance with this subchapter; and

(5) Any amendments to the acquired entity's public organic document approved as part of the plan of interest exchange.

(c) In addition to the requirements of subsection (b) of this section, a statement of interest exchange may contain any other provision not prohibited by law.

(d) A plan of interest exchange that is signed on behalf of a domestic acquired entity and meets all of the requirements of subsection (b) of this section may be filed with the Mayor instead of a statement of interest exchange and upon filing has the same effect. If a plan of interest exchange is filed as provided in this subsection, references in this chapter to a statement of interest exchange shall refer to the plan of interest exchange filed under this subsection.

(e) A statement of interest exchange shall be effective upon the date and time of filing or the later date and time specified in the statement of interest exchange.

§ 29-203.06. Effect of interest exchange.

(a) When an interest exchange becomes effective:

(1) The interests in the acquired entity that are the subject of the interest exchange shall cease to exist or are converted or exchanged, and the interest holders of those interests shall be entitled only to the rights provided to them under the plan of interest exchange and to any appraisal rights they have under § 29-201.09 and the acquired entity's organic law;

(2) The acquiring entity shall be the interest holder of the interests in the acquired entity stated in the plan of interest exchange to be acquired by the acquiring entity;

(3) The public organic document, if any, of the acquired entity shall be amended as provided in the statement of interest exchange and shall be binding on its interest holders; and

(4) The private organic rules of the acquired entity that are to be in a record, if any, shall be amended to the extent provided in the plan of interest exchange and shall be binding on and enforceable by:

(A) Its interest holders; and

(B) In the case of an acquired entity that is not a business corporation or nonprofit corporation, any other person that is a party to an agreement that is part of the acquired entity's private organic rules.

(b) Except as otherwise provided in the organic law or organic rules of the acquired entity, the interest exchange shall not give rise to any rights that an interest holder, governor, or third party would otherwise have upon a dissolution, liquidation, or winding-up of the acquired entity.

(c) When an interest exchange becomes effective, a person that did not have interest holder liability with respect to the acquired entity and that becomes subject to interest holder liability with respect to a domestic entity as a result of the interest exchange shall have interest holder liability only to the extent provided by the organic law of the entity and only for those liabilities that arise after the interest exchange becomes effective.

(d) When an interest exchange becomes effective, the interest holder liability of a person that ceases to hold an interest in a domestic acquired entity with respect to which the person had interest holder liability shall be as follows:

(1) The interest exchange shall not discharge any interest holder liability under the organic law of the domestic acquired entity to the extent the interest holder liability arose before the interest exchange became effective;

(2) The person shall not have interest holder liability under the organic law of the domestic acquired entity for any liability that arises after the interest exchange becomes effective;

(3) The organic law of the domestic acquired entity shall continue to apply to the release, collection, or discharge of any interest holder liability preserved under paragraph (1) of this subsection as if the interest exchange had not occurred; and

(4) The person has whatever rights of contribution from any other person as are provided by the organic law or organic rules of the domestic acquired entity with respect to any interest holder liability preserved under paragraph (1) of this subsection as if the interest exchange had not occurred.

Subchapter IV. Conversion.

§ 29-204.01. Conversion authorized.

(a) Except as otherwise provided in this section, by complying with this subchapter, a domestic entity may become:

(1) A domestic entity of a different type; or

(2) A foreign entity of a different type if the conversion is authorized by the law of the foreign jurisdiction.

(b) Except as otherwise provided in this section, by complying with the provisions of this

subchapter applicable to foreign entities, a foreign entity may become a domestic entity of a different type if the conversion is authorized by the law of the foreign entity's jurisdiction of organization.

(c) If a protected agreement contains a provision that applies to a merger of a domestic entity but does not refer to a conversion, the provision shall apply to a conversion of the entity as if the conversion were a merger until the provision is amended after the effective date of this chapter.

§ 29-204.02. Plan of conversion.

(a) A domestic entity may convert to a different type of entity under this subchapter by approving a plan of conversion. The plan shall be in a record and contain:

(1) The name and type of the converting entity;

(2) The name, jurisdiction of organization, and type of the converted entity;

(3) The manner of converting the interests in the converting entity into interests, securities, obligations, rights to acquire interests or securities, cash, or other property, or any combination of the foregoing;

(4) The proposed public organic document of the converted entity if it will be a filing entity;

(5) The full text of the private organic rules of the converted entity that are proposed to be in a record;

(6) The other terms and conditions of the conversion; and

(7) Any other provision required by the law of the District or the organic rules of the converting entity.

(b) A plan of conversion may contain any other provision not prohibited by law.

§ 29-204.03. Approval of conversion.

(a) A plan of conversion shall not be effective unless it has been approved:

(1) By a domestic converting entity:

(A) In accordance with the requirements, if any, in its organic rules for approval of a conversion;

(B) If its organic rules do not provide for approval of a conversion, in accordance with the requirements, if any, in its organic law and organic rules for approval of:

(i) In the case of an entity that is not a business corporation, a merger, as if the conversion were a merger; or

(ii) In the case of a business corporation, a merger requiring approval by a vote of the interest holders of the business corporation as if the conversion were that type of merger; or

(C) If its organic law or organic rules do not provide for approval of a conversion or a merger described in subparagraph (B)(ii) of this paragraph, by all of the interest holders of the entity entitled to vote on or consent to any matter; and

(2) In a record, by each interest holder of a domestic converting entity that will have interest holder liability for liabilities that arise after the conversion becomes effective, unless, in the case of an entity that is not a business or nonprofit corporation:

(A) The organic rules of the entity provide in a record for the approval of a conversion or a merger in which some or all of its interest holders become subject to interest holder liability by the vote or consent of less than all of the interest holders; and

(B) The interest holder voted for or consented in a record to that provision of the organic rules or became an interest holder after the adoption of that provision.

(b) A conversion of a foreign converting entity shall not be effective unless it is approved by the foreign entity in accordance with the law of the foreign entity's jurisdiction of organization.

§ 29-204.04. Amendment or abandonment of plan of conversion.

(a) A plan of conversion of a domestic converting entity may be amended:

(1) In the same manner as the plan was approved if the plan does not provide for the manner in which it may be amended; or

(2) By the governors or interest holders of the entity in the manner provided in the plan, but an interest holder that was entitled to vote on or consent to approval of the conversion is entitled to vote on or consent to any amendment of the plan that will change:

(A) The amount or kind of interests, securities, obligations, rights to acquire interests or securities, cash, or other property, or any combination of the foregoing, to be received by any of the interest holders of the converting entity under the plan;

(B) The public organic document or private organic rules of the converted entity that will be in effect immediately after the conversion becomes effective, except for changes that do not require approval of the interest holders of the converted entity under its organic law or organic rules; or

(C) Any other terms or conditions of the plan if the change would adversely affect the interest holder in any material respect.

(b) After a plan of conversion has been approved by a domestic converting entity and before a statement of conversion becomes effective, the plan may be abandoned:

(1) As provided in the plan; or

(2) Unless prohibited by the plan, in the same manner as the plan was approved.

(c) If a plan of conversion is abandoned after a statement of conversion has been filed with the Mayor and before the filing becomes effective, a statement of abandonment, signed on behalf of the entity, shall be filed with the Mayor before the time the statement of conversion becomes effective. The statement of abandonment shall be effective upon filing, and the conversion shall be abandoned and shall not become effective. The statement of abandonment shall contain:

(1) The name of the converting entity;

(2) The date on which the statement of conversion was filed; and

(3) A statement that the conversion has been abandoned in accordance with this section.

§ 29-204.05. Statement of conversion; effective date.

(a) A statement of conversion shall be signed on behalf of the converting entity and filed with the Mayor.

(b) A statement of conversion shall contain:

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

(2) The name, jurisdiction of organization, and type of the converted entity;

(3) If the statement of conversion is not to be effective upon filing, the later date and time on which it will become effective, which shall not be more than 90 days after the date of filing;

(4) If the converting entity is a domestic entity, a statement that the plan of conversion was approved in accordance with this subchapter or, if the converting entity is a foreign entity, a statement that the conversion was approved by the foreign converting entity in accordance with the law of its jurisdiction of organization;

(5) If the converted entity is a domestic filing entity, the text of its public organic document as an attachment; and

(6) If the converted entity is a domestic limited liability partnership, the text of its statement of qualification as an attachment; and

(7) If the converted entity is a foreign entity that is not a qualified foreign entity, a mailing address to which process may be served pursuant to § 29-204.06(e).

(c) In addition to the requirements of subsection (b) of this section, a statement of conversion may contain any other provision not prohibited by law.

(d) If the converted entity is a domestic entity, its public organic document, if any, shall satisfy the requirements of the law of the District, except that it does not need to be signed and may omit any provision that is not required to be included in a restatement of the public organic document.

(e) A plan of conversion that is signed on behalf of a domestic converting entity and meets all of the requirements of subsection (b) of this section may be filed with the Mayor instead of a statement of conversion and, upon filing, shall have the same effect. If a plan of conversion is filed as provided in this subsection, references in this chapter to a statement of conversion shall refer to the plan of conversion filed under this subsection.

(f) A statement of conversion shall be effective upon the date and time of filing or the later date and time specified in the statement of conversion.

§ 29-204.06. Effect of conversion.

(a) When a conversion becomes effective:

(1) The converted entity shall be:

(A) Organized under and subject to the organic law of the converted entity;

and

(B) The same entity without interruption as the converting entity;

(2) All property of the converting entity shall continue to be vested in the converted entity without assignment, reversion, or impairment;

(3) All liabilities of the converting entity shall continue as liabilities of the converted entity;

(4) Except as otherwise provided by law other than this chapter or the plan of conversion, all of the rights, privileges, immunities, powers, and purposes of the converting entity shall remain in the converted entity;

(5) The name of the converted entity may be substituted for the name of the converting entity in any pending action or proceeding;

(6) If a converted entity is a filing entity, its public organic document shall be effective and shall be binding on its interest holders;

(7) If the converted entity is a limited liability partnership, its statement of qualification shall be effective simultaneously;

(8) The private organic rules of the converted entity that are to be in a record, if any, approved as part of the plan of conversion shall be effective and shall be binding on and enforceable by:

(A) Its interest holders; and

(B) In the case of a converted entity that is not a business corporation or nonprofit corporation, any other person that is a party to an agreement that is part of the entity's private organic rules; and

(9) The interests in the converting entity shall be converted, and the interest holders of the converting entity shall be entitled only to the rights provided to them under the plan of conversion, and to any appraisal rights they have under § 29-201.09 and the converting entity's organic law.

(b) Except as otherwise provided in the organic law or organic rules of the converting entity, the conversion shall not give rise to any rights that an interest holder, governor, or third party would otherwise have upon a dissolution, liquidation, or winding-up of the converting entity.

(c) When a conversion becomes effective, a person that did not have interest holder liability with respect to the converting entity and that becomes subject to interest holder liability with respect to a domestic entity as a result of a conversion shall have interest holder liability only to the extent provided by the organic law of the entity and only for those liabilities that arise after the conversion becomes effective.

(d) When a conversion becomes effective:

(1) The conversion shall not discharge any interest holder liability under the organic law of a domestic converting entity to the extent the interest holder liability arose before the conversion became effective;

(2) A person shall not have interest holder liability under the organic law of a

domestic converting entity for any liability that arises after the conversion becomes effective;

(3) The organic law of a domestic converting entity shall continue to apply to the release, collection, or discharge of any interest holder liability preserved under paragraph (1) of this subsection as if the conversion had not occurred; and

(4) A person has whatever rights of contribution from any other person as are provided by the organic law or organic rules of the domestic converting entity with respect to any interest holder liability preserved under paragraph (1) of this subsection as if the conversion had not occurred.

(e) When a conversion becomes effective, a foreign entity that is the converted entity may be served with process in the District for the collection and enforcement of any of its liabilities in the manner provided in § 29-104.12.

(f) If the converting entity is a qualified foreign entity, the certificate of registration or other foreign qualification of the converting entity shall be canceled when the conversion becomes effective.

(g) A conversion shall not require the entity to wind up its affairs and shall not constitute or cause the dissolution of the entity.

Subchapter V. Domestication.

§ 29-205.01. Domestication authorized.

(a) Except as otherwise provided in this section, by complying with this subchapter, a domestic entity may become a domestic entity of the same type in a foreign jurisdiction if the domestication is authorized by the law of the foreign jurisdiction.

(b) Except as otherwise provided in this section, by complying with the provisions of this subchapter applicable to foreign entities, a foreign entity may become a domestic entity of the same type in the District if the domestication is authorized by the law of the foreign entity's jurisdiction of organization.

(c) When the term "domestic entity" is used in this subchapter with reference to a foreign jurisdiction, it means an entity whose internal affairs are governed by the law of the foreign jurisdiction.

(d) If a protected agreement contains a provision that applies to a merger of a domestic entity but does not refer to a domestication, the provision shall apply to a domestication of the entity as if the domestication were a merger until the provision is amended after the effective date of this chapter.

(e) The following entities shall not engage in a domestication under this subchapter:

(1) A business corporation subject to subchapter VII of Chapter 3 of this title;

(2) A nonprofit corporation subject to subchapter VII of Chapter 4 of this title; or

(3) A limited liability company subject to subchapter IX of Chapter 8 of this title.

§ 29-205.02. Plan of domestication.

(a) A domestic entity may become a foreign entity in a domestication by approving a plan of domestication. The plan shall be in a record and contain:

(1) The name and type of the domesticating entity;

(2) The name and jurisdiction of organization of the domesticated entity;

(3) The manner of converting the interests in the domesticating entity into interests, securities, obligations, rights to acquire interests or securities, cash, or other property, or any combination of the foregoing;

(4) The proposed public organic document of the domesticated entity if it is a filing entity;

(5) The full text of the private organic rules of the domesticated entity that are proposed to be in a record;

(6) The other terms and conditions of the domestication; and

(7) Any other provision required by the law of the District or the organic rules of the domesticating entity.

(b) A plan of domestication may contain any other provision not prohibited by law.

§ 29-205.03. Approval of domestication.

(a) A plan of domestication shall not be effective unless it has been approved:

(1) By a domestic domesticating entity:

(A) In accordance with the requirements, if any, in its organic rules for approval of a domestication;

(B) If its organic rules do not provide for approval of a domestication, in accordance with the requirements, if any, in its organic law and organic rules for approval of:

(i) In the case of an entity that is not a business corporation, a merger as if the domestication were a merger; or

(ii) In the case of a business corporation, a merger requiring approval by a vote of the interest holders of the business corporation as if the domestication were that type of merger; or

(C) If its organic law or organic rules do not provide for approval of a domestication or a merger described in subparagraph (B)(ii) of this paragraph, by all of the interest holders of the entity entitled to vote on or consent to any matter; and

(2) In a record, by each interest holder of a domestic domesticating entity that will have interest holder liability for liabilities that arise after the domestication becomes effective, unless, in the case of an entity that is not a business corporation or nonprofit corporation:

(A) The organic rules of the entity in a record provide for the approval of a domestication or merger in which some or all of its interest holders become subject to interest holder liability by the vote or consent of less than all of the interest holders; and

(B) The interest holder voted for or consented in a record to that provision of the organic rules or became an interest holder after the adoption of that provision.

(b) A domestication of a foreign domesticating entity shall not be effective unless it is approved in accordance with the law of the foreign entity's jurisdiction of organization.

§ 29-205.04. Amendment or abandonment of plan of domestication.

(a) A plan of domestication of a domestic domesticating entity may be amended:

(1) In the same manner as the plan was approved if the plan does not provide for the manner in which it may be amended; or

(2) By the governors or interest holders of the entity in the manner provided in the plan, but an interest holder that was entitled to vote on or consent to approval of the domestication shall be entitled to vote on or consent to any amendment of the plan that will change:

(A) The amount or kind of interests, securities, obligations, rights to acquire interests or securities, cash, or other property, or any combination of the foregoing, to be received by any of the interest holders of the domesticating entity under the plan;

(B) The public organic document or private organic rules of the domesticated entity that will be in effect immediately after the domestication becomes effective, except for changes that do not require approval of the interest holders of the domesticated entity under its organic law or organic rules; or

(C) Any other terms or conditions of the plan if the change would adversely affect the interest holder in any material respect.

(b) After a plan of domestication has been approved by a domestic domesticating entity and before a statement of domestication becomes effective, the plan may be abandoned:

(1) As provided in the plan; or

(2) Unless prohibited by the plan, in the same manner as the plan was approved.

(c) If a plan of domestication is abandoned after a statement of domestication has been filed with the Mayor and before the filing becomes effective, a statement of abandonment, signed on behalf of the entity, shall be filed with the Mayor before the time the statement of domestication becomes effective. The statement of abandonment shall be effective upon filing, and the domestication shall be abandoned and shall not become effective. The statement of abandonment shall contain:

(1) The name of the domesticating entity;

(2) The date on which the statement of domestication was filed; and

(3) A statement that the domestication has been abandoned in accordance with this section.

§ 29-205.05. Statement of domestication; effective date.

(a) A statement of domestication shall be signed on behalf of the domesticating entity and filed with the Mayor.

(b) A statement of domestication shall contain:

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

(2) The name and jurisdiction of organization of the domesticated entity;

(3) If the statement of domestication is not to be effective upon filing, the later date and time on which it will become effective, which shall not be more than 90 days after the date of filing;

(4) If the domesticating entity is a domestic entity, a statement that the plan of domestication was approved in accordance with this subchapter or, if the domesticating entity is a foreign entity, a statement that the domestication was approved in accordance with the law of its jurisdiction of organization;

(5) If the domesticated entity is a domestic filing entity, its public organic document as an attachment; and

(6) If the domesticated entity is a domestic limited liability partnership, its statement of qualification as an attachment; and

(7) If the domesticated entity is a foreign entity that is not a qualified foreign entity, a mailing address to which the process may be served pursuant to § 29-205.06(e).

(c) In addition to the requirements of subsection (b) of this section, a statement of domestication may contain any other provision not prohibited by law.

(d) If the domesticated entity is a domestic entity, its public organic document, if any, shall satisfy the requirements of the law of the District, except that it does not need to be signed and may omit any provision that is not required to be included in a restatement of the public organic document.

(e) A plan of domestication that is signed on behalf of a domesticating domestic entity and meets all of the requirements of subsection (b) of this section may be filed with the Mayor instead of a statement of domestication and, upon filing, shall have the same effect. If a plan of domestication is filed as provided in this subsection, references in this chapter to a statement of domestication shall refer to the plan of domestication filed under this subsection.

(f) A statement of domestication shall be effective upon the date and time of filing or the later date and time specified in the statement of domestication.

§ 29-205.06. Effect of domestication.

(a) When a domestication becomes effective:

(1) The domesticated entity shall be:

(A) Organized under and subject to the organic law of the domesticated entity; and

(B) The same entity without interruption as the domesticating entity;

(2) All property of the domesticating entity shall continue to be vested in the domesticated entity without assignment, reversion, or impairment;

(3) All liabilities of the domesticating entity shall continue as liabilities of the domesticated entity;

(4) Except as otherwise provided by law other than this chapter or the plan of domestication, all of the rights, privileges, immunities, powers, and purposes of the

domesticating entity shall remain in the domesticated entity;

(5) The name of the domesticated entity may be substituted for the name of the domesticating entity in any pending action or proceeding;

(6) If the domesticated entity is a filing entity, its public organic document shall be effective and shall be binding on its interest holders;

(7) If the domesticated entity is a limited liability partnership, its statement of qualification shall be effective simultaneously;

(8) The private organic rules of the domesticated entity that are to be in a record, if any, approved as part of the plan of domestication shall be effective and shall be binding on and enforceable by:

(A) Its interest holders; and

(B) In the case of a domesticated entity that is not a business corporation or nonprofit corporation, any other person that is a party to an agreement that is part of the domesticated entity's private organic rules; and

(9) The interests in the domesticating entity shall be converted to the extent and as approved in connection with the domestication, and the interest holders of the domesticating entity shall be entitled only to the rights provided to them under the plan of domestication, and to any appraisal rights they have under § 29-201.09 and the domesticating entity's organic law.

(b) Except as otherwise provided in the organic law or organic rules of the domesticating entity, the domestication shall not give rise to any rights that an interest holder, governor, or third party would otherwise have upon a dissolution, liquidation, or winding-up of the domesticating entity.

(c) When a domestication becomes effective, a person that did not have interest holder liability with respect to the domesticating entity and that becomes subject to interest holder liability with respect to a domestic entity as a result of the domestication shall have interest holder liability only to the extent provided by the organic law of the entity and only for those liabilities that arise after the domestication becomes effective.

(d) When a domestication becomes effective:

(1) The domestication shall not discharge any interest holder liability under the organic law of a domesticating domestic entity to the extent the interest holder liability arose before the domestication became effective;

(2) A person shall not have interest holder liability under the organic law of a domestic domesticating entity for any liability that arises after the domestication becomes effective;

(3) The organic law of a domestic domesticating entity shall continue to apply to the release, collection, or discharge of any interest holder liability preserved under paragraph (1) of this subsection as if the domestication had not occurred; and

(4) A person shall have whatever rights of contribution from any other person as are provided by the organic law or organic rules of a domestic domesticating entity with respect to any interest holder liability preserved under paragraph (1) of this subsection as if the

domestication had not occurred.

(e) When a domestication becomes effective, a foreign entity that is the domesticated entity may be served with process in the District for the collection and enforcement of any of its liabilities in the manner provided in § 29-104.12.

(f) If the domesticating entity is a qualified foreign entity, the certificate of registration or other foreign qualification of the domesticating entity shall be canceled when the domestication becomes effective.

(g) A domestication shall not require the entity to wind up its affairs and shall not constitute or cause the dissolution of the entity.

CHAPTER 3. BUSINESS CORPORATIONS.

Section

Subchapter I. General Provisions.

Part A. Short Title, Definition, Notice, Extrinsic Facts.

29-301.01. Short title.
29-301.02. Definitions.
29-301.03. Notice.
29-301.04. Reference to extrinsic facts in plans or filed documents.

Part B. Number of Shareholders; Qualified Director; Householding

29-301.20. Number of shareholders.
29-301.21. Qualified director.
29-301.22. Householding.

Subchapter II. Incorporation.

29-302.01. Incorporators.
29-302.02. Articles of incorporation.
29-302.03. Incorporation.
29-302.04. Liability for preincorporation transactions.
29-302.05. Organization of corporation.
29-302.06. Bylaws.
29-302.07. Emergency bylaws.

Subchapter III. Purposes and Powers.

29-303.01. Purposes.
29-303.02. General powers.
29-303.03. Emergency powers.
29-303.04. Ultra vires.

Subchapter IV. Shares and Distributions.

Part A. Shares.

29-304.01. Authorized shares.
29-304.02. Terms of class or series determined by board of directors.
29-304.03. Issued and outstanding shares.

29-304.04. Fractional shares.

Part B. Issuance of Shares.

29-304.20. Subscription for shares before incorporation.
29-304.21. Issuance of shares.
29-304.22. Liability of shareholders.
29-304.23. Share dividends.
29-304.24. Share options.
29-304.25. Form and content of certificates.
29-304.26. Shares without certificates.
29-304.27. Restriction on transfer of shares and other securities.
29-304.28. Expense of issue.

Part C. Subsequent Acquisition of Shares by Shareholders and Corporation.

29-304.40. Shareholders' preemptive rights.
29-304.41. Corporation's acquisition of its own shares

Part D. Distributions to Shareholders.

29-304.60. Distributions to shareholders.

Subchapter V. Shareholders.

Part A. Meetings.

29-305.01. Annual meeting.
29-305.02. Special meeting.
29-305.03. Court-ordered meeting.
29-305.04. Action without meeting.
29-305.05. Notice of meeting.
29-305.06. Waiver of notice.
29-305.07. Record date.
29-305.08. Conduct of the meeting.

Part B. Voting.

29-305.20. Shareholders' list for meeting.
29-305.21. Voting entitlement of shares.
29-305.22. Proxies.
29-305.23. Shares held by nominees.
29-305.24. Corporation's acceptance of votes.
29-305.25. Quorum and voting requirements for voting groups.
29-305.26. Action by single and multiple voting groups.
29-305.27. Greater quorum or voting requirements.
29-305.28. Voting for directors; cumulative voting.
29-305.29. Inspectors of election.

Part C. Voting Trusts and Agreements.

29-305.40. Voting trusts.
29-305.41. Voting agreements.

29-305.42. Shareholder agreements.

Part D. Derivative Proceedings.

29-305.50. Definitions.
29-305.51. Standing.
29-305.52. Demand.
29-305.53. Stay of proceedings.
29-305.54. Dismissal.
29-305.55. Discontinuance or settlement.
29-305.56. Payment of expenses.
29-305.57. Applicability to foreign corporations.

Part E. Proceeding to Appoint Custodian or Receiver.

29-305.70. Shareholder action to appoint custodian or receiver.

Subchapter VI. Directors and Officers.

Part A. Board of Directors.

29-306.01. Requirement for and functions of board of directors.
29-306.02. Qualifications of directors.
29-306.03. Number and election of directors.
29-306.04. Election of directors by certain classes of shareholders.
29-306.05. Terms of directors generally.
29-306.06. Staggered terms for directors.
29-306.07. Resignation of directors.
29-306.08. Removal of directors by shareholders.
29-306.09. Removal of directors by judicial proceeding.
29-306.10. Vacancy on board.
29-306.11. Compensation of directors.

Part B. Meetings and Action of the Board.

29-306.20. Meetings.
29-306.21. Action without meeting.
29-306.22. Notice of meeting.
29-306.23. Waiver of notice.
29-306.24. Quorum and voting.
29-306.25. Committees.

Part C. Directors

29-306.30. Standards of conduct for directors.
29-306.31. Standards of liability for directors.
29-306.32. Directors' liability for unlawful distributions.

Part D. Officers

29-306.40. Officers.
29-306.41. Functions of officers.

29-306.42. Standards of conduct for officers.
29-306.43. Resignation and removal of officers.
29-306.44. Contract rights of officers.
Part E. Indemnification and Advance for Expenses
29-306.50. Definitions.
29-306.51. Permissible indemnification.
29-306.52. Mandatory indemnification.
29-306.53. Advance for expenses.
29-306.54. Court-ordered indemnification and advance for expenses.
29-306.55. Determination and authorization of indemnification.
29-306.56. Indemnification of officers.
29-306.57. Insurance.
29-306.58. Variation by corporate action; application of subpart.
29-306.59. Exclusivity of subpart.
Part F. Directors' Conflicting Interest Transactions.
29-306.70. Definitions.
29-306.71. Judicial action.
29-306.72. Directors' action.
29-306.73. Shareholders' action.
Part G. Business Opportunities.
29-306.80. Business opportunities.
Subchapter VII. Domestication.
29-307.01. Domestication.
29-307.02. Action on a plan of domestication.
29-307.03. Articles of domestication.
29-307.04. Surrender of charter upon domestication.
29-307.05. Effect of domestication.
29-307.06. Abandonment of a domestication.
Subchapter VIII. Amendment of Articles of Incorporation and Bylaws.
Part A. Amendment of Articles of Incorporation.
29-308.01. Authority to amend.
29-308.02. Amendment before issuance of shares.
29-308.03. Amendment by board of directors and shareholders.
29-308.04. Voting on amendments by voting groups.
29-308.05. Amendment by board of directors.
29-308.06. Articles of amendment.
29-308.07. Restated articles of incorporation.
29-308.08. Amendment pursuant to reorganization.
29-308.09. Effect of amendment.

Part B. Amendment of Bylaws.
29-308.20. Amendment by board of directors or shareholders.
29-308.21. Bylaw increasing quorum or voting requirement for directors.
29-308.22. Bylaw provisions relating to the election of directors.
Subchapter IX. Merger and Share Exchanges.
29-309.01. Definitions.
29-309.02. Merger.
29-309.03. Share exchange.
29-309.04. Action on a plan of merger or share exchange.
29-309.05. Merger between parent and subsidiary or between subsidiaries.
29-309.06. Articles of merger or share exchange.
29-309.07. Effect of merger or share exchange.
29-309.08. Abandonment of a merger or share exchange.
Subchapter X. Disposition of Assets.
29-310.01. Disposition of assets not requiring shareholder approval.
29-310.02. Shareholder approval of certain dispositions.
Subchapter XI. Appraisal Rights.
Part A. Right to Appraisal and Payment for Shares.
29-311.01. Definitions.
29-311.02. Right to appraisal.
29-311.03. Assertion of rights by nominees and beneficial owners.
Part B. Procedure for Exercise of Appraisal Rights.
29-311.10. Notice of appraisal rights.
29-311.11. Notice of intent to demand payment and consequences of voting or consenting.
29-311.12. Appraisal notice and form.
29-311.13. Perfection of rights; right to withdraw.
29-311.14. Payment.
29-311.15. After-acquired shares.
29-311.16. Procedure if shareholder dissatisfied with payment or offer.
Part C. Judicial Appraisal of Shares.
29-311.30. Judicial proceeding.
29-311.31. Court costs and expenses.
Part D. Other Remedies.
29-311.50. Other remedies limited.
Subchapter XII. Dissolution.
Part A. Voluntary Dissolution.
29-312.01. Dissolution by incorporators or initial directors.
29-312.02. Dissolution by board of directors and shareholders.
29-312.03. Articles of dissolution.
29-312.04. Revocation of dissolution.

29-312.05. Effect of dissolution.
29-312.06. Known claims against dissolved corporation.
29-312.07. Other claims against dissolved corporation.
29-312.08. Court proceedings.
29-312.09. Director duties.
Part B. Judicial Dissolution.
29-312.20. Grounds for judicial dissolution.
29-312.21. Procedure for judicial dissolution.
29-312.22. Receivership or custodianship.
29-312.23. Decree of dissolution.
29-312.24. Election to purchase in lieu of dissolution.
Part C. Miscellaneous.
29-312.40. Deposit with Mayor.
Subchapter XIII. Records and Reports.
29-313.01. Corporate records.
29-313.02. Inspection of records by shareholders.
29-313.03. Scope of inspection right.
29-313.04. Court-ordered inspection.
29-313.05. Inspection of records by directors.
29-313.06. Exception to notice requirement.
29-313.07. Financial statements for shareholders.
Subchapter XIV. Transition Provisions.
29-314.01. Application to existing domestic corporations.
29-314.02. Application to qualified foreign corporations.

CHAPTER 3. BUSINESS CORPORATIONS.

Subchapter I. General Provisions .

Part A. Short Title, Definitions, and Notice.

§ 29-301.01. Short title.

This chapter may be cited as the " Business Corporation Act of 2010".

§ 29-301.02. Definitions.

For the purpose of this chapter, the term:

(1) "Authorized shares" means the shares of all classes a domestic or foreign corporation is authorized to issue.

(2) "Bylaws" means the code of rules, other than the articles of incorporation, adopted for the regulation and governance of the internal affairs of the corporation, regardless of the name or names used to refer to those rules.

(3) "Conspicuous" means so written, displayed, or presented that a reasonable person against whom it is to operate should have noticed it. Conspicuous terms shall include:

(A) A heading in capitals equal to or greater in size than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same or lesser size; and

(B) Language in the body of a record or display in larger type than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same size, or set off from surrounding text of the same size by symbols or other marks that call attention to the language.

(4) "Corporation", "domestic corporation", or "domestic business corporation" means a corporation for profit, which is not a foreign corporation, incorporated under or subject to this chapter.

(5) "Distribution" means a direct or indirect transfer of money or other property, except a corporation's own shares, or incurrence of indebtedness by the corporation to or for the benefit of its shareholders in respect of any of its shares. A distribution may be in the form of:

(A) A declaration or payment of a dividend;

(B) A purchase, redemption, or other acquisition of shares;

(C) A distribution of indebtedness; or

(D) Another method.

(6) "Domestic unincorporated entity" means an unincorporated entity whose internal affairs are governed by the laws of the District.

(7) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(8) "Electronic transmission" or "electronically transmitted" means any process of communication not directly involving the physical transfer of paper that is suitable for the retention, retrieval, and reproduction of information by the recipient.

(9) "Eligible interests" means interests or shares.

(10) "Employee" shall include an officer but not a director. A director may accept duties that make the director also an employee.

(11) "Expenses" means reasonable expenses of any kind that are incurred in connection with a matter.

(12) "Foreign corporation" means a corporation incorporated under a law other than the law of the District which would be a business corporation if incorporated under the laws of the District.

(13) "Foreign nonprofit corporation" means a corporation incorporated under a law other than the law of the District, which would be a nonprofit corporation if incorporated under the laws of the District.

(14) "Foreign unincorporated entity" means an unincorporated entity whose internal affairs are governed by an organic law of a jurisdiction other than the District.

(15) "Owner liability" means personal liability for a debt, obligation, or liability of a domestic or foreign business or nonprofit corporation or unincorporated entity that is imposed on a person:

(A) Solely by reason of the person's status as a shareholder, member, or

interest holder; or

(B) By the articles of incorporation, bylaws, or an organic document under a provision of the organic law of an entity authorizing the articles of incorporation, bylaws, or an organic document to make one or more specified shareholders, members, or interest holders liable in their capacity as shareholders, members, or interest holders for all or specified debts, obligations, or liabilities of the entity.

(16) "Public corporation" means a corporation that has shares listed on a national securities exchange or regularly traded in a market maintained by one or more members of a national securities association.

(17) "Record date" means the date established under subchapter IV or V of this chapter on which a corporation determines the identity of its shareholders and their shareholdings for purposes of this chapter. The determinations shall be made as of the close of business on the record date unless another time for doing so is specified when the record date is fixed.

(18) "Secretary" means the corporate officer to whom the board of directors has delegated responsibility under § 29-306.40(c) for custody of the minutes of the meetings of the board of directors and of the shareholders and for authenticating records of the corporation.

(19) "Shareholder" means the person in whose name shares are registered in the records of a corporation or the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file with the corporation.

(20) "Shares" means the units into which the proprietary interests in a corporation are divided.

(21) "Subscriber" means a person that subscribes for shares in a corporation, whether before or after incorporation.

(22) "Unincorporated entity" means an entity that either has a separate legal existence or has the power to acquire an estate in real property in its own name and that is not a domestic or foreign business or nonprofit corporation, an estate, a trust, a state, the United States, or a foreign government. The term "unincorporated entity" shall include a general partnership, limited liability company, limited partnership, limited cooperative association, business or statutory trust, joint stock association, and unincorporated nonprofit association.

(23) "Vote", "voting", or "casting a vote" includes the giving of consent without a meeting. The term "vote", "voting", "casting a vote" shall not include either recording the fact of abstention or failing to vote for a candidate or for approval or disapproval of a matter, whether or not the person entitled to vote characterizes the conduct as voting or casting a vote.

(24) "Voting group" means all shares of one or more classes or series that, under the articles of incorporation or this chapter, are entitled to vote and be counted together collectively on a matter at a meeting of shareholders. All shares entitled by the articles of incorporation or this chapter to vote generally on the matter are, for that purpose, a single voting group.

(25) "Voting power" means the current power to vote in the election of directors or to vote on approval of any type of fundamental transaction. For the purposes of this

paragraph, the term "fundamental transaction" means an amendment of the articles of incorporation or bylaws, merger, interest exchange, sale of all or substantially all of the assets, domestication, conversion, or dissolution of a corporation.

§ 29-301.03. Notice.

(a) Notice under this chapter shall be in the form of a record unless oral notice is authorized by this chapter or is reasonable under the circumstances.

(b) Notice may be communicated in person or by delivery. If these forms of communication are impracticable, notice may be communicated by a newspaper of general circulation in the area where published, or by radio, television, or other form of public broadcast communication, including the Internet.

(c) Notice in the form of a record by a domestic or qualified foreign corporation to a shareholder shall be effective:

(1) Upon deposit in the United States mail or with a commercial delivery service, if the postage or delivery charge is paid and the notice is correctly addressed to the shareholder's address shown in the corporation's current record of shareholders; or

(2) When given if the notice is delivered in any other manner that the member has authorized.

(d) Notice to a domestic or qualified foreign corporation may be delivered to its registered agent or to the corporation or its secretary at its principal office shown in its most recent biennial report or, in the case of a foreign corporation that has not yet delivered a biennial report, in its application for a certificate of registration.

(e) Except as otherwise provided in subsection (c) of this section, notice shall be effective at the earliest of the following:

(1) When received;

(2) When left at the recipient's residence or usual place of business;

(3) Five days after its deposit in the United States mail or with a commercial delivery service, if the postage or delivery charge is paid and the notice is correctly addressed; or

(4) On the date shown on the return receipt, if sent by registered or certified mail, return receipt requested, or by commercial delivery service.

(f) Oral notice shall be effective when communicated, if communicated in a comprehensible manner.

(g) If this chapter prescribes notice requirements for particular circumstances, those requirements shall govern. If bylaws prescribe notice requirements not inconsistent with this section or other provisions of this chapter, those requirements shall govern.

(h) With respect to electronic communications:

(1) Unless otherwise provided in the articles of incorporation or bylaws, or otherwise agreed between the sender and the recipient, an electronic communication is received when:

(A) It enters an information processing system that the recipient has

designated or uses for the purpose of receiving electronic records or information of the type sent and from which the recipient is able to retrieve the electronic record; and

(B) It is in a form capable of being processed by that system.

(2) An electronic communication is received under paragraph (1) of this subsection even if no individual is aware of its receipt.

(3) Receipt of an electronic acknowledgment from an information processing system described in paragraph (1) of this subsection shall establish that a record was received but, by itself, shall not establish that the content sent corresponds to the content received.

(i) An authorization by a member of delivery of notices or communications by email or similar electronic means may be revoked by the member by notice to the corporation in the form of a record. The authorization shall be deemed revoked if:

(A) The corporation is unable to deliver 2 consecutive notices or other communications to the member in the manner authorized; and

(B) The inability becomes known to the secretary or other person responsible for giving the notice or other communication, but the failure to treat the inability as a revocation shall not invalidate any meeting or other action.

§ 29-301.04. Reference to extrinsic facts in plans or filed documents.

(a) For the purposes of this subsection, the term:

(1) "Filed document" means a document filed with the Mayor under any provision of this chapter except § 29-102.11.

(2) "Plan" means a plan of domestication, nonprofit conversion, entity conversion, merger, or share exchange.

(b) Whenever a provision of this chapter permits any of the terms of a plan or a filed document to be dependent on facts objectively ascertainable outside the plan or filed document, the following provisions apply:

(1) The manner in which the facts will operate upon the terms of the plan or filed document shall be set forth in the plan or filed document.

(2) The facts may include:

(A) Any of the following that is available in a nationally recognized news or information medium, either in print or electronically:

(i) Statistical or market indices;

(ii) Market prices of any security or group of securities;

(iii) Interest rates;

(iv) Currency exchange rates; or

(v) Similar economic or financial data;

(B) A determination or action by any person or body, including the corporation or any other party to a plan or filed document; or

(C) The terms of, or actions taken under, an agreement to which the corporation is a party, or any other agreement or document.

(3) The following provisions of a plan or filed document shall not be made dependent on facts outside the plan or filed document:

(A) The name and address of any person required in a filed document;

(B) The registered agent of any entity required in a filed document;

(C) The number of authorized shares and designation of each class or series of shares;

(D) The effective date of a filed document; or

(E) Any required statement in a filed document of the date on which the underlying transaction was approved or the manner in which that approval was given.

(4) If a provision of a filed document is made dependent on a fact ascertainable outside of the filed document, and that fact is not ascertainable by reference to a source described in paragraph (2)(A) of this subsection or a document that is a matter of public record, or the affected shareholders have not received notice of the fact from the corporation, the corporation shall file with the Mayor articles of amendment setting forth the fact promptly after the time when the fact referred to is first ascertainable or thereafter changes. Articles of amendment under this paragraph shall be deemed to be authorized by the authorization of the original filed document or plan to which they relate and may be filed by the corporation without further action by the board of directors or the shareholders.

Part B. Number of Shareholders; Qualified Director; Householding.

§ 29-301.20. Number of shareholders.

(a) For the purposes of this chapter, the following identified as a shareholder in a corporation's current record of shareholders constitutes one shareholder:

(1) Three or fewer co-owners;

(2) A corporation, partnership, trust, estate, or other entity;

(3) The trustees, guardians, custodians, or other fiduciaries of a single trust, estate, or account.

(b) For the purposes of this chapter, shareholdings registered in substantially similar names shall constitute one shareholder if it is reasonable to believe that the names represent the same person.

§ 29-301.21. Qualified director.

(a) For the purposes of this section, the term:

(1) "Material interest" means an actual or potential benefit or detriment, other than one which would devolve on the corporation or the shareholders generally, that would reasonably be expected to impair the objectivity of the director's judgment when participating in the action to be taken.

(2) "Material relationship" means a familial, financial, professional, employment, or other relationship that would reasonably be expected to impair the objectivity of the director's judgment when participating in the action to be taken.

(b) A qualified director is a director who:

(1) At the time action is to be taken under § 29-305.54, does not have:

(A) A material interest in the outcome of the proceeding; or

(B) A material relationship with a person that has such an interest;

(2) At the time action is to be taken under § 29-306.53 or 29-306.55:

(A) Is not a party to the proceeding;

(B) Is not a director as to whom a transaction is a director's conflicting interest transaction or who sought a disclaimer of the corporation's interest in a business opportunity under § 29-306.80, which transaction or disclaimer is challenged in the proceeding; and

(C) Does not have a material relationship with a director described in either subparagraph (A) or (B) of this paragraph;

(3) At the time action is to be taken under § 29-306.72, is not a director:

(A) As to whom the transaction is a director's conflicting interest transaction; or

(B) Who has a material relationship with another director as to whom the transaction is a director's conflicting interest transaction; or

(4) At the time action is to be taken under § 29-306.80, would be a qualified director under subsection (b)(3) of this section if the business opportunity were a director's conflicting interest transaction.

(c) The presence of one or more of the following circumstances shall not by itself prevent a director from being a qualified director:

(1) Nomination or election of the director to the current board by any director who is not a qualified director with respect to the matter, or by any person that has a material relationship with that director, acting alone or participating with others;

(2) Service as a director of another corporation of which a director who is not a qualified director with respect to the matter, or any individual who has a material relationship with that director, is or was also a director; or

(3) With respect to action to be taken under § 29-305.54, status as a named defendant, as a director against whom action is demanded, or as a director who approved the conduct being challenged.

§ 29-301.22. Householding.

(a) A corporation shall have delivered written notice or any other report or statement under this chapter, the articles of incorporation, or the bylaws to all shareholders who share a common address if:

(1) The corporation delivers one copy of the notice, report, or statement to the common address;

(2) The corporation addresses the notice, report, or statement to those shareholders either as a group or to each of those shareholders individually or to the shareholders

in a form to which each of those shareholders has consented; and

(3) Each of those shareholders consents to delivery of a single copy of the notice, report, or statement to the shareholders' common address.

(b) Any consent under subsection (a)(3) of this section shall be revocable by any of such shareholders that delivers written notice of revocation to the corporation. If the written notice of revocation is delivered, the corporation shall begin providing individual notices, reports, or other statements to the revoking shareholder no later than 30 days after delivery of the written notice of revocation.

(c) Any shareholder that fails to object by written notice to the corporation, within 60 days of written notice by the corporation of its intention to send single copies of notices, reports, or statements to shareholders that share a common address as permitted by subsection (a) of this section, shall be deemed to have consented to receiving such single copy at the common address.

Subchapter II. Incorporation.

§ 29-302.01. Incorporators.

One or more persons may act as the incorporator or incorporators of a corporation by delivering articles of incorporation to the Mayor for filing.

§ 29-302.02. Articles of incorporation.

(a) The articles of incorporation shall set forth:

(1) A corporate name for the corporation that satisfies §§ 29-103.01 and 29-103.02(a);

(2) The number of shares the corporation is authorized to issue;

(3) The information required by § 29-104.04; and

(4) The name and address of each incorporator.

(b) The articles of incorporation may set forth:

(1) The names and addresses of the individuals who are to serve as the initial directors;

(2) Provisions not inconsistent with law regarding:

(A) The purpose or purposes for which the corporation is organized;

(B) Managing the business and regulating the affairs of the corporation;

(C) Defining, limiting, and regulating the powers of the corporation, its board of directors, and shareholders;

(D) A par value for authorized shares or classes of shares;

(E) The imposition of personal liability on shareholders for the debts of the corporation to a specified extent and upon specified conditions;

(3) Any provision that under this chapter is required or permitted to be set forth in the bylaws;

(4) A provision eliminating or limiting the liability of a director to the corporation or its shareholders for money damages for any action taken, or any failure to take any action, as a

director, except liability for:

(A) The amount of a financial benefit received by a director to which the director is not entitled;

(B) An intentional infliction of harm on the corporation or the shareholders;

(C) A violation of § 29-306.32; or

(D) An intentional violation of criminal law; and

(5) A provision permitting or making obligatory indemnification of a director for liability, as defined in § 29-306.50, to any person for any action taken, or any failure to take any action, as a director, except liability for:

(A) Receipt of a financial benefit to which the director is not entitled;

(B) An intentional infliction of harm on the corporation or its shareholders;

(C) A violation of § 29-306.32; or

(D) An intentional violation of criminal law.

(c) The articles of incorporation need not set forth any of the corporate powers enumerated in this chapter.

(d) Provisions of the articles of incorporation may be made dependent upon facts objectively ascertainable outside the articles of incorporation in accordance with § 29-301.04.

§ 29-302.03. Incorporation.

(a) Unless a delayed effective date is specified, the corporate existence shall begin when the articles of incorporation are filed.

(b) The Mayor's filing of the articles of incorporation shall be conclusive proof that the incorporators satisfied all conditions precedent to incorporation, except in a proceeding by the District to cancel or revoke the incorporation or involuntarily dissolve the corporation.

§ 29-302.04. Liability for preincorporation transactions.

All persons purporting to act as or on behalf of a corporation, knowing there was no incorporation under this chapter, shall be jointly and severally liable for all liabilities created while so acting.

§ 29-302.05. Organization of corporation.

(a) After incorporation:

(1) If initial directors are named in the articles of incorporation, the initial directors shall hold an organizational meeting, at the call of a majority of the directors, to complete the organization of the corporation by appointing officers, adopting bylaws, and carrying on any other business brought before the meeting;

(2) If initial directors are not named in the articles, the incorporator or incorporators shall hold an organizational meeting at the call of a majority of the incorporators to

elect:

(A) Directors and complete the organization of the corporation; or

(B) A board of directors who shall complete the organization of the corporation.

(b) Action required or permitted by this chapter to be taken by incorporators at an organizational meeting may be taken without a meeting if the action taken is evidenced by one or more written consents describing the action taken and signed by each incorporator.

(c) An organizational meeting may be held in or outside of the District.

§ 29-302.06. Bylaws.

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

(b) The bylaws of a corporation may contain any provision for managing the business and regulating the affairs of the corporation that is not inconsistent with law or the articles of incorporation.

§ 29-302.07. Emergency bylaws.

(a) Unless the articles of incorporation provide otherwise, the board of directors of a corporation may adopt bylaws to be effective only in an emergency defined in subsection (d) of this section. The emergency bylaws, which shall be subject to amendment or repeal by the shareholders, may make all provisions necessary for managing the corporation during the emergency, including:

(1) Procedures for calling a meeting of the board of directors;

(2) Quorum requirements for the meeting; and

(3) Designation of additional or substitute directors.

(b) All provisions of the regular bylaws consistent with the emergency bylaws shall remain effective during the emergency. The emergency bylaws shall not be effective after the emergency ends.

(c) Corporate action taken in good faith in accordance with the emergency bylaws:

(1) Binds the corporation; and

(2) Shall not be used to impose liability on a corporate director, officer, employee, or agent.

(d) An emergency exists for the purposes of this section if a quorum of the corporation's directors cannot readily be assembled because of some catastrophic event.

Subchapter III. Purposes and Powers.

§ 29-303.01. Purposes.

(a) Every corporation incorporated under this chapter shall have the purpose of engaging in any lawful business unless a more limited purpose is set forth in the articles of incorporation.

(b) A corporation engaging in a business that is subject to regulation under another law of

the District may incorporate under this chapter only if permitted by, and subject to all limitations of, the other law.

§ 29-303.02. General powers.

Unless its articles of incorporation provide otherwise, every corporation shall have perpetual duration and succession in its corporate name and shall have the same powers as an individual to do all things necessary or convenient to carry out its business and affairs, including power to:

(1) Sue and be sued, and defend in its corporate name;

(2) Have a corporate seal, which may be altered at will, and to use it, or a facsimile of it, by impressing or affixing it or in any other manner reproducing it;

(3) Make and amend bylaws, not inconsistent with its articles of incorporation or with the laws of the District, for managing the business and regulating the affairs of the corporation;

(4) Purchase, receive, lease, or otherwise acquire, and own, hold, improve, use, and otherwise deal with, real or personal property, or any legal or equitable interest in property, wherever located;

(5) Sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of all or any part of its property;

(6) Purchase, receive, subscribe for, or otherwise acquire; own, hold, vote, use, sell, mortgage, lend, pledge, or otherwise dispose of; and deal in and with shares or other interests in, or obligations of, any other entity;

(7) Make contracts and guarantees, incur liabilities, borrow money, issue its notes, bonds, and other obligations, which may be convertible into or include the option to purchase other securities of the corporation, and secure any of its obligations by mortgage or pledge of any of its property, franchises, or income;

(8) Lend money, invest and reinvest its funds, and receive and hold real and personal property as security for repayment;

(9) Be a promoter, partner, member, associate, or manager of any partnership, joint venture, trust, or other entity;

(10) Conduct its business, locate offices, and exercise the powers granted by this chapter within or without the District;

(11) Elect directors and appoint officers, employees, and agents of the corporation, define their duties, fix their compensation, and lend them money and credit;

(12) Pay pensions and establish pension plans, pension trusts, profit sharing plans, share bonus plans, share option plans, and benefit or incentive plans for any or all of its current or former directors, officers, employees, and agents;

(13) Make donations for the public welfare or for charitable, scientific, or educational purposes;

(14) Do any lawful business that will aid governmental policy; and

(15) Make payments or donations, or do any other act, not inconsistent with law, that furthers the business and affairs of the corporation.

§ 29-303.03. Emergency powers.

(a) In anticipation of or during an emergency defined in subsection (d), the board of directors of a corporation may:

(1) Modify lines of succession to accommodate the incapacity of any director, officer, employee, or agent; and

(2) Relocate the principal office, designate alternative principal offices or regional offices, or authorize the officers to do so.

(b) During an emergency defined in subsection (d) of this section, unless emergency bylaws provide otherwise:

(1) Notice of a meeting of the board of directors need be given only to those directors whom it is practicable to reach and may be given in any practicable manner, including by publication, radio, and messages sent over the Internet; and

(2) One or more officers of the corporation present at a meeting of the board of directors may be deemed to be directors for the meeting, in order of rank and within the same rank in order of seniority, as necessary to achieve a quorum.

(c) Corporate action taken in good faith during an emergency under this section to further the ordinary business affairs of the corporation:

(1) Binds the corporation; and

(2) Shall not be used to impose liability on a corporate director, officer, employee, or agent.

(d) An emergency exists for the purposes of this section if a quorum of the corporation's directors cannot readily be assembled because of some catastrophic event.

§ 29-303.04. Ultra vires.

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

(b) A corporation's power to act may be challenged in a proceeding by:

(1) A shareholder against the corporation to enjoin the act;

(2) The corporation, directly, derivatively, or through a receiver, trustee, or other legal representative, against an incumbent or former director, officer, employee, or agent of the corporation; or

(3) The Attorney General for the District of Columbia under § 29-312.20.

(c) In a shareholder's proceeding under subsection (b)(1) of this section to enjoin an unauthorized corporate act, the Superior Court may enjoin or set aside the act, if equitable and if all affected persons are parties to the proceeding, and may award damages for loss, other than anticipated profits, suffered by the corporation or another party because of enjoining the unauthorized act.

Subchapter IV. Shares and Distributions.

Part A. Shares.

§ 29-304.01. Authorized shares.

(a) The articles of incorporation shall set forth any classes of shares and series of shares within a class, and the number of shares of each class and series, that the corporation is authorized to issue. If more than one class or series of shares is authorized, the articles of incorporation shall prescribe a distinguishing designation for each class or series and shall describe, prior to the issuance of shares of a class or series, the terms, including the preferences, rights, and limitations, of that class or series. Except to the extent varied as permitted by this section, all shares of a class or series must have terms, including preferences, rights, and limitations, that are identical with those of other shares of the same class or series.

(b) The articles of incorporation shall authorize:

(1) One or more classes or series of shares that together have unlimited voting rights; and

(2) One or more classes or series of shares, which may be the same class or classes as those with voting rights, that together are entitled to receive the net assets of the corporation upon dissolution.

(c) The articles of incorporation may authorize one or more classes or series of shares that:

(1) Have special, conditional, or limited voting rights, or no right to vote, except to the extent otherwise provided by this chapter;

(2) Are redeemable or convertible as specified in the articles of incorporation:

(A) At the option of the corporation, the shareholder, or another person or upon the occurrence of a specified event;

(B) For cash, indebtedness, securities, or other property; and

(C) At prices and in amounts:

(i) Specified; or

(ii) Determined in accordance with a formula;

(3) Entitle the holders to distributions calculated in any manner, including dividends that may be cumulative, noncumulative, or partially cumulative; or

(4) Have preference over any other class or series of shares with respect to distributions, including distributions upon the dissolution of the corporation.

(d) Terms of shares may be made dependent upon facts objectively ascertainable outside the articles of incorporation in accordance with § 29-301.04.

(e) Any of the terms of shares may vary among holders of the same class or series so long as the variations are expressly set forth in the articles of incorporation.

(f) The description of the preferences, rights, and limitations of classes or series of shares in subsection (c) of this section is not exhaustive.

§ 29-304.02. Terms of class or series determined by board of directors.

(a) If the articles of incorporation so provide, the board of directors may, without shareholder approval:

(1) Classify any unissued shares into one or more classes or into one or more series within a class;

(2) Reclassify any unissued shares of any class into one or more classes or into one or more series within one or more classes; or

(3) Reclassify any unissued shares of any series of any class into one or more classes or into one or more series within a class.

(b) If the board of directors acts pursuant to subsection (a) of this section, it shall determine the terms, including the preferences, rights, and limitations, to the same extent permitted under § 29-304.01, of:

(1) Any class of shares before the issuance of any shares of that class; or

(2) Any series within a class before the issuance of any shares of that series.

(c) Before issuing any shares of a class or series created under this section, the corporation shall deliver to the Mayor for filing articles of amendment setting forth the terms determined under subsection (a) and (b) of this section.

§ 29-304.03. Issued and outstanding shares.

(a) A corporation may issue the number of shares of each class or series authorized by the articles of incorporation. Shares that are issued shall be outstanding shares until they are reacquired, redeemed, converted, or canceled.

(b) The reacquisition, redemption, or conversion of outstanding shares shall be subject to the limitations of subsection (c) of this section and to § 29-304.60.

(c) At all times that shares of the corporation are outstanding, one or more shares that together have unlimited voting rights and one or more shares that together are entitled to receive the net assets of the corporation upon dissolution must be outstanding.

§ 29-304.04. Fractional shares.

(a) A corporation may:

(1) Issue fractions of a share or pay, in money, the value of fractions of a share;

(2) Arrange for disposition of fractional shares by the shareholders; or

(3) Issue scrip in registered or bearer form entitling the holder to receive a full share upon surrendering enough scrip to equal a full share.

(b) Each certificate representing scrip shall be conspicuously labeled "scrip" and shall contain the information required by § 29-304.25(b).

(c) The holder of a fractional share shall be entitled to exercise the rights of a shareholder, including the right to vote, to receive dividends, and to participate in the assets of the corporation upon liquidation. The holder of scrip shall not be entitled to any of these rights unless the scrip provides for them.

(d) The board of directors may authorize the issuance of scrip subject to any condition considered desirable, including that the:

(1) Scrip will become void if not exchanged for full shares before a specified date; and

(2) Shares for which the scrip is exchangeable may be sold and the proceeds paid to the scripholders.

Part B. Issuance of Shares.

§ 29-304.20. Subscription for shares before incorporation.

(a) A subscription for shares entered into before incorporation shall be irrevocable for 6 months unless the subscription agreement provides a longer or shorter period or all the subscribers agree to revocation.

(b) The board of directors may determine the payment terms of subscription for shares that were entered into before incorporation, unless the subscription agreement specifies them. A call for payment by the board of directors shall be uniform so far as practicable as to all shares of the same class or series, unless the subscription agreement specifies otherwise.

(c) Shares issued pursuant to subscriptions entered into before incorporation shall be fully paid and nonassessable when the corporation receives the consideration specified in the subscription agreement.

(d) If a subscriber defaults in payment of money or property under a subscription agreement entered into before incorporation, the corporation may collect the amount owed as any other debt. Alternatively, unless the subscription agreement provides otherwise, the corporation may rescind the agreement and may sell the shares if the debt remains unpaid for more than 20 days after the corporation sends written demand for payment to the subscriber.

(e) A subscription agreement entered into after incorporation shall be a contract between the subscriber and the corporation subject to § 29-304.02.

§ 29-304.21. Issuance of shares.

(a) The powers granted in this section to the board of directors may be reserved to the shareholders by the articles of incorporation.

(b) The board of directors may authorize shares to be issued for consideration consisting of any tangible or intangible property or benefit to the corporation, including cash, promissory notes, services performed, contracts for services to be performed, and other securities of the corporation.

(c) Before the corporation issues shares, the board of directors shall determine that the consideration received or to be received for shares to be issued is adequate. That determination by the board of directors shall be conclusive insofar as the adequacy of consideration for the issuance of shares relates to whether the shares are validly issued, fully paid, and nonassessable.

(d) When the corporation receives the consideration for which the board of directors authorized the issuance of shares, the shares issued therefor shall be fully paid and nonassessable.

(e) The corporation may place in escrow shares issued for a contract for future services or benefits or a promissory note, or make other arrangements to restrict the transfer of the shares, and may credit distributions in respect of the shares against their purchase price, until the services are performed, the note is paid, or the benefits received. If the services are not performed, the note is not paid, or the benefits are not received, the shares escrowed or restricted and the distributions credited may be canceled in whole or part.

(f) An issuance of shares or other securities convertible into or rights exercisable for shares, in a transaction or a series of integrated transactions, shall require the approval of the shareholders at a meeting at which a quorum consisting of at least a majority of the votes entitled to be cast on the matter exists, if:

(1) The shares, other securities, or rights are issued for consideration other than cash or cash equivalents, and

(2) The voting power of shares that are issued and issuable as a result of the transaction or series of integrated transactions will comprise more than 20% of the voting power of the shares of the corporation that were outstanding immediately before the transaction.

(g) For the purposes of this subsection:

(1) For the purposes of determining the voting power of shares issued and issuable as a result of a transaction or series of integrated transactions, the voting power of shares is the greater of:

(A) The voting power of the shares to be issued; or

(B) The voting power of the shares that would be outstanding after giving effect to the conversion of convertible shares and other securities and the exercise of rights to be issued.

(2) A series of transactions is integrated if consummation of one transaction is made contingent on consummation of one or more of the other transactions.

§ 29-304.22. Liability of shareholders.

(a) A purchaser from a corporation of its own shares shall not be liable to the corporation or its creditors with respect to the shares except to pay the consideration for which the shares were authorized to be issued or specified in the subscription agreement.

(b) Unless otherwise provided in the articles of incorporation, a shareholder shall not be personally liable for the acts or debts of the corporation, except that the shareholder may become personally liable by reason of the shareholder's own acts or conduct.

§ 29-304.23. Share dividends.

(a) Unless the articles of incorporation provide otherwise, shares may be issued pro rata and without consideration to the corporation's shareholders or to the shareholders of one or more classes or series. An issuance of shares under this subsection shall be a share dividend.

(b) Shares of one class or series shall not be issued as a share dividend in respect of shares of another class or series unless:

(1) The articles of incorporation so authorize;

(2) A majority of the votes entitled to be cast by the class or series to be issued approve the issue; or

(3) There are no outstanding shares of the class or series to be issued.

(c) If the board of directors does not fix the record date for determining shareholders entitled to a share dividend, the record date shall be the date the board of directors authorizes the share dividend.

§ 29-304.24. Share options.

(a)(1) A corporation may issue rights, options, or warrants for the purchase of shares or other securities of the corporation. The board of directors shall determine:

(A) The terms upon which the rights, options, or warrants are issued; and

(B) The terms, including the consideration, for which the shares or other securities are to be issued.

(2) The authorization by the board of directors for the corporation to issue the rights, options, or warrants under paragraph (1) of this subsection shall constitute authorization of the issuance of the shares or other securities for which the rights, options, or warrants are exercisable.

(b) The terms and conditions of the rights, options, or warrants, including those outstanding on the effective date of this section, may include restrictions or conditions that:

(1) Preclude or limit the exercise, transfer, or receipt of the rights, options, or warrants by any person owning or offering to acquire a specified number or percentage of the outstanding shares or other securities of the corporation or by any transferee of any such person; or

(2) Invalidate or void the rights, options, or warrants held by any such person or any such transferee.

§ 29-304.25. Form and content of certificates.

(a) Shares may, but need not, be represented by certificates. Unless this chapter or another law expressly provides otherwise, the rights and obligations of shareholders shall be identical whether or not their shares are represented by certificates.

(b) At a minimum, each share certificate shall state on its face:

(1) The name of the issuing corporation and that it is organized under the law of the District;

(2) The name of the person to which issued; and

(3) The number and class of shares and the designation of the series, if any, the certificate represents.

(c) If the issuing corporation is authorized to issue different classes of shares or different series within a class, the designations, relative rights, preferences, and limitations applicable to each class and the variations in rights, preferences, and limitations determined for each series,

and the authority of the board of directors to determine variations for future series, shall be summarized on the front or back of each certificate. Alternatively, each certificate may state conspicuously on its front or back that the corporation will furnish the shareholder this information on request in writing and without charge.

(d) Each share certificate:

(1) Shall be signed, either manually or in facsimile, by 2 officers designated in the bylaws or by the board of directors; and

(2) May bear the corporate seal or its facsimile.

(e) If the officer who signed, either manually or in facsimile, a share certificate no longer holds office when the certificate is issued, the certificate shall nevertheless be valid.

§ 29-304.26. Shares without certificates.

(a) Unless the articles of incorporation or bylaws provide otherwise, the board of directors of a corporation may authorize the issue of some or all of the shares of any or all of its classes or series without certificates. The authorization shall not affect shares already represented by certificates until they are surrendered to the corporation.

(b) Within a reasonable time after the issue or transfer of shares without certificates, the corporation shall send the shareholder a written statement of the information required on certificates by § 29-304.25(b) and (c), and, if applicable, § 29-304.27.

§ 29-304.27. Restriction on transfer of shares and other securities.

(a) The articles of incorporation, bylaws, an agreement among shareholders, or an agreement between shareholders and the corporation may impose restrictions on the transfer or registration of transfer of shares of the corporation. A restriction shall not affect shares issued before the restriction was adopted unless the holders of the shares are parties to the restriction agreement or voted in favor of the restriction.

(b) A restriction on the transfer or registration of transfer of shares shall be valid and enforceable against the holder or a transferee of the holder if the restriction is authorized by this section and its existence is noted conspicuously on the front or back of the certificate or is contained in the information statement required by § 29-304.26(b). Unless so noted or contained, a restriction shall not be enforceable against a person without knowledge of the restriction.

(c) A restriction on the transfer or registration of transfer of shares is authorized:

(1) To maintain the corporation's status when it is dependent on the number or identity of its shareholders;

(2) To preserve exemptions under federal or state securities law; or

(3) For any other reasonable purpose.

(d) A restriction on the transfer or registration of transfer of shares may:

(1) Obligate the shareholder first to offer the corporation or other persons, separately, consecutively, or simultaneously, an opportunity to acquire the restricted shares;

(2) Obligate the corporation or other persons, separately, consecutively, or

simultaneously, to acquire the restricted shares;

(3) Require the corporation, the holders of any class of its shares, or another person to approve the transfer of the restricted shares, if the requirement is not manifestly unreasonable; or

(4) Prohibit the transfer of the restricted shares to designated persons or classes of persons if the prohibition is not manifestly unreasonable.

(e) For the purposes of this section, the term "shares" shall include a security convertible into or carrying a right to subscribe for or acquire shares.

§ 29-304.28. Expense of issue.

A corporation may pay the expenses of selling or underwriting its shares, and of organizing or reorganizing the corporation, from the consideration received for shares.

Part C. Subsequent Acquisition of Shares by Shareholders and Corporation.

§ 29-304.40. Shareholders' preemptive rights.

(a) The shareholders of a corporation shall not have a preemptive right to acquire the corporation's unissued shares except to the extent the articles of incorporation so provide.

(b) A statement included in the articles of incorporation that "the corporation elects to have preemptive rights", or words of similar import, means that the following principles apply except to the extent the articles of incorporation expressly provide otherwise:

(1) The shareholders of the corporation shall have a preemptive right, granted on uniform terms and conditions prescribed by the board of directors, to provide a fair and reasonable opportunity to exercise the right, to acquire proportional amounts of the corporation's unissued shares upon the decision of the board of directors to issue them.

(2) A shareholder may waive his preemptive right. A waiver evidenced in a record is irrevocable even though it is not supported by consideration.

(3) There shall be no preemptive right with respect to shares:

(A) Issued as compensation to directors, officers, agents, or employees of the corporation or its subsidiaries or affiliates:

(B) Issued to satisfy conversion or option rights created to provide compensation to directors, officers, agents, or employees of the corporation or its subsidiaries or affiliates;

(C) Authorized in articles of incorporation that are issued within 6 months after the effective date of incorporation;

(D) Sold otherwise than for money.

(4) Holders of shares of any class without general voting rights but with preferential rights to distributions or assets shall have no preemptive rights with respect to shares of any class.

(5) Holders of shares of any class with general voting rights but without preferential rights to distributions or assets shall have no preemptive rights with respect to shares

of any class with preferential rights to distributions or assets unless the shares with preferential rights are convertible into or carry a right to subscribe for or acquire shares without preferential rights.

(6) Shares subject to preemptive rights that are not acquired by shareholders may be issued to any person for a period of one year after being offered to shareholders at a consideration set by the board of directors that is not lower than the consideration set for the exercise of preemptive rights. An offer at a lower consideration or after the expiration of one year shall be subject to the shareholders' preemptive rights.

(c) For the purposes of this section, the term "shares" shall include a security convertible into or carrying a right to subscribe for or acquire shares.

§ 29-304.41. Corporation's acquisition of its own shares.

(a) A corporation may acquire its own shares and shares so acquired shall constitute authorized but unissued shares.

(b) If the articles of incorporation prohibit the reissue of the acquired shares, the number of authorized shares shall be reduced by the number of shares acquired.

Part D. Distributions to Shareholders.

§ 29-304.60. Distributions to shareholders.

(a) A board of directors may authorize, and the corporation may make, distributions to its shareholders subject to restriction by the articles of incorporation and the limitation in subsection (c) of this section.

(b) If the board of directors does not fix the record date for determining shareholders entitled to a distribution, other than one involving a purchase, redemption, or other acquisition of the corporation's shares, the record date shall be the date the board of directors authorizes the distribution.

(c) A distribution shall not be made if, after giving it effect:

(1) The corporation would not be able to pay its debts as they become due in the usual course of business; or

(2) The corporation's total assets would be less than the sum of its total liabilities plus, unless the articles of incorporation permit otherwise, the amount that would be needed, if the corporation were to be dissolved at the time of the distribution, to satisfy the preferential rights upon dissolution of shareholders whose preferential rights are superior to those receiving the distribution.

(d) The board of directors may base a determination that a distribution is not prohibited under subsection (c) of this section either on financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances or on a fair valuation or other method that is reasonable in the circumstances.

(e) Except as otherwise provided in subsection (g) of this section, the effect of a distribution under subsection (c) shall be measured:

(1) In the case of distribution by purchase, redemption, or other acquisition of the corporation's shares, as of the earlier of the date that:

(A) Money or other property is transferred or debt incurred by the corporation; or

(B) The shareholder ceases to be a shareholder with respect to the acquired shares;

(2) In the case of any other distribution of indebtedness, as of the date the indebtedness is distributed; and

(3) In all other cases, as of the date that:

(A) The distribution is authorized if the payment occurs within 120 days after the date of authorization; or

(B) The payment is made if it occurs more than 120 days after the date of authorization.

(f) A corporation's indebtedness to a shareholder incurred by reason of a distribution made in accordance with this section shall be at parity with the corporation's indebtedness to its general, unsecured creditors except to the extent subordinated by agreement.

(g) Indebtedness of a corporation, including indebtedness issued as a distribution, shall not be considered a liability for the purposes of determinations under subsection (c) of this section if its terms provide that payment of principal and interest are made only if and to the extent that payment of a distribution to shareholders could be made under this section. If the indebtedness is issued as a distribution, each payment of principal or interest shall be treated as a distribution, the effect of which is measured on the date the payment is made.

(h) This section shall not apply to distributions in liquidation under subchapter XII of this chapter.

Subchapter V. Shareholders.

Part A. Meetings.

§ 29-305.01. Annual meeting.

(a) Unless directors are elected by written consent in lieu of an annual meeting as permitted by § 29-305.04, a corporation shall hold a meeting of shareholders annually at a time stated in or fixed in accordance with the bylaws. However, if a corporation's articles of incorporation authorize shareholders to cumulate their votes when electing directors pursuant to § 29-305.28, directors shall not be elected by less than unanimous consent.

(b) Annual shareholders' meetings may be held in or outside of the District at the place stated in or fixed in accordance with the bylaws. If no place is stated in or fixed in accordance with the bylaws, annual meetings shall be held at the corporation's principal office.

(c) The failure to hold an annual meeting at the time stated in or fixed in accordance with a corporation's bylaws shall not affect the validity of any corporate action.

§ 29-305.02. Special meeting.

(a) A corporation shall hold a special meeting of shareholders:

(1) On call of its board of directors or the person or persons authorized to do so by the articles of incorporation or bylaws; or

(2) Subject to subsection (b) of this section, if the holders of at least 10% of all the votes entitled to be cast on an issue proposed to be considered at the proposed special meeting sign, date, and deliver to the corporation one or more written demands for the meeting describing the purpose or purposes for which it is to be held; provided, that the articles of incorporation may fix a lower percentage or a higher percentage not exceeding 25% of all the votes entitled to be cast on any issue proposed to be considered.

(b) Unless otherwise provided in the articles of incorporation, a written demand for a special meeting may be revoked by a writing to that effect received by the corporation before the receipt by the corporation of demands sufficient in number to require the holding of a special meeting.

(c) If not otherwise fixed under § 29-305.03 or 29-305.07, the record date for determining shareholders entitled to demand a special meeting is the date the first shareholder signs the demand.

(d) Special shareholders' meetings may be held in or outside of the District at the place stated in or fixed in accordance with the bylaws. If no place is stated or fixed in accordance with the bylaws, special meetings must be held at the corporation's principal office.

(e) Only business within the purpose or purposes described in the meeting notice required by § 29-305.05(c) may be conducted at a special shareholders' meeting.

§ 29-305.03. Court-ordered meeting.

(a) The Superior Court may summarily order a meeting to be held on application of a shareholder:

(1) Entitled to participate in an annual meeting if an annual meeting was not held or action by written consent in lieu thereof did not become effective within the earlier of 6 months after the end of the corporation's fiscal year or 15 months after its last annual meeting; or

(2) That signed a demand for a special meeting valid under § 29-305.02, if:

(A) Notice of the special meeting was not given within 30 days after the date the demand was delivered to the corporation's secretary; or

(B) The special meeting was not held in accordance with the notice.

(b) The Superior Court may fix the time and place of the meeting, determine the shares entitled to participate in the meeting, specify a record date for determining shareholders entitled to notice of and to vote at the meeting, prescribe the form and content of the meeting notice, fix the quorum required for specific matters to be considered at the meeting, or direct that the votes represented at the meeting constitute a quorum for action on those matters, and enter other orders necessary to accomplish the purpose or purposes of the meeting.

§ 29-305.04. Action without meeting.

(a) Action required or permitted by this chapter to be taken at a shareholders' meeting may be taken without a meeting if the action is taken by all the shareholders entitled to vote on the action. The action shall be evidenced by one or more written consents bearing the date of signature and describing the action taken, signed by all the shareholders entitled to vote on the action and delivered to the corporation for inclusion in the minutes or filing with the corporate records.

(b) The articles of incorporation may provide that any action required or permitted by this chapter to be taken at a shareholders' meeting may be taken without a meeting, and without prior notice, if consents in writing setting forth the action so taken are signed by the holders of outstanding shares having not less than the minimum number of votes that would be required to authorize or take the action at a meeting at which all shares entitled to vote on the action were present and voted. The written consent shall bear the date of signature of the shareholder that signs the consent and be delivered to the corporation for inclusion in the minutes or filing with the corporate records.

(c) If not otherwise fixed under § 29-305.07 and if prior board action is not required with respect to the action to be taken without a meeting, the record date for determining the shareholders entitled to take action without a meeting shall be the first date on which a signed written consent is delivered to the corporation. If not otherwise fixed under § 29-305.07 and if prior board action is required with respect to the action to be taken without a meeting, the record date shall be the close of business on the day the resolution of the board taking such prior action is adopted. No written consent is effective to take the corporate action referred to therein unless, within 60 days of the earliest date on which a consent delivered to the corporation as required by this section was signed, written consents signed by sufficient shareholders to take the action have been delivered to the corporation. A written consent may be revoked by a writing to that effect delivered to the corporation before unrevoked written consents sufficient in number to take the corporate action are delivered to the corporation.

(d) A consent signed pursuant to this section shall have the effect of a vote taken at a meeting and may be described as such in any document. Unless the articles of incorporation, bylaws, or a resolution of the board of directors provides for a reasonable delay to permit tabulation of written consents, the action taken by written consent shall be effective when written consents signed by sufficient shareholders to take the action are delivered to the corporation.

(e)(1) If this chapter requires that notice of a proposed action be given to nonvoting shareholders and the action is to be taken by written consent of the voting shareholders, the corporation shall give its nonvoting shareholders written notice of the action not more than 10 days after:

(A) Written consents sufficient to take the action have been delivered to the corporation; or

(B) Such later date that tabulation of consents is completed pursuant to an authorization under subsection (d) of this section.

(2) The notice under paragraph (1) of this subsection shall reasonably describe the action taken and contain or be accompanied by the same material that, under any provision of this chapter, would have been required to be sent to nonvoting shareholders in a notice of a meeting at which the proposed action would have been submitted to the shareholders for action.

(f)(1) If action is taken by less than unanimous written consent of the voting shareholders, the corporation shall give its nonconsenting voting shareholders written notice of the action not more than 10 days after:

(A) Written consents sufficient to take the action have been delivered to the corporation; or

(B) Such later date that tabulation of consents is completed pursuant to an authorization under subsection (d) of this section.

(2) The notice under paragraph (1) of this subsection shall reasonably describe the action taken and contain or be accompanied by the same material that, under any provision of this chapter, would have been required to be sent to voting shareholders in a notice of a meeting at which the action would have been submitted to the shareholders for action.

(g) The notice requirements in subsections (e) and (f) shall not delay the effectiveness of actions taken by written consent and a failure to comply with such notice requirements shall not invalidate actions taken by written consent; provided, that this subsection shall not limit judicial power to fashion any appropriate remedy in favor of a shareholder adversely affected by a failure to give the notice within the required time period.

(h) An electronic transmission may be used to consent to an action if the electronic transmission contains or is accompanied by information from which the corporation can determine the date on which the electronic transmission was signed and that the electronic transmission was authorized by the shareholder, the shareholder's agent, or the shareholder's attorney-in-fact.

(i) Delivery of a written consent to the corporation under this section shall be made by delivery to the corporation's registered agent or to the secretary of the corporation at its principal office.

§ 29-305.05. Notice of meeting.

(a) A corporation shall notify shareholders of the date, time, and place of each annual and special shareholders' meeting no less than 10, or more than, 60 days before the meeting date. Unless this chapter or the articles of incorporation require otherwise, the corporation shall give notice only to shareholders entitled to vote at the meeting.

(b) Unless this chapter or the articles of incorporation require otherwise, notice of an annual meeting need not include a description of the purpose or purposes for which the meeting is called.

(c) Notice of a special meeting shall include a description of the purpose or purposes for which the meeting is called.

(d) If not otherwise fixed under § 29-305.03 or 29-305.07, the record date for determining

shareholders entitled to notice of and to vote at an annual or special shareholders' meeting shall be the day before the 1st notice is delivered to shareholders.

(e) Unless the bylaws require otherwise, if an annual or special shareholders' meeting is adjourned to a different date, time, or place, notice need not be given of the new date, time, or place if the new date, time, or place is announced at the meeting before adjournment; provided, that if a new record date for the adjourned meeting is or must be fixed under § 29-305.07, notice of the adjourned meeting shall be given under this section to persons that are shareholders as of the new record date.

§ 29-305.06. Waiver of notice.

(a) A shareholder may waive any notice required by this chapter, the articles of incorporation, or bylaws before or after the date and time stated in the notice. The waiver shall be in writing, be signed by the shareholder entitled to the notice, and be delivered to the corporation for inclusion in the minutes or filing with the corporate records.

(b) A shareholder's attendance at a meeting waives object to:

(1) Lack of notice or defective notice of the meeting, unless the shareholder, at the beginning of the meeting, objects to holding the meeting or transacting business at the meeting; and

(2) Consideration of a particular matter at the meeting that is not within the purpose described in the meeting notice, unless the shareholder objects to considering the matter when it is presented.

§ 29-305.07. Record date.

(a) The bylaws may fix or provide the manner of fixing the record date for one or more voting groups to determine the shareholders entitled to notice of a shareholders' meeting, to demand a special meeting, to vote, or to take any other action. If the bylaws do not fix or provide for fixing a record date, the board of directors of the corporation may fix a future date as the record date.

(b) A record date fixed under this section shall not be more than 70 days before the meeting or action requiring a determination of shareholders.

(c) A determination of shareholders entitled to notice of or to vote at a shareholders' meeting shall be effective for any adjournment of the meeting unless the board of directors fixes a new record date, which it shall do if the meeting is adjourned to a date more than 120 days after the date fixed for the original meeting.

(d) If a Superior Court orders a meeting adjourned to a date more than 120 days after the date fixed for the original meeting, it may provide that the original record date continues in effect or it may fix a new record date.

§ 29-305.08. Conduct of the meeting.

(a) At each meeting of shareholders, a chair shall preside. The chair shall be appointed as provided in the bylaws or, in the absence of such provision, by the board.

(b) The chair, unless the articles of incorporation or bylaws provide otherwise, shall determine the order of business and may establish rules for the conduct of the meeting.

(c) Any rules adopted for, and the conduct of, the meeting shall be fair to shareholders.

(d) The chair of the meeting shall announce at the meeting when the polls close for each matter voted upon. If no announcement is made, the polls shall be deemed to have closed upon the final adjournment of the meeting. After the polls close, no ballots, proxies, or votes, or any revocations or changes thereto, shall be accepted.

Part B. Voting.

§ 29-305.20. Shareholders' list for meeting.

(a) After fixing a record date for a meeting, a corporation shall prepare an alphabetical list of the names of all its shareholders that are entitled to notice of a shareholders' meeting. The list shall:

(1) Be arranged by voting group and, within each voting group, by class or series; and

(2) Show the address of and number of shares held by each shareholder.

(b) The shareholders' list must be available for inspection by any shareholder, beginning 2 business days after notice of the meeting is given for which the list was prepared and continuing through the meeting, at the corporation's principal office or at a place identified in the meeting notice in the city where the meeting will be held. A shareholder, or the shareholder's agent or attorney, shall be entitled on written demand to inspect and, subject to § 29-313.02(c), to copy the list, during regular business hours and at the shareholder's expense, during the period it is available for inspection.

(c) The corporation shall make the shareholders' list available at the meeting and any shareholder, or the shareholder's agent or attorney, shall be entitled to inspect the list at any time during the meeting or any adjournment.

(d) If the corporation refuses to allow a shareholder, or the shareholder's agent or attorney, to inspect the shareholders' list before or at the meeting, or copy the list as permitted by subsection (b) of this section, the Superior Court, on application of the shareholder, may summarily order the inspection or copying at the corporation's expense and may postpone the meeting for which the list was prepared until the inspection or copying is complete.

(e) Refusal or failure to prepare or make available the shareholders' list shall not affect the validity of action taken at the meeting.

§ 29-305.21. Voting entitlement of shares.

(a) Except as otherwise provided in subsections (b) and (d) of this section or unless the articles of incorporation provide otherwise, each outstanding share, regardless of class, shall be entitled to one vote on each matter voted on at a shareholders' meeting. Only shares shall be entitled to vote.

(b) Absent special circumstances, the shares of a corporation shall not be entitled to vote if they are owned, directly or indirectly, by a second corporation, domestic or foreign, and the first corporation owns, directly or indirectly, a majority of the shares entitled to vote for directors of the second corporation.

(c) Subsection (b) of this section shall not limit the power of a corporation to vote any shares, including its own shares, held by it in a fiduciary capacity.

(d) Redeemable shares shall not be entitled to vote after notice of redemption is mailed to the holders and a sum sufficient to redeem the shares has been deposited with a bank, trust company, or other financial institution under an irrevocable obligation to pay the holders the redemption price on surrender of the shares.

§ 29-305.22. Proxies.

(a) A shareholder may vote the shareholder's shares in person or by proxy.

(b) A shareholder, or the shareholder's agent or attorney-in-fact, may appoint a proxy to vote or otherwise act for the shareholder by signing an appointment form or by an electronic transmission. An electronic transmission shall contain or be accompanied by information from which one can determine that the shareholder, the shareholder's agent, or the shareholder's attorney-in-fact authorized the transmission.

(c) An appointment of a proxy shall be effective when a signed appointment form or an electronic transmission of the appointment is received by the inspector of election or the officer or agent of the corporation authorized to tabulate votes. An appointment is valid for 11 months unless a longer period is expressly provided in the appointment form.

(d) An appointment of a proxy shall be revocable unless the appointment form or electronic transmission states that it is irrevocable and the appointment is coupled with an interest. Appointments coupled with an interest shall include the appointment of:

(1) A pledgee;

(2) A person that purchased or agreed to purchase the shares;

(3) A creditor of the corporation that extended it credit under terms requiring the appointment;

(4) An employee of the corporation whose employment contract requires the appointment; or

(5) A party to a voting agreement created under § 29-305.41.

(e) The death or incapacity of the shareholder appointing a proxy shall not affect the right of the corporation to accept the proxy's authority unless notice of the death or incapacity is

received by the secretary or other officer or agent authorized to tabulate votes before the proxy exercises authority under the appointment.

(f) An appointment made irrevocable under subsection (d) of this section shall be revoked when the interest with which it is coupled is extinguished.

(g) A transferee for value of shares subject to an irrevocable appointment may revoke the appointment if the transferee did not know of its existence when acquiring the shares and the existence of the irrevocable appointment was not noted conspicuously on the certificate representing the shares or on the information statement for shares without certificates.

(h) Subject to § 29-305.24 and to any express limitation on the proxy's authority stated in the appointment form or electronic transmission, a corporation shall be entitled to accept the proxy's vote or other action as that of the shareholder making the appointment.

§ 29-305.23. Shares held by nominees.

(a) A corporation may establish a procedure by which the beneficial owner of shares that are registered in the name of a nominee is recognized by the corporation as the shareholder. The extent of this recognition may be determined in the procedure.

(b) The procedure may set forth:

(1) The types of nominees to which it applies;

(2) The rights or privileges that the corporation recognizes in a beneficial owner;

(3) The manner in which the procedure is selected by the nominee;

(4) The information that must be provided when the procedure is selected;

(5) The period for which selection of the procedure is effective; and

(6) Other aspects of the rights and duties created.

§ 29-305.24. Corporation's acceptance of votes.

(a) If the name signed on a vote, consent, waiver, or proxy appointment corresponds to the name of a shareholder, the corporation, if acting in good faith, shall be entitled to accept the vote, consent, waiver, or proxy appointment and give it effect as the act of the shareholder.

(b) If the name signed on a vote, consent, waiver, or proxy appointment does not correspond to the name of its shareholder, the corporation if acting in good faith may nevertheless accept the vote, consent, waiver, or proxy appointment and give it effect as the act of the shareholder if:

(1) The shareholder is an entity and the name signed purports to be that of an officer or agent of the entity;

(2) The name signed purports to be that of an administrator, executor, guardian, or conservator representing the shareholder and, if the corporation requests, evidence of fiduciary status acceptable to the corporation has been presented with respect to the vote, consent, waiver, or proxy appointment;

(3) The name signed purports to be that of a receiver or trustee in bankruptcy of

the shareholder and, if the corporation requests, evidence of this status acceptable to the corporation has been presented with respect to the vote, consent, waiver, or proxy appointment;

(4) The name signed purports to be that of a pledgee, beneficial owner, or attorney-in-fact of the shareholder and, if the corporation requests, evidence acceptable to the corporation of the signatory's authority to sign for the shareholder has been presented with respect to the vote, consent, waiver, or proxy appointment; or

(5) Two or more persons are the shareholder as co-tenants or fiduciaries and the name signed purports to be the name of at least one of the co-owners and the person signing appears to be acting on behalf of all the co-owners.

(c) The corporation may reject a vote, consent, waiver, or proxy appointment if the secretary or other officer or agent authorized to tabulate votes, acting in good faith, has reasonable basis for doubt about the validity of the signature on it or about the signatory's authority to sign for the shareholder.

(d) The corporation and its officer or agent who accepts or rejects a vote, consent, waiver, or proxy appointment in good faith and in accordance with the standards of this section or § 29-305.22(b) shall not be liable in damages to the shareholder for the consequences of the acceptance or rejection.

(e) Corporate action based on the acceptance or rejection of a vote, consent, waiver, or proxy appointment under this section shall be valid unless the Superior Court determines otherwise.

§ 29-305.25. Quorum and voting requirements for voting groups.

(a) Shares entitled to vote as a separate voting group may take action on a matter at a meeting only if a quorum of those shares exists with respect to that matter. Unless the articles of incorporation provides otherwise, a majority of the votes entitled to be cast on the matter by the voting group constitutes a quorum of that voting group for action on that matter.

(b) Once a share is represented for any purpose at a meeting, it shall be deemed present for quorum purposes for the remainder of the meeting and for any adjournment of that meeting unless a new record date is or must be set for that adjourned meeting.

(c) If a quorum exists, action on a matter, other than the election of directors, by a voting group shall be approved if the votes cast within the voting group favoring the action exceed the votes cast opposing the action, unless the articles of incorporation require a greater number of affirmative votes.

(d) An amendment of articles of incorporation adding, changing, or deleting a quorum or voting requirement for a voting group greater than specified in subsection (a) or (c) of this section shall be governed by § 29-305.27.

(e) The election of directors shall be governed by § 29-305.28.

§ 29-305.26. Action by single and multiple voting groups.

(a) If the articles of incorporation or this chapter provide for voting by a single voting group on a matter, action on that matter is taken when voted upon by that voting group as provided in § 29-305.25.

(b) If the articles of incorporation or this chapter provide for voting by 2 or more voting groups on a matter, action on that matter is taken only when voted upon by each of those voting groups counted separately as provided in § 29-305.25. Action may be taken by one voting group on a matter even though no action is taken by another voting group entitled to vote on the matter.

§ 29-305.27. Greater quorum or voting requirements.

(a) The articles of incorporation may provide for a greater quorum or voting requirement for shareholders, or voting groups of shareholders, than is provided for by this chapter.

(b) An amendment to the articles of incorporation that adds, changes, or deletes a greater quorum or voting requirement shall meet the same quorum requirement and be adopted by the same vote and voting groups required to take action under the quorum and voting requirements then in effect or proposed to be adopted, whichever is greater.

§ 29-305.28. Voting for directors; cumulative voting.

(a) Unless otherwise provided in the articles of incorporation, directors shall be elected by a plurality of the votes cast by the shares entitled to vote in the election at a meeting at which a quorum is present.

(b) Shareholders shall not have a right to cumulate their votes for directors unless the articles of incorporation so provide.

(c) A statement included in the articles of incorporation that "all" or "a designated voting group" "of shareholders are entitled to cumulate their votes for directors", or words of similar import, means that the shareholders designated are entitled to multiply the number of votes they are entitled to cast by the number of directors for whom they are entitled to vote and cast the product for a single candidate or distribute the product among 2 or more candidates.

(d) Shares otherwise entitled to vote cumulatively shall not be voted cumulatively at a particular meeting unless:

(1) The meeting notice or proxy statement accompanying the notice states conspicuously that cumulative voting is authorized; or

(2)(A) A shareholder that has the right to cumulate his votes gives notice to the corporation not less than 48 hours before the time set for the meeting of the shareholder's intent to cumulate votes during the meeting.

(B) If one shareholder gives this notice, all other shareholders in the same voting group participating in the election shall be entitled to cumulate their votes without giving further notice.

§ 29-305.29. Inspectors of election.

(a) A public corporation shall, and any other corporation may, appoint one or more inspectors to act at a meeting of shareholders and make a written report of the inspectors' determinations. Each inspector shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of the inspector's ability.

(b) The inspectors shall:

(1) Ascertain the number of shares outstanding and the voting power of each;

(2) Determine the shares represented at a meeting;

(3) Determine the validity of proxies and ballots;

(4) Count all votes; and

(5) Determine the result.

(c) An inspector may be an officer or employee of the corporation.

Part C. Voting Trusts and Agreements.

§ 29-305.40. Voting trusts.

(a) One or more shareholders may create a voting trust, conferring on a trustee the right to vote or otherwise act for them, by signing an agreement setting out the provisions of the trust, which may include anything consistent with its purpose, and transferring their shares to the trustee. When a voting trust agreement is signed, the trustee shall prepare a list of the names and addresses of all owners of beneficial interests in the trust, together with the number and class of shares each transferred to the trust, and deliver copies of the list and agreement to the corporation's principal office.

(b) A voting trust shall be effective on the date the 1st shares subject to the trust are registered in the trustee's name. A voting trust shall not be valid for not more than 10 years after its effective date unless extended under subsection (c) of this section.

(c) All or some of the parties to a voting trust may extend it for additional terms of not more than 10 years each by signing written consent to the extension. An extension shall be valid for 10 years after the date the 1st shareholder signs the extension agreement. The voting trustee shall deliver copies of the extension agreement and list of beneficial owners to the corporation's principal office. An extension agreement binds only those parties signing it.

§ 29-305.41. Voting agreements.

(a) Two or more shareholders may provide for the manner in which they will vote their shares by signing an agreement for that purpose. A voting agreement created under this section shall not be subject to § 29-305.40.

(b) A voting agreement created under this section shall be specifically enforceable.

§ 29-305.42. Shareholder agreements.

(a) An agreement among the shareholders of a corporation that complies with this section shall be effective among the shareholders and the corporation even though it is inconsistent with one or more other provisions of this chapter in that it:

(1) Eliminates the board of directors or restricts the discretion or powers of the board of directors;

(2) Governs the authorization or making of distributions whether or not in proportion to ownership of shares, subject to the limitations in § 29-304.60;

(3) Establishes who will be directors or officers of the corporation, their terms of office, or manner of their selection or removal;

(4) Governs, in general or in regard to specific matters, the exercise or division of voting power by or between the shareholders and directors or by or among any of them, including use of weighted voting rights or director proxies;

(5) Establishes the terms and conditions of any agreement for the transfer or use of property or the provision of services between the corporation and any shareholder, director, officer, or employee of the corporation or among any of them;

(6) Transfers to one or more shareholders or other persons all or part of the authority to exercise the corporate powers or to manage the business and affairs of the corporation, including the resolution of any issue about which there exists a deadlock among directors or shareholders;

(7) Requires dissolution of the corporation at the request of one or more of the shareholders or upon the occurrence of a specified event or contingency; or

(8) Otherwise governs the exercise of the corporate powers or the management of the business and affairs of the corporation or the relationship among the shareholders, the directors, and the corporation, or among any of them, and is not contrary to public policy.

(b) An agreement authorized by this section shall be:

(1) Set forth in:

(A) The articles of incorporation or bylaws and approved by all persons that are shareholders at the time of the agreement; or

(B) A written agreement that is signed by all persons that are shareholders at the time of the agreement and is made known to the corporation;

(2) Subject to amendment only by all persons that are shareholders at the time of the amendment, unless the agreement provides otherwise; and

(3) Valid for 10 years, unless the agreement provides otherwise.

(c) The existence of an agreement authorized by this section shall be noted conspicuously on the front or back of each certificate for outstanding shares or on the information statement required by § 29-304.26(b). If, at the time of the agreement, the corporation has shares outstanding represented by certificates, the corporation shall recall the outstanding certificates and issue substitute certificates that comply with this subsection. The failure to note the

existence of the agreement on the certificate or information statement shall not affect the validity of the agreement or any action taken pursuant to it. Any purchaser of shares that, at the time of purchase, did not have knowledge of the existence of the agreement may rescind the purchase. A purchaser shall be deemed to have knowledge of the existence of the agreement if its existence is noted on the certificate or information statement for the shares in compliance with this subsection and, if the shares are not represented by a certificate, the information statement is delivered to the purchaser at or prior to the time of purchase of the shares. An action to enforce the right of rescission authorized by this subsection shall be commenced within the earlier of 90 days after discovery of the existence of the agreement or 2 years after the time of purchase of the shares.

(d) An agreement authorized by this section shall cease to be effective when the corporation becomes a public corporation. If the agreement ceases to be effective for any reason, the board of directors may, if the agreement is contained or referred to in the corporation's articles of incorporation or bylaws, adopt an amendment to the articles of incorporation or bylaws, without shareholder action, to delete the agreement and any references to it.

(e) An agreement authorized by this section that limits the discretion or powers of the board of directors relieves the directors of, and imposes upon the person or persons in which the discretion or powers are vested, liability for acts or omissions imposed by law on directors to the extent that the discretion or powers of the directors are limited by the agreement.

(f) The existence or performance of an agreement authorized by this section shall not be a ground for imposing personal liability on any shareholder for the acts or debts of the corporation even if the agreement or its performance treats the corporation as if it were a partnership or results in failure to observe the corporate formalities otherwise applicable to the matters governed by the agreement.

(g) Incorporators or subscribers for shares may act as shareholders with respect to an agreement authorized by this section if no shares have been issued when the agreement is made.

Part D. Derivative Proceedings.

§ 29-305.50. Definitions.

For the purposes of this part, the term:

(1) "Derivative proceeding" means a civil action in the right of a domestic corporation or, to the extent provided in § 29-305.57, in the right of a foreign corporation.

(2) "Shareholder" includes a beneficial owner whose shares are held in a voting trust or held by a nominee on the beneficial owner's behalf.

§ 29-305.51. Standing.

A shareholder shall not commence or maintain a derivative proceeding unless the shareholder:

(1) Was a shareholder of the corporation at the time of the act or omission complained of or became a shareholder through transfer by operation of law from one that was a

shareholder at that time; and

(2) Fairly and adequately represents the interests of the corporation in enforcing the right of the corporation.

§ 29-305.52. Demand.

A shareholder shall not commence a derivative proceeding until:

(1) A written demand has been made upon the corporation to take suitable action; and

(2) Ninety days have expired from the date the demand was made unless

(A) The shareholder has earlier been notified that the demand has been rejected by the corporation; or

(B) Irreparable injury to the corporation would result by waiting for the expiration of the 90-day period.

§ 29-305.53. Stay of proceedings.

If the corporation commences an inquiry into the allegations made in the demand or complaint, the Superior Court may stay any derivative proceeding for such period as the court consider appropriate.

§ 29-305.54. Dismissal.

(a) The Superior Court shall dismiss a derivative proceeding on motion by the corporation if one of the groups specified in subsection (b) or subsection (e) of this section has determined in good faith, after conducting a reasonable inquiry upon which its conclusions are based, that the maintenance of the derivative proceeding is not in the best interests of the corporation.

(b) Unless a panel is appointed pursuant to subsection (e) of this section, the determination in subsection (a) of this section shall be made by a majority vote of:

(1) Qualified directors present at a meeting of the board of directors if the qualified directors constitute a quorum; or

(2) A committee consisting of 2 or more qualified directors appointed by majority vote of qualified directors present at a meeting of the board of directors, regardless of whether the qualified directors constitute a quorum.

(c) If a derivative proceeding is commenced after a determination has been made rejecting a demand by a shareholder, the complaint shall allege with particularity facts establishing that:

(1) A majority of the board of directors did not consist of qualified directors at the time the determination was made; or

(2) The requirements of subsection (a) of this section have not been met.

(d) If a majority of the board of directors consisted of qualified directors at the time the determination was made, the plaintiff shall have the burden of proving that the requirements of subsection (a) of this section have not been met. Otherwise, the corporation has the burden of

proving that the requirements of subsection (a) of this section have been met.

(e) Upon motion by the corporation, the Superior Court may appoint a panel of one or more individuals to make a determination whether the maintenance of the derivative proceeding is in the best interests of the corporation. In such case, the plaintiff has the burden of proving that the requirements of subsection (a) of this section have not been met.

§ 29-305.55. Discontinuance or settlement.

A derivative proceeding shall not be discontinued or settled without the Superior Court's approval. If the court determines that a proposed discontinuance or settlement will substantially affect the interests of the corporation's shareholders or a class of shareholders, the court shall direct that notice be given to the shareholders affected.

§ 29-305.56. Payment of expenses.

On termination of the derivative proceeding, the Superior Court may order:

(1) The corporation to pay the plaintiff's expenses incurred in the proceeding if it finds that the proceeding has resulted in a substantial benefit to the corporation;

(2) The plaintiff to pay any defendant's expenses incurred in defending the proceeding if it finds that the proceeding was commenced or maintained without reasonable cause or for an improper purpose; or

(3) A party to pay an opposing party's expenses incurred because of the filing of a pleading, motion, or other paper if it finds that the pleading, motion, or other paper was not well grounded in fact, after reasonable inquiry, or warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law and was interposed for an improper purpose, such as to harass or cause unnecessary delay or needless increase in the cost of litigation.

§ 29-305.57. Applicability to foreign corporations.

In any derivative proceeding in the right of a foreign corporation, the matters covered by this part shall be governed by the laws of the jurisdiction of incorporation of the foreign corporation, except for §§ 29-305.53, 29-305.55, and 29-305.56.

Part E. Proceeding to Appoint Custodian or Receiver.

§ 29-305.70. Shareholder action to appoint custodian or receiver.

(a) The Superior Court may appoint one or more persons to be custodians or, if the corporation is insolvent, to be receivers, of and for a corporation in a proceeding by a shareholder if it is established that:

(1) The directors are deadlocked in the management of the corporate affairs, the shareholders are unable to break the deadlock, and irreparable injury to the corporation is threatened or being suffered; or

(2) The directors or those in control of the corporation are acting fraudulently and irreparable injury to the corporation is threatened or being suffered.

(b) The Superior Court:

(1) May issue injunctions, appoint a temporary custodian or temporary receiver with all the powers and duties the court directs, take other action to preserve the corporate assets wherever located, and carry on the business of the corporation until a full hearing is held;

(2) Shall hold a full hearing, after notifying all parties to the proceeding and any interested persons designated by the court, before appointing a custodian or receiver; and

(3) Shall have jurisdiction over the corporation and all of its property, wherever located.

(c) The Superior Court may appoint an individual or domestic or foreign corporation, authorized to do business in the District, as a custodian or receiver and may require the custodian or receiver to post bond, with or without sureties, in an amount the court directs.

(d) The Superior Court shall describe the powers and duties of the custodian or receiver in its appointing order, which may be amended. Among other powers:

(1) A custodian may exercise all of the powers of the corporation, through or in place of its board of directors, to the extent necessary to manage the business and affairs of the corporation; and

(2) A receiver may:

(A) Dispose of all or any part of the assets of the corporation wherever located, at a public or private sale, if authorized by the court; and

(B) Sue and defend in the receiver's own name as receiver.

(e) The Superior Court during a custodianship may redesignate the custodian a receiver and, during a receivership, may redesignate the receiver a custodian, if doing so is in the best interests of the corporation.

(f) The Superior Court, during the custodianship or receivership, may order compensation paid and expense disbursements or reimbursements made to the custodian or receiver from the assets of the corporation or proceeds from the sale of its assets.

Subchapter VI. Directors and Officers.

Part A. Board of Directors.

§ 29-306.01. Requirement for and functions of board of directors.

(a) Except as otherwise provided in § 29-305.42, each corporation shall have a board of directors.

(b) All corporate powers shall be exercised by or under the authority of the board of directors of the corporation and the business and affairs of the corporation shall be managed by or under the direction, and subject to the oversight, of its board of directors, subject to any limitation set forth in the articles of incorporation or in an agreement authorized under § 29-305.42.

(c) In the case of a public corporation, the board's oversight responsibilities shall include attention to:

(1) Business performance and plans;

(2) Major risks to which the corporation is or may be exposed;

(3) The performance and compensation of senior officers;

(4) Policies and practices to foster the corporation's compliance with law and ethical conduct;

(5) Preparation of the corporation's financial statements;

(6) The effectiveness of the corporation's internal controls;

(7) Arrangements for providing adequate and timely information to directors; and

(8) The composition of the board and its committees, taking into account the important role of independent directors.

§ 29-306.02. Qualifications of directors.

The articles of incorporation or bylaws may prescribe qualifications for directors. A director need not be a resident of the District or a shareholder of the corporation unless the articles of incorporation or bylaws so prescribe.

§ 29-306.03. Number and election of directors.

(a) A board of directors shall consist of one or more individuals, with the number specified in or fixed in accordance with the articles of incorporation or bylaws.

(b) The number of directors may be increased or decreased by amendment to, or in the manner provided in, the articles of incorporation or the bylaws.

(c) Directors shall be elected at the 1st annual shareholders' meeting and at each annual meeting thereafter unless their terms are staggered under § 29-306.06.

§ 29-306.04. Election of directors by certain classes of shareholders.

If the articles of incorporation authorize dividing the shares into classes, the articles may also authorize the election of all or a specified number of directors by the holders of one or more authorized classes of shares. A class or classes of shares entitled to elect one or more directors shall be a separate voting group for the purposes of the election of directors.

§ 29-306.05. Terms of directors generally.

(a) The terms of the initial directors of a corporation expire at the 1st shareholders' meeting at which directors are elected.

(b) The terms of all other directors shall expire at the next, or if their terms are staggered in accordance with § 29-306.06, at the applicable 2nd or 3rd, annual shareholders' meeting following their election, except to the extent:

(1) Provided in § 29-308.22 if a bylaw electing to be governed by that section is in

effect; or

(2) A shorter term is specified in the articles of incorporation in the event of a director nominee failing to receive a specified vote for election.

(c) A decrease in the number of directors shall not shorten an incumbent director's term.

(d) The term of a director elected to fill a vacancy shall expire at the next shareholders' meeting at which directors are elected.

(e) Except to the extent otherwise provided in the articles of incorporation or under § 29-308.22, if a bylaw electing to be governed by that section is in effect, despite the expiration of a director's term, the director shall continue to serve until the director's successor is elected and qualifies or there is a decrease in the number of directors.

§ 29-306.06. Staggered terms for directors.

The articles of incorporation may provide for staggering the terms of directors by dividing the total number of directors into 2 or 3 groups, with each group containing ½ or ⅓ of the total, as near as may be practicable. In that event, the terms of directors in the 1st group expire at the 1st annual shareholders' meeting after their election, the terms of the 2nd group expire at the 1st annual shareholders' meeting after their election, and the terms of the 3rd group, if any, expire at the 3rd annual shareholders' meeting after their election. At each annual shareholders' meeting held thereafter, directors shall be chosen for a term of 2 years or 3 years, as the case may be, to succeed those whose terms expire.

§ 29-306.07. Resignation of directors.

(a) A director may resign at any time by delivering a written resignation to the board of directors, or its chair, or to the secretary of the corporation.

(b) A resignation shall be effective when the resignation is delivered unless the resignation specifies a later effective date or an effective date determined upon the happening of an event or events. A resignation that is conditioned upon failing to receive a specified vote for election as a director may provide that it is irrevocable.

§ 29-306.08. Removal of directors by shareholders.

(a) The shareholders may remove one or more directors with or without cause unless the articles of incorporation provide that directors shall be removed only for cause.

(b) If a director is elected by a voting group of shareholders, only the shareholders of that voting group shall participate in the vote to remove that director.

(c) If cumulative voting is authorized, a director shall not be removed if the number of votes sufficient to elect the director under cumulative voting is voted against removal. If cumulative voting is not authorized, a director shall be removed only if the number of votes cast to remove exceeds the number of votes cast not to remove the director.

(d) A director shall be removed by the shareholders only at a meeting called for the

purpose of removing the director and the meeting notice shall state that the purpose, or one of the purposes, of the meeting is removal of the director.

§ 29-306.09. Removal of directors by judicial proceeding.

(a) The Superior Court may remove a director of the corporation from office in a proceeding commenced by or in the right of the corporation if the court finds that:

(1) The director engaged in fraudulent conduct with respect to the corporation or its shareholders, grossly abused the position of director, or intentionally inflicted harm on the corporation; and

(2) Considering the director's course of conduct and the inadequacy of other available remedies, removal would be in the best interest of the corporation.

(b) A shareholder proceeding on behalf of the corporation under subsection (a) of this section shall comply with all of the requirements of part D of subchapter V of this chapter, except § 29-305.51(1).

(c) The Superior Court, in addition to removing the director, may bar the director from reelection for a period prescribed by the court.

(d) This section shall not limit the equitable powers of the Superior Court to order other relief.

§ 29-306.10. Vacancy on board.

(a) Unless the articles of incorporation provide otherwise, if a vacancy occurs on a board of directors, including a vacancy resulting from an increase in the number of directors:

(1) The shareholders may fill the vacancy;

(2) The board of directors may fill the vacancy; or

(3) If the directors remaining in office constitute less than a quorum of the board, they may fill the vacancy by the affirmative vote of a majority of all the directors remaining in office.

(b) If the vacant office was held by a director elected by a voting group of shareholders, only the holders of shares of that voting group shall vote to fill the vacancy if it is filled by the shareholders and only the directors elected by that voting group shall fill the vacancy if it is filled by the directors.

(c) A vacancy that will occur at a specific later date, by reason of a resignation effective at a later date under § 29-306.07(b) or otherwise, may be filled before the vacancy occurs, but the new director shall not take office until the vacancy occurs.

§ 29-306.11. Compensation of directors.

Unless the articles of incorporation or bylaws provide otherwise, the board of directors may fix the compensation of directors.

Part B. Meetings and Action of the Board.

§ 29-306.20. Meetings.

(a) The board of directors may hold regular or special meetings in or outside of the District.

(b) Unless the articles of incorporation or bylaws provide otherwise, the board of directors may permit any or all directors to participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication by which all directors participating may simultaneously hear each other during the meeting. A director participating in a meeting by this means shall be deemed to be present in person at the meeting.

§ 29-306.21. Action without meeting.

(a) Except to the extent that the articles of incorporation or bylaws require that action by the board of directors be taken at a meeting, action required or permitted by this chapter to be taken by the board of directors may be taken without a meeting if each director signs a consent describing the action to be taken and delivers it to the corporation.

(b) Action taken under this section shall be the act of the board of directors when one or more consents signed by all the directors are delivered to the corporation. The consent may specify the time at which the action taken thereunder is to be effective. A director's consent may be withdrawn by a revocation signed by the director and delivered to the corporation prior to delivery to the corporation of unrevoked written consents signed by all the directors.

(c) A consent signed under this section shall have the effect of action taken at a meeting of the board of directors and may be described as such in any document.

§ 29-306.22. Notice of meeting.

(a) Unless the articles of incorporation or bylaws provide otherwise, regular meetings of the board of directors may be held without notice of the date, time, place, or purpose of the meeting.

(b) Unless the articles of incorporation or bylaws provide for a longer or shorter period, special meetings of the board of directors shall be preceded by at least 2 days' notice of the date, time, and place of the meeting. The notice need not describe the purpose of the special meeting unless required by the articles of incorporation or bylaws.

§ 29-306.23. Waiver of notice.

(a) A director may waive any notice required by this chapter, the articles of incorporation, or bylaws before or after the date and time stated in the notice. Except as otherwise provided in subsection (b) of this section, the waiver shall be in writing, signed by the director entitled to the notice, and filed with the minutes or corporate records.

(b) A director's attendance at or participation in a meeting waives any required notice to the director of the meeting unless the director at the beginning of the meeting, or promptly upon

arrival, objects to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to action taken at the meeting.

§ 29-306.24. Quorum and voting.

(a) Unless the articles of incorporation or bylaws require a greater number or unless otherwise specifically provided in this chapter, a quorum of a board of directors shall consist of a majority of the:

(1) Fixed number of directors if the corporation has a fixed board size; or

(2) Number of directors prescribed or, if no number is prescribed, the number in office immediately before the meeting begins, if the corporation has a variable-range size board.

(b) The articles of incorporation or bylaws may authorize a quorum of a board of directors to consist of no less than ⅓ of the fixed or prescribed number of directors determined under subsection (a) of this section.

(c) If a quorum is present when a vote is taken, the affirmative vote of a majority of directors present shall be the act of the board of directors unless the articles of incorporation or bylaws require the vote of a greater number of directors.

(d) A director who is present at a meeting of the board of directors or a committee of the board of directors when corporate action is taken shall be deemed to have assented to the action taken unless:

(1) The director objects at the beginning of the meeting, or promptly upon arrival, to holding it or transacting at the meeting;

(2) The dissent or abstention from the action taken is entered in the minutes of the meeting; or

(3) The director delivers written notice of the director's dissent or abstention to the presiding officer of the meeting before its adjournment or to the corporation immediately after adjournment of the meeting, but the right of dissent or abstention is not available to a director who votes in favor of the action taken.

§ 29-306.25. Committees.

(a) Unless this chapter, the articles of incorporation, or the bylaws provide otherwise, a board of directors may create one or more committees and appoint one or more members of the board of directors to serve on any such committee.

(b) Unless this chapter otherwise provides, the creation of a committee and appointment of members to it shall be approved by the greater of:

(1) A majority of all the directors in office when the action is taken; or

(2) The number of directors required by the articles of incorporation or bylaws to take action under § 29-306.24.

(c) Sections 29-306.20 through 29-306.24 apply both to committees of the board and to their members.

(d) To the extent specified by the board of directors or in the articles of incorporation or bylaws, each committee may exercise the powers of the board of directors under § 29-306.01.

(e) A committee shall not:

(1) Authorize or approve distributions, except according to a formula or method, or within limits, prescribed by the board of directors;

(2) Approve or propose to shareholders action that this chapter requires be approved by shareholders;

(3) Fill vacancies on the board of directors or, subject to subsection (g) of this section, on any of its committees; or

(4) Adopt, amend, or repeal bylaws.

(f) The creation of, delegation of authority to, or action by a committee shall not alone constitute compliance by a director with the standards of conduct described in § 29-306.30.

(g) The board of directors may appoint one or more directors as alternate members of any committee to replace any absent or disqualified member during the member's absence or disqualification. Unless the articles of incorporation or the bylaws or the resolution creating the committee provide otherwise, in the event of the absence or disqualification of a member of a committee, the member or members present at any meeting and not disqualified from voting, unanimously, may appoint another director to act in place of the absent or disqualified member.

Part C. Directors.

§ 29-306.30. Standards of conduct for directors.

(a) Each member of the board of directors, when discharging the duties of a director, shall act:

(1) In good faith; and

(2) In a manner the director reasonably believes to be in the best interests of the corporation.

(b) The members of the board of directors or a committee of the board, when becoming informed in connection with their decision-making function or devoting attention to their oversight function, shall discharge their duties with the care that a person in a like position would reasonably believe appropriate under similar circumstances.

(c) In discharging board or committee duties, a director shall disclose, or cause to be disclosed, to the other board or committee members information not already known by them but known by the director to be material to the discharge of their decision-making or oversight functions; provided, that disclosure shall not be required to the extent that the director reasonably believes that doing so would violate a duty imposed under law, a legally enforceable obligation of confidentiality, or a professional ethics rule.

(d) In discharging board or committee duties, a director who does not have knowledge that makes reliance unwarranted may rely on:

(1) The performance by any of the persons specified in subsection (e)(1) or (3) of

this section to which the board may have delegated, formally or informally by course of conduct, the authority or duty to perform one or more of the board's functions that are delegable under applicable law; or

(2) Information, opinions, reports, or statements, including financial statements and other financial data, prepared or presented by any of the persons specified in subsection (e) of this section.

(e) A director may rely, in accordance with subsection (d) or (e) of this section, on:

(1) One or more officers or employees of the corporation whom the director reasonably believes to be reliable and competent in the functions performed or the information, opinions, reports, or statements provided;

(2) Legal counsel, public accountants, or other persons retained by the corporation as to matters involving skills or expertise the director reasonably believes are matters:

(A) Within the particular person's professional or expert competence; or

(B) As to which the particular person merits confidence; or

(3) A committee of the board of directors of which the director is not a member if the director reasonably believes the committee merits confidence.

§ 29-306.31. Standards of liability for directors.

(a) A director shall not be liable to the corporation or its shareholders for any decision to take or not to take action, or any failure to take any action, as a director, unless the party asserting liability in a proceeding establishes that:

(1) None of the following, if interposed as a bar to the proceeding by the director, precludes liability:

(A) Any provision in the articles of incorporation authorized by § 29-302.02(b)(4);

(B) The protection afforded by § 29-306.71 for action taken in compliance with § 29-306.72 or § 29-306.73; or

(C) The protection afforded by § 29-306.80; and

(2) The challenged conduct consisted or was the result of:

(A) Action not in good faith;

(B) A decision:

(i) Which the director did not reasonably believe to be in the best interests of the corporation; or

(ii) As to which the director was not informed to an extent the director reasonably believed appropriate in the circumstances;

(C) A lack of objectivity due to the director's familial, financial, or business relationship with, or a lack of independence due to the director's domination or control by, another person having a material interest in the challenged conduct:

(i) Which relationship or which domination or control could

reasonably be expected to have affected the director's judgment respecting the challenged conduct in a manner adverse to the corporation; and

(ii) After a reasonable expectation to such effect has been established, the director has not established that the challenged conduct was reasonably believed by the director to be in the best interests of the corporation; or

(D) A sustained failure of the director to devote attention to ongoing oversight of the business and affairs of the corporation, or a failure to devote timely attention, by making, or causing to be made, appropriate inquiry, when particular facts and circumstances of significant concern materialize that would alert a reasonably attentive director to the need therefore; or

(E) Receipt of a financial benefit to which the director was not entitled or any other breach of the director's duties to deal fairly with the corporation and its shareholders that is actionable under applicable law.

(b) The party seeking to hold the director liable:

(1) For money damages, shall also have the burden of establishing that:

(A) Harm to the corporation or its shareholders has been suffered; and

(B) The harm suffered was proximately caused by the director's challenged conduct;

(2) For other money payment under a legal remedy, such as compensation for the unauthorized use of corporate assets, shall also have whatever persuasion burden may be called for to establish that the payment sought is appropriate in the circumstances; or

(3) For other money payment under an equitable remedy, such as profit recovery by or disgorgement to the corporation, shall also have whatever persuasion burden may be called for to establish that the equitable remedy sought is appropriate in the circumstances.

(c) This section shall not:

(1) In any instance where fairness is at issue, such as consideration of the fairness of a transaction to the corporation under § 29-306.71(b)(3), alter the burden of proving the fact or lack of fairness otherwise applicable;

(2) Alters the fact or lack of liability of a director under another section of this chapter, such as the provisions governing the consequences of an unlawful distribution under § 29-306.32 or a transactional interest under § 29-306.71; or

(3) Affects any rights to which the corporation or a shareholder may be entitled under another law of the District or the United States.

§ 29-306.32. Directors' liability for unlawful distributions.

(a) A director who votes for or assents to a distribution in excess of what may be authorized and made pursuant to § 29-304.60(a) or § 29-312.09(a) shall be personally liable to the corporation for the amount of the distribution that exceeds what could have been distributed without violating § 29-304.60(a) or § 29-312.09(a) if the party asserting liability establishes that

when taking the action the director did not comply with § 29-306.30.

(b) A director held liable under subsection (a) of this section for an unlawful distribution shall be entitled to:

(1) Contribution from every other director who could be held liable under subsection (a) of this section for the unlawful distribution; and

(2) Recoupment from each shareholder of the pro-rata portion of the amount of the unlawful distribution the shareholder accepted, knowing the distribution was made in violation of § 29-304.60(a) or § 29-312.09(a).

(c) A proceeding to enforce:

(1) The liability of a director under subsection (a) of this section shall be barred unless it is commenced within 2 years after the date:

(A) On which the effect of the distribution was measured under § 29-304.60(e) or (g);

(B) As of which the violation of § 29-304.60(a) occurred as the consequence of disregard of a restriction in the articles of incorporation; or

(C) On which the distribution of assets to shareholders under § 29-312.09(a) was made; or

(2) Contribution or recoupment under subsection (b) of this section shall be barred unless it is commenced within one year after the liability of the claimant has been finally adjudicated under subsection (a) of this section.

Part D. Officers.

§ 29-306.40. Officers.

(a) A corporation shall have the officers described in its bylaws or appointed by the board of directors in accordance with the bylaws.

(b) The board of directors may elect individuals to fill one or more offices of the corporation. An officer may appoint one or more officers if authorized by the bylaws or the board of directors.

(c) The bylaws or the board of directors shall assign to one of the officers responsibility for preparing the minutes of the directors' and shareholders' meetings and for maintaining and authenticating the records of the corporation required to be kept under § 29-313.01(a) and (e).

(d) The same individual may simultaneously hold more than one office in a corporation.

§ 29-306.41. Functions of officers.

Each officer has the authority to, and shall, perform:

(1) The functions set forth in the bylaws; or

(2) To the extent consistent with the bylaws, the functions prescribed by the board of directors or by direction of an officer authorized by the board of directors to prescribe the functions of other officers.

§ 29-306.42. Standards of conduct for officers.

(a) An officer, when performing in such capacity, shall have the duty to act:

(1) In good faith;

(2) With the care that a person in a like position would reasonably exercise under similar circumstances; and

(3) In a manner the officer reasonably believes to be in the best interests of the corporation.

(b) The duty of an officer shall include the obligation to inform the:

(1) Superior officer to whom, or the board of directors or the committee thereof to which, the officer reports of information about the affairs of the corporation known to the officer, within the scope of the officer's functions, and known to the officer to be material to the superior officer, board or committee; and

(2) Officer's superior officer, another appropriate person within the corporation, or the board of directors, or a committee thereof, of any actual or probable material violation of law involving the corporation or material breach of duty to the corporation by an officer, employee, or agent of the corporation, that the officer believes has occurred or is likely to occur.

(c) In discharging his or her duties, an officer who does not have knowledge that makes reliance unwarranted may rely on:

(1) The performance of properly delegated responsibilities by one or more employees of the corporation whom the officer reasonably believes to be reliable and competent in performing the responsibilities delegated; or

(2) Information, opinions, reports, or statements, including financial statements and other financial data, prepared or presented by one or more employees of the corporation whom the officer reasonably believes to be reliable and competent in the matters presented, or by legal counsel, public accountants, or other persons retained by the corporation as to matters involving skills or expertise the officer reasonably believes are matters:

(A) Within the particular person's professional or expert competence; or

(B) As to which the particular person merits confidence.

(d) An officer shall not be liable to the corporation or its shareholders for any decision to take or not to take action, or any failure to take any action, as an officer, if the duties of the office are performed in compliance with this section. Whether an officer who does not comply with this section has liability depends in such instance on applicable law, including those principles of § 29-306.31 that are relevant.

§ 29-306.43. Resignation and removal of officers.

(a) An officer may resign at any time by delivering notice to the corporation. A resignation shall be effective when the notice is delivered, unless the notice specifies a later effective time. If a resignation is made effective at a later time and the board or the appointing officer accepts the future effective time, the board or the appointing officer may fill the pending

vacancy before the effective time if the board or the appointing officer provides that the successor shall not take office until the effective time.

(b) An officer may be removed at any time with or without cause by:

(1) The board of directors;

(2) The officer who appointed such officer, unless the bylaws or the board of directors provide otherwise; or

(3) Any other officer if authorized by the bylaws or the board of directors.

(c) For the purposes of this section, the term "appointing officer" means the officer, including any successor to that officer, who appointed the officer resigning or being removed.

§ 29-306.44. Contract rights of officers.

(a) The appointment of an officer shall not itself create contract rights.

(b) An officer's removal shall not affect the officer's contract rights, if any, with the corporation. An officer's resignation shall not affect the corporation's contract rights, if any, with the officer.

Part E. Indemnification and Advance for Expenses.

§ 29-306.50. Definitions.

For the purposes of this part, the term:

(1) "Corporation" includes any domestic or foreign predecessor entity of a corporation in a merger.

(2) "Director" or "officer" means an individual who is or was a director or officer, respectively, of a corporation or who, while a director or officer of the corporation, is or was serving at the corporation's request as a director, officer, manager, partner, trustee, employee, or agent of another entity or employee benefit plan. A director or officer shall be considered to be serving an employee benefit plan at the corporation's request if the individual's duties to the corporation also impose duties on, or otherwise involve services by, the individual to the plan or to participants in or beneficiaries of the plan. The term "director" or "officer" includes, unless the context requires otherwise, the estate or personal representative of a director or officer.

(3) "Liability" means the obligation to pay a judgment, settlement, penalty, fine, including an excise tax assessed with respect to an employee benefit plan, or reasonable expenses incurred with respect to a proceeding.

(4)(A) "Official capacity" means:

(i) When used with respect to a director, the office of director in a corporation; and

(ii) When used with respect to an officer, as contemplated in § 29-306.56, the office in a corporation held by the officer.

(B) The term "official capacity" shall not include service for any other domestic or foreign corporation or any partnership, joint venture, trust, employee benefit plan, or

other entity.

(5) "Party" means an individual who was, is, or is threatened to be made, a defendant or respondent in a proceeding.

(6) "Proceeding" means any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, arbitrative, or investigative and whether formal or informal.

§ 29-306.51. Permissible indemnification.

(a) Except as otherwise provided in this section, a corporation may indemnify an individual who is a party to a proceeding because the individual is a director against liability incurred in the proceeding if the director:

(1)(A) Conducted himself or herself in good faith;

(B) Reasonably believed:

(i) In the case of conduct in an official capacity, that his or her conduct was in the best interests of the corporation; and

(ii) In all other cases, that the director's conduct was at least not opposed to the best interests of the corporation; and

(C) In the case of any criminal proceeding, had no reasonable cause to believe his or her conduct was unlawful; or

(2) Engaged in conduct for which broader indemnification has been made permissible or obligatory under a provision of the articles of incorporation, as authorized by § 29-302.02(b)(5).

(b) A director's conduct with respect to an employee benefit plan for a purpose the director reasonably believed to be in the interests of the participants in, and the beneficiaries of, the plan shall be conduct that satisfies subsection (a)(1)(B)(ii) of this section.

(c) The termination of a proceeding by judgment, order, settlement, or conviction, or upon a plea of nolo contendere or its equivalent, shall, of itself, determinative that the director did not meet the relevant standard of conduct described in this section.

(d) Unless ordered by the Superior Court under § 29-306.54(a)(3), a corporation may not indemnify a director in connection with a proceeding:

(1) By or in the right of the corporation, except for expenses incurred in connection with the proceeding if it is determined that the director has met the relevant standard of conduct under subsection (a) of this section; or

(2) With respect to conduct for which the director was adjudged liable on the basis of receiving a financial benefit to which the director was not entitled, whether or not involving action in the director's official capacity.

§ 29-306.52. Mandatory indemnification.

A corporation shall indemnify a director who was wholly successful, on the merits or otherwise, in the defense of any proceeding to which the director was a party because he or she was a director of the corporation against expenses incurred by the director in connection with the proceeding.

§ 29-306.53. Advance for expenses.

(a) A corporation may, before final disposition of a proceeding, advance funds to pay for or reimburse expenses incurred in connection with the proceeding by an individual who is a party to the proceeding because that individual is a member of the board of directors if the director delivers to the corporation:

(1) A written affirmation of the director's good faith belief that the relevant standard of conduct described in § 29-306.51 has been met by the director or that the proceeding involves conduct for which liability has been eliminated under a provision of the articles of incorporation as authorized by § 29-302.02(b)(4); and

(2) A written undertaking of the director to repay any funds advanced if the director is not entitled to mandatory indemnification under § 29-306.52 and it is ultimately determined under § 29-306.54 or § 29-306.55 that the director has not met the relevant standard of conduct described in § 29-306.51.

(b) The undertaking required by subsection (a)(2) of this section shall be an unlimited general obligation of the director, but need not be secured and may be accepted without reference to the financial ability of the director to make repayment.

(c) The authorization under this section shall be made:

(1) By the board of directors:

(A) If there are 2 or more qualified directors, by a majority vote of all the qualified directors, a majority of whom shall for such purpose constitute a quorum, or by a majority of the members of a committee of 2 or more qualified directors appointed by such a vote; or

(B) If there are fewer than 2 qualified directors, by the vote necessary for action by the board in accordance with § 29-306.24(c), in which authorization directors who are not qualified directors may participate; or

(2) By the shareholders, but shares owned by or voted under the control of a director who at the time is not a qualified director shall not be voted on the authorization.

§ 29-306.54. Court-ordered indemnification and advance for expenses.

(a) A director who is a party to a proceeding because he or she is a director may apply for indemnification or an advance for expenses to the Superior Court. After receipt of an application and after giving any notice it considers necessary, the court shall:

(1) Order indemnification if the court determines that the director is entitled to

mandatory indemnification under § 29-306.52;

(2) Order indemnification or advance for expenses if the court determines that the director is entitled to indemnification or advance for expenses pursuant to a provision authorized by § 29-306.58(a); or

(3) Order indemnification or advance for expenses if the court determines, in view of all the relevant circumstances, that it is fair and reasonable to:

(A) Indemnify the director; or

(B) Advance expenses to the director, even if the director has not met the relevant standard of conduct set forth in § 29-306.51(a), failed to comply with § 29-306.53, or was adjudged liable in a proceeding referred to in § 29-306.51(d)(1) or (2) of this section, but, if the director was adjudged so liable, indemnification shall be limited to expenses incurred in connection with the proceeding.

(b) If the Superior Court determines that the director is entitled to indemnification under subsection (a)(1) of this section or to indemnification or advance for expenses under subsection (a)(2) of this section, it shall also order the corporation to pay the director's expenses incurred in connection with obtaining court-ordered indemnification or advance for expenses. If the court determines that the director is entitled to indemnification or advance for expenses under subsection (a)(3) of this section, it may also order the corporation to pay the director's expenses to obtain court-ordered indemnification or advance for expenses.

§ 29-306.55. Determination and authorization of indemnification.

(a) A corporation shall not indemnify a director under § 29-306.51 unless authorized for a specific proceeding after a determination has been made that indemnification is permissible because the director has met the relevant standard of conduct set forth in § 29-306.51.

(b) The determination under subsection (a) of this section shall be made:

(1) If there are 2 or more qualified directors, by the board of directors by a majority vote of all the qualified directors, a majority of whom shall for such purpose constitute a quorum, or by a majority of the members of a committee of 2 or more qualified directors appointed by such a vote;

(2) By special legal counsel:

(A) Selected in the manner prescribed in paragraph (1) of this subsection; or

(B) If there are fewer than 2 qualified directors, selected by the board of directors, in which selection directors who are not qualified directors may participate; or

(3) By the shareholders, but shares owned by or voted under the control of a director who at the time is not a qualified director shall not be voted on the determination.

(c) Authorization of indemnification shall be made in the same manner as the determination that indemnification is permissible; provided, that if there are fewer than 2 qualified directors, or if the determination is made by special legal counsel, authorization of

indemnification shall be made by those entitled to select special legal counsel under subsection (b)(2)(B) of this section.

§ 29-306.56. Indemnification of officers.

(a) A corporation may indemnify and advance expenses under this part to an officer of the corporation who is a party to a proceeding because he or she is an officer of the corporation:

(1) To the same extent as a director; and

(2) If he or she is an officer but not a director, to such further extent as may be provided by the articles of incorporation, the bylaws, a resolution of the board of directors, or contract, except for liability:

(A) In connection with a proceeding by or in the right of the corporation other than for expenses incurred in connection with the proceeding; or

(B) Arising out of conduct that constitutes:

(i) Receipt by the officer of a financial benefit to which the officer is not entitled;

(ii) An intentional infliction of harm on the corporation or the shareholders; or

(iii) An intentional violation of criminal law.

(b) Subsection (a)(2) of this section shall apply to an officer who is also a director if the basis on which the officer is made a party to the proceeding is an act or omission solely as an officer.

(c) An officer of a corporation who is not a director shall be entitled to mandatory indemnification under § 29-306.52, and may apply to the Superior Court under § 29-306.54 for indemnification or an advance for expenses, in each case to the same extent to which a director may be entitled to indemnification or advance for expenses under those provisions.

§ 29-306.57. Insurance.

A corporation may purchase insurance on behalf of an individual who is a director or officer of the corporation, or who, while a director or officer of the corporation, serves at the corporation's request as a director, officer, partner, trustee, employee, or agent of another domestic or foreign corporation, partnership, joint venture, trust, employee benefit plan, or other entity, against liability asserted against or incurred by the individual in that capacity or arising from the individual's status as a director or officer, whether or not the corporation would have power to indemnify or advance expenses to the individual against the same liability under this part.

§ 29-306.58. Variation by corporate action; application of part.

(a) A corporation may, by a provision in its articles of incorporation or bylaws or in a resolution adopted or a contract approved by its board of directors or shareholders, obligate itself

in advance of the act or omission giving rise to a proceeding to provide indemnification in accordance with § 29-306.51 or advance funds to pay for or reimburse expenses in accordance with § 29-306.53. Any such obligatory provision shall satisfy the requirements for authorization referred to in § 29-306.53(c) and in § 29-306.55(c). Any such provision that obligates the corporation to provide indemnification to the fullest extent permitted by law obligates the corporation to advance funds to pay for or reimburse expenses in accordance with § 29-306.53 to the fullest extent permitted by law, unless the provision specifically provides otherwise.

(b) Any provision pursuant to subsection (a) of this section shall not obligate the corporation to indemnify or advance expenses to a director of a predecessor of the corporation, pertaining to conduct with respect to the predecessor, unless otherwise specifically provided. Any provision for indemnification or advance for expenses in the articles of incorporation, bylaws, or a resolution of the board of directors or shareholders of a predecessor of the corporation in a merger or in a contract to which the predecessor shall be a party, existing at the time the merger takes effect, shall be governed by § 29-309.07(a)(4).

(c) A corporation may, by a provision in its articles of incorporation, limit any of the rights to indemnification or advance for expenses created by or pursuant to this part.

(d) This part shall not limit a corporation's power to pay or reimburse expenses incurred by a director or an officer in connection with appearing as a witness in a proceeding at a time when he or she is not a party.

(e) This part shall not limit a corporation's power to indemnify, advance expenses to, or provide or maintain insurance on behalf of an employee or agent.

§ 29-306.59. Exclusivity of part.

A corporation may provide indemnification or advance expenses to a director or an officer only as permitted by this part.

Part F. Directors' Conflicting Interest Transactions.

§ 29-306.70. Definitions.

For the purposes of this part, the term:

(1) "Control", including the term "controlled by", means:

(A) Having the power, directly or indirectly, to elect or remove a majority of the members of the board of directors or other governing body of an entity, whether through the ownership of voting shares or interests, by contract, or otherwise; or

(B) Being subject to a majority of the risk of loss from the entity's activities or entitled to receive a majority of the entity's residual returns.

(2) "Director's conflicting interest transaction" means a transaction effected or proposed to be effected by the corporation, or by an entity controlled by the corporation:

(A) To which, at the relevant time, the director is a party;

(B) Respecting which, at the relevant time, the director had knowledge and

a material financial interest known to the director; or

(C) Respecting which, at the relevant time, the director knew that a related person was a party or had a material financial interest.

(3) "Fair to the corporation" means, for the purposes of § 29-306.71(b)(3), that the transaction as a whole was beneficial to the corporation, taking into appropriate account whether it was:

(A) Fair in terms of the director's dealings with the corporation; and

(B) Comparable to what might have been obtainable in an arm's length transaction, given the consideration paid or received by the corporation.

(4) "Material financial interest" means a financial interest in a transaction that would reasonably be expected to impair the objectivity of the director's judgment when participating in action on the authorization of the transaction.

(5) "Related person" means:

(A) The director's spouse;

(B) A child, stepchild, grandchild, parent, step parent, grandparent, sibling, step sibling, half sibling, aunt, uncle, niece or nephew, or spouse of any thereof, of the director or of the director's spouse;

(C) An individual living in the same home as the director;

(D) An entity, other than the corporation or an entity controlled by the corporation, controlled by the director or any person specified above in this paragraph;

(E) A domestic or foreign:

(i) Business or nonprofit corporation, other than the corporation or an entity controlled by the corporation, of which the director is a governor;

(ii) Unincorporated entity of which the director is a governor or a member of the governing body; or

(iii) Individual, trust, or estate for whom or of which the director is a trustee, guardian, personal representative, or like fiduciary; or

(F) A person that is, or an entity that is controlled by, an employer of the director.

(6) "Relevant time" means:

(A) The time at which directors' action respecting the transaction is taken in compliance with § 29-306.72; or

(B) If the transaction is not brought before the board of directors of the corporation, or its committee, for action under § 29-306.72, at the time the corporation, or an entity controlled by the corporation, becomes legally obligated to consummate the transaction.

(7) "Required disclosure" means disclosure of:

(A) The existence and nature of the director's conflicting interest; and

(B) All facts known to the director respecting the subject matter of the transaction that a director free of such conflicting interest would reasonably believe to be

material in deciding whether to proceed with the transaction.

§ 29-306.71. Judicial action.

(a) A transaction effected or proposed to be effected by the corporation, or by an entity controlled by the corporation, shall not be the subject of equitable relief, or give rise to an award of damages or other sanctions against a director of the corporation, in a proceeding by a shareholder or by or in the right of the corporation, on the ground that the director has an interest respecting the transaction, if it is not a director's conflicting interest transaction.

(b) A director's conflicting interest transaction shall not be the subject of equitable relief, or give rise to an award of damages or other sanctions against a director of the corporation, in a proceeding by a shareholder or by or in the right of the corporation, on the ground that the director has an interest respecting the transaction, if:

(1) Directors' action respecting the transaction was taken in compliance with § 29-306.72 at any time;

(2) Shareholders' action respecting the transaction was taken in compliance with § 29-306.73 at any time; or

(3) The transaction, judged according to the circumstances at the relevant time, is established to have been fair to the corporation.

§ 29-306.72. Directors' action.

(a) Except as otherwise provided in subsection (b) of this section, directors' action respecting a director's conflicting interest transaction shall be effective for the purposes of § 29-306.71(b)(1) if the transaction has been authorized by the affirmative vote of a majority, but no fewer than 2, of the qualified directors who voted on the transaction, after required disclosure by the conflicted director of information not already known by such qualified directors, or after modified disclosure in compliance with subsection (b) of this section; provided, that:

(1) The qualified directors have deliberated and voted outside the presence of and without the participation by any other director; and

(2)(A) If the action has been taken by a committee, all members of the committee were qualified directors; and

(B)(i) The committee was composed of all the qualified directors on the board of directors; or

(ii) The members of the committee were appointed by the affirmative vote of a majority of the qualified directors on the board.

(b) Notwithstanding subsection (a) of this section, when a transaction is a director's conflicting interest transaction only because a related person described in § 29-306.70(5)(E) or (F) is a party to or has a material financial interest in the transaction, the conflicted director shall not be obligated to make required disclosure to the extent that the director reasonably believes that doing so would violate a duty imposed under law, a legally enforceable obligation of

confidentiality, or a professional ethics rule; provided, that the conflicted director discloses to the qualified directors voting on the transaction:

(1) All information required to be disclosed that is not so violative;

(2) The existence and nature of the director's conflicting interest; and

(3) The nature of the conflicted director's duty not to disclose the confidential information.

(c) A majority, but no fewer than 2, of all the qualified directors on the board of directors, or on the committee, constitutes a quorum for the purposes of action that complies with this section.

(d) If directors' action under this section does not satisfy a quorum or voting requirement applicable to the authorization of the transaction by reason of the articles of incorporation, the bylaws, or a provision of law, independent action to satisfy those authorization requirements shall be taken by the board of directors or a committee, in which action directors who are not qualified directors may participate.

§ 29-306.73. Shareholders' action.

(a) Shareholders' action respecting a director's conflicting interest transaction shall be effective for the purposes of § 29-306.71(b)(2) if a majority of the votes cast by the holders of all qualified shares are in favor of the transaction after:

(1) Notice to shareholders describing the action to be taken respecting the transaction;

(2) Provision to the corporation of the information referred to in subsection (b) of this section; and

(3) Communication to the shareholders entitled to vote on the transaction of the information that is the subject of required disclosure, to the extent the information is not known by them.

(b) A director who has a conflicting interest respecting the transaction shall, before the shareholders' vote, inform the secretary or other officer or agent of the corporation authorized to tabulate votes, in writing, of the number of shares that the director knows are not qualified shares under subsection (c) of this section, and the identity of the holders of those shares.

(c) For the purposes of this section, the term:

(1) "Holder" means, and "held by" refers to, shares held by both a record shareholder and a beneficial shareholder.

(2) "Qualified shares" means all shares entitled to be voted with respect to the transaction except for shares that the secretary or other officer or agent of the corporation authorized to tabulate votes either knows, or under subsection (b) of this section is notified, are held by:

(A) A director who has a conflicting interest respecting the transaction; or

(B) A related person of the director, excluding a person described in § 29-

306.70(5)(F).

(d) A majority of the votes entitled to be cast by the holders of all qualified shares shall constitute a quorum for purposes of compliance with this section. Subject to subsection (e) of this section, shareholders' action that otherwise complies with this section shall not be affected by the presence of holders, or by the voting, of shares that are not qualified shares.

(e) If a shareholders' vote does not comply with subsection (a) of this section solely because of a director's failure to comply with subsection (b) of this section, and if the director establishes that the failure was not intended to influence and did not in fact determine the outcome of the vote, the Superior Court may take such action respecting the transaction and the director, and may give such effect, if any, to the shareholders' vote, as the court considers appropriate in the circumstances.

(f) If shareholders' action under this section does not satisfy a quorum or voting requirement applicable to the authorization of the transaction by reason of the articles of incorporation, the bylaws, or a provision of law, independent action to satisfy those authorization requirements shall be taken by the shareholders, in which action shares that are not qualified shares may participate.

Part G. Business Opportunities.

§ 29-306.80. Business opportunities.

(a) A director's taking advantage, directly or indirectly, of a business opportunity shall not be the subject of equitable relief, or give rise to an award of damages or other sanctions against the director, in a proceeding by or in the right of the corporation on the ground that the opportunity should have first been offered to the corporation, if, before becoming legally obligated respecting the opportunity, the director brings it, to the attention of the corporation and:

(1) Action by qualified directors disclaiming the corporation's interest in the opportunity is taken in compliance with the procedures set forth in § 29-306.72, as if the decision being made concerned a director's conflicting interest transaction; or

(2) Shareholders' action disclaiming the corporation's interest in the opportunity is taken in compliance with the procedures set forth in § 29-306.73, as if the decision being made concerned a director's conflicting interest transaction; provided, that rather than making "required disclosure" as defined in § 29-306.70, in each case the director shall have made prior disclosure to those acting on behalf of the corporation of all material facts concerning the business opportunity that are then known to the director.

(b) In any proceeding seeking equitable relief or other remedies based upon an alleged improper taking advantage of a business opportunity by a director, the fact that the director did not employ the procedure described in subsection (a) of this section before taking advantage of the opportunity shall not create an inference that the opportunity should have been first presented to the corporation or alter the burden of proof otherwise applicable to establish that the director breached a duty to the corporation in the circumstances.

Subchapter VII. Domestication.

§ 29-307.01. Domestication.

(a) A foreign business corporation may become a domestic business corporation only if the domestication is permitted by the organic law of the foreign corporation.

(b) A domestic business corporation may become a foreign business corporation if the domestication is permitted by the laws of the foreign jurisdiction. Regardless of whether the laws of the foreign jurisdiction require the adoption of a plan of domestication, the domestication shall be approved by the adoption by the corporation of a plan of domestication in the manner provided in this subchapter.

(c) The plan of domestication shall include:

(1) A statement of the jurisdiction in which the corporation is to be domesticated;

(2) The terms and conditions of the domestication;

(3) The manner and basis of reclassifying the shares of the corporation following its domestication into shares or other securities, obligations, rights to acquire shares or other securities, cash, other property, or any combination of the foregoing; and

(4) Any desired amendments to the articles of incorporation of the corporation following its domestication.

(d) The plan of domestication may also include a provision that the plan may be amended prior to filing the document required by the laws of the District or the other jurisdiction to consummate the domestication; provided, that subsequent to approval of the plan by the shareholders, the plan shall not be amended to change:

(1) The amount or kind of shares or other securities, obligations, rights to acquire shares or other securities, cash, or other property to be received by the shareholders under the plan;

(2) The articles of incorporation as they will be in effect immediately following the domestication, except for changes permitted by § 29-308.05 or by comparable provisions of the laws of the other jurisdiction; or

(3) Any of the other terms or conditions of the plan if the change would adversely affect any of the shareholders in any material respect.

(e) Terms of a plan of domestication may be made dependent upon facts objectively ascertainable outside the plan in accordance with § 29-301.04.

(f) If any debt security, note, or similar evidence of indebtedness for money borrowed, whether secured or unsecured, or a contract of any kind, issued, incurred, or executed by a domestic business corporation before the effective date of this chapter contains a provision applying to a merger of the corporation and the document does not refer to a domestication of the corporation, the provision shall be deemed to apply to a domestication of the corporation until such time as the provision shall be amended subsequent to that date.

§ 29-307.02. Action on a plan of domestication.

(a) In the case of a domestication of a domestic business corporation in a foreign jurisdiction, the following rules apply:

(1) The plan of domestication shall be adopted by the board of directors.

(2) After adopting the plan of domestication, the board of directors shall submit the plan to the shareholders for their approval. The board of directors shall also transmit to the shareholders a recommendation that the shareholders approve the plan, unless the board of directors makes a determination that because of conflicts of interest or other special circumstances, it should not make such a recommendation, in which case the board of directors shall transmit to the shareholders the basis for that determination.

(3) The board of directors may condition its submission of the plan of domestication to the shareholders on any basis.

(4) If the approval of the shareholders is to be given at a meeting, the corporation shall notify each shareholder, whether or not entitled to vote, of the meeting of shareholders at which the plan of domestication is to be submitted for approval. The notice shall state that the purpose, or one of the purposes, of the meeting is to consider the plan and shall contain or be accompanied by a copy or summary of the plan. The notice shall include or be accompanied by a copy of the articles of incorporation as they will be in effect immediately after the domestication.

(5) Unless the articles of incorporation, or the board of directors acting pursuant to paragraph (3) of this subsection, requires a greater vote or a greater number of votes to be present, approval of the plan of domestication requires the approval of the shareholders at a meeting at which a quorum consisting of at least a majority of the votes entitled to be cast on the plan exists, and, if any class or series of shares is entitled to vote as a separate group on the plan, the approval of each such separate voting group at a meeting at which a quorum of the voting group consisting of at least a majority of the votes entitled to be cast on the domestication by that voting group exists.

(6) Separate voting by voting groups shall be required by each class or series of shares that:

(A) Are to be reclassified under the plan of domestication into other securities, obligations, rights to acquire shares or other securities, cash, other property, or any combination of the foregoing;

(B) Would be entitled to vote as a separate group on a provision of the plan that, if contained in a proposed amendment to articles of incorporation, would require action by separate voting groups under § 29-308.04; or

(C) Is entitled under the articles of incorporation to vote as a voting group to approve an amendment of the articles.

(7) If any provision of the articles of incorporation, bylaws, or an agreement to which any of the directors or shareholders are parties, adopted, or entered into before the effective date of this chapter, applies to a merger of the corporation and that document does not

refer to a domestication of the corporation, the provision shall apply to a domestication of the corporation until such time as the provision is amended subsequent to that date.

§ 29-307.03. Articles of domestication.

(a) After the domestication of a foreign business corporation has been authorized as required by the laws of the foreign jurisdiction, articles of domestication must be signed by any officer or other duly authorized representative. The articles shall set forth:

(1) The name of the corporation immediately before the filing of the articles of domestication and, if that name is unavailable for use in the District or the corporation desires to change its name in connection with the domestication, a name that satisfies the requirements of § 29-103.02(a);

(2) The jurisdiction of incorporation of the corporation immediately before the filing of the articles of domestication and the date the corporation was incorporated in that jurisdiction; and

(3) A statement that the domestication of the corporation in the District was duly authorized as required by the laws of the jurisdiction in which the corporation was incorporated immediately before its domestication in the District.

(b)(1) The articles of domestication shall contain:

(A) All of the provisions that § 29-302.02(a) requires to be set forth in articles of incorporation and any other desired provisions that § 29-302.02(b) permits to be included in articles of incorporation; or

(B) Have attached articles of incorporation.

(2) For the purposes of paragraph (1) of this subsection, provisions that would not be required to be included in restated articles of incorporation may be omitted.

(c) The articles of domestication shall be delivered to the Mayor for filing and take effect at the effective time provided in § 29-102.03.

(d) If the foreign corporation is authorized to do business in the District under subchapter V of Chapter 1 of this title, its certificate of registration shall be canceled automatically on the effective date of its domestication.

§ 29-307.04. Surrender of charter upon domestication.

(a) Whenever a domestic business corporation has adopted and approved, in the manner required by this subchapter, a plan of domestication providing for the corporation to be domesticated in a foreign jurisdiction, articles of charter surrender shall be signed on behalf of the corporation by any officer or other duly authorized representative. The articles of charter surrender shall set forth:

(1) The name of the corporation;

(2) A statement that the articles of charter surrender are being filed in connection with the domestication of the corporation in a foreign jurisdiction;

(3) A statement that the domestication was duly approved by the shareholders and, if voting by any separate voting group was required, by each such separate voting group, in the manner required by this chapter and the articles of incorporation; and

(4) The corporation's new jurisdiction of incorporation.

(b) The articles of charter surrender shall be delivered by the corporation to the Mayor for filing. The articles of charter surrender shall be effective on the effective time provided in § 29-102.03.

§ 29-307.05. Effect of domestication.

(a) When a domestication becomes effective:

(1) The title to all real and personal property, both tangible and intangible, of the corporation shall remain in the corporation without reversion or impairment;

(2) The liabilities of the corporation shall remain the liabilities of the corporation;

(3) An action or proceeding pending against the corporation shall continue against the corporation as if the domestication had not occurred;

(4) The articles of domestication, or the articles of incorporation attached to the articles of domestication, shall constitute the articles of incorporation of a foreign corporation domesticating in the District;

(5) The shares of the corporation shall be reclassified into shares, other securities, obligations, rights to acquire shares or other securities, or into cash or other property in accordance with the terms of the domestication, and the shareholders shall be entitled only to the rights provided by those terms and to any appraisal rights they may have under the organic law of the domesticating corporation; and

(6) The corporation shall be deemed to:

(A) Be incorporated under and subject to the organic law of the domesticated corporation for all purposes;

(B) Be the same corporation without interruption as the domesticating corporation; and

(C) Have been incorporated on the date the domesticating corporation was originally incorporated.

(b) When a domestication of a domestic business corporation in a foreign jurisdiction becomes effective:

(1) In a proceeding to enforce the rights of shareholders that exercise appraisal rights in connection with the domestication, service of process may be made on the foreign business corporation in accordance with § 29-104.12; and

(2) The foreign business corporation shall be deemed to agree that it will promptly pay the amount, if any, to which such shareholders are entitled under subchapter XI of this chapter.

(c) The owner liability of a shareholder in a foreign corporation that is domesticated in

the District shall be as follows:

(1) The domestication shall not discharge any owner liability under the laws of the foreign jurisdiction to the extent any such owner liability arose before the effective time of the articles of domestication.

(2) The shareholder shall not have owner liability under the laws of the foreign jurisdiction for any debt, obligation, or liability of the corporation that arises after the effective time of the articles of domestication.

(3) The laws of the foreign jurisdiction shall continue to apply to the collection or discharge of any owner liability preserved by paragraph (1) of this subsection, as if the domestication had not occurred.

(4) The shareholder shall have whatever rights of contribution from other shareholders are provided by the laws of the foreign jurisdiction with respect to any owner liability preserved by paragraph (1) of this subsection, as if the domestication had not occurred.

(d) A shareholder that becomes subject to owner liability for some or all of the debts, obligations, or liabilities of the corporation as a result of its domestication in the District shall have owner liability only for those debts, obligations, or liabilities of the corporation that arise after the effective time of the articles of domestication.

§ 29-307.06. Abandonment of a domestication.

(a) Unless otherwise provided in a plan of domestication of a domestic business corporation, after the plan has been adopted and approved as required by this subchapter, and at any time before the domestication has become effective, it may be abandoned by the board of directors without action by the shareholders.

(b) If a domestication is abandoned under subsection (a) of this section after articles of charter surrender have been filed with the Mayor but before the domestication has become effective, a statement that the domestication has been abandoned in accordance with this section, signed by an officer or other duly authorized representative, shall be delivered to the Mayor for filing prior to the effective date of the domestication. The statement shall be effective upon filing and the domestication shall be deemed abandoned and shall not become effective.

(c) If the domestication of a foreign business corporation in the District is abandoned in accordance with the laws of the foreign jurisdiction after articles of domestication have been filed with the Mayor, a statement that the domestication has been abandoned, signed by an officer or other duly authorized representative, shall be delivered to the Mayor for filing. The statement shall be effective upon filing and the domestication shall be deemed abandoned and shall not become effective.

Subchapter VIII. Amendment of Articles of Incorporation and Bylaws.

Part A. Amendment of Articles of Incorporation.

§ 29-308.01. Authority to amend.

(a) A corporation may amend its articles of incorporation at any time to add or change a provision that is required or permitted in the articles of incorporation as of the effective date of the amendment or to delete a provision that is not required to be contained in the articles of incorporation.

(b) A shareholder of the corporation shall not have a vested property right resulting from any provision in the articles of incorporation, including provisions relating to management, control, capital structure, dividend entitlement, or purpose or duration of the corporation.

§ 29-308.02. Amendment before issuance of shares.

If a corporation has not yet issued shares, its board of directors, or its incorporators if it has no board of directors, may adopt one or more amendments to the corporation's articles of incorporation.

§ 29-308.03. Amendment by board of directors and shareholders.

If a corporation has issued shares, an amendment to the articles of incorporation shall be adopted in the following manner:

(1) The proposed amendment shall be adopted by the board of directors.

(2) Except as otherwise provided in §§ 29-308.05, 29-308.07, and 29-308.08, after adopting the proposed amendment, the board of directors shall submit the amendment to the shareholders for their approval. The board of directors shall also transmit to the shareholders a recommendation that the shareholders approve the amendment, unless the board of directors makes a determination that because of conflicts of interest or other special circumstances, it should not make such a recommendation, in which case the board of directors shall transmit to the shareholders the basis for that determination.

(3) The board of directors may condition its submission of the amendment to the shareholders on any basis.

(4) If the amendment is required to be approved by the shareholders, and the approval is to be given at a meeting, the corporation shall notify each shareholder, whether or not entitled to vote, of the meeting of shareholders at which the amendment is to be submitted for approval. The notice shall state that the purpose, or one of the purposes, of the meeting is to consider the amendment and shall contain or be accompanied by a copy of the amendment.

(5) Unless the articles of incorporation, or the board of directors acting pursuant to paragraph (3) of this subsection requires a greater vote or a greater number of shares to be present, approval of the amendment shall require the approval of the shareholders at a meeting at which a quorum consisting of at least a majority of the votes entitled to be cast on the amendment exists, and, if any class or series of shares is entitled to vote as a separate group on

the amendment, except as otherwise provided in § 29-308.04(c), the approval of each such separate voting group at a meeting at which a quorum of the voting group consisting of at least a majority of the votes entitled to be cast on the amendment by that voting group exists.

§ 29-308.04. Voting on amendments by voting groups.

(a) If a corporation has more than one class of shares outstanding, the holders of the outstanding shares of a class shall be entitled to vote as a separate voting group, if shareholder voting is otherwise required by this chapter, on a proposed amendment to the articles of incorporation if the amendment would:

(1) Effect an exchange or reclassification of all or part of the shares of the class into shares of another class;

(2) Effect an exchange or reclassification, or create the right of exchange, of all or part of the shares of another class into shares of the class;

(3) Change the rights, preferences, or limitations of all or part of the shares of the class;

(4) Change the shares of all or part of the class into a different number of shares of the same class;

(5) Create a new class of shares having rights or preferences with respect to distributions or to dissolution that are prior or superior to the shares of the class;

(6) Increase the rights, preferences, or number of authorized shares of any class that, after giving effect to the amendment, have rights or preferences with respect to distributions or to dissolution that are prior or superior to the shares of the class;

(7) Limit or deny an existing preemptive right of all or part of the shares of the class; or

(8) Cancel or otherwise affect rights to distributions that have accumulated but not yet been authorized on all or part of the shares of the class.

(b) If a proposed amendment would affect a series of a class of shares in one or more of the ways described in subsection (a) of this section, the holders of shares of that series shall be entitled to vote as a separate voting group on the proposed amendment.

(c) If a proposed amendment that entitles the holders of 2 or more classes or series of shares to vote as separate voting groups under this section would affect those 2 or more classes or series in the same or a substantially similar way, the holders of shares of all the classes or series so affected shall vote together as a single voting group on the proposed amendment, unless otherwise provided in the articles of incorporation or required by the board of directors.

(d) A class or series of shares shall be entitled to the voting rights granted by this section although the articles of incorporation provide that the shares are nonvoting shares.

§ 29-308.05. Amendment by board of directors.

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

(1) To extend the duration of the corporation if it was incorporated at a time when limited duration was required by law;

(2) To delete the names and addresses of the initial directors;

(3) To change the information required by § 29-104.04

(4) If the corporation has only one class of shares outstanding:

(A) To change each issued and unissued authorized share of the class into a greater number of whole shares of that class; or

(B) To increase the number of authorized shares of the class to the extent necessary to permit the issuance of shares as a share dividend;

(5) To change the corporate name by substituting the word "corporation", "incorporated", "company", "limited", or the abbreviation "corp.", "inc.", "co.", or "ltd.", for a similar word or abbreviation in the name, or by adding, deleting, or changing a geographical attribution for the name;

(6) To reflect a reduction in authorized shares, as a result of the operation of § 29-304.41(b), when the corporation has acquired its own shares and the articles of incorporation prohibit the reissue of the acquired shares;

(7) To delete a class of shares from the articles of incorporation, as a result of the operation of § 29-304.41(b), if there are no remaining shares of the class because the corporation has acquired all shares of the class and the articles of incorporation prohibit the reissue of the acquired shares; or

(8) To make any change expressly permitted by § 29-304.02(a) or (b) to be made without shareholder approval.

§ 29-308.06. Articles of amendment.

After an amendment to the articles of incorporation has been adopted and approved in the manner required by this chapter and by the articles of incorporation, the corporation shall deliver to the Mayor for filing articles of amendment, which shall set forth:

(1) The name of the corporation;

(2) The text of each amendment adopted or the information required by § 29-301.04;

(3) If an amendment provides for an exchange, reclassification, or cancellation of issued shares, provisions for implementing the amendment if not contained in the amendment itself, which may be made dependent upon facts objectively ascertainable outside the articles of amendment in accordance with § 29-301.04;

(4) The date of each amendment's adoption; and

(5) If an amendment:

(A) Was adopted by the incorporators or board of directors without shareholder approval, a statement that the amendment was duly approved by the incorporators or by the board of directors, as the case may be, and that shareholder approval was not required;

(B) Required approval by the shareholders, a statement that the amendment was duly approved by the shareholders in the manner required by this chapter and by the articles of incorporation; or

(C) Is being filed pursuant to § 29-301.04, a statement to that effect.

§ 29-308.07. Restated articles of incorporation.

(a) A corporation's board of directors may restate its articles of incorporation at any time, with or without shareholder approval, to consolidate all amendments into a single document.

(b) If the restated articles include one or more new amendments that require shareholder approval, the amendments shall be adopted and approved as provided in § 29-308.03.

(c) A corporation that restates its articles of incorporation shall deliver to the Mayor for filing articles of restatement setting forth the name of the corporation and the text of the restated articles of incorporation, together with a certificate which states that the restated articles consolidate all amendments into a single document and, if a new amendment is included in the restated articles, which also includes the statements required under § 29-308.06.

(d) Duly adopted restated articles of incorporation supersede the original articles of incorporation and all amendments thereto.

(e) The Mayor may certify restated articles of incorporation as the articles of incorporation currently in effect, without including the certificate information required by subsection (c).

§ 29-308.08. Amendment pursuant to reorganization.

(a) A corporation's articles of incorporation may be amended without action by the board of directors or shareholders to carry out a plan of reorganization ordered or decreed by a court of competent jurisdiction under the authority of a law of the United States.

(b) The individual designated by the Superior Court shall deliver to the Mayor for filing articles of amendment setting forth:

(1) The name of the corporation;

(2) The text of each amendment approved by the court;

(3) The date of the court's order or decree approving the articles of amendment;

(4) The title of the reorganization proceeding in which the order or decree was entered; and

(5) A statement that the court had jurisdiction of the proceeding under federal law.

(c) This section shall not apply after entry of a final decree in the reorganization proceeding even though the Superior Court retains jurisdiction of the proceeding for limited

purposes unrelated to consummation of the reorganization plan.

§ 29-308.09. Effect of amendment.

An amendment to the articles of incorporation shall not affect a cause of action existing against or in favor of the corporation, a proceeding to which the corporation is a party, or the existing rights of persons other than shareholders of the corporation. An amendment changing a corporation's name shall not abate a proceeding brought by or against the corporation in its former name.

Part B. Amendment of Bylaws.

§ 29-308.20. Amendment by board of directors or shareholders.

(a) A corporation's shareholders may amend or repeal the corporation's bylaws.

(b) A corporation's board of directors may amend or repeal the corporation's bylaws, unless:

(1) The articles of incorporation, § 29-308.21 or, if applicable, § 29-308.22 reserve that power exclusively to the shareholders in whole or part; or

(2) The shareholders in amending, repealing, or adopting a bylaw expressly provide that the board of directors shall not amend, repeal, or reinstate that bylaw.

§ 29-308.21. Bylaw increasing quorum or voting requirement for directors.

(a) A bylaw that increases a quorum or voting requirement for the board of directors may be amended or repealed:

(1) If originally adopted by the shareholders, only by the shareholders, unless the bylaw otherwise provides;

(2) If adopted by the board of directors, either by the shareholders or by the board of directors.

(b) A bylaw adopted or amended by the shareholders that increases a quorum or voting requirement for the board of directors may provide that it can be amended or repealed only by a specified vote of either the shareholders or the board of directors.

(c) Action by the board of directors under subsection (a) of this section to amend or repeal a bylaw that changes the quorum or voting requirement for the board of directors shall meet the same quorum requirement and be adopted by the same vote required to take action under the quorum and voting requirement then in effect or proposed to be adopted, whichever is greater.

§ 29-308.22. Bylaw provisions relating to the election of directors.

(a) Unless the articles of incorporation specifically prohibit the adoption of a bylaw pursuant to this section, alter the vote specified in § 29-305.28(a), or provide for cumulative voting, a public corporation may elect in its bylaws to be governed in the election of directors as follows:

(1) Each vote entitled to be cast may be voted for or against up to that number of candidates that is equal to the number of directors to be elected, or a shareholder may indicate an abstention, but without cumulating the votes.

(2)(A) To be elected, a nominee shall have received a plurality of the votes cast by holders of shares entitled to vote in the election at a meeting at which a quorum is present; provided, that a nominee who is elected but receives more votes against than for election serves as a director for a term that terminates on the date that is the earlier of:

(i) Ninety days from the date on which the voting results are determined pursuant to § 29-305.29(b)(5); or

(ii) The date on which an individual is selected by the board of directors to fill the office held by the director, which selection shall be deemed to constitute the filling of a vacancy by the board to which § 29-306.10 applies.

(B) Subject to paragraph (3) of this subsection, a nominee who is elected but receives more votes against than for election shall not serve as a director beyond the 90-day period set forth in subparagraph (A)(i) of this paragraph.

(3) The board of directors may select any qualified individual to fill the office held by a director who received more votes against than for election.

(b) Subsection (a) of this section shall not apply to an election of directors by a voting group if (1) at the expiration of the time fixed under a provision requiring advance notification of director candidates, or (2) absent such a provision, at a time fixed by the board of directors which is not more than 14 days before notice is given of the meeting at which the election is to occur, there are more candidates for election by the voting group than the number of directors to be elected, one or more of whom are properly proposed by shareholders. An individual shall not be considered a candidate for purposes of this subsection if the board of directors determines before the notice of meeting is given that the individual's candidacy shall not create a bona fide election contest.

(c) A bylaw electing to be governed by this section shall be repealed:

(1) If originally adopted by the shareholders, only by the shareholders, unless the bylaw otherwise provides;

(2) If adopted by the board of directors, by the board of directors or the shareholders.

Subchapter IX. Merger and Share Exchanges.

§ 29-309.01. Definitions.

For the purposes of this subchapter, the term:

(1) "Acquired corporation" means the domestic or foreign corporation whose shares are acquired in a share exchange.

(2) "Acquiring corporation" means the domestic or foreign corporation that acquires shares in a share exchange.

(3) "Merger" means a business combination pursuant to § 29-309.02.

(4) "Party to a merger" or "party to a share exchange" means any domestic or foreign corporation that will:

(A) Merge under a plan of merger;

(B) Acquire shares of another corporation or an eligible entity in a share exchange; or

(C) Have all of its shares or all of one or more classes or series of its shares acquired in a share exchange.

(5) "Share exchange" means a business combination pursuant to § 29-309.03.

(6) "Survivor" in a merger means the corporation into which one or more other corporations are merged. A survivor of a merger may preexist the merger or be created by the merger.

§ 29-309.02. Merger.

(a) One or more domestic business corporations may merge with one or more domestic or foreign business corporations pursuant to a plan of merger, or 2 or more foreign business corporations or domestic may merge into a new domestic business corporation to be created in the merger, in the manner provided in this subchapter.

(b) A foreign business may be a party to a merger with a domestic business corporation, or may be the survivor in such a merger, if the merger is permitted by the jurisdiction of the foreign business corporation is incorporated.

(c) If the organic law of a domestic eligible entity does not provide procedures for the approval of a merger, a plan of merger may be adopted and approved, the merger effectuated, and appraisal rights exercised in accordance with the procedures in this subchapter and subchapter XI of this chapter. For the purposes of applying this subchapter and subchapter XI of this chapter:

(1) The eligible entity, its members or interest holders, eligible interests and organic documents taken together shall be deemed to be a domestic business corporation, shareholders, shares and articles of incorporation, respectively and vice versa as the context may require; and

(2) If the business and affairs of the eligible entity are managed by a group of persons that is not identical to the members or interest holders, that group shall be deemed to be the board of directors.

(d) The plan of merger shall include:

(1) The name of each domestic or foreign business corporation that will merge and the name of the domestic or foreign business corporation that will be the survivor of the merger;

(2) The terms and conditions of the merger;

(3) The manner and basis of converting the shares of each merging domestic or foreign business corporation into shares or other securities, eligible interests, obligations, rights

to acquire shares, other securities or eligible interests, cash, other property, or any combination of the foregoing;

(4) The articles of incorporation of any domestic or foreign business corporation to be created by the merger, or if a new domestic or foreign business corporation is not to be created by the merger, any amendments to the survivor's articles of incorporation; and

(5) Any other provisions required by the laws under which any party to the merger is incorporated, or by the articles of incorporation of any such party.

(e) Terms of a plan of merger may be made dependent on facts objectively ascertainable outside the plan in accordance with § 29-301.04.

(f) The plan of merger may also include a provision that the plan may be amended by the directors or shareholders of a domestic business corporation; provided, that the shareholders that were entitled to vote on the plan shall be entitled to vote on any amendment of the plan that will change:

(1) The amount or kind of shares or other securities, eligible interests, obligations, rights to acquire shares, other securities or eligible interests, cash, or other property to be received under the plan by the shareholders of any party to the merger;

(2) The articles of incorporation of any corporation that will survive or be created as a result of the merger, except for changes permitted by § 29-308.05; or

(3) Any of the other terms or conditions of the plan if the change would adversely affect such shareholders in any material respect.

(g) A merger in which a business corporation and another form of entity are parties shall be governed by Chapter 2 of this title.

§ 29-309.03. Share exchange.

(a) Through a share exchange:

(1) A domestic business corporation may acquire all of the shares of one or more classes or series of shares of another domestic or foreign business corporation in exchange for shares or other securities, eligible interests, obligations, rights to acquire shares or other securities, cash, other property, or any combination of the foregoing, pursuant to a plan of share exchange; or

(2) All of the shares of one or more classes or series of shares of a domestic business corporation may be acquired by another domestic or foreign business corporation in exchange for shares or other securities, eligible interests, obligations, rights to acquire shares or other securities, cash, other property, or any combination of the foregoing, pursuant to a plan of share exchange.

(b) A foreign business corporation may be a party to a share exchange only if the share exchange is permitted by the laws under which the corporation is incorporated.

(c) The plan of share exchange shall include:

(1) The name of the acquired corporation and the name of the acquiring

corporation;

(2) The terms and conditions of the share exchange;

(3) The manner and basis of exchanging shares of the acquired corporation into shares or other securities, eligible interests, obligations, rights to acquire shares, other securities, or eligible interests, cash, other property, or any combination of the foregoing; and

(4) Any other provisions required by the laws under which any party to the share exchange is incorporated or by the articles of incorporation of any party.

(d) Terms of a plan of share exchange may be made dependent on facts objectively ascertainable outside the plan in accordance with § 29-301.04.

(e) The plan of share exchange may also include a provision that the plan may be amended by the directors or shareholders of a domestic acquired corporation; provided, that the shareholders that were entitled to vote on the plan shall be entitled to vote on any amendment of the plan that will change:

(1) The amount or kind of shares or other securities, eligible interests, obligations, rights to acquire shares, other securities or eligible interests, cash, or other property to be issued by the corporation or to be received under the plan by the shareholders of the acquired corporation; or

(2) Any of the other terms or conditions of the plan if the change would adversely affect such shareholders in any material respect.

(f) This section shall not limit the power of a domestic corporation to acquire shares of another corporation in a transaction other than a share exchange.

(g) A share exchange or interest exchange in which a business corporation and another form of entity are parties shall be governed by Chapter 2 of this title.

§ 29-309.04. Action on a plan of merger or share exchange.

In the case of a domestic corporation that is a party to a merger or share exchange:

(1) The plan of merger or share exchange shall be adopted by the board of directors.

(2) Except as otherwise provided in paragraph (7) of this section and in § 29-309.05, after adopting the plan of merger or share exchange, the board of directors shall submit the plan to the shareholders for their approval. The board of directors shall also transmit to the shareholders a recommendation that the shareholders approve the plan, unless the board of directors makes a determination that because of conflicts of interest or other special circumstances, it should not make such a recommendation, in which case the board of directors shall transmit to the shareholders the basis for that determination.

(3) The board of directors may condition its submission of the plan of merger or share exchange to the shareholders on any basis.

(4) If the plan of merger or share exchange is required to be approved by the shareholders, and if the approval is to be given at a meeting, the corporation shall notify each

shareholder, whether or not entitled to vote, of the meeting of shareholders at which the plan is to be submitted for approval. The notice shall state that the purpose, or one of the purposes, of the meeting is to consider the plan and shall contain or be accompanied by a copy or summary of the plan. The notice shall also include or be accompanied by a copy or summary of the articles of incorporation of the survivor.

(5) Unless the articles of incorporation, or the board of directors acting pursuant to paragraph (3) of this subsection, requires a greater vote or a greater number of votes to be present, approval of the plan of merger or share exchange shall require the approval of the shareholders at a meeting at which a quorum consisting of at least a majority of the votes entitled to be cast on the plan exists, and, if any class or series of shares is entitled to vote as a separate group on the plan of merger or share exchange, the approval of each such separate voting group at a meeting at which a quorum of the voting group consisting of at least a majority of the votes entitled to be cast on the merger or share exchange by that voting group is present.

(6) Separate voting by voting groups shall be required:

(A) On a plan of merger, by each class or series of shares that:

(i) Are to be converted under the plan of merger into other securities, eligible interests, obligations, rights to acquire shares, other securities or eligible interests, cash, other property, or any combination of the foregoing; or

(ii) Would be entitled to vote as a separate group on a provision in the plan that, if contained in a proposed amendment to articles of incorporation, would require action by separate voting groups under § 29-308.04;

(B) On a plan of share exchange, by each class or series of shares included in the exchange, with each class or series constituting a separate voting group; and

(C) On a plan of merger or share exchange, if the voting group is entitled under the articles of incorporation to vote as a voting group to approve a plan of merger or share exchange.

(7) Unless the articles of incorporation otherwise provide, approval by the corporation's shareholders of a plan of merger or share exchange shall not be required if:

(A) The corporation will survive the merger or is the acquiring corporation in a share exchange;

(B) Except for amendments permitted by § 29-308.05, its articles of incorporation will not be changed;

(C) Each shareholder of the corporation whose shares were outstanding immediately before the effective date of the merger or share exchange will hold the same number of shares, with identical preferences, limitations, and relative rights, immediately after the effective date of the merger or share exchange; and

(D) The issuance in the merger or share exchange of shares or other securities convertible into or rights exercisable for shares does not require a vote under § 29-304.21(f).

(8) If as a result of a merger or share exchange one or more shareholders of a domestic business corporation would become subject to owner liability for the debts, obligations, or liabilities of any other person or entity, approval of the plan of merger or share exchange shall require the execution, by each such shareholder, of a separate written consent to become subject to such owner liability.

§ 29-309.05. Merger between parent and subsidiary or between subsidiaries.

(a) A domestic parent corporation that owns shares of a domestic or foreign subsidiary corporation that carry at least 90% of the voting power of each class and series of the outstanding shares of the subsidiary that have voting power may merge the subsidiary into itself or into another such subsidiary, or merge itself into the subsidiary, without the approval of the board of directors or shareholders of the subsidiary, unless the articles of incorporation of any of the corporations otherwise provide, and unless, in the case of a foreign subsidiary, approval by the subsidiary's board of directors or shareholders is required by the laws under which the subsidiary is organized.

(b) If, under subsection (a) of this section, approval of a merger by the subsidiary's shareholders is not required, the parent corporation shall, within 10 days after the effective date of the merger, notify each of the subsidiary's shareholders that the merger has become effective.

(c) Except as otherwise provided in subsections (a) and (b) of this section, a merger between a parent and a subsidiary shall be governed by the provisions of this subchapter applicable to mergers generally.

§ 29-309.06. Articles of merger or share exchange.

(a) After a plan of merger or a plan of share exchange involving a domestic acquired corporation has been adopted and approved as required by this chapter, articles of merger or share exchange shall be executed on behalf of each party to the merger or the acquired corporation in the share exchange by any officer or other duly authorized representative. The articles shall set forth:

(1) The names of the parties to the merger or share exchange;

(2) If the articles of incorporation of the survivor of a merger are amended, or if a new corporation is created as a result of a merger, the amendments to the survivor's articles of incorporation or the articles of incorporation of the new corporation;

(3) If the plan of merger or share exchange required approval by the shareholders of a domestic corporation that was a party to the merger or share exchange, a statement that the plan was duly approved by the shareholders and, if voting by any separate voting group was required, by each such separate voting group, in the manner required by this chapter and the articles of incorporation;

(4) If the plan of merger or share exchange did not require approval by the shareholders of a domestic corporation that was a party to the merger or share exchange, a

statement to that effect; and

(5) As to each foreign corporation that was a party to the merger or share exchange, a statement that the participation of the foreign corporation was duly authorized as required by the laws of the foreign jurisdiction.

(b) Articles of merger or share exchange shall be delivered to the Mayor for filing by the survivor of the merger or the acquiring corporation in a share exchange and shall be effective at the effective time provided in § 29-102.03.

§ 29-309.07. Effect of merger or share exchange.

(a) When a merger becomes effective:

(1) The corporation that is designated in the plan of merger as the survivor shall continue or come into existence, as the case may be;

(2) The separate existence of every corporation that is merged into the survivor shall cease;

(3) All property owned by, and every contract right possessed by, each corporation that merges into the survivor shall be vested in the survivor without reversion or impairment;

(4) All liabilities of each corporation that is merged into the survivor shall be vested in the survivor;

(5) The name of the survivor may, but need not be, substituted in any pending proceeding for the name of any party to the merger whose separate existence ceased in the merger;

(6) The articles of incorporation of the survivor shall be amended to the extent provided in the plan of merger;

(7) The articles of incorporation of a survivor that is created by the merger shall become effective; and

(8) The shares of each corporation that is a party to the merger, and the interests in an eligible entity that is a party to a merger, that are to be converted under the plan of merger into shares, other securities, eligible interests, obligations, rights to acquire shares, other securities, or eligible interests, cash, other property, or any combination of the foregoing, shall be converted, and the former holders of such shares shall be entitled only to the rights provided to them in the plan of merger or to any rights they may have under subchapter XI of this chapter.

(b) When a share exchange becomes effective, the shares of the acquired corporation that are to be exchanged for shares or other securities, eligible interests, obligations, rights to acquire shares or other securities, or eligible interests, cash, other property, or any combination of the foregoing, shall be entitled only to the rights provided to them in the plan of share exchange or to any rights they may have under subchapter XI of this chapter.

(c) A person that becomes subject to owner liability for some or all of the debts, obligations, or liabilities of any entity as a result of a merger or share exchange shall have owner liability only to the extent provided in the organic law of the entity and only for those debts,

obligations, and liabilities that arise after the effective time of the articles of merger or share exchange.

(d) Upon a merger becoming effective, a foreign corporation that is the survivor of the merger shall be deemed to agree that:

(1) Service of process in a proceeding to enforce the rights of shareholders of each domestic corporation that is a party to the merger that exercise appraisal rights may be made in the manner provided in § 29-104.12; and

(2) It will promptly pay the amount, if any, to which such shareholders are entitled under subchapter XI of this chapter.

§ 29-309.08. Abandonment of a merger or share exchange.

(a) Unless otherwise provided in a plan of merger or share exchange or in the laws under which a foreign business corporation that is a party to a merger or a share exchange is, after the plan has been adopted and approved as required by this subchapter, and at any time before the merger or share exchange has become effective, it may be abandoned by a domestic business corporation that is a party thereto without action by its shareholders in accordance with any procedures set forth in the plan of merger or share exchange or, if no such procedures are set forth in the plan, in the manner determined by the board of directors, subject to any contractual rights of other parties to the merger or share exchange.

(b) If a merger or share exchange is abandoned under subsection (a) of this section after articles of merger or share exchange have been filed with the Mayor, but before the merger or share exchange has become effective, a statement that the merger or share exchange has been abandoned in accordance with this section, executed on behalf of a party to the merger or share exchange by an officer or other duly authorized representative, shall be delivered to the Mayor for filing prior to the effective date of the merger or share exchange. Upon filing, the statement shall take effect and the merger or share exchange shall be deemed abandoned and shall not become effective.

Subchapter X. Disposition of Assets.

§ 29-310.01. Disposition of assets not requiring shareholder approval.

The approval of the shareholders of a corporation shall not be required, unless the articles of incorporation otherwise provide, to:

(1) Sell, lease, exchange, or otherwise dispose of any or all of the corporation's assets in the usual and regular course of business;

(2) Mortgage, pledge, dedicate to the repayment of indebtedness, whether with or without recourse, or otherwise encumber any or all of the corporation's assets, whether or not in the usual and regular course of business;

(3) Transfer any or all of the corporation's assets to one or more corporations or other entities all of the shares or interests of which are owned by the corporation; or

(4) Distribute assets pro rata to the holders of one or more classes or series of the corporation's shares.

§ 29-310.02. Shareholder approval of certain dispositions.

(a) A sale, lease, exchange, or other disposition of assets, other than a disposition described in § 29-310.01, shall require approval of the corporation's shareholders if the disposition would leave the corporation without a significant continuing business activity. If a corporation retains a business activity that represented at least 25% of total assets at the end of the most recently completed fiscal year, and 25% of either income from continuing operations before taxes or revenues from continuing operations for that fiscal year, in each case of the corporation and its subsidiaries on a consolidated basis, the corporation shall conclusively be deemed to have retained a significant continuing business activity.

(b) A disposition that requires approval of the shareholders under subsection (a) of this section shall be initiated by a resolution by the board of directors authorizing the disposition. After adoption of such a resolution, the board of directors shall submit the proposed disposition to the shareholders for their approval. The board of directors shall also transmit to the shareholders a recommendation that the shareholders approve the proposed disposition, unless the board of directors makes a determination that because of conflicts of interest or other special circumstances, it should not make such a recommendation, in which case the board of directors shall transmit to the shareholders the basis for that determination.

(c) The board of directors may condition its submission of a disposition to the shareholders under subsection (b) of this section on any basis.

(d) If a disposition is required to be approved by the shareholders under subsection (a) of this section, and if the approval is to be given at a meeting, the corporation shall notify each shareholder, whether or not entitled to vote, of the meeting of shareholders at which the disposition is to be submitted for approval. The notice shall state that the purpose, or one of the purposes, of the meeting is to consider the disposition and shall contain a description of the disposition, including the terms and conditions thereof and the consideration to be received by the corporation.

(e) Unless the articles of incorporation or the board of directors acting pursuant to subsection (c) of this section requires a greater vote, or a greater number of votes to be present, the approval of a disposition by the shareholders shall require the approval of the shareholders at a meeting at which a quorum consisting of at least a majority of the votes entitled to be cast on the disposition exists.

(f) After a disposition has been approved by the shareholders under subsection (b) of this section, and at any time before the disposition has been consummated, it may be abandoned by the corporation without action by the shareholders, subject to any contractual rights of other parties to the disposition.

(g) A disposition of assets in the course of dissolution under subchapter XII of this

chapter shall not be governed by this section.

(h) The assets of a direct or indirect consolidated subsidiary shall be deemed the assets of the parent corporation for the purposes of this section.

Subchapter XI. Appraisal Rights.

Part A. Right to Appraisal and Payment for Shares.

§ 29-311.01. Definitions.

For the purposes of this subchapter, the term:

(1) "Affiliate" means a person that directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with another person or is a senior executive thereof. For the purposes of § 29-311.02(b)(4), a person shall be deemed to be an affiliate of its senior executives.

(2) "Beneficial shareholder" means a person that is the beneficial owner of shares held in a voting trust or by a nominee on the beneficial owner's behalf.

(3) "Corporation" means the issuer of the shares held by a shareholder demanding appraisal and, for matters covered in §§ 29-311.12 to 29-311.31, includes the surviving entity in a merger.

(4) "Fair value" means the value of the corporation's shares determined:

(A) Immediately before the effectuation of the corporate action to which the shareholder objects;

(B) Using customary and current valuation concepts and techniques generally employed for similar businesses in the context of the transaction requiring appraisal; and

(C) Without discounting for lack of marketability or minority status, except, if appropriate, for amendments to the articles pursuant to § 29-311.02(a)(5).

(5) "Interest" means interest from the effective date of the corporate action until the date of payment at the rate of interest on judgments in the District on the effective date of the corporate action.

(6) "Interested transaction" means a corporate action described in § 29-311.02(a), other than a merger pursuant to § 29-309.05, involving an interested person in which any of the shares or assets of the corporation are being acquired or converted. For the purposes of this definition, the term:

(A) "Interested person" means a person, or an affiliate of a person, who at any time during the one-year period immediately preceding approval by the board of directors of the corporate action:

(i) Was the beneficial owner of 20% or more of the voting power of the corporation, other than as owner of excluded shares;

(ii) Had the power, contractually or otherwise, other than as owner of excluded shares, to cause the appointment or election of 25% or more of the directors to the

board of directors of the corporation; or

(iii) Was a senior executive or director of the corporation or a senior executive of any affiliate thereof, and that senior executive or director will receive, as a result of the corporate action, a financial benefit not generally available to other shareholders as such, other than:

(I) Employment, consulting, retirement, or similar benefits established separately and not as part of or in contemplation of the corporate action;

(II) Employment, consulting, retirement, or similar benefits established in contemplation of, or as part of, the corporate action that are not more favorable than those existing before the corporate action or, if more favorable, that have been approved on behalf of the corporation in the same manner as is provided in § 29-306.72; or

(III) In the case of a director of the corporation, who will, in the corporate action, become a director of the acquiring entity in the corporate action or one of its affiliates, rights and benefits as a director that are provided on the same basis as those afforded by the acquiring entity generally to other directors of such entity or such affiliate.

(B) "Beneficial owner" means any person that, directly or indirectly, through any contract, arrangement, or understanding, other than a revocable proxy, has or shares the power to vote, or to direct the voting of, shares; provided, that a member of a national securities exchange shall not deemed to be a beneficial owner of securities held directly or indirectly by it on behalf of another person solely because the member is the record holder of the securities if the member is precluded by the rules of the exchange from voting without instruction on contested matters or matters that may affect substantially the rights or privileges of the holders of the securities to be voted. When 2 or more persons agree to act together for the purpose of voting their shares of the corporation, each member of the group formed thereby shall be deemed to have acquired beneficial ownership, as of the date of the agreement, of all voting shares of the corporation beneficially owned by any member of the group.

(C) "Excluded shares" means shares acquired pursuant to an offer for all shares having voting power if the offer was made within one year prior to the corporate action for consideration of the same kind and of a value equal to or less than that paid in connection with the corporate action.

(7) "Preferred shares" means a class or series of shares whose holders have preference over any other class or series with respect to distributions.

(8) "Record shareholder" means the person in whose name shares are registered in the records of the corporation or the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file with the corporation.

(9) "Senior executive" means the chief executive officer, chief operating officer, chief financial officer, and anyone in charge of a principal business unit or function.

(10) "Shareholder" means a record shareholder or a beneficial shareholder.

§ 29-311.02. Right to appraisal.

(a) Except as otherwise provided in subsection (b) of this section, a shareholder shall be entitled to appraisal rights, and to obtain payment of the fair value of that shareholder's shares, in the event of any of the following corporate actions:

(1) Consummation of a merger to which the corporation is a party:

(A) If shareholder approval is required for the merger by § 29-309.04 and the shareholder is entitled to vote on the merger, except that appraisal rights shall not be available to any shareholder of the corporation with respect to shares of any class or series that remain outstanding after consummation of the merger; or

(B) If the corporation is a subsidiary and the merger is governed by § 29-309.05;

(2) Consummation of a share exchange in which the corporation is the acquired corporation if the shareholder is entitled to vote on the exchange, except that appraisal rights shall not be available to any shareholder of the corporation with respect to any class or series of shares of the corporation that is not exchanged;

(3) Consummation of a disposition of assets pursuant to § 29-310.02 if the shareholder is entitled to vote on the disposition;

(4) An amendment of the articles of incorporation with respect to a class or series of shares that reduces the number of shares of a class or series owned by the shareholder to a fraction of a share if the corporation has the obligation or right to repurchase the fractional share so created;

(5) Any other amendment to the articles of incorporation, merger, share exchange, or disposition of assets to the extent provided by the articles of incorporation, bylaws, or a resolution of the board of directors;

(6) Consummation of a domestication if the shareholder does not receive shares in the foreign corporation resulting from the domestication that have terms as favorable to the shareholder in all material respects, and represent at least the same percentage interest of the total voting rights of the outstanding shares of the corporation, as the shares held by the shareholder before the domestication; or

(7) Consummation of a conversion of the corporation to a different form of entity under Chapter 2 of this title.

(b) Notwithstanding subsection (a) of this section, the availability of appraisal rights under subsection (a)(1), (2), (3), (4), and (6) of this section shall limited in accordance with the following provisions:

(1) Appraisal rights shall not be available for the holders of shares of any class or series of shares which is:

(A) A covered security under section 18(b)(1)(A) or (B) of the Securities Act of 1933, approved May 27, 1933 (48 Stat. 85; 15 U.S.C. § 77r);

(B) Traded in an organized market and has at least 2,000 shareholders and

a market value of at least $20 million, exclusive of the value of such shares held by the corporation's subsidiaries, senior executives, directors, and beneficial shareholders owning more than 10% of such shares; or

(C) Issued by an open end management investment company registered with the Securities and Exchange Commission under the Investment Company Act of 1940, approved August 22, 1940 (54 Stat. 789; 15 U.S.C. § 80a-1 *et seq.*), and may be redeemed at the option of the holder at net asset value.

(2) The applicability of paragraph (1) of this subsection shall be determined as of:

(A) The record date fixed to determine the shareholders entitled to receive notice of, and to vote at, the meeting of shareholders to act upon the corporate action requiring appraisal rights; or

(B) The day before the effective date of such corporate action if there is no meeting of shareholders.

(3) Paragraph (1) of this subsection shall not be applicable and appraisal rights are available pursuant to subsection (a) of this section for the holders of any class or series of shares that are required by the terms of the corporate action requiring appraisal rights to accept for such shares anything other than cash or shares of any class or any series of shares of any corporation, or any other proprietary interest of any other entity, that satisfies the standards set forth in paragraph (1) of this subsection at the time the corporate action becomes effective.

(4) Paragraph (1) of this subsection shall not be applicable and appraisal rights shall be available pursuant to subsection (a) of this section for the holders of any class or series of shares if the corporate action is an interested transaction.

§ 29-311.03. Assertion of rights by nominees and beneficial owners.

(a) A record shareholder may assert appraisal rights as to fewer than all the shares registered in the record shareholder's name but owned by a beneficial shareholder only if the record shareholder objects with respect to all shares of the class or series owned by the beneficial shareholder and notifies the corporation in writing of the name and address of each beneficial shareholder on whose behalf appraisal rights are being asserted. The rights of a record shareholder that asserts appraisal rights for only part of the shares held of record in the record shareholder's name under this subsection shall be determined as if the shares as to which the record shareholder objects and the record shareholder's other shares were registered in the names of different record shareholders.

(b) A beneficial shareholder may assert appraisal rights as to shares of any class or series held on behalf of the shareholder only if the shareholder:

(1) Submits to the corporation the record shareholder's written consent to the assertion of such rights no later than the date referred to in § 29-311.12(b)(2)(B); and

(2) Does so with respect to all shares of the class or series that are beneficially owned by the beneficial shareholder.

Part B. Procedure for Exercise of Appraisal Rights.

§ 29-311.10. Notice of appraisal rights.

(a) If any corporate action specified in § 29-311.02(a) is to be submitted to a vote at a shareholders' meeting, the meeting notice shall state that the corporation has concluded that the shareholders are, are not, or may be entitled to assert appraisal rights under this subchapter. If the corporation concludes that appraisal rights are or may be available, a copy of this subchapter shall accompany the meeting notice sent to those record shareholders entitled to exercise appraisal rights.

(b) In a merger pursuant to § 29-309.05, the parent corporation shall notify in writing all record shareholders of the subsidiary who are entitled to assert appraisal rights that the corporate action became effective. The notice shall be sent within 10 days after the corporate action became effective and include the materials described in § 29-311.12.

(c) If any corporate action specified in § 29-311.02(a) is to be approved by written consent of the shareholders pursuant to § 29-305.04, written notice that appraisal rights are, are not, or may be available shall be:

(1) Given to each record shareholder from which a consent is solicited at the time consent of such shareholder is first solicited and, if the corporation has concluded that appraisal rights are or may be available, shall be accompanied by a copy of this subchapter; and

(2) Delivered together with the notice to nonconsenting and nonvoting shareholders required by § 29-305.04(e) and (f), may include the materials described in § 29-311.12, and, if the corporation has concluded that appraisal rights are or may be available, shall be accompanied by a copy of this subchapter.

(d) If corporate action described in § 29-311.02(a) is proposed, or a merger pursuant to § 29-309.05 is effected, the notice referred to in subsection (a) or (c) of this section, if the corporation concludes that appraisal rights are or may be available, and in subsection (b) of this section shall be accompanied by:

(1) The annual financial statements specified in § 29-313.07(a) of the corporation that issued the shares that may be subject to appraisal, which shall be as of a date ending not more than 16 months before the date of the notice and shall comply with § 29-313.07(b); provided, that if such annual financial statements are not reasonably available, the corporation shall provide reasonably equivalent financial information; and

(2) The latest available quarterly financial statements of such corporation, if any.

(e) The right to receive the information described in subsection (d) of this section may be waived in writing by a shareholder before or after the corporate action.

§ 29-311.11. Notice of intent to demand payment and consequences of voting or consenting.

(a) If a corporate action specified in § 29-311.02(a) is submitted to a vote at a shareholders' meeting, a shareholder that wishes to assert appraisal rights with respect to any

class or series of shares shall:

(1) Deliver to the corporation, before the vote is taken, written notice of the shareholder's intent to demand payment if the proposed action is effectuated; and

(2) Not vote, or cause or permit to be voted, any shares of such class or series in favor of the proposed action.

(b) If a corporate action specified in § 29-311.02(a) is to be approved by less than unanimous written consent, a shareholder that wishes to assert appraisal rights with respect to any class or series of shares shall not execute a consent in favor of the proposed action with respect to that class or series of shares.

(c) A shareholder that fails to satisfy the requirements of subsection (a) or (b) of this section shall not be entitled to payment under this subchapter.

§ 29-311.12. Appraisal notice and form.

(a) If a corporate action requiring appraisal rights under § 29-311.02(a) becomes effective, the corporation shall deliver a written appraisal notice and form required by subsection (b)(1) of this section to all shareholders who satisfy the requirements of § 29-311.11(a) or (b). In the case of a merger under § 29-309.05, the parent shall deliver a written appraisal notice and form to all record shareholders that may be entitled to assert appraisal rights.

(b) The appraisal notice shall be sent no earlier than the date the corporate action specified in § 29-311.02(a) became effective, and no later than 10 days after such date, and shall:

(1) Supply a form that:

(A) Specifies the first date of any announcement to shareholders made before the date the corporate action became effective of the principal terms of the proposed corporate action;

(B) If such announcement was made, requires the shareholder asserting appraisal rights to certify whether beneficial ownership of those shares for which appraisal rights are asserted was acquired before that date; and

(C) Requires the shareholder asserting appraisal rights to certify that such shareholder did not vote for or consent to the transaction;

(2) State:

(A) Where the form must be sent and where certificates for certificated shares must be deposited and the date by which those certificates must be deposited, which date shall not be earlier than the date for receiving the required form under subparagraph (B) of this paragraph;

(B) A date by which the corporation must receive the form, which date may not be fewer than 40 nor more than 60 days after the date the appraisal notice and form required by subsection (a) of this section are sent, and state that the shareholder has waived the right to demand appraisal with respect to the shares unless the form is received by the corporation by such specified date;

(C) The corporation's estimate of the fair value of the shares;

(D) That, if requested in writing, the corporation will provide, to the shareholder so requesting, within 10 days after the date specified in paragraph (2)(B) of this subsection the number of shareholders that return the forms by the specified date and the total number of shares owned by them; and

(E) The date by which the notice to withdraw under § 29-311.13 shall be received, which date must be within 20 days after the date specified subparagraph (B) of this paragraph; and

(3) Be accompanied by a copy of this subchapter.

§ 29-311.13. Perfection of rights; right to withdraw.

(a) A shareholder that receives notice pursuant to § 29-311.12 and that wishes to exercise appraisal rights shall sign and return the form sent by the corporation and, in the case of certificated shares, deposit the shareholder's certificates in accordance with the terms of the notice by the date referred to in the notice pursuant to § 29-311.12(b)(2)(B). In addition, if applicable, the shareholder shall certify on the form whether the beneficial owner of such shares acquired beneficial ownership of the shares before the date required to be set forth in the notice pursuant to § 29-311.12(b)(1). If a shareholder fails to make this certification, the corporation may elect to treat the shareholder's shares as after-acquired shares under § 29-311.15. Once a shareholder deposits that shareholder's certificates or, in the case of uncertificated shares, returns the signed forms, that shareholder loses all rights as a shareholder, unless the shareholder withdraws pursuant to subsection (b).

(b) A shareholder that has complied with subsection (a) of this section may nevertheless decline to exercise appraisal rights and withdraw from the appraisal process by so notifying the corporation in writing by the date set forth in the appraisal notice pursuant to § 29-311.12(b)(2)(E). A shareholder that fails to so withdraw from the appraisal process may not thereafter withdraw without the corporation's written consent.

(c) A shareholder that does not sign and return the form and, in the case of certificated shares, deposit that shareholder's share certificates where required, each by the date set forth in the notice described in § 29-311.12(b), shall not be entitled to payment under this subchapter.

§ 29-311.14. Payment.

(a) Except as otherwise provided in § 29-311.15, within 30 days after the form required by § 29-311.12(b)(2)(B) is due, the corporation shall pay in cash to those shareholders who complied with § 29-311.13(a) the amount the corporation estimates to be the fair value of their shares, plus interest.

(b) The payment to each shareholder pursuant to subsection (a) of this section shall be accompanied by:

(1) The annual financial statements specified in § 29-313.07(a) of the corporation

that issued the shares to be appraised, which shall be of a date ending not more than 16 months before the date of payment and shall comply with § 29-313.07(b); provided, that if such annual financial statements are not reasonably available, the corporation shall provide reasonably equivalent financial information, and the latest available quarterly financial statements of such corporation, if any;

(2) A statement of the corporation's estimate of the fair value of the shares, which estimate shall equal or exceed the corporation's estimate given pursuant to § 29-311.12(b)(2)(C);

(3) A statement that shareholders described in subsection (a) of this section have the right to demand further payment under § 29-311.16 and that if any such shareholder does not do so within the time period specified therein, the shareholder shall be deemed to have accepted such payment in full satisfaction of the corporation's obligations under this subchapter.

§ 29-311.15. After-acquired shares.

(a) A corporation may elect to withhold payment required by § 29-311.14 from any shareholder that was required to, but did not, certify that beneficial ownership of all of the shareholder's shares for which appraisal rights are asserted was acquired before the date set forth in the appraisal notice sent pursuant to § 29-311.12(b)(1).

(b) If the corporation elected to withhold payment under subsection (a) of this section, it shall, within 30 days after the form required by § 29-311.12(b)(2)(B) is due, notify all shareholders described in subsection (a) of this section:

(1) Of the information required by § 29-311.14(b)(1);

(2) Of the corporation's estimate of fair value pursuant to § 29-311.14(b)(2);

(3) That they may accept the corporation's estimate of fair value, plus interest, in full satisfaction of their demands or demand appraisal under § 29-311.16;

(4) That those shareholders that wish to accept such offer shall so notify the corporation of their acceptance of the corporation's offer within 30 days after receiving the offer; and

(5) That those shareholders that do not satisfy the requirements for demanding appraisal under § 29-311.16 shall be deemed to have accepted the corporation's offer.

(c) Within 10 days after receiving the shareholder's acceptance pursuant to subsection (b) of this section, the corporation shall pay in cash the amount it offered under subsection (b)(2) of this section to each shareholder that agreed to accept the corporation's offer in full satisfaction of the shareholder's demand.

(d) Within 40 days after sending the notice described in subsection (b) of this section, the corporation shall pay in cash the amount it offered to pay under subsection (b)(2) of this section to each shareholder described in subsection (b)(5) of this section.

§ 29-311.16. Procedure if shareholder dissatisfied with payment or offer.

(a) A shareholder paid pursuant to § 29-311.14 that is dissatisfied with the amount of the payment shall notify the corporation in writing of that shareholder's estimate of the fair value of the shares and demand payment of that estimate plus interest, less any payment under § 29-311.14. A shareholder offered payment under § 29-311.15 that is dissatisfied with that offer shall reject the offer and demand payment of the shareholder's stated estimate of the fair value of the shares plus interest.

(b) A shareholder that fails to notify the corporation in writing of that shareholder's demand to be paid the shareholder's stated estimate of the fair value plus interest under subsection (a) of this section within 30 days after receiving the corporation's payment or offer of payment under § 29-311.14 or § 29-311.15, respectively, waives the right to demand payment under this section and is entitled only to the payment made or offered pursuant to those respective sections.

Part C. Judicial Appraisal of Shares.

§ 29-311.30. Judicial proceeding.

(a) If a shareholder makes demand for payment under § 29-311.16 which remains unsettled, the corporation shall commence a proceeding within 60 days after receiving the payment demand and petition the Superior Court to determine the fair value of the shares and accrued interest. If the corporation does not commence the proceeding within the 60-day period, it shall pay in cash to each shareholder the amount the shareholder demanded pursuant to § 29-311.16 plus interest.

(b) The corporation shall commence the proceeding in the Superior Court.

(c) The corporation shall make all shareholders, whether or not residents of the District, whose demands remain unsettled parties to the proceeding as in an action against their shares, and all parties must be served with a copy of the petition. Nonresidents may be served by registered or certified mail or by publication as provided by law.

(d) The jurisdiction of the Superior Court in which the proceeding is commenced under subsection (b) shall be plenary and exclusive. The court may appoint one or more persons as appraisers to receive evidence and recommend a decision on the question of fair value. The appraisers have the powers described in the order appointing them, or in any amendment to it. The shareholders demanding appraisal rights shall be entitled to the same discovery rights as parties in other civil proceedings. There shall be no right to a jury trial.

(e) Each shareholder made a party to the proceeding shall be entitled to judgment:

(1) For the amount, if any, by which the Superior Court finds the fair value of the shareholder's shares, plus interest, exceeds the amount paid by the corporation to the shareholder for such shares or

(2) For the fair value, plus interest, of the shareholder's shares for which the corporation elected to withhold payment under § 29-311.15.

§ 29-311.31. Court costs and expenses.

(a) The Superior Court in an appraisal proceeding commenced under § 29-311.2 shall determine all court costs of the proceeding, including the reasonable compensation and expenses of appraisers appointed by the court. The court shall assess the court costs against the corporation, except that the court may assess court costs against all or some of the shareholders demanding appraisal, in amounts which the court finds equitable, to the extent the court finds the shareholders acted arbitrarily, vexatiously, or not in good faith with respect to the rights provided by this subchapter.

(b) The Superior Court in an appraisal proceeding may also assess the expenses of the respective parties in amounts the court finds equitable:

(1) Against the corporation and in favor of any or all shareholders demanding appraisal if the court finds the corporation did not substantially comply with the requirements of § 29-311.10, § 29-311.12, § 29-311.14, or § 29-311.15; or

(2) Against either the corporation or a shareholder demanding appraisal, in favor of any other party, if the court finds the party against whom expenses are assessed acted arbitrarily, vexatiously, or not in good faith with respect to the rights provided by this subchapter.

(c) If the Superior Court in an appraisal proceeding finds that the expenses incurred by any shareholder were of substantial benefit to other shareholders similarly situated and that the expenses should not be assessed against the corporation, the court may direct that the expenses be paid out of the amounts awarded the shareholders who were benefited.

(d) To the extent the corporation fails to make a required payment pursuant to § 29-311.14, § 29-311.15, or § 29-311.16, the shareholder may sue directly for the amount owed, and to the extent successful, shall be entitled to recover from the corporation all expenses of the suit.

Part D. Other Remedies.

§ 29-311.50. Other remedies limited.

(a) The legality of a proposed or completed corporate action described in § 29-311.02(a) shall not be contested and the corporate action shall not be enjoined, set aside, or rescinded, in a legal or equitable proceeding by a shareholder after the shareholders have approved the corporate action.

(b) Subsection (a) of this section shall not apply to a corporate action that:

(1) Was not authorized and approved in accordance with the applicable provisions of:

(A) Subchapter VII, VIII, IX, or X of this chapter;

(B) The articles of incorporation or bylaws; or

(C) The resolution of the board of directors authorizing the corporate action;

(2) Was procured as a result of fraud, a material misrepresentation, or an omission of a material fact necessary to make statements made, in light of the circumstances in which they were made, not misleading;

(3) Is an interested transaction, unless it has been recommended by the board of directors in the same manner as is provided in § 29-306.72 and has been approved by the shareholders in the same manner as is provided in § 29-306.73 as if the interested transaction were a director's conflicting interest transaction; or

(4) Is approved by less than unanimous consent of the voting shareholders pursuant to § 29-305.04 if:

(A) The challenge to the corporate action is brought by a shareholder that did not consent and as to which notice of the approval of the corporate action was not effective at least 10 days before the corporate action was effected; and

(B) The proceeding challenging the corporate action is commenced within 10 days after notice of the approval of the corporate action is effective as to the shareholder bringing the proceeding.

Subchapter XII. Dissolution.

Part A. Voluntary Dissolution.

§ 29-312.01. Dissolution by incorporators or initial directors.

A majority of the incorporators or initial directors of a corporation that has not issued shares or has not commenced business may dissolve the corporation by delivering to the Mayor for filing articles of dissolution that set forth:

(1) The name of the corporation;

(2) The date of its incorporation;

(3)(A) That none of the corporation's shares has been issued; or

(B) That the corporation has not commenced business;

(4) That no debt of the corporation remains unpaid;

(5) That the net assets of the corporation remaining after winding up have been distributed to the shareholders, if shares were issued; and

(6) That a majority of the incorporators or initial directors authorized the dissolution.

§ 29-312.02. Dissolution by board of directors and shareholders.

(a) A corporation's board of directors may propose dissolution for submission to the shareholders.

(b) For a proposal to dissolve to be adopted:

(1) The board of directors shall recommend dissolution to the shareholders unless the board of directors determines that because of conflict of interest or other special circumstances it should make no recommendation and communicates the basis for its

determination to the shareholders; and

(2) The shareholders entitled to vote must approve the proposal to dissolve as provided in subsection (e) of this section.

(c) The board of directors may condition its submission of the proposal for dissolution on any basis.

(d) The corporation shall notify each shareholder, whether or not entitled to vote, of the proposed shareholders' meeting. The notice shall also state that the purpose, or one of the purposes, of the meeting is to consider dissolving the corporation.

(e) Unless the articles of incorporation or the board of directors acting pursuant to subsection (c) of this section require a greater vote, a greater number of shares to be present, or a vote by voting groups, adoption of the proposal to dissolve requires the approval of the shareholders at a meeting at which a quorum consisting of at least a majority of the votes entitled to be cast exists.

§ 29-312.03. Articles of dissolution.

(a) At any time after dissolution is authorized, the corporation may dissolve by delivering to the Mayor for filing articles of dissolution setting forth:

(1) The name of the corporation;

(2) The date dissolution was authorized; and

(3) If dissolution was approved by the shareholders, a statement that the proposal to dissolve was duly approved by the shareholders in the manner required by this chapter and by the articles of incorporation.

(b) A corporation shall be dissolved upon the effective date of its articles of dissolution.

(c) For purposes of this part, the term "dissolved corporation" means a corporation whose articles of dissolution have become effective and includes a successor entity to which the remaining assets of the corporation are transferred subject to its liabilities for purposes of liquidation.

§ 29-312.04. Revocation of dissolution.

(a) A corporation may revoke its dissolution within 120 days of its effective date.

(b) Revocation of dissolution shall be authorized in the same manner as the dissolution was authorized unless that authorization permitted revocation by action of the board of directors alone, in which event the board of directors may revoke the dissolution without shareholder action.

(c) After the revocation of dissolution is authorized, the corporation may revoke the dissolution by delivering to the Mayor for filing articles of revocation of dissolution, together with a copy of its articles of dissolution, that set forth:

(1) The name of the corporation;

(2) The effective date of the dissolution that was revoked;

(3) The date that the revocation of dissolution was authorized;

(4) If the corporation's board of directors, or incorporators, revoked the dissolution, a statement to that effect;

(5) If the corporation's board of directors revoked a dissolution authorized by the shareholders, a statement that revocation was permitted by action by the board of directors alone pursuant to that authorization; and

(6) If shareholder action was required to revoke the dissolution, the information required by § 29-312.03(a)(3).

(d) Revocation of dissolution shall be effective upon the effective date of the articles of revocation of dissolution.

(e) When the revocation of dissolution is effective, it relates back to and takes effect as of the effective date of the dissolution and the corporation resumes carrying on its business as if dissolution had never occurred.

§ 29-312.05. Effect of dissolution.

(a) A dissolved corporation continues its corporate existence but shall not carry on any business except that appropriate to wind up and liquidate its business and affairs, including:

(1) Collecting its assets;

(2) Disposing of its properties that will not be distributed in kind to its shareholders;

(3) Discharging or making provision for discharging its liabilities;

(4) Distributing its remaining property among its shareholders according to their interests; and

(5) Doing every other act necessary to wind up and liquidate its business and affairs.

(b) Dissolution of a corporation shall not:

(1) Transfer title to the corporation's property;

(2) Prevent transfer of its shares or securities, although the authorization to dissolve may provide for closing the corporation's share transfer records;

(3) Subject its directors or officers to standards of conduct different from those prescribed in subchapter VI of this chapter;

(4) Change:

(A) Quorum or voting requirements for its board of directors or shareholders;

(B) Provisions for selection, resignation, or removal of its directors or officers, or both;

(C) Provisions for amending its bylaws;

(5) Prevent commencement of a proceeding by or against the corporation in its corporate name;

(6) Abate or suspend a proceeding pending by or against the corporation on the effective date of dissolution; or

(7) Terminate the authority of the registered agent of the corporation.

§ 29-312.06. Known claims against dissolved corporation.

(a) A dissolved corporation may dispose of the known claims against it by notifying its known claimants in writing of the dissolution at any time after its effective date.

(b) The written notice shall:

(1) Describe information that must be included in a claim;

(2) Provide a mailing address where a claim may be sent;

(3) State the deadline, which may not be fewer than 120 days from the effective date of the written notice, by which the dissolved corporation must receive the claim; and

(4) State that the claim will be barred if not received by the deadline.

(c) A claim against the dissolved corporation shall be barred if a claimant:

(1) That was given written notice under subsection (b) of this section does not deliver the claim to the dissolved corporation by the deadline; or

(2) Whose claim was rejected by the dissolved corporation does not commence a proceeding to enforce the claim within 90 days from the effective date of the rejection notice.

(d) For purposes of this section, the term "claim" does not include a contingent liability or a claim based on an event occurring after the effective date of dissolution.

§ 29-312.07. Other claims against dissolved corporation.

(a) A dissolved corporation may also publish notice of its dissolution and request that persons with claims against the dissolved corporation present them in accordance with the notice.

(b) The notice shall:

(1) Be published one time in a newspaper of general circulation in the District;

(2) Describe the information that must be included in a claim and provide a mailing address where the claim may be sent; and

(3) State that a claim against the dissolved corporation will be barred unless a proceeding to enforce the claim is commenced within 3 years after the publication of the notice.

(c) If the dissolved corporation publishes a newspaper notice in accordance with subsection (b) of this section, the claim of each of the following claimants shall be barred unless the claimant commences a proceeding to enforce the claim against the dissolved corporation within 3 years after the publication date of the newspaper notice:

(1) A claimant that was not given written notice under § 29-312.06;

(2) A claimant whose claim was timely sent to the dissolved corporation but not acted on;

(3) A claimant whose claim is contingent or based on an event occurring after the effective date of dissolution.

(d) A claim that is not barred by § 29-312.06(c) or subsection (c) of this section may be enforced:

(1) Against the dissolved corporation, to the extent of its undistributed assets; or

(2) Except as otherwise provided in § 29-312.08(d), if the assets have been distributed in liquidation, against a shareholder of the dissolved corporation to the extent of the shareholder's pro rata share of the claim or the corporate assets distributed to the shareholder in liquidation, whichever is less, but a shareholder's total liability for all claims under this section shall not exceed the total amount of assets distributed to the shareholder.

§ 29-312.08. Judicial proceedings.

(a) A dissolved corporation that has published a notice under § 29-312.07 may file an application with the Superior Court for a determination of the amount and form of security to be provided for payment of claims that are contingent or have not been made known to the dissolved corporation or that are based on an event occurring after the effective date of dissolution but that, based on the facts known to the dissolved corporation, are reasonably estimated to arise after the effective date of dissolution. Provision need not be made for any claim that is or is reasonably anticipated to be barred under § 29-312.07(c).

(b) Within 10 days after the filing of the application, notice of the proceeding shall be given by the dissolved corporation to each claimant holding a contingent claim whose contingent claim is shown on the records of the dissolved corporation.

(c) The Superior Court may appoint a guardian ad litem to represent all claimants whose identities are unknown in any proceeding brought under this section. The reasonable fees and expenses of such guardian, including all reasonable expert witness fees, shall be paid by the dissolved corporation.

(d) Provision by the dissolved corporation for security in the amount and the form ordered by the Superior Court under § 29-312.08(a) satisfies the dissolved corporation's obligations with respect to claims that are contingent, have not been made known to the dissolved corporation, or are based on an event occurring after the effective date of dissolution. Such claims shall not be enforced against a shareholder that received assets in liquidation.

§ 29-312.09. Director duties.

(a) Directors shall cause the dissolved corporation to discharge or make reasonable provision for the payment of claims and make distributions of assets to shareholders after payment or provision for claims.

(b) Directors of a dissolved corporation which has disposed of claims under § 29-312.06, § 29-312.07, or § 29-312.08 shall not be liable for breach of subsection (a) of this section with respect to claims against the dissolved corporation that are barred or satisfied under § 29-312.06, § 29-312.07, or § 29-312.08.

Part B. Judicial Dissolution.

§ 29-312.20. Grounds for judicial dissolution.

(a) The Superior Court may dissolve a corporation:

(1) In a proceeding by the Attorney General for the District of Columbia if it is established that the corporation:

(A) Obtained its articles of incorporation through fraud; or

(B) Has continued to exceed or abuse the authority conferred upon it by law;

(2) In a proceeding by a shareholder if it is established that:

(A) The directors are deadlocked in the management of the corporate affairs, the shareholders are unable to break the deadlock, and irreparable injury to the corporation is threatened or being suffered, or the business and affairs of the corporation can no longer be conducted to the advantage of the shareholders generally, because of the deadlock;

(B) The directors or those in control of the corporation have acted, are acting, or will act in a manner that is illegal, oppressive, or fraudulent;

(C) The shareholders are deadlocked in voting power and have failed, for a period that includes at least 2 consecutive annual meeting dates, to elect successors to directors whose terms have expired; or

(D) The corporate assets are being misapplied or wasted;

(3) In a proceeding by a creditor if it is established that:

(A) The creditor's claim has been reduced to judgment, the execution on the judgment returned unsatisfied, and the corporation is insolvent; or

(B) The corporation has admitted in writing that the creditor's claim is due and owing and the corporation is insolvent;

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

(5) In a proceeding by a shareholder if the corporation has abandoned its business and has failed within a reasonable time to liquidate and distribute its assets and dissolve.

(b) Subsection (a)(2) of this section shall not apply in the case of a corporation that, on the date of the filing of the proceeding, has shares which are:

(1) Listed on the New York Stock Exchange, the American Stock Exchange or on any exchange owned or operated by the NASDAQ Stock Market LLC, or listed or quoted on a system owned or operated by the Financial Industry Regulatory Authority; or

(2) Not so listed or quoted, but are held by at least 300 shareholders and the shares outstanding have a market value of at least $20 million, exclusive of the value of the shares held by the corporation's subsidiaries, senior executives, directors, and beneficial shareholders owning more than 10% of such shares).

(c) For the purposes of this section, the term "beneficial shareholder" has the meaning

specified in § 29-311.01(2).

§ 29-312.21. Procedure for judicial dissolution.

(a) It shall not be necessary to make shareholders parties to a proceeding to dissolve a corporation unless relief is sought against them individually.

(b) The Superior Court in a proceeding brought to dissolve a corporation may issue injunctions, appoint a receiver or custodian pendente lite with all powers and duties the court directs, take other action required to preserve the corporate assets wherever located, and carry on the business of the corporation until a full hearing can be held.

(c) Within 10 days of the commencement of a proceeding to dissolve a corporation under § 29-312.20(a)(2), the corporation shall send to all shareholders, other than the petitioner, a notice stating that the shareholders are entitled to avoid the dissolution of the corporation by electing to purchase the petitioner's shares under § 29-312.24 and accompanied by a copy of § 29-312.24.

§ 29-312.22. Receivership or custodianship.

(a) Unless an election to purchase has been filed under § 29-312.24, the Superior Court in a judicial proceeding brought to dissolve a corporation may appoint one or more receivers to wind up and liquidate, or one or more custodians to manage, the business and affairs of the corporation. The court shall hold a hearing, after notifying all parties to the proceeding and any interested persons designated by the court, before appointing a receiver or custodian. The court appointing a receiver or custodian has jurisdiction over the corporation and all of its property wherever located.

(b) The Superior Court may appoint an individual or a domestic or foreign corporation, authorized to do business in the District, as a receiver or custodian. The court may require the receiver or custodian to post bond, with or without sureties, in an amount the court directs.

(c) The Superior Court shall describe the powers and duties of the receiver or custodian in its appointing order, which may be amended. Among other powers:

(1) The receiver may:

(A) Dispose of all or any part of the assets of the corporation wherever located, at a public or private sale, if authorized by the court; and

(B) Sue and defend in his or her own name as receiver of the corporation;

(2) The custodian may exercise all of the powers of the corporation, through or in place of its board of directors, to the extent necessary to manage the affairs of the corporation in the best interests of its shareholders and creditors.

(d) The Superior Court during a receivership may redesignate the receiver a custodian, and during a custodianship may redesignate the custodian a receiver, if doing so is in the best interests of the corporation, its shareholders, and its creditors.

(e) The Superior Court during the receivership or custodianship may order compensation

paid and expenses paid or reimbursed to the receiver or custodian from the assets of the corporation or proceeds from the sale of the assets.

§ 29-312.23. Decree of dissolution.

(a) If, after a hearing, the Superior Court determines that one or more grounds for judicial dissolution described in § 29-312.20 exist, it may enter a decree dissolving the corporation and specifying the effective date of the dissolution, and the clerk of the court shall deliver a certified copy of the decree to the Mayor, who shall file it.

(b) After entering the decree of dissolution, the Superior Court shall direct the winding-up and liquidation of the corporation's business and affairs in accordance with § 29-312.05 and the notification of claimants in accordance with §§ 29-312.06 and 29-312.07.

§ 29-312.24. Election to purchase in lieu of dissolution.

(a) In a proceeding under § 29-312.20(a)(2) to dissolve a corporation, the corporation may elect or, if it fails to elect, one or more shareholders may elect to purchase all shares owned by the petitioning shareholder at the fair value of the shares. An election pursuant to this section shall be irrevocable unless the court determines that it is equitable to set aside or modify the election.

(b) An election to purchase pursuant to this section may be filed with the Superior Court at any time within 90 days after the filing of the petition under § 29-312.20(a)(2) or at such later time as the court in its discretion may allow. If the election to purchase is filed by one or more shareholders, the corporation shall, within 10 days thereafter, give written notice to all shareholders, other than the petitioner. The notice shall state the name and number of shares owned by the petitioner and the name and number of shares owned by each electing shareholder and shall advise the recipients of their right to join in the election to purchase shares in accordance with this section. Shareholders that wish to participate shall file notice of their intention to join in the purchase no later than 30 days after the effective date of the notice to them. All shareholders that have filed an election or notice of their intention to participate in the election to purchase thereby become parties to the proceeding and shall participate in the purchase in proportion to their ownership of shares as of the date the first election was filed, unless they otherwise agree or the court otherwise directs. After an election has been filed by the corporation or one or more shareholders, the proceeding under § 29-312.20(a)(2) shall not be discontinued or settled and the petitioning shareholder shall not sell or otherwise dispose of his or her shares, unless the court determines that it would be equitable to the corporation and the shareholders, other than the petitioner, to permit such discontinuance, settlement, sale, or other disposition.

(c) If, within 60 days of the filing of the first election, the parties reach agreement as to the fair value and terms of purchase of the petitioner's shares, the Superior Court shall enter an order directing the purchase of petitioner's shares upon the terms and conditions agreed to by the

parties.

(d) If the parties are unable to reach an agreement as provided for in subsection (c) of this section, the Superior Court, upon application of any party, shall stay the § 29-312.20(a)(2) proceedings and determine the fair value of the petitioner's shares as of the day before the date on which the petition under § 29-312.20(a)(2) was filed or as of such other date as the court deems appropriate under the circumstances.

(e) Upon determining the fair value of the shares, the Superior Court shall enter an order directing the purchase upon such terms and conditions as the court considers appropriate, which may include payment of the purchase price in installments, if necessary in the interests of equity, provision for security to assure payment of the purchase price and any additional expenses as may have been awarded, and, if the shares are to be purchased by shareholders, the allocation of shares among them. In allocating petitioner's shares among holders of different classes of shares, the court shall attempt to preserve the existing distribution of voting rights among holders of different classes insofar as practicable and may direct that holders of a specific class or classes not participate in the purchase. Interest may be allowed at the rate and from the date determined by the court to be equitable, but if the court finds that the refusal of the petitioning shareholder to accept an offer of payment was arbitrary or otherwise not in good faith, no interest shall be allowed. If the court finds that the petitioning shareholder had probable grounds for relief under § 29-312.20(a)(2)(B) or (D), it may award expenses to the petitioning shareholder.

(f) Upon entry of an order under subsections (c) or (e) of this section, the Superior Court shall dismiss the petition to dissolve the corporation under § 29-312.20(a)(2), and the petitioning shareholder shall no longer have any rights or status as a shareholder of the corporation, except the right to receive the amounts awarded by the order of the court which enforceable in the same manner as any other judgment.

(g) The purchase ordered pursuant to subsection (e) of this section shall be made within 10 days after the date the order becomes final unless before that time the corporation files with the Superior Court a notice of its intention to adopt articles of dissolution pursuant to §§ 29-312.02 and 29-312.03, which articles shall then be adopted and filed within 50 days thereafter. Upon filing of such articles of dissolution, the corporation is dissolved in accordance with §§ 29-312.05 through 29-312.07, and the order entered pursuant to subsection (e) of this section shall no longer be of any force or effect, except that the court may award the petitioning shareholder expenses in accordance with the last sentence of subsection (e) of this section and the petitioner may continue to pursue any claims previously asserted on behalf of the corporation.

(h) Any payment by the corporation pursuant to an order under subsections (c) or (e) of this section, other than an award of expenses pursuant to subsection (e) of this section, shall be subject to § 29-304.60.

Part C. Miscellaneous.

§ 29-312.40. Deposit with Mayor.

Assets of a dissolved corporation that should be transferred to a creditor, claimant, or shareholder of the corporation who cannot be found or who is not competent to receive them shall be reduced to cash and deposited with the Mayor for safekeeping. When the creditor, claimant, or shareholder furnishes satisfactory proof of entitlement to the amount deposited, the Mayor shall pay the person or the person's representative that amount.

Subchapter XIII. Records and Reports.

Part A. Records.

§ 29-313.01. Corporate records.

(a) A corporation shall keep as permanent records minutes of all meetings of its shareholders and board of directors, a record of all actions taken by the shareholders or board of directors without a meeting, and a record of all actions taken by a committee of the board of directors in place of the board of directors on behalf of the corporation.

(b) A corporation shall maintain appropriate accounting records.

(c) A corporation or its agent shall maintain a record of its shareholders, in a form that permits preparation of a list of the names and addresses of all shareholders, in alphabetical order by class of shares showing the number and class of shares held by each.

(d) A corporation shall maintain its records in written form or in another form capable of conversion into written form within a reasonable time.

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

(1) Its articles or restated articles of incorporation, all amendments to them currently in effect, and any notices to shareholders referred to in § 29-301.04 regarding facts on which a filed document is dependent;

(2) Its bylaws or restated bylaws and all amendments to them currently in effect;

(3) Resolutions adopted by its board of directors creating one or more classes or series of shares, and fixing their relative rights, preferences, and limitations, if shares issued pursuant to those resolutions are outstanding;

(4) The minutes of all shareholders' meetings, and records of all action taken by shareholders without a meeting, for the past 3 years;

(5) All written communications to shareholders generally within the past 3 years, including the financial statements furnished for the past 3 years under § 29-313.07;

(6) A list of the names and business addresses of its current directors and officers; and

(7) Its most recent biennial report delivered to the Mayor under § 29-102.11.

§ 29-313.02. Inspection of records by shareholders.

(a) A shareholder of a corporation shall be entitled to inspect and copy, during regular business hours at the corporation's principal office, any of the records of the corporation described in § 29-313.01(e) if the shareholder gives the corporation written notice of the shareholder's demand at least 5 business days before the date on which the shareholder wishes to inspect and copy.

(b) A shareholder of a corporation shall be entitled to inspect and copy, during regular business hours at a reasonable location specified by the corporation, any of the following records of the corporation if the shareholder meets the requirements of subsection (c) of this section and gives the corporation written notice of the shareholder's demand at least 5 business days before the date on which the shareholder wishes to inspect and copy:

(1) Excerpts from minutes of any meeting of the board of directors, records of any action of a committee of the board of directors while acting in place of the board of directors on behalf of the corporation, minutes of any meeting of the shareholders, and records of action taken by the shareholders or board of directors without a meeting, to the extent not subject to inspection under § 29-313.02(a);

(2) Accounting records of the corporation; and

(3) The record of shareholders.

(c) A shareholder may inspect and copy the records described in subsection (b) of this section only if:

(1) The shareholder's demand is made in good faith and for a proper purpose;

(2) The shareholder describes with reasonable particularity the shareholder's purpose and the records the shareholder desires to inspect; and

(3) The records are directly connected with the shareholder's purpose.

(d) The right of inspection granted by this section shall not be abolished or limited by a corporation's articles of incorporation or bylaws.

(e) This section shall not affect:

(1) The right of a shareholder to inspect records under § 29-305.20 or, if the shareholder is in litigation with the corporation, to the same extent as any other litigant; or

(2) The power of the Superior Court, independently of this chapter, to compel the production of corporate records for examination.

(f) For purposes of this section, the term "shareholder" includes a beneficial owner whose shares are held in a voting trust or by a nominee on the shareholder's behalf.

§ 29-313.03. Scope of inspection right.

(a) A shareholder's agent or attorney shall have the same inspection and copying rights as the shareholder represented.

(b) The right to copy records under § 29-313.02 includes, if reasonable, the right to receive copies by xerographic or other means, including copies through an electronic

transmission if available and so requested by the shareholder.

(c) The corporation may comply at its expense with a shareholder's demand to inspect the record of shareholders under § 29-313.02(b)(3) by providing the shareholder with a list of shareholders that was compiled no earlier than the date of the shareholder's demand.

(d) The corporation may impose a reasonable charge, covering the costs of labor and material, for copies of any documents provided to the shareholder. The charge shall not exceed the estimated cost of production, reproduction, or transmission of the records.

§ 29-313.04. Court-ordered inspection.

(a) If a corporation does not allow a shareholder that complies with § 29-313.02(a) to inspect and copy any records required by that subsection to be available for inspection, the Superior Court may summarily order inspection and copying of the records demanded at the corporation's expense upon application of the shareholder.

(b) If a corporation does not within a reasonable time allow a shareholder to inspect and copy any other record, the shareholder that complies with § 29-313.02(b) and (c) may apply to the Superior Court for an order to permit inspection and copying of the records demanded. The court shall dispose of an application under this subsection on an expedited basis.

(c) If the Superior Court orders inspection and copying of the records demanded, it shall also order the corporation to pay the shareholder's expenses incurred to obtain the order unless the corporation proves that it refused inspection in good faith because it had a reasonable basis for doubt about the right of the shareholder to inspect the records demanded.

(d) If the Superior Court orders inspection and copying of the records demanded, it may impose reasonable restrictions on the use or distribution of the records by the demanding shareholder.

§ 29-313.05. Inspection of records by directors.

(a) A director of a corporation shall be entitled to inspect and copy the books, records and documents of the corporation at any reasonable time to the extent reasonably related to the performance of the director's duties as a director, including duties as a member of a committee, but not for any other purpose or in any manner that would violate any duty to the corporation.

(b) The Superior Court may order inspection and copying of the books, records, and documents at the corporation's expense, upon application of a director who has been refused such inspection rights, unless the corporation establishes that the director is not entitled to such inspection rights. The court shall dispose of an application under this subsection on an expedited basis.

(c) If an order is issued, the Superior Court may include provisions protecting the corporation from undue burden or expense, and prohibiting the director from using information obtained upon exercise of the inspection rights in a manner that would violate a duty to the corporation, and may also order the corporation to reimburse the director for the director's

expenses incurred in connection with the application.

§ 29-313.06. Exception to notice requirement.

(a) Whenever notice is required to be given under any provision of this chapter to any shareholder, the notice shall not be required to be given if:

(1) Notice of 2 consecutive annual meetings, and all notices of meetings during the period between such 2 consecutive annual meetings, have been sent to such shareholder at such shareholder's address as shown on the records of the corporation and have been returned undeliverable; or

(2) All, but not less than 2, payments of dividends on securities during a 12-month period, or 2 consecutive payments of dividends on securities during a period of more than 12 months, have been sent to such shareholder at such shareholder's address as shown on the records of the corporation and have been returned undeliverable.

(b) If any such shareholder delivers to the corporation a written notice setting forth the shareholder's then-current address, the requirement that notice be given to the shareholder is reinstated.

Part B. Reports.

§ 29-313.07. Financial statements for shareholders.

(a) A corporation shall deliver to its shareholders annual financial statements, which may be consolidated or combined statements of the corporation and one or more of its subsidiaries, as appropriate, that include a balance sheet as of the end of the fiscal year, an income statement for that year, and a statement of changes in shareholders' equity for the year unless that information appears elsewhere in the financial statements. If financial statements are prepared for the corporation on the basis of generally accepted accounting principles, the annual financial statements shall also be prepared on that basis.

(b) If the annual financial statements are reported upon by a public accountant, the report shall accompany them. If not, the statements shall be accompanied by a statement of the president or the person responsible for the corporation's accounting records:

(1) Stating such person's reasonable belief whether the statements were prepared on the basis of generally accepted accounting principles and, if not, describing the basis of preparation; and

(2) Describing any respects in which the statements were not prepared on a basis of accounting consistent with the statements prepared for the preceding year.

(c) A corporation shall mail the annual financial statements to each shareholder within 120 days after the close of each fiscal year. Thereafter, on written request from a shareholder that was not mailed the statements, the corporation shall mail the shareholder the latest financial statements.

Subchapter XIV. Transition Provisions.

§ 29-314.01. Application to existing domestic corporations.

This chapter shall apply to all domestic corporations in existence on its effective date that were incorporated under any general statute of the District providing for incorporation of corporations for profit.

§ 29-314.02. Application to qualified foreign corporations.

A foreign corporation authorized to do business in the District on the effective date of this chapter shall be subject to this chapter but is not required to obtain a new certificate of registration to do business under this chapter.

CHAPTER 4. NONPROFIT CORPORATIONS.

Section

Subchapter I. General Provisions.

Part A. General Provisions.

29-401.01. Short title.
29-401.02. Definitions.
29-401.03. Notice.
29-401.04. Reference to extrinsic facts in plans or filed documents.
29-401.05. Restrictions and required approvals.

Part B. Review of Contested Corporate Action.

29-401.20. Definition.
29-401.21. Proceedings prior to corporate action.
29-401.22. Review of contested corporate action.
29-401.23. Notice to Attorney General.

Part C. Religious Corporations.

29-401.40. Subordination to canon law or other religious doctrine.

Part D. Member-Governed Corporations.

29-401.50. Member-governed corporations.

Part E. Attorney General.

29-401.60. Notice to Attorney General.

Subchapter II. Incorporation.

29-402.01. Incorporators.
29-402.02. Articles of incorporation.
29-402.03. Incorporation.
29-402.04. Liability for preincorporation transactions.
29-402.05. Organization of corporation.
29-402.06. Bylaws.

Subchapter III. Purposes and Powers.
29-403.01. Purposes.
29-403.02. General powers.
29-403.03. Emergency powers.
29-403.04. Ultra vires.
Subchapter IV. Memberships and Financial Provisions.
Part A. Admission of Members.
29-404.01. No requirement of members; other persons designated by articles of incorporation or bylaws.
29-404.02. Admission.
29-404.03. Consideration.
Part B. Rights and Obligations of Members.
29-404.10. Differences in rights and obligations of members.
29-404.11. Transfers.
29-404.12. Member's liability to third parties.
29-404.13. Member's liability for dues, assessments, and fees.
29-404.14. Creditor's action against member.
Part C. Resignation and Termination.
29-404.20. Resignation.
29-404.21. Termination and suspension.
29-404.22. Purchase of memberships.
Part D. Delegates.
29-404.30. Delegates.
Part E. Financial Provisions.
29-404.40. Distributions prohibited.
29-404 41. Compensation and other permitted payments.
29-404.42. Debt and security interests.
29-404.43. Private foundations.
Subchapter V. Member Meetings.
Part A. Procedures.
29-405.01. Annual and regular meetings.
29-405.02. Special meeting.
29-405.03. Court-ordered meeting.
29-405.04. Action without meeting.
29-405.05. Notice of meeting.
29-405.06. Waiver of notice.
29-405.07. Record date.
29-405.08. Conduct of meeting.
29-405.09. Action by ballot.

Part B. Voting.
29-405.20. Members list for meeting.
29-405.21. Voting entitlement of members.
29-405.22. Proxies.
29-405.23. Acceptance of votes.
29-405.24. Quorum and voting requirements for voting groups.
29-405.25. Action by single and multiple voting groups.
29-405.26. Different quorum or voting requirements.
29-405.27. Voting for directors.
29-405.28. Inspectors of election.
Part C. Voting Agreements.
29-405.40. Voting agreements.
Subchapter VI. Directors, Officers, and Employees.
Part A. Board of Directors.
29-406.01. Requirement for and functions of board of directors.
29-406.02. Qualifications of directors.
29-406.03. Number of directors.
29-406.04. Selection of directors.
29-406.05. Terms of directors generally.
29-406.06. Staggered terms for directors.
29-406.07. Resignation of directors.
29-406.08. Removal of directors by members or other persons.
29-406.09. Removal of directors by judicial proceeding.
29-406.10. Vacancy on board.
29-406.11. Compensation of directors.
29-406.12. Designated body.
Part B. Meetings and Action of the Board.
29-406.20. Meetings.
29-406.21. Action without meeting.
29-406.22. Call and notice of meeting.
29-406.23. Waiver of notice.
29-406.24. Quorum and voting.
29-406.25. Board and advisory committees.
Part C. Directors.
29-406.30. Standards of conduct for directors.
29-406.31. Standards of liability for directors.
29-406.32. Loans to or guarantees for directors and officers.
29-406.33. Directors' liability for unlawful distributions.
Part D. Officers.

29-406.40. Officers.
29-406.41. Duties of officers.
29-406.42. Standards of conduct for officers.
29-406.43. Resignation and removal of officers.
29-406.44. Contract rights of officers.
Part E. Indemnification and Advance for Expenses.
29-406.50. Definitions.
29-406.51. Permissible indemnification.
29-406.52. Mandatory indemnification.
29-406.53. Advance for expenses.
29-406.54. Court-ordered indemnification and advance for expenses.
29-406.55. Determination and authorization of indemnification.
29-406.56. Indemnification of officers.
29-406.57. Insurance.
29-406.58. Variation of indemnification.
Part F. Conflicting Interest Transactions.
29-406.70. Conflicting interest transactions; voidability.
Part G. Business Opportunities.
29-406.80. Business opportunities.
Part H. Limitation on Liability of Volunteers and Employees.
29-406.90. Immunity from civil liability for volunteer of corporation.
29-406.91. Limited liability for employee of corporation.
Subchapter VII. Domestication.
29-407.01. Definitions.
29-407.02. Domestication.
29-407.03. Action on a plan of domestication.
29-407.04. Articles of domestication.
29-407.05. Effect of domestication.
29-407.06. Abandonment of a domestication.
Subchapter VIII. Amendment of Articles of Incorporation and Bylaws
Part A. Amendment of Articles of Incorporation.
29-408.01. Authority to amend.
29-408.02. Amendment before issuance of memberships.
29-408.03. Amendment of articles of membership corporation.
29-408.04. Voting on amendments by voting groups.
29-408.05. Amendment of articles of nonmembership corporation.
29-408.06. Articles of amendment.
29-408.07. Restated articles of incorporation.
29-408.08. Amendment pursuant to reorganization.

29-408.09. Effect of articles amendment.

Part B. Amendment of Bylaws.

29-408.20. Amendment by board of directors or members.

29-408.21. Bylaw increasing quorum or voting requirement for board of directors or designated body.

29-408.22. Bylaw amendments requiring member approval.

29-408.23. Effect of bylaw amendment.

Part C. Special Rights.

29-408.40. Approval by third persons.

Subchapter IX. Mergers and Membership Exchanges.

29-409.01. Preliminary provisions and restrictions.

29-409.02. Merger.

29-409.03. Membership exchange.

29-409.04. Action on a plan of merger or membership exchange.

29-409.05. Merger with controlled corporation or between controlled corporations.

29-409.06. Articles of merger or membership exchange.

29-409.07. Effect of merger or membership exchange.

29-409.08. Abandonment of a merger or membership exchange.

Subchapter X. Disposition of Assets.

29-410.01. Disposition of assets not requiring member approval.

29-410.02. Member approval of certain dispositions.

29-410.03. Restrictions on dispositions of assets.

Subchapter XI. Derivative Proceedings.

29-411.01. Definition.

29-411.02. Standing.

29-411.03. Demand.

29-411.04. Stay of proceedings.

29-411.05. Dismissal.

29-411.06. Discontinuance or settlement.

29-411.07. Security for costs; payment of expenses.

29-411.08. Applicability to foreign corporations.

29-411.09. Notice to Attorney General.

Subchapter XII. Dissolution.

Part A. Voluntary Dissolution.

29-412.01. Dissolution by incorporators or directors.

29-412.02. Approval of dissolution.

29-412.03. Articles of dissolution.

29-412.04. Revocation of dissolution.

29-412.05. Effect of dissolution.

29-412.06. Known claims against dissolved corporation.
29-412.07. Other claims against dissolved corporation.
29-412.08. Judicial proceedings.
29-412.09. Directors' duties.

Part B. Judicial Dissolution or Other Equitable Relief.
29-412.20. Grounds for judicial dissolution or other equitable relief.
29-412.21. Procedure for judicial dissolution.
29-412.22. Receivership or custodianship.
29-412.23. Decree of dissolution.
Part C. Miscellaneous.
29-412.30. Deposit with Mayor.
Subchapter XIII. Records and Reports.
Part A. Records.
29-413.01. Corporate records.
29-413.02. Inspection of records by members.
29-413.03. Scope of inspection right.
29-413.04. Court-ordered inspection.
29-413.05. Inspection of records by directors.
29-413.06. Exception to notice requirement.
29-413.07. Limitations on use of membership list.
Part B. Reports.
29-413.20. Financial statements for members.
Subchapter XIV. Transition Provisions.
29-414.01. Application to existing domestic corporations.
29-414.02. Application to qualified foreign corporations.
29-414.03. Entitlement to cumulate votes.

CHAPTER 4. NONPROFIT CORPORATIONS.

Subchapter I. General Provisions.

Part A. General Provisions.

§ 29-401.01. Short title.

This chapter may be cited as the "Nonprofit Corporation Act of 2010".

§ 29-401.02. Definitions.

For the purposes of this chapter, the term:

(1) "Board" or "board of directors" means the group of individuals responsible for the management of the activities and affairs of the nonprofit corporation, regardless of the name used to refer to the group. The term includes a designated body to the extent:

(A) The powers, functions, or authority of the board has been vested in, or are exercised by, the designated body; and

(B) The provision of this chapter in which the term appears is relevant to the discharge by the designated body of its powers, functions, or authority.

(2) "Bylaws" means the code of rules, other than the articles of incorporation, adopted for the regulation and governance of the internal affairs of the nonprofit corporation, regardless of the name or names used to refer to those rules.

(3) "Charitable corporation" means a domestic nonprofit corporation that is operated primarily or exclusively for one or more charitable purposes.

(4) "Charitable purpose" means a purpose that:

(A) Would make a corporation operated exclusively for that purpose eligible to be exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, approved October 22, 1986 (68A Stat. 163; 26 U.S.C. § 501(c)(3)) ("Internal Revenue Code"); or

(B) Is considered charitable under law other than this chapter or the Internal Revenue Code.

(5) "Conspicuous" means so written, displayed, or presented that a reasonable person against which it is to operate should have noticed it. Conspicuous terms include:

(A) A heading in capitals equal to or greater in size than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same or lesser size; and

(B) Language in the body of a record or display in larger type than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same size, or set off from surrounding text of the same size by symbols or other marks that call attention to the language

(6) "Corporation", "domestic corporation", "domestic nonprofit corporation", or "nonprofit corporation" means a corporation incorporated under or subject to this chapter that is not a foreign corporation.

(7) "Delegate" means a person elected or appointed to vote in a representative assembly for the election of directors or on other matters.

(8) "Designated body" means a person or group, other than a committee of the board of directors, that has been vested by the articles of incorporation or bylaws with powers that, if not vested by the articles or bylaws in that person or group, would be required by this chapter to be exercised by the board or the members.

(9) "Director" means an individual designated, elected, or appointed, by that or any other name or title, to act as a member of the board of directors, while the individual is holding that position. The term "director" shall not include a member of a designated body, as such.

(10) "Domestic unincorporated entity" means an unincorporated entity whose internal affairs are governed by the laws of the District.

(11) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(12) "Electronic transmission" or "electronically transmitted" means any process of communication not directly involving the physical transfer of paper that is suitable for the retention, retrieval, and reproduction of information by the recipient.

(13) "Eligible entity" means a domestic or foreign unincorporated entity or a domestic or foreign business corporation.

(14) "Eligible interests" means interests or shares.

(15) "Employee" does not include an individual serving as an officer or director who is not otherwise employed by the corporation.

(16) "Entitled to vote" means entitled to vote on the matter under consideration pursuant to the articles of incorporation or bylaws of the nonprofit corporation or any applicable controlling provision of law.

(17) "Foreign business corporation" means a corporation for profit incorporated under a law other than the law of the District that would be a business corporation if incorporated under the law of the District.

(18) "Foreign nonprofit corporation" means a corporation incorporated under a law other than the law of the District that would be a nonprofit corporation if incorporated under the law of the District.

(19) "Foreign unincorporated entity" means an unincorporated entity whose internal affairs are governed by an organic law of a jurisdiction other than the District.

(20) "Fundamental transaction" means an amendment of the articles of incorporation or bylaws, merger, membership exchange, sale of all or substantially all of the assets, domestication, conversion, or dissolution of a nonprofit corporation.

(21) "Interest holder liability" means personal liability for a debt, obligation, or liability of a domestic or foreign business or nonprofit corporation or unincorporated entity that is imposed on a person:

(A) Solely by reason of the person's status as a shareholder, interest holder, or member; or

(B) By the articles of incorporation, bylaws, or an organic record pursuant to a provision of the organic law authorizing the articles, bylaws, or an organic record to make one or more specified shareholders, interest holders, or members liable in their capacity as shareholders, interest holders, or members for all or specified debts, obligations, or liabilities of the entity.

(22) "Material interest" means an actual or potential benefit or detriment, other than one that would devolve on the nonprofit corporation or the members generally, that would reasonably be expected to impair the objectivity of an individual's judgment when participating in the action to be taken.

(23) "Material relationship" means a familial, financial, professional,

employment, or other relationship that would reasonably be expected to impair the objectivity of an individual's judgment when participating in the action to be taken.

(24) "Member" means:

(A) A person that has the right, in accordance with the articles of incorporation or bylaws, and not as a delegate, to select or vote for the election of directors or delegates or to vote on any type of fundamental transaction; or

(B) A designated body to the extent:

(i) The powers, functions, or authority of the members has been vested in, or are exercised by, the designated body; and

(ii) The provision of this chapter in which the term "member" appears is relevant to the discharge by the designated body of its powers, functions, or authority.

(25) "Membership" means the rights and any obligations of a member in a nonprofit corporation.

(26) "Membership corporation" means a nonprofit corporation whose articles of incorporation or bylaws provide that it must have members.

(27) "Nonmembership corporation" means a nonprofit corporation whose articles of incorporation or bylaws do not provide that it must have members.

(28) "Nonqualified foreign corporation" means a foreign corporation that is not authorized to conduct activities in the District.

(29) "Officer" includes:

(A) An individual who is an officer as provided in § 29-406.40; and

(B) If a nonprofit corporation is in the hands of a custodian, receiver, trustee, or other court-appointed fiduciary, that fiduciary or any person appointed by that fiduciary to act as an officer for any purpose under this chapter.

(30) "Organic record" means a public organic record or the private organic rules.

(31) "Record date" means the date established under § 29-405.07 on which a nonprofit corporation determines the identity of its members and the membership interests they hold for purposes of this chapter. The determinations shall be made as of the close of business on the record date unless another time for doing so is specified when the record date is fixed.

(32) "Religious corporation" means a domestic nonprofit corporation that is a church or an integrated auxiliary of a church, as defined under the federal Internal Revenue Code or regulations promulgated thereunder, or any other such nonprofit corporation whose principal purpose is the advancement of religion.

(33) "Secretary" means the corporate officer to whom the articles of incorporation, bylaws, or board of directors has delegated responsibility under § 29-406.40(b) for custody of the minutes of the meetings of the board of directors, any designated body, committees, and the members, and for authenticating records of the nonprofit corporation.

(34) "Shareholder" means the person in whose name shares are registered in the records of a corporation or the beneficial owner of shares to the extent of the rights granted by a

nominee certificate on file with the corporation.

(35) "Shares" means the units into which the proprietary interests in a business corporation are divided.

(36) "Unincorporated entity" means an organization that either has a separate legal existence or has the power to acquire an estate in real property in its own name and that is not a domestic or foreign business or nonprofit corporation, an estate, a trust, a governmental subdivision, a state, the United States, or a foreign government. The term "unincorporated entity" includes a general partnership, limited liability company, limited partnership, limited cooperative association, business or statutory trust, joint stock association, and unincorporated nonprofit association.

(37) "Vote", "voting", or "casting a vote" includes the giving of consent in the form of a record without a meeting. The term does not include either recording the fact of abstention or failing to vote for a candidate or for approval or disapproval of a matter, whether or not the person entitled to vote characterizes such conduct as voting or casting a vote.

(38) "Voting group" means one or more classes of members that under the articles of incorporation, bylaws, or this chapter are entitled to vote and be counted together collectively on a matter at a meeting of members. All members entitled by the articles of incorporation, bylaws, or this chapter to vote generally on the matter are for that purpose a single voting group.

(39) "Voting power" means the current power to vote in the election of directors or delegates, or to vote on approval of any type of fundamental transaction.

§ 29-401.03. Notice.

(a) Unless the articles of incorporation or bylaws provide otherwise, notice under this chapter shall be in the form of a record.

(b) Notice may be communicated in person or by delivery. If these forms of communication are impracticable, notice may be communicated by a newspaper of general circulation in the area where published, or by radio, television, or other form of public broadcast communication.

(c) Notice in the form of a record by a membership corporation to a member shall be effective:

(1) Upon deposit in the United States mail or with a commercial delivery service, if the postage or delivery charge is paid and the notice is correctly addressed to the member's address shown in the corporation's current record of members; or

(2) When given if the notice is delivered in any other manner that the member has authorized.

(d) Notice to a domestic or qualified foreign nonprofit corporation may be delivered to its registered agent or to the corporation or its secretary at its principal office shown in its most recent biennial report or, in the case of a foreign corporation that has not yet delivered a biennial report, in its application for a certificate of registration.

(e) Except as otherwise provided in subsection (c) of this section, notice shall be effective at the earliest of the following:

(1) When received;

(2) When left at the recipient's residence or usual place of business;

(3) Five days after its deposit in the United States mail or with a commercial delivery service, if the postage or delivery charge is paid and the notice is correctly addressed; or

(4) On the date shown on the return receipt, if sent by registered or certified mail, return receipt requested, or by commercial delivery service.

(f) Oral notice shall be effective when communicated, if communicated in a comprehensible manner.

(f) If this chapter prescribes notice requirements for particular circumstances, those requirements shall govern. If bylaws prescribe notice requirements, not inconsistent with this section or other provisions of this chapter, those requirements shall govern.

(g) With respect to electronic communications:

(1) Unless otherwise provided in the articles of incorporation or bylaws, or otherwise agreed between the sender and the recipient, an electronic communication is received when:

(A) It enters an information processing system that the recipient has designated or uses for the purpose of receiving electronic records or information of the type sent and from which the recipient is able to retrieve the electronic record; and

(B) It is in a form capable of being processed by that system.

(2) An electronic communication is received under paragraph (1) of this subsection even if no individual is aware of its receipt.

(3) Receipt of an electronic acknowledgment from an information processing system described in paragraph (1) of this subsection establishes that a record was received but, by itself, does not establish that the content sent corresponds to the content received.

(h) An authorization by a member of delivery of notices or communications by email or similar electronic means may be revoked by the member by notice to the nonprofit corporation in the form of a record. The authorization shall be deemed revoked if:

(A) The corporation is unable to deliver 2 consecutive notices or other communications to the member in the manner authorized; and

(B) The inability becomes known to the secretary or other person responsible for giving the notice or other communication, but the failure to treat the inability as a revocation shall not invalidate any meeting or other action.

§ 29-401.04. Reference to extrinsic facts in plans or filed documents.

(a) For the purposes of this subsection, the term:

(1) "Filed record" means a record filed with the Mayor under any provision of this chapter except § 29-102.11.

(2) "Plan" means a plan of domestication, business conversion, entity conversion, merger or membership exchange.

(b) Whenever a provision of this chapter permits any of the terms of a plan or a filed record to be dependent on facts objectively ascertainable outside the plan or filed record, the following rules apply:

(1) The manner in which the facts will operate upon the terms of the plan or filed record shall be set forth in the plan or filed record.

(2) The facts may include:

(A) Any of the following that is available in a nationally recognized news or information medium either in print or electronically:

(i) Statistical or market indices;

(ii) Market prices of any security or group of securities;

(iii) Interest rates;

(iv) Currency exchange rates; or

(v) Similar economic or financial data;

(B) A determination or action by any person or body, including the corporation or any other party to a plan or filed record; or

(C) The terms of, or actions taken under, an agreement to which the corporation is a party, or any other agreement or record.

§ 29-401.05. Restrictions and required approvals.

(a) If a domestic or foreign nonprofit corporation or eligible entity may not be a party to a merger or sale of its assets without the approval of the Attorney General for the District of Columbia, the Mayor (or as may be formerly referred to as the Commissioner of the District of Columbia), the Department of Insurance, Securities, and Banking or the Public Service Commission, the corporation or eligible entity shall not be a party to a transaction under this chapter without the prior approval of that officer or agency.

(b) Property held in trust by an entity or otherwise dedicated to a charitable purpose shall not be diverted from its purpose by any transaction under this chapter unless the entity obtains an appropriate order of the Superior Court specifying the disposition of the property to the extent required by and pursuant to the law of the District on cy pres or otherwise dealing with the nondiversion of charitable assets.

(c) Unless an entity that is a party to a transaction under this chapter obtains an appropriate order of Superior Court under the law of the District on cy pres or otherwise dealing with the nondiversion of charitable assets, the transaction shall not affect:

(1) Any restriction imposed upon the entity by its organic records that may not be amended by its board of directors, governors, members, or interest holders or by a designated body;

(2) Any restriction imposed upon property held by the entity by virtue of any trust

under which it holds that property; or

(3) The existing rights of persons other than members, shareholders, or interest holders of the entity.

(d) A person that is a member, interest holder, or otherwise affiliated with a charitable corporation or an unincorporated entity with a charitable purpose shall not receive a direct or indirect financial benefit in connection with a transaction under this chapter to which the charitable corporation or unincorporated entity is a party unless the person is itself a charitable corporation or unincorporated entity with a charitable purpose. This subsection shall not apply to the receipt of reasonable compensation for services rendered.

(e) A devise, bequest, gift, grant, or promise contained in a will or other instrument, in trust or otherwise, made before or after a transaction under this chapter, to or for the entity that is the subject of the transaction, shall inure to the entity as it continues in existence after the transaction, subject to the express terms of the will or other instrument.

Part B. Review of Contested Corporate Action.

§ 29-401.20. Definition.

For the purposes of this part, the term "corporate action" means:

(1) The election, appointment, designation, or other selection and the suspension, removal, or expulsion of members, delegates, directors, members of a designated body, or officers of a nonprofit corporation; or

(2) The taking of any action on any matter that is required under this chapter or under any other provision of law to be, or which under the articles of incorporation or bylaws may be, submitted for action to the members, delegates, directors, members of a designated body, or officers of a nonprofit corporation.

§ 29-401.21. Proceedings prior to corporate action.

(a) If, under applicable law or the articles of incorporation or bylaws of a nonprofit corporation, there has been a failure to hold a meeting to take corporate action and the failure has continued for 30 days after the date designated or appropriate therefor, the Superior Court may summarily order a meeting to be held upon the application of any person entitled, either alone or in conjunction with other persons similarly seeking relief under this section, to call a meeting to consider the corporate action in issue, or the Attorney General for the District of Columbia in the case of a charitable corporation.

(b) The Superior Court may determine the right to vote at the meeting of persons claiming that right, may appoint an individual to hold the meeting under such orders and powers as the Superior Court may consider proper, and may take such action as may be required to give due notice of the meeting and convene and conduct the meeting in the interests of justice.

§ 29-401.22. Review of contested corporate action.

(a) Upon petition of a person whose status as, or whose rights or duties as, a member, delegate, director, member of a designated body, or officer of a corporation are or may be affected by any corporate action, the Superior Court may hear and determine the validity of the corporate action.

(b) The Superior Court may make such orders in any such case as may be just and proper, with power to enforce the production of any books, papers and records of the corporation and other evidence that may relate to the issue. The Superior Court shall provide for notice of the pendency of the proceedings under this section to all persons affected thereby. If it is determined that no valid corporate action has been taken, the Superior Court may order a meeting to be held in accordance with § 29-401.21.

(c) Subsection (a) of this section shall not apply if a nonprofit corporation has provided in its articles of incorporation or bylaws for a means of resolving a challenge to a corporate action, but the Superior Court may enforce the articles or bylaws if appropriate.

§ 29-401.23. Notice to Attorney General.

The plaintiff in a proceeding under this part shall notify the Attorney General for the District of Columbia within 10 days after commencing the proceeding if it involves a charitable corporation. Notice to the Attorney General under this section shall not stay or otherwise affect the proceeding.

Part C. Religious Corporations.

§ 29-401.40. Subordination to canon law or other religious doctrine.

If religious doctrine or canon law governing the affairs of a religious corporation is inconsistent with this chapter on the same subject, the religious doctrine or canon law shall control to the extent required by the Constitution of the United States.

Part D. Member-Governed Corporations.

§ 29-401.50. Member-governed corporations.

(a) For the purposes of this section, the term "member-governed corporation" means a membership corporation incorporated under or subject to this chapter which:

(1) Provides in its articles of incorporation or bylaws that it is a member-governed corporation; or:

(2) Meets the following conditions:

(A) It holds regular meeting not less frequently than annually;

(B) Its activities and affairs are governed by its members; and

(C) The board of directors, if any, has only those powers delegated by the articles of incorporation, bylaws, or members.

(b) This section shall apply only to member-governed corporations and shall not be

construed to affect in any way the rights, duties, obligations, or other matters pertaining to other types of nonprofit corporations formed under or subject to this chapter or other entities formed under or subject to this title.

(c) Except as otherwise provided in the articles of incorporation or bylaws, the following rules shall apply to a member-governed corporation:

(1) A member shall vote only in person and not by proxy.

(2) A voting agreement shall not be enforceable.

(3) A fundamental transaction may be approved by a ⅔ vote of the members of the corporation without the approval of the board of directors, if any.

(4) The members may set a record date in the circumstances described in § 29-405.07(c).

(5) The polls may be closed by a ⅔ vote of the members present and voting in the circumstances described in § 29-405.08(d).

(6) At a meeting of a member-governed corporation, the members present and voting are the ultimate judge of the validity of ballots under §§ 29-405.23(c) and 29-405.28.

(7) The qualifications of a director under § 29-406.08(c)(5) are determined by the members.

(d) The articles of incorporation or bylaws of a member-governed corporation may contain any of the following provisions:

(1) Providing that a meeting of the members under § 29-405.01 may be held biennially, and, if the articles of incorporation or bylaws establish an assembly of delegates, providing that instead of meetings of members the assembly of delegates shall meet with a regularity the articles of incorporation or bylaws specify, not less frequently than quinquennially;

(2) Establishing the number of mail ballots that constitute a quorum under § 29-405.09;

(3) Stating the circumstances under which a member who was present at a meeting but who leaves the meeting is or is not deemed present for quorum purposes for the remainder of the meeting and for any adjournment of that meeting under § 29-405.24(b);

(4) Permitting cumulative voting for directors;

(5) Providing that the maximum term of a director under § 29-406.05 may be up to six years;

(6) Providing that the resignation of a director under § 29-406.07 is not effective until approved by the members;

(7) Establishing the quorum required for a meeting of the board of directors under § 29-406.24(b);

(8) Providing that if a quorum is present when a vote is taken, the affirmative vote of a majority of the votes cast, rather than a majority of those present, is the act of the board of directors unless a greater vote is required by the articles of incorporation and bylaws;

(9) Stating the circumstances under which a director present at a meeting is not

considered to have assented to a corporate action under § 29-406.24(d);

(10) Creating and defining the membership and powers of committees under § 29-406.25(b), (e)(2), and (h);

(11) Providing that the same person may not simultaneously hold more than one office in a member-governed corporation; and

(12) Providing that the resignation of a officer under § 29-406.43 is not effective until approved by the members.

(e) If a member-governed corporation adopts a specified generally accepted parliamentary authority in its bylaws, rules in the specified parliamentary authority and in special rules of order adopted as provided in the parliamentary authority shall be treated as provisions of the bylaws for the purposes of this chapter, except to the extent such rules are inconsistent with explicit provisions of the articles of incorporation or the bylaws. The rules of any such adopted parliamentary authority shall be presumed to be fair to the members pursuant to § 29-405.08(c).

Part E. Attorney General.

§ 29-401.60. Notice to Attorney General.

(a) The Attorney General for the District of Columbia shall be given notice of the commencement of any proceeding that this chapter authorizes the Attorney General to bring but that has been commenced by another person.

(b) Whenever any provision of this chapter requires that notice be given to the Attorney General for the District of Columbia before or after commencing a proceeding or permits the Attorney General to commence a proceeding:

(1) If no proceeding has been commenced, the Attorney General may take appropriate action seeking injunctive relief; and

(2) If a proceeding has been commenced by a person other than the Attorney General, the Attorney General, as of right, may intervene in the proceeding.

Subchapter II. Incorporation.

§ 29-402.01. Incorporators.

One or more persons may act as the incorporators of a nonprofit corporation by delivering articles of incorporation to the Mayor for filing.

§ 29-402.02. Articles of incorporation.

(a) The articles of incorporation shall set forth:

(1) A name for the nonprofit corporation that satisfies the requirements of § 29-103.01;

(2) The information required by § 29-104.04;

(3) That the corporation is incorporated as a nonprofit corporation under this chapter;

(4) The name and street address of each incorporator; and

(5) Whether the corporation will have members.

. (b) The articles of incorporation may set forth:

(1) The names of the individuals who are to serve as the initial directors;

(2) Provisions creating one or more designated bodies;

(3) The names of the initial members of a designated body;

(4) The names of the initial members, if any;

(5) Provisions not inconsistent with law regarding:

(A) The purpose or purposes for which the nonprofit corporation is organized;

(B) Managing the business and regulating the affairs of the corporation;

(C) Defining, limiting, and regulating the powers of the corporation, its board of directors, any designated body, and the members, if any;

(D) The characteristics, qualifications, rights, limitations, and obligations attaching to each or any class of members; or

(E) The distribution of assets on dissolution;

(6) Any provision that this chapter requires or permits to be set forth in the articles or bylaws;

(7) A provision permitting or making obligatory indemnification of a director for liability, as defined in § 29-406.50, to any person for any action taken, or any failure to take any action, as a director, except liability for:

(A) Receipt of a financial benefit to which the director is not entitled;

(B) An intentional infliction of harm;

(C) A violation of § 29-406.33; or

(D) An intentional violation of criminal law; and

(8) Provisions required if the corporation is to be exempt from taxation under federal, state, or local law.

(c) The liability of a director of a nonprofit corporation that is not a charitable corporation may be eliminated or limited by a provision of the articles of incorporation that a director is not liable to the corporation or its members for money damages for any action taken, or any failure to take any action, as a director, except liability for:

(1) The amount of a financial benefit received by the director to which the director is not entitled;

(2) An intentional infliction of harm;

(3) A violation of § 29-406.33; or

(4) An intentional violation of criminal law.

(d) The articles of incorporation need not set forth any of the corporate powers enumerated in this chapter.

(e) Provisions of the articles of incorporation may be made dependent upon facts

objectively ascertainable outside the articles of incorporation in accordance with § 29-401.04.

§ 29-402.03. Incorporation.

(a) Unless a delayed effective date is specified, the corporate existence begins when the articles of incorporation are filed.

(b) The filing of the articles of incorporation by the Mayor is conclusive proof that the incorporators satisfied all conditions precedent to incorporation except in a proceeding by the state to cancel or revoke the incorporation or involuntarily dissolve the nonprofit corporation.

§ 29-402.04. Liability for preincorporation transactions.

All persons purporting to act as or on behalf of a nonprofit corporation, knowing there was no incorporation under this chapter, shall be jointly and severally liable for all liabilities created while so acting.

§ 29-402.05. Organization of corporation.

(a) After incorporation:

(1) If initial directors or members of a designated body are named in the articles of incorporation, those persons shall hold an organizational meeting, as appropriate, at the call of a majority of them, to complete the organization of the nonprofit corporation by electing directors, when the organization of the corporation is to be completed by a designated body, appointing officers, adopting bylaws, and carrying on any other business brought before the meeting;

(2) If initial directors or members of a designated body are not named in the articles, the incorporator or incorporators shall hold an organizational meeting at the call of a majority of the incorporators to elect:

(A) Directors and complete the organization of the nonprofit corporation; or

(B) A board of directors who shall complete the organization of the corporation.

(b) Action required or permitted by this chapter to be taken by incorporators at an organizational meeting may be taken without a meeting if the action taken is evidenced by one or more consents in the form of a record describing the action taken and signed by each incorporator.

(c) An organizational meeting may be held in or outside of the District.

§ 29-402.06. Bylaws.

(a) The incorporators or the board of directors of a nonprofit corporation may adopt initial bylaws for the corporation.

(b) The bylaws of a nonprofit corporation may contain any provision for managing the activities and regulating the affairs of the corporation that is not inconsistent with law or the

articles of incorporation.

Subchapter III. Purposes and Powers.

§ 29-403.01. Purposes.

(a) A nonprofit corporation may be formed for any lawful nonprofit purpose unless a more limited purpose is set forth in the articles of incorporation.

(b) A corporation engaging in an activity that is subject to regulation under another statute of the District may incorporate under this chapter only if incorporating under this chapter is not prohibited by the other statute. The corporation is subject to all the limitations of the other statute.

§ 29-403.02. General powers.

Unless its articles of incorporation provide otherwise, every nonprofit corporation shall have perpetual duration and succession in its corporate name and has the same powers as an individual to do all things necessary or convenient to carry out its affairs including the power to:

(1) Sue and be sued, complain, and defend in its corporate name;

(2) Have a corporate seal, which may be altered at will, and to use it, or a facsimile of it, by impressing or affixing it or in any other manner reproducing it;

(3) Make and amend bylaws, not inconsistent with its articles of incorporation or with the laws of the District, for managing and regulating the affairs of the corporation;

(4) Purchase, receive, lease, or otherwise acquire, and own, hold, improve, use, and otherwise deal with, real or personal property, or any legal or equitable interest in property, wherever located;

(5) Sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of all or any part of its property;

(6) Purchase, receive, subscribe for, or otherwise acquire, own, hold, vote, use, sell, mortgage, lend, pledge, or otherwise dispose of, and deal in and with shares or other interests in, or obligations of, any other entity;

(7) Make contracts and guarantees, incur liabilities, borrow money, issue notes, bonds, and other obligations, and secure any of its obligations by mortgage or pledge of any of its property or income;

(8) Lend money, invest and reinvest its funds, and receive and hold real and personal property as security for repayment, except as limited by § 29-406.32;

(9) Be a promoter, partner, member, associate, or manager of any partnership, joint venture, trust, or other entity;

(10) Conduct its activities, locate offices, and exercise the powers granted by this chapter within or without the District;

(11) Elect directors and appoint officers, employees, and agents of the corporation, define their duties, fix their compensation, and lend them money and credit, except

as limited by § 29-406.32;

(12) Pay pensions and establish pension plans, pension trusts, and benefit or incentive plans for any or all of its current or former directors, officers, employees, and agents;

(13) Make donations for charitable purposes;

(14) Impose dues, assessments, admission, and transfer fees on its members;

(15) Establish conditions for admission of members, admit members, and issue memberships;

(16) Carry on a business; and

(17) Make payments or donations, or do any other act, not inconsistent with law, that furthers the purposes, activities, and affairs of the corporation.

§ 29-403.03. Emergency powers.

(a) If a nonprofit corporation authorizes the exercise of emergency powers in its articles of incorporation or bylaws, in the event of an emergency, the board of directors may:

(1) Modify lines of succession to accommodate the incapacity of any director, officer, employee, or agent; and

(2) Relocate the principal office, designate alternative principal offices or regional offices, or authorize the officers to do so.

(b) During an emergency, unless the articles of incorporation or bylaws provide otherwise:

(1) Notice of a meeting of the board of directors need be given only to those directors it is practicable to reach and may be given in any practicable manner; and

(2) One or more officers of the nonprofit corporation present at a meeting of the board of directors may be deemed to be directors for the meeting, in order of rank and within the same rank in order of seniority.

(c) Corporate action taken in good faith during an emergency to further the ordinary affairs of the nonprofit corporation:

(1) Binds the corporation; and

(2) Shall not be used to impose liability on a director, officer, employee, or agent.

(d) An emergency exists for purposes of this section if a quorum of the directors cannot readily be assembled because of some catastrophic event.

§ 29-403.04. Ultra vires.

(a) Except as otherwise provided in subsection (b) of this section, the validity of corporate action shall not be challenged on the ground that the nonprofit corporation lacks or lacked power to act.

(b) The power of a nonprofit corporation to act may be challenged in a proceeding by:

(1) A member, director, or member of a designated body against the corporation to enjoin the act;

(2) The corporation, directly, derivatively, or through a receiver, trustee, or other legal representative, against an incumbent or former director or member of a designated body, officer, employee, or agent of the corporation; or

(3) The Attorney General for the District of Columbia under § 29-412.20.

(c) In a derivative proceeding under subchapter XI of this chapter by a member, director, or member of a designated body under subsection (b)(1) of this section to enjoin an unauthorized corporate act, the Superior Court may enjoin or set aside the act, if equitable and if all affected persons are parties to the proceeding, and may award damages for loss, other than anticipated profits, suffered by the corporation or another party because of enjoining the unauthorized act.

Subchapter IV. Memberships and Financial Provisions.

Part A. Admission of Members.

§ 29-404.01. No requirement of members; other persons designated by articles of incorporation or bylaws.

(a) A nonprofit corporation shall not be required to have members.

(b) If the articles of incorporation or bylaws of a nonprofit corporation do not provide that it must have members, or if a corporation has in fact no members entitled to vote on a matter, any provision of this chapter or any other provision of law requiring notice to, the presence of, or the vote, consent, or other action by members of the corporation in connection with the matter shall be satisfied by notice to, the presence of, or the vote, consent, or other action by the board of directors or a designated body of the corporation.

(c) The articles of incorporation or bylaws of a nonprofit corporation may designate a person as a member who is not within the definition of "member" under § 29-401.02(24). Such a person, regardless of designation, shall not be deemed a member for purposes of this chapter but nevertheless shall have those rights and obligations set forth in the articles of incorporation or bylaws.

§ 29-404.02. Admission.

(a) The articles of incorporation or bylaws of a membership corporation may establish criteria or procedures for admission of members.

(b) A person shall not be admitted as a member without the person's consent.

(c) If a membership corporation provides certificates of membership to the members, the certificates shall not be registered and shall not be able except as otherwise provided in the articles of incorporation or bylaws.

(d) A person shall not be a member of a nonprofit corporation unless the person meets the definition of a "member" in § 29-401.02, regardless of whether the corporation refers to the person as a member.

§ 29-404.03. Consideration.

Except as otherwise provided in its articles of incorporation or bylaws, a membership corporation may admit members for no consideration or for such consideration as is determined by the board of directors. The consideration may take any form, including promissory notes, intangible property, or past or future services. Payment of the consideration may be made at such times and upon such terms as are set forth in or authorized by the articles of incorporation, bylaws, or a resolution of the board.

Part B. Rights and Obligations of Members .

§ 29-404.10. Differences in rights and obligations of members.

Except as otherwise provided in the articles of incorporation or bylaws, each member of a membership corporation shall have the same rights and obligations as every other member with respect to voting, dissolution, membership transfer, and other matters.

§ 29-404.11. Transfers.

(a) Except as otherwise provided in the articles of incorporation or bylaws, a member of a membership corporation shall not transfer a membership or any right arising therefrom.

(b) If the right to transfer a membership has been provided, a restriction on that right shall not be binding with respect to a member holding a membership issued before the adoption of the restriction unless the restriction is approved by the affected member.

§ 29-404.12. Member's liability to third parties.

A member of a membership corporation shall not be as such, personally liable for the acts, debts, liabilities, or obligations of the corporation.

§ 29-404.13. Member's liability for dues, assessments, and fees.

(a) A membership corporation may levy dues, assessments, and fees on its members to the extent authorized in the articles of incorporation or bylaws. Dues, assessments, and fees may be imposed on members of the same class either alike or in different amounts or proportions, and may be imposed on a different basis on different classes of members. Members of a class may be made exempt from dues, assessments, and fees to the extent provided in the articles or bylaws.

(b) The amount and method of collection of dues, assessments, and fees may be fixed in the articles of incorporation or bylaws, or the articles or bylaws may authorize the board of directors or members to fix the amount and method of collection.

(c) The articles of incorporation or bylaws may provide reasonable means, such as termination and reinstatement of membership, to enforce the collection of dues, assessments, and fees.

§ 29-404.14. Creditor's action against member.

(a) A proceeding shall not be brought by a creditor of a membership corporation to reach the liability, if any, of a member to the corporation unless final judgment has been rendered in favor of the creditor against the corporation and execution has been returned unsatisfied in whole or in part or unless the proceeding would be useless. In this case, a member remains immune from liability for debts, obligations, and other liabilities of the corporation under § 29-404.12 and shall be liable only to the extent that the member's failure to pay amounts owed to the corporation has resulted in damages to the creditor.

(b) All creditors of a membership corporation, with or without reducing their claims to judgment, may intervene in any creditor's proceeding brought under subsection (a) of this section to reach and apply unpaid amounts due the corporation.

Part C. Resignation and Termination.

§ 29-404.20. Resignation.

(a) A member of a membership corporation may resign at any time.

(b) The resignation of a member shall not relieve the member from any obligations incurred or commitments made prior to resignation.

§ 29-404.21. Termination and suspension.

(a) A membership in a membership corporation may be terminated or suspended for the reasons and in the manner provided in the articles of incorporation or bylaws.

(b) A proceeding challenging a termination or suspension for any reason shall be commenced within one year after the effective date of the termination or suspension.

(c) The termination or suspension of a member shall not relieve the member from any obligations incurred or commitments made prior to the termination or suspension.

§ 29-404.22. Purchase of memberships.

Except as otherwise provided in the articles of incorporation or bylaws, a membership corporation that is not a charitable corporation shall not purchase any of its memberships or any right arising therefrom.

Part D. Delegates.

§ 29-404.30. Delegates.

(a) A membership corporation may provide in its articles of incorporation or bylaws for delegates.

(b) The articles of incorporation or bylaws may set forth provisions relating to:

(1) The characteristics, qualifications, rights, limitations, and obligations of delegates including their selection and removal;

(2) Calling, noticing, holding, and conducting meetings of delegates; and

(3) Carrying on corporate activities during and between meetings of delegates.

(c) An assembly or other organized group of delegates constitutes a designated body if it has been vested with powers of the board of directors under the articles of incorporation or bylaws.

Part E. Financial Provisions.

§ 29-404.40. Distributions prohibited.

(a) Except as permitted under § 29-404.22 or § 29-404.41, a nonprofit corporation shall not pay dividends or make distributions of any part of its assets, income, or profits to its members, directors, delegates, members of a designated body, or officers.

(b) This section shall not apply to a contract or transaction authorized pursuant to § 29-406.70.

§ 29-404.41. Compensation and other permitted payments.

(a) A nonprofit corporation may pay reasonable compensation or reimburse reasonable expenses to members, directors, delegates, members of a designated body, or officers for services rendered.

(b) A nonprofit corporation may confer benefits upon or make contributions to members or nonmembers in conformity with its purposes, repurchase its memberships only to the extent provided in § 29-404.22, or repay capital contributions, except when:

(1) The corporation is currently insolvent or would thereby be made insolvent or rendered unable to carry on its purposes; or

(2) The fair value of the assets of the corporation remaining after the conferring of benefits, contribution, repurchase, or repayment would be insufficient to meet its liabilities.

(c) A nonprofit corporation may make distributions of cash or property to members upon dissolution or final liquidation only as permitted by this chapter.

§ 29-404.42. Debt and security interests.

(a) A nonprofit corporation shall not issue bonds or other evidences of indebtedness except for money or other property, tangible or intangible, or labor or services actually received by or performed for the corporation or for its benefit or in its formation or reorganization, or a combination thereof. In the absence of fraud, the judgment of the board of directors as to the value of the consideration received by the corporation shall be conclusive.

(b) The board of directors may authorize a mortgage or pledge of, or the creation of a security interest in, all or any part of the property of the nonprofit corporation, or any interest therein. Unless otherwise restricted in the articles of incorporation or bylaws, the vote or consent of the members shall not be required to make effective such action by the board.

§ 29-404.43. Private foundations.

(a) Except as otherwise provided in subsection (b) of this section, a nonprofit corporation that is a private foundation as defined in section 509(a) of the Internal Revenue Code of 2986, approved December 30, 1969 (83 Stat. 496; 26 U.S.C. § 509(a)) ("Internal Revenue Code"), shall:

(1) Distribute such amounts for each taxable year at such time and in such manner as not to subject the corporation to tax under section 4942 of the Internal Revenue Code;

(2) Not engage in any act of self-dealing as defined in section 4941(d) of the Internal Revenue Code;

(3) Not retain any excess business holdings as defined in section 4943(c) of the Internal Revenue Code;

(4) Not make any investments in such manner as to subject the corporation to tax under section 4944 of the Internal Revenue Code; and

(5) Not make any taxable expenditures as defined in section 4945(d) of the Internal Revenue Code.

(b) Subsection (a) of this section shall not apply to a nonprofit corporation incorporated before January 1, 1970 that has been properly relieved from the requirements of section 508(e)(1) of the Internal Revenue Code by a timely judicial proceeding.

Subchapter V. Member Meetings.

Part A. Procedures.

§ 29-405.01. Annual and regular meetings.

(a) A membership corporation shall hold a meeting of members annually at a time stated in or fixed in accordance with the articles of incorporation or bylaws.

(b) A membership corporation may hold regular meetings on a regional or other basis at times stated in or fixed in accordance with the articles of incorporation or bylaws.

(c) Except as otherwise provided in subsection (e) of this section, annual and regular meetings of the members may be held in or outside of the District at the place stated in or fixed in accordance with the articles of incorporation or bylaws. If no place is stated in or fixed in accordance with the articles or bylaws, annual and regular meetings shall be held at the nonprofit corporation's principal office.

(d) The failure to hold an annual or regular meeting at the time stated in or fixed in accordance with the articles of incorporation or bylaws shall not affect the validity of any corporate action.

(e) The articles of incorporation or bylaws may provide that an annual or regular meeting of members does not need to be held at a geographic location if the meeting is held by means of the Internet or other electronic communications technology in a fashion pursuant to which the members have the opportunity to read or hear the proceedings substantially concurrently with their occurrence, vote on matters submitted to the members, pose questions, and make

comments.

§ 29-405.02. Special meeting.

(a) A membership corporation shall hold a special meeting of members:

(1) At the call of its board of directors or the persons authorized to do so by the articles of incorporation or bylaws; or

(2) If the holders of at least 10%, or such other amount up to 25% as the articles of incorporation or bylaws specify, of all the votes entitled to be cast on an issue proposed to be considered at the proposed special meeting sign, date, and deliver to the corporation one or more demands in the form of a record for the meeting describing the purpose for which it is to be held.

(b) Unless otherwise provided in the articles of incorporation or bylaws, a demand for a special meeting may be revoked by notice to that effect received by the membership corporation from the members calling the meeting prior to the receipt by the corporation of demands sufficient in number to require the holding of a special meeting.

(c) If not otherwise fixed under § 29-405.03 or § 29-405.07, the record date for determining members entitled to demand a special meeting shall be the date the first member signs a demand.

(d) Except as otherwise provided in subsection (f) of this section, special meetings of the members may be held in or outside of the District at the place stated in or fixed in accordance with the articles of incorporation or bylaws. If no place is stated or fixed in accordance with the articles or bylaws, special meetings shall be held at the corporation's principal office.

(e) Only business within the purpose or purposes described in the meeting notice required by § 29-405.05(c) may be conducted at a special meeting of the members.

(f) The articles of incorporation or bylaws may provide that a special meeting of members does not need to be held at a geographic location if the meeting is held by means of the Internet or other electronic communications technology in a fashion pursuant to which the members have the opportunity to read or hear the proceedings substantially concurrently with their occurrence, vote on matters submitted to the members, pose questions, and make comments.

§ 29-405.03. Court-ordered meeting.

(a) The Superior Court may summarily order a meeting to be held on application of:

(1) Any member entitled to participate in an annual or regular meeting if an annual meeting was not held within the earlier of 6 months after the end of the corporation's fiscal year or 15 months after its last annual meeting; or

(2) A member who signed a demand for a special meeting under § 29-405.02, if:

(A) Notice of the special meeting was not given within 30 days after the date the demand was delivered to the corporation's secretary; or

(B) The special meeting was not held in accordance with the notice.

(b) The Superior Court may fix the time and place of the meeting, determine the members

entitled to participate in the meeting, specify a record date for determining members entitled to notice of and to vote at the meeting, prescribe the form and content of the meeting notice, fix the quorum required for specific matters to be considered at the meeting, or direct that the votes represented at the meeting constitute a quorum for action on those matters, and enter other orders necessary to accomplish the purpose of the meeting.

§ 29-405.04. Action without meeting.

(a) Except as otherwise provided in the articles of incorporation or bylaws, action required or permitted by this chapter to be taken at a meeting of the members may be taken without a meeting if the action is taken by all the members entitled to vote on the action. The action shall be evidenced by one or more consents in the form of a record bearing the date of signature and describing the action taken, signed by all the members entitled to vote on the action, and delivered to the membership corporation for inclusion in the minutes or filing with the corporate records.

(b) If not otherwise fixed under § 29-405.03 or § 29-405.07, the record date for determining members entitled to take action without a meeting shall be the date the first member signs the consent under subsection (a) of this section. A consent shall not be effective to take the corporate action referred to therein unless, within 60 days after the earliest date appearing on a consent delivered to the membership corporation in the manner required by this section, consents signed by members entitled to cast the required number of votes on the action are received by the corporation. A consent may be revoked by a signed notice in the form of a record to that effect received by the corporation prior to receipt by the corporation of unrevoked consents sufficient in number to take corporate action.

(c) A consent signed under this section has the effect of a meeting vote and may be described as such.

(d) If this chapter, the articles of incorporation, or the bylaws require that notice of proposed action be given to members not entitled to vote on the action and the action is to be taken by consent of the members entitled to vote, the membership corporation shall deliver to the members not entitled to vote notice of the proposed action at least 10 days before the action is taken. The notice shall contain or be accompanied by the same material that would have been required to be delivered to members not entitled to vote in a notice of meeting at which the proposed action would have been submitted to the members for action.

§ 29-405.05. Notice of meeting.

(a) A membership corporation shall give notice to the members of the date, time, and place of each annual, regular, or special meeting of the members. Except as otherwise provided in the articles of incorporation or the bylaws, the notice shall be given no fewer than 10 nor more than 60 days before the meeting date. Except as otherwise provided in this chapter, the articles, or the bylaws, the corporation shall give notice only to members entitled to vote at the meeting.

(b) Unless this chapter, the articles of incorporation, or the bylaws require otherwise, notice of an annual meeting need not include a description of the purpose for which the meeting is called.

(c) Notice of a special meeting shall include a description of the purpose for which the meeting is called.

(d) If not otherwise fixed under § 29-405.03 or § 29-405.07, the record date for determining members entitled to notice of and to vote at an annual or special meeting of the members is the day before the first notice is given to members.

(e) Unless the articles of incorporation or bylaws require otherwise, if an annual, regular, or special meeting of the members is adjourned to a different date, time, or place, notice need not be given of the new date, time, or place if the new date, time, or place is announced at the meeting before adjournment. If a new record date for the adjourned meeting is or must be fixed under § 29-405.07, notice of the adjourned meeting shall be given under this section to the members entitled to vote on the new record date.

§ 29-405.06. Waiver of notice.

(a) A member may waive any notice required by this chapter, the articles of incorporation, or the bylaws before or after the date and time stated in the notice or of the meeting or action. The waiver shall be in the form of a record, be signed by the member entitled to the notice, and be delivered to the membership corporation for inclusion in the minutes or filing with the corporate records.

(b) The attendance of a member at a meeting waives objection to:

(1) Lack of notice or defective notice of the meeting, unless the member at the beginning of the meeting objects to holding the meeting or transacting at the meeting;

(2) Consideration of a particular matter at the meeting that is not within the purpose described in the meeting notice, unless the member objects at the meeting to considering the matter.

§ 29-405.07. Record date.

(a) The articles of incorporation or bylaws may fix or provide the manner of fixing the record date to determine the members entitled to notice of a meeting of the members, to demand a special meeting, to vote, or to take any other action. If the articles or bylaws do not fix or provide for fixing a record date, the board of directors of the membership corporation may fix a future date as the record date.

(b) A record date fixed under this section shall not be more than 70 days before the meeting or action requiring a determination of members.

(c) A determination of members entitled to notice of or to vote at a meeting of the members shall be effective for any adjournment of the meeting unless the board of directors fixes a new record date, which it shall do if the meeting is adjourned to a date more than 120 days after

the date fixed for the original meeting.

(d) If a court orders a meeting adjourned to a date more than 120 days after the date fixed for the original meeting, it may provide that the original record date continues in effect or it may fix a new record date.

§ 29-405.08. Conduct of meeting.

(a) At each meeting of members, an individual shall preside as chair. The chair shall be appointed:

(1) As provided in the articles of incorporation or bylaws;

(2) In the absence of a provision in the articles or bylaws, by the board of directors; or

(3) In the absence of both a provision in the articles or bylaws and an appointment by the board, by the members at the meeting.

(b) Except as otherwise provided in the articles of incorporation or bylaws, the chair shall determine the order of business and has the authority to establish rules for the conduct of the meeting.

(c) Any rules adopted for, and the conduct of, the meeting shall be fair to the members.

(d) The chair of the meeting shall announce at the meeting when the polls close for each matter voted upon. If no announcement is made, the polls shall be deemed to have closed upon the final adjournment of the meeting. After the polls close, no ballots, proxies, or votes, or any otherwise permissible revocations or changes thereto, shall be accepted.

§ 29-405.09. Action by ballot.

(a) Except as otherwise restricted by the articles of incorporation or bylaws, any action that may be taken at any annual, regular, or special meeting of members may be taken without a meeting if the membership corporation delivers a ballot to every member entitled to vote on the matter.

(b) A ballot shall:

(1) Be in the form of a record;

(2) Set forth each proposed action;

(3) Provide an opportunity to vote for, or withhold a vote for, each candidate for election as a director; and

(4) Provide an opportunity to vote for or against each other proposed action.

(c) Approval by ballot pursuant to this section of action other than election of directors shall be valid only when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

(d) All solicitations for votes by ballot shall:

(1) Indicate the number of responses needed to meet the quorum requirements;

(2) State the percentage of approvals necessary to approve each matter other than election of directors; and

(3) Specify the time by which a ballot must be received by the membership corporation in order to be counted.

(e) Except as otherwise provided in the articles of incorporation or bylaws, a ballot shall not be revoked.

Part B. Voting.

§ 29-405.20. Members list for meeting.

(a) After fixing a record date for a meeting, a membership corporation shall prepare an alphabetical list of the names of all its members that are entitled to notice of that meeting of the members. The list shall show the address of and number of votes each member is entitled to cast at the meeting.

(b) The list of members shall be available for inspection by any member, beginning 2 business days after notice of the meeting is given for which the list was prepared and continuing through the meeting, at the membership corporation's principal office or at a place identified in the meeting notice in the city where the meeting will be held. A member or the member's agent shall be entitled on demand in the form of a record to inspect and, subject to the requirements of § 29-413.02(c), to copy the list, during regular business hours and at the member's expense, during the period it is available for inspection.

(c) The membership corporation shall make the list of members available at the meeting, and a member or the member's agent is entitled to inspect the list at any time during the meeting or any adjournment.

(d) If a membership corporation refuses to allow a member or the member's agent to inspect the list of members before or at the meeting, or copy the list as permitted by subsection (b) of this section, the Superior Court on application of the member, may:

(1) Summarily order the inspection or copying at the corporation's expense;

(2) Postpone the meeting for which the list was prepared until the inspection or copying is complete;

(3) Order the corporation to pay the member's costs, including reasonable attorney's fees, incurred to obtain the order; and

(4) Order other appropriate relief.

(e) Refusal or failure to prepare or make available the list of members shall not affect the validity of action taken at the meeting.

(f) Instead of making the list of members available as provided in subsection (b) of this section, a membership corporation may state in a notice of meeting that the corporation has elected to proceed under this subsection. A member of a corporation that has elected to proceed under this subsection shall state in the member's demand for inspection a proper purpose for

which inspection is demanded. Within 10 business days after receiving a demand under this subsection, the corporation shall deliver to the member making the demand an offer of a reasonable alternative method of achieving the purpose identified in the demand without providing access to or a copy of the list of members. An alternative method that reasonably and in a timely manner accomplishes the proper purpose set forth in the demand relieves the corporation from making the list of members available under subsection (b) of this section, unless within a reasonable time after acceptance of the offer the corporation fails to do the things it offered to do. Any rejection of the corporation's offer shall be in the form of a record and shall indicate the reasons the alternative proposed by the corporation does not meet the proper purpose of the demand.

§ 29-405.21. Voting entitlement of members.

Except as otherwise provided in the articles of incorporation or bylaws, each member shall be entitled to one vote on each matter voted on by the members.

§ 29-405.22. Proxies.

(a) Except as otherwise provided in the articles of incorporation or bylaws, a member may vote in person or by proxy.

(b) A member or the member's agent or attorney-in-fact may appoint a proxy to vote or otherwise act for the member by signing an appointment form in the form of a record. An appointment form shall contain or be accompanied by information from which it can be determined that the member or the member's agent or attorney-in-fact authorized the appointment of the proxy.

(c) An appointment of a proxy shall be effective when a signed appointment in the form of a record is received by the inspectors of election, the officer or agent of the membership corporation authorized to tabulate votes, or the secretary. An appointment shall be valid for 11 months unless a longer period, which may not exceed 3 years, is expressly provided in the appointment form.

(d) The death or incapacity of the member appointing a proxy shall not affect the right of the membership corporation to accept the proxy's authority unless notice of the death or incapacity is received by the inspectors of election, the officer or agent authorized to tabulate votes, or the secretary before the proxy exercises his authority under the appointment.

(e) Subject to § 29-405.23 and to any express limitation on the proxy's authority stated in the appointment form, a membership corporation may accept the proxy's vote or other action as that of the member making the appointment.

§ 29-405.23. Acceptance of votes.

(a) If the name signed on a ballot, consent, waiver, or proxy appointment corresponds to the name of a member, the membership corporation if acting in good faith may accept the ballot,

consent, waiver, or proxy appointment and give it effect as the act of the member.

(b) If the name signed on a ballot, consent, waiver, or proxy appointment does not correspond to the name of its member, the membership corporation if acting in good faith may nevertheless accept the ballot, consent, waiver, or proxy appointment and give it effect as the act of the member if:

(1) The member is an entity and the name signed purports to be that of an officer or agent of the entity;

(2) The name signed purports to be that of an administrator, executor, guardian, or conservator representing the member and, if the corporation requests, evidence of fiduciary status acceptable to the corporation has been presented with respect to the ballot, consent, waiver, or proxy appointment;

(3) The name signed purports to be that of a receiver or trustee in bankruptcy of the member and, if the corporation requests, evidence of this status acceptable to the corporation has been presented with respect to the ballot, consent, waiver, or proxy appointment;

(4) The name signed purports to be that of a beneficial owner or attorney-in-fact of the member and, if the corporation requests, evidence acceptable to the corporation of the signatory's authority to sign for the member has been presented with respect to the ballot, consent, waiver, or proxy appointment; or

(5) Two or more persons are the member as co-tenants or fiduciaries and the name signed purports to be the name of at least one of the co-owners and the person signing appears to be acting on behalf of all the co-owners.

(c) The membership corporation may reject a ballot, consent, waiver, or proxy appointment if the secretary or other officer or agent authorized to tabulate votes, acting in good faith, has reasonable basis for doubt about the validity of the signature on it or about the signatory's authority to sign for the member.

(d) The membership corporation and its officer or agent that accepts or rejects a ballot, consent, waiver, or proxy appointment in good faith and in accordance with the standards of this section or § 29-405.22(b) shall not be liable in damages to the member for the consequences of the acceptance or rejection.

(e) Corporate action based on the acceptance or rejection of a ballot, consent, waiver, or proxy appointment under this section shall be valid unless a court of competent jurisdiction determines otherwise.

§ 29-405.24. Quorum and voting requirements for voting groups.

(a) Members entitled to vote as a separate voting group may take action on a matter at a meeting only if a quorum of those members exists with respect to that matter. Except as otherwise provided in the articles of incorporation or bylaws, a majority of the votes entitled to be cast on the matter by the voting group constitutes a quorum of that voting group for action on that matter.

(b) Once a member is represented for any purpose at a meeting, the member shall be deemed present for quorum purposes for the remainder of the meeting and for any adjournment of that meeting unless a new record date is or must be set for that adjourned meeting.

(c) If a quorum exists, action on a matter, other than the election of directors, by a voting group is approved if the votes cast within the voting group favoring the action exceed the votes cast opposing the action, unless the articles of incorporation or bylaws require a greater number of affirmative votes.

(d) An amendment of the articles of incorporation or bylaws adding, changing, or deleting a quorum or voting requirement for a voting group greater than specified in subsection (a) or (c) of this section shall be governed by § 29-405.26.

(e) If a meeting cannot be organized because a quorum is not present, those members present may adjourn the meeting to such time and place as they may determine. Except as otherwise provided in the articles of incorporation or bylaws, when a meeting that has been adjourned for lack of a quorum is reconvened, those members present, although less than a quorum as fixed in this section, the articles, or the bylaws, nonetheless constitute a quorum.

§ 29-405.25. Action by single and multiple voting groups.

(a) If this chapter, the articles of incorporation, or the bylaws provide for voting by a single voting group on a matter, action on that matter is taken when voted upon by that voting group as provided in § 29-405.24.

(b) If this chapter, the articles of incorporation, or the bylaws provide for voting by 2 or more voting groups on a matter, action on that matter shall be taken only when voted upon by each of those voting groups counted separately as provided in § 29-405.24.

§ 29-405.26. Different quorum or voting requirements.

(a) The articles of incorporation or bylaws may provide for a higher or lower quorum or voting requirement for members, or voting groups of members, than is provided for by this chapter.

(b) An amendment to the articles of incorporation or bylaws that adds, changes, or deletes a greater quorum or voting requirement shall meet the same quorum requirement and be adopted by the same vote and voting groups required to take action under the quorum and voting requirements then in effect.

§ 29-405.27. Voting for directors.

(a) Except as otherwise provided in the articles of incorporation or bylaws, directors of a membership corporation shall be elected by a plurality of the votes cast by the members entitled to vote in the election at a meeting at which a quorum is present.

(b) Unless permitted by the articles of incorporation or bylaws, members shall not have a right to cumulate their votes for directors.

§ 29-405.28. Inspectors of election.

(a) A membership corporation may appoint one or more inspectors to act at a meeting of members and make a report in the form of a record of the inspectors' determinations. Each inspector shall execute the duties of inspector impartially and according to the best of the inspector's ability.

(b) The inspectors shall:

(1) Ascertain the number of members and their voting power;

(2) Determine the members present at a meeting;

(3) Determine the validity of proxies and ballots;

(4) Count all votes; and

(5) Determine the result.

(c) An inspector may, but need not, be a director, member of a designated body, member, officer, or employee of the membership corporation. An individual who is a candidate for office to be filled at the meeting may not be an inspector.

Part C. Voting Agreements.

§ 29-405.40. Voting agreements.

(a) Two or more members may provide for the manner in which they will vote by signing an agreement in the form of a record for that purpose. A voting agreement shall be valid for a period of up to 10 years. If no time is stated in the voting agreement, the agreement shall be valid for 5 years. The members who signed the voting agreement may, at any time, alter or terminate the agreement by signing a new agreement.

(b) A voting agreement created under this section shall be specifically enforceable, except that a voting agreement is not enforceable to the extent that enforcement of the agreement would violate the purposes of the membership corporation.

Subchapter VI. Directors, Officers, and Employees.

Part A. Board of Directors.

§ 29-406.01. Requirement for and functions of board of directors.

(a) A nonprofit corporation shall have a board of directors.

(b) Except as otherwise provided in § 29-406.12, all corporate powers shall be exercised by or under the authority of the board of directors of the nonprofit corporation, and the activities and affairs of the corporation shall be managed by or under the direction, and subject to the oversight, of its board of directors.

§ 29-406.02. Qualifications of directors.

A director of a nonprofit corporation shall be an individual. The articles of incorporation or bylaws may prescribe other qualifications for directors. A director need not be a resident of the District or a member of the corporation unless the articles or bylaws so prescribe.

§ 29-406.03. Number of directors.

(a) A board of directors shall consist of 3 or more directors, with the number specified in or fixed in accordance with the articles of incorporation or bylaws.

(b) The number of directors may be increased or decreased, but to no fewer than 3, by amendment to, or in the manner provided in, the articles of incorporation or bylaws.

§ 29-406.04. Selection of directors.

(a) The directors of a membership corporation, other than any initial directors named in the articles of incorporation or elected by the incorporators, shall be elected at the first annual meeting of members, and at each annual meeting thereafter, unless the articles or bylaws provide some other time or method of election, or provide that some or all of the directors are appointed by some other person or designated in some other manner.

(b) The directors of a nonmembership corporation, other than any initial directors named in the articles of incorporation or elected by the incorporators, shall be elected, appointed, or designated as provided in the articles or bylaws. If no method of designation or appointment is set forth in the articles or bylaws, the directors, other than any initial directors, shall be elected by the board.

§ 29-406.05. Terms of directors generally.

(a) The articles of incorporation or bylaws may specify the terms of directors. If a term is not specified in the articles or bylaws, the term of a director is one year. Except for directors who are appointed by persons that are not members or who are designated in a manner other than by election or appointment, the term of a director shall not exceed 5 years. Except as otherwise provided in the articles or bylaws, a director shall be appointed, elected, or otherwise designated for additional terms.

(b) A decrease in the number of directors or term of office shall not shorten an incumbent director's term.

(c) Except as otherwise provided in the articles of incorporation or bylaws, the term of a director elected to fill a vacancy expires at the end of the unexpired term that the director is filling.

(d) Despite the expiration of a director's term, the director shall continue to serve until the director's successor is elected, appointed, or designated and until the director's successor takes office, unless otherwise provided in the articles of incorporation or bylaws.

§ 29-406.06. Staggered terms for directors.

The articles of incorporation or bylaws may provide for staggering the terms of directors by dividing the total number of directors into groups of one or more directors. The terms of office and number of directors in each group do not need to be uniform.

§ 29-406.07. Resignation of directors.

(a) A director may resign at any time by delivering a signed notice in the form of a record to the chair of the board of directors or to an executive officer or the secretary of the corporation.

(b) A resignation shall be effective when the notice is delivered unless the notice specifies a later effective time.

§ 29-406.08. Removal of directors by members or other persons.

(a) Removal of directors of a membership corporation shall be subject to the following provisions:

(1) The members may remove, with or without cause, one or more directors who have been elected by the members, unless the articles of incorporation or bylaws provide that directors may be removed only for cause. The articles or bylaws may specify what constitutes cause for removal.

(2) Except as otherwise provided in the articles of incorporation or bylaws, if a director is elected by a voting group of members, by a chapter or other organizational unit, or by a region or other geographic grouping, only the members of that voting group or chapter, unit, region, or grouping may participate in the vote to remove the director.

(3) The notice of a meeting of members at which removal of a director is to be considered shall state that the purpose, or one of the purposes, of the meeting is removal of the director.

(4) The board of directors of a membership corporation shall not remove a director except as otherwise provided in subsection (c) of this section or in the articles of incorporation or bylaws.

(b) The board of directors may remove a director of a nonmembership corporation:

(1) With or without cause, unless the articles of incorporation or bylaws provide that directors may be removed only for cause; provided, that articles or bylaws may specify what constitutes cause for removal; or

(2) As provided in subsection (c) of this section.

(c) The board of directors of a membership corporation or nonmembership corporation may remove a director who:

(1) Has been declared of unsound mind by a final order of court;

(2) Has been convicted of a felony;

(3) Has been found by a final order of court to have breached a duty as a director under part C of this subchapter;

(4) Has missed the number of board meetings specified in the articles of incorporation or bylaws, if the articles or bylaws at the beginning of the director's current term provided that a director may be removed for missing the specified number of board meetings; or

(5) Does not satisfy at the time any of the qualifications for directors set forth in the articles of incorporation or bylaws at the beginning of the director's current term, if the

decision that the director fails to satisfy a qualification is made by the vote of a majority of the directors who meet all of the required qualifications.

(d) A director who is designated in the articles of incorporation or bylaws may be removed by an amendment to the articles or bylaws deleting or changing the designation.

(e) Except as otherwise provided in the articles of incorporation or bylaws, a director who is appointed by persons other than the members may be removed with or without cause by those persons.

§ 29-406.09. Removal of directors by judicial proceeding.

(a) The Superior Court may remove a director from office in a proceeding commenced by or in the right of the corporation if the court finds that:

(1) The director engaged in fraudulent conduct with respect to the corporation or its members, grossly abused the position of director, or intentionally inflicted harm on the corporation; and

(2) Considering the director's course of conduct and the inadequacy of other available remedies, removal would be in the best interests of the corporation.

(b) A member, individual director, or member of a designated body proceeding on behalf of the nonprofit corporation under subsection (a) of this section shall comply with all of the requirements of subchapter XI of this chapter.

(c) The court, in addition to removing the director, may bar the director from being reelected, redesignated, or reappointed for a period prescribed by the court.

(d) Nothing in this section limits the equitable powers of the court to order other relief.

(e) If a proceeding is commenced under this section to remove a director of a charitable corporation, the plaintiff shall give the Attorney General for the District of Columbia notice in record form of the commencement of the proceeding.

§ 29-406.10. Vacancy on board.

(a) Except as otherwise provided in subsection (b) of this section, the articles of incorporation, or the bylaws, if a vacancy occurs on the board of directors, including a vacancy resulting from an increase in the number of directors, the vacancy may be filled by a majority of the directors remaining in office even if they constitute less than a quorum.

(b) Except as otherwise provided in the articles of incorporation or bylaws, a vacancy in the position of a director who is:

(1) Elected by a voting group of members, by a chapter or other organizational unit of members, or by a region or other geographic grouping of members, shall be filled during the first 3 months after the vacancy occurs only by that voting group or chapter, unit, region, or grouping;

(2) Appointed by persons other than the members, may be filled only by those persons; or

(3) Designated in the articles of incorporation or bylaws shall not be filled by action of the board of directors.

(c) A vacancy that will occur at a specific later time, by reason of a resignation effective at a later time under § 29-406.07(b) or otherwise, may be filled before the vacancy occurs but the new director shall not take office until the vacancy occurs.

§ 29-406.11. Compensation of directors.

Unless the articles of incorporation or bylaws provide otherwise, the board of directors may fix the compensation of directors.

§ 29-406.12. Designated body.

(a) Some, but less than all, of the powers, authority, or functions of the board of directors of a nonprofit corporation under this chapter may be vested by the articles of incorporation in a designated body. If a designated body is created:

(1) This subchapter and other provisions of law on:

(A) The rights, duties, and liabilities of the board of directors or directors individually shall also apply to the designated body and to the members of the designated body individually; and

(B) Meetings, notice, and the manner of acting of the board of directors shall also apply to the designated body in the absence of an applicable rule in the articles of incorporation, bylaws, or internal operating rules of the designated body;

(2) To the extent the powers, authority, or functions of the board of directors have been vested in the designated body, the directors shall be relieved from their duties and liabilities with respect to those powers, authority, and functions; and

(3) A provision of the articles of incorporation regarding indemnification of directors or limiting the liability of directors adopted pursuant to § 29-402.02(b)(8) or (c) applies to members of the designated body, except as otherwise provided in the articles.

(b) Some, but less than all, of the rights or obligations of the members of a nonprofit corporation under this chapter may be vested by the articles of incorporation or bylaws in a designated body. If such a designated body is created:

(1) This subchapter and other provisions of law on:

(A) The rights and obligations of members shall also apply to the designated body and to the members of the designated body individually; and

(B) Meetings, notice, and the manner of acting of members shall also apply to the designated body in the absence of an applicable provision in the articles of incorporation, bylaws, or internal operating rules of the designated body;

(2) To the extent the rights or obligations of the members have been vested in the designated body, the members shall be relieved from responsibility with respect to those rights and obligations.

(c) The articles of incorporation or bylaws may prescribe qualifications for members of a designated body. Except as otherwise provided in the articles or bylaws, a member of a designated body does not need to be:

(1) An individual;

(2) A director, officer, or member of the nonprofit corporation; or

(3) A resident of the District.

Part B. Meetings and Action of the Board.

§ 29-406.20. Meetings.

(a) The board of directors may hold regular or special meetings in or outside of the District.

(b) Unless the articles of incorporation or bylaws provide otherwise, the board of directors may permit any or all directors to participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication by which all directors participating may simultaneously hear each other during the meeting. A director participating in a meeting by this means shall be considered to be present in person at the meeting.

§ 29-406.21. Action without meeting.

(a) Except to the extent that the articles of incorporation or bylaws require that action by the board of directors be taken at a meeting, action required or permitted by this chapter to be taken by the board of directors may be taken without a meeting if each director signs a consent in the form of a record describing the action to be taken and delivers it to the nonprofit corporation.

(b) Action taken under this section shall be the act of the board of directors when one or more consents signed by all the directors are delivered to the nonprofit corporation. The consent may specify the time at which the action taken in the consent is to be effective. A director's consent may be withdrawn by a revocation in the form of a record signed by the director and delivered to the corporation prior to delivery to the corporation of unrevoked consents signed by all the directors.

(c) A consent signed under this section has the effect of action taken at a meeting of the board of directors and may be described as such in any document.

§ 29-406.22. Call and notice of meeting.

(a) Unless the articles of incorporation or bylaws provide otherwise, regular meetings of the board of directors shall be held with notice of the date, time, place, or purpose of the meeting; provided, that at the beginning of each one-year period, the corporation may provide a single notice of all regularly scheduled meetings for that year, or for a lesser period, without having to give notice of each meeting individually.

(b) Unless the articles of incorporation or bylaws provide for a longer or shorter period, special meetings of the board of directors shall be preceded by at least 2 days' notice of the date,

time, and place of the meeting. The notice need not describe the purpose of the special meeting unless required by the articles of incorporation or bylaws.

(c) Unless the articles of incorporation or bylaws provide otherwise, the chair of the board, the highest ranking officer of the corporation, or 20% of the directors then in office may call and give notice of a meeting of the board of directors.

(d) The articles of incorporation or bylaws may authorize oral notice of meetings of the board of directors.

§ 29-406.23. Waiver of notice.

(a) A director may waive any notice required by this chapter, the articles of incorporation, or the bylaws before or after the date and time stated in the notice. Except as otherwise provided in subsection (b) of this section, the waiver shall be in the form of a record, signed by the director entitled to the notice, and filed with the minutes or corporate records.

(b) A director's attendance at or participation in a meeting shall waive any required notice to the director of the meeting, unless the director at the beginning of the meeting, or promptly upon arrival, objects to holding the meeting or transacting at the meeting and does not thereafter vote for or assent to action taken at the meeting.

§ 29-406.24. Quorum and voting.

(a) Except as otherwise provided in subsection (b) of this section, the articles of incorporation, or the bylaws, a quorum of the board of directors shall consist of a majority of the directors in office before a meeting begins.

(b) The articles of incorporation or bylaws may authorize a quorum of the board of directors to consist of no fewer than the greater of ⅓ of the number of directors in office or 2 directors.

(c) If a quorum is present when a vote is taken, the affirmative vote of a majority of directors present shall be the act of the board of directors unless a greater vote is required by the articles of incorporation or bylaws.

(d) A director who is present at a meeting of the board of directors when corporate action is taken shall be considered to have assented to the action taken unless one of the following applies:

(1) The director objects at the beginning of the meeting, or promptly upon arrival, to holding it or transacting at the meeting; or

(2) The director dissents or abstains from the action and:

(A) The dissent or abstention is entered in the minutes of the meeting; or

(B) The director delivers notice in the form of a record of the director's dissent or abstention to the presiding officer of the meeting before its adjournment or to the corporation promptly after adjournment of the meeting.

(e) The right of dissent or abstention shall not be available to a director who votes in

favor of the action taken.

§ 29-406.25. Board and advisory committees.

(a) Unless this chapter, the articles of incorporation, or the bylaws provide otherwise, a board of directors may create one or more committees of the board that consist of one or more directors.

(b) Unless this chapter otherwise provides, the creation of a committee and appointment of directors to it shall be approved by the greater of:

(1) A majority of all the directors in office when the action is taken; or

(2) The number of directors required by the articles of incorporation or bylaws to take action under § 29-406.24.

(c) Sections 29-406.20 through 29-406.24 shall apply both to committees of the board and to their members.

(d) To the extent specified by the board of directors or in the articles of incorporation or bylaws, each committee may exercise the powers of the board of directors under § 29-406.01 except as limited by subsection (e) of this section.

(e) A committee shall not:

(1) Authorize distributions;

(2) In the case of a membership corporation, approve or propose to members action that this chapter requires be approved by members;

(3) Fill vacancies on the board of directors or, subject to subsection (g) of this section, on any of its committees; or

(4) Adopt, amend, or repeal bylaws.

(f) The creation of, delegation of authority to, or action by a committee shall not alone constitute compliance by a director with the standards of conduct described in § 29-406.30.

(g) The board of directors may appoint one or more directors as alternate members of any committee to replace any absent or disqualified member during the member's absence or disqualification.

(h) A nonprofit corporation may create or authorize the creation of one or more advisory committees whose members need not be directors. An advisory committee shall not:

(1) Be a committee of the board; and

(2) Exercise any of the powers of the board.

Part C. Directors.

§ 29-406.30. Standards of conduct for directors.

(a) Each member of the board of directors, when discharging the duties of a director, shall act:

(1) In good faith; and

(2) In a manner the director reasonably believes to be in the best interests of the

nonprofit corporation.

(b) The members of the board of directors or a committee of the board, when becoming informed in connection with their decision-making function or devoting attention to their oversight function, shall discharge their duties with the care that a person in a like position would reasonably believe appropriate under similar circumstances.

(c) In discharging board or committee duties a director shall disclose, or cause to be disclosed, to the other board or committee members information not already known by them but known by the director to be material to the discharge of their decision-making or oversight functions, except that disclosure is not required to the extent that the director reasonably believes that doing so would violate a duty imposed by law, a legally enforceable obligation of confidentiality, or a professional ethics rule.

(d) In discharging board or committee duties, a director who does not have knowledge that makes reliance unwarranted may rely on the performance by any of the persons specified in subsection (f)(1), (3), or (4) of this section to whom the board may have delegated, formally or informally by course of conduct, the authority or duty to perform one or more of the board's functions that are delegable under applicable law.

(e) In discharging board or committee duties a director who does not have knowledge that makes reliance unwarranted may rely on information, opinions, reports, or statements, including financial statements and other financial data, prepared or presented by any of the persons specified in subsection (f) of this section.

(f) A director may rely, in accordance with subsection (d) or (e) of this section, on:

(1) One or more officers, employees, or volunteers of the nonprofit corporation whom the director reasonably believes to be reliable and competent in the functions performed or the information, opinions, reports, or statements provided;

(2) Legal counsel, public accountants, or other persons retained by the corporation as to matters involving skills or expertise the director reasonably believes are matters:

(A) Within the particular person's professional or expert competence; or

(B) As to which the particular person merits confidence;

(3) A committee of the board of directors of which the director is not a member if the director reasonably believes the committee merits confidence; or

(4) In the case of a religious corporation, religious authorities and ministers, priests, rabbis, imams, or other persons whose positions or duties the director reasonably believes justify reliance and confidence and whom the director believes to be reliable and competent in the matters presented.

(g) A director shall not be a trustee with respect to the nonprofit corporation or with respect to any property held or administered by the corporation, including property that may be subject to restrictions imposed by the donor or transferor of the property.

§ 29-406.31. Standards of liability for directors.

(a) A director shall not be liable to the nonprofit corporation or its members for any decision to take or not to take action, or any failure to take any action, as a director, unless the party asserting liability in a proceeding establishes that:

(1) None of the following, if interposed as a bar to the proceeding by the director, precludes liability:

(A) Subsection (d) of this section or a provision in the articles of incorporation authorized by § 29-402.02(c);

(B) Satisfaction of the requirements in § 29-406.70 for validating a conflicting interest transaction; or

(C) Satisfaction of the requirements in § 29-406.80 for disclaiming a business opportunity; and

(2) The challenged conduct consisted or was the result of:

(A) Action not in good faith;

(B) A decision:

(i) Which the director did not reasonably believe to be in the best interests of the corporation; or

(ii) As to which the director was not informed to an extent the director reasonably believed appropriate in the circumstances; or

(C) A lack of objectivity due to the director's familial, financial, or business relationship with, or a lack of independence due to the director's domination or control by, another person having a material interest in the challenged conduct:

(i) Which relationship or which domination or control could reasonably be expected to have affected the director's judgment respecting the challenged conduct in a manner adverse to the corporation; and

(ii) After a reasonable expectation to such effect has been established, the director has not established that the challenged conduct was reasonably believed by the director to be in the best interests of the corporation;

(D) A sustained failure of the director to devote attention to ongoing oversight of the activities and affairs of the corporation, or a failure to devote timely attention, by making, or causing to be made, appropriate inquiry, when particular facts and circumstances of significant concern materialize that would alert a reasonably attentive director to the need therefor; or

(E) Receipt of a financial benefit to which the director was not entitled or any other breach of the director's duties to deal fairly with the corporation and its members that is actionable under applicable law.

(b) The party seeking to hold the director liable:

(1) For money damages, also has the burden of establishing that:

(A) Harm to the nonprofit corporation or its members has been suffered;

and

(B) The harm suffered was proximately caused by the director's challenged conduct;

(2) For other money payment under a legal remedy, such as compensation for the unauthorized use of corporate assets, also has whatever persuasion burden may be called for to establish that the payment sought is appropriate in the circumstances; or

(3) For other money payment under an equitable remedy, such as profit recovery by or disgorgement to the corporation, also has whatever persuasion burden may be called for to establish that the equitable remedy sought is appropriate in the circumstances.

(c) Nothing contained in this section:

(1) In any instance where fairness is at issue, such as consideration of the fairness of a transaction to the nonprofit corporation under § 29-406.70(a)(3), alters the burden of proving the fact or lack of fairness otherwise applicable;

(2) Alters the fact or lack of liability of a director under another section of this chapter, such as the provisions governing the consequences of an unlawful distribution under § 29-406.33, a conflicting interest transaction under § 29-406.70, or taking advantage of a business opportunity under § 29-406.80; or

(3) Affects any rights to which the corporation or a director or member may be entitled under another statute of the District or the United States.

(d) Notwithstanding any other provision of this section, a director of a charitable corporation shall not be liable to the corporation or its members for money damages for any action taken, or any failure to take any action, as a director, except liability for:

(1) The amount of a financial benefit received by the director to which the director is not entitled;

(2) An intentional infliction of harm;

(3) A violation of § 29-406.33; or

(4) An intentional violation of criminal law.

§ 29-406.32. Loans to or guarantees for directors and officers.

(a) A nonprofit corporation shall not lend money to or guarantee the obligation of a director or officer of the corporation.

(b) This section shall not apply to:

(1) An advance to pay reimbursable expenses reasonably expected to be incurred by a director or officer;

(2) An advance to pay premiums on life insurance if the advance is secured by the cash value of the policy;

(3) Advances pursuant to part E of this subchapter;

(4) Loans or advances pursuant to employee benefit plans;

(5) A loan secured by the principal residence of an officer; or

(6) A loan to pay relocation expenses of an officer.

(c) The fact that a loan or guarantee is made in violation of this section shall not affect the borrower's liability on the loan.

§ 29-406.33. Directors' liability for unlawful distributions.

(a) A director who votes for or assents to a distribution made in violation of this chapter shall be personally liable to the nonprofit corporation for the amount of the distribution that exceeds what could have been distributed without violating this chapter if the party asserting liability establishes that, when taking the action, the director did not comply with § 29-406.30.

(b) A director held liable under subsection (a) of this section for an unlawful distribution shall be entitled to:

(1) Contribution from every other director who could be held liable under subsection (a) for the unlawful distribution; and

(2) Recoupment from each person of the pro-rata portion of the amount of the unlawful distribution the person received, whether or not the person knew the distribution was made in violation of this chapter.

(c) A proceeding to enforce:

(1) The liability of a director under subsection (a) of this section shall be barred unless it is commenced within 2 years after the date on which the distribution was made; or

(2) Contribution or recoupment under subsection (b) of this section shall be barred unless it is commenced within one year after the liability of the claimant has been finally adjudicated under subsection (a) of this section.

Part D. Officers.

§ 29-406.40. Officers.

(a) The officers of a nonprofit corporation shall be the individuals who hold the offices described in its articles of incorporation or bylaws or are appointed or elected in accordance with the articles and bylaws or as authorized by the board of directors. At a minimum, a nonprofit corporation shall have 2 separate officers, one responsible for the management of the corporation, who may be referred to as the "President" or by any other term used in its articles of incorporation or bylaws and another responsible for the financial affairs of the corporation, who may be referred to as the "Treasurer", or by any other term used in its articles of incorporation or bylaws.

(b) The articles of incorporation or bylaws or the board of directors shall assign to one of the officers responsibility for preparing or supervising the preparation of the minutes of the meetings of the board of directors and the members, if any, and for maintaining and authenticating the records of the corporation required to be kept under § 29-413.01(a) and (e).

(c) The same individual may simultaneously hold more than one office in a nonprofit corporation.

§ 29-406.41. Duties of officers.

Each officer has the authority and shall perform the duties set forth in the articles of incorporation or bylaws or, to the extent consistent with the articles and bylaws, the duties prescribed by the board of directors or by direction of an officer authorized by the board of directors to prescribe the duties of other officers.

§ 29-406.42. Standards of conduct for officers.

(a) An officer with discretionary authority shall discharge his or her duties under that authority:

(1) In good faith;

(2) With the care an ordinarily prudent person in a like position would exercise under similar circumstances; and

(3) In a manner the officer reasonably believes to be in the best interests of the corporation.

(b) The duty of an officer shall include the obligation to inform:

(1) The superior officer to whom, or the board of directors or the committee thereof to which, the officer reports of information about the affairs of the nonprofit corporation known to the officer, within the scope of the officer's functions, and known to the officer to be material to the superior officer, board, or committee; and

(2) His or her superior officer, or another appropriate person within the nonprofit corporation, or the board of directors, or a committee thereof, of any actual or probable material violation of law involving the corporation or material breach of duty to the corporation by an officer, employee, or agent of the corporation, that the officer believes has occurred or is likely to occur.

(c) In discharging his or her duties, an officer who does not have knowledge that makes reliance unwarranted may rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

(1) One or more officers or employees of the nonprofit corporation whom the officer reasonably believes to be reliable and competent in the functions performed or the information, opinions, reports, or statements provided;

(2) Legal counsel, public accountants, or other persons retained by the corporation as to matters involving skills or expertise the officer reasonably believes are matters:

(A) Within the particular person's professional or expert competence; or

(B) As to which the particular person merits confidence;

(3) In the case of a corporation engaged in religious activity, religious authorities and ministers, priests, rabbis, imams, or other persons whose positions or duties the officer reasonably believes justify reliance and confidence and whom the officer believes to be reliable and competent in the matters presented.

§ 29-406.43. Resignation and removal of officers.

(a) An officer may resign at any time by delivering notice to the nonprofit corporation. A resignation shall be effective when the notice is delivered unless the notice specifies a later effective time. If a resignation is made effective at a later time and the board of directors or the appointing officer accepts the future effective time, the board or the appointing officer may designate a successor before the effective time if the board or the appointing officer provides that the successor does not take office until the effective time.

(b) Except as otherwise provided in the articles of incorporation or bylaws, an officer may be removed at any time with or without cause by:

(1) The board of directors;

(2) The officer who appointed the officer being removed, unless the board provides otherwise; or

(3) Any other officer authorized by the articles, the bylaws, or the board.

(c) For the purposes of this section, the term "appointing officer" means the officer, including any successor to that officer, who appointed the officer resigning or being removed.

§ 29-406.44. Contract rights of officers.

(a) The appointment of an officer shall not itself create contract rights.

(b) An officer's removal shall not affect the officer's contract rights, if any, with the nonprofit corporation. An officer's resignation shall not affect the corporation's contract rights, if any, with the officer.

Part E. Indemnification and Advance for Expenses.

§ 29-406.50. Definitions.

For the purposes of this part, the term:

(1) "Corporation" includes any domestic or foreign predecessor entity of a nonprofit corporation in a merger, conversion, or domestication.

(2) "Director" or "officer" means an individual who is or was a director or officer, respectively, of a nonprofit corporation or who, while a director or officer of the corporation, is or was serving at the corporation's request as a director, officer, partner, trustee, employee, or agent of another domestic or foreign corporation, partnership, joint venture, trust, employee benefit plan, or other entity. A director or officer shall be considered to be serving an employee benefit plan at the corporation's request if the individual's duties to the corporation also impose duties on, or otherwise involve services by, the individual to the plan or to participants in or beneficiaries of the plan. The term "director" includes a member of a designated body. The term "director" or "officer" includes, unless the context requires otherwise, the estate or personal representative of a director or officer.

(3) "Disinterested director" means a director who, at the time of a vote referred to in § 29-406.53(c) or a vote or selection referred to in § 29-406.55(b) or (c), is not:

(A) A party to the proceeding; or

(B) An individual having a familial, financial, professional, or employment relationship with the director whose indemnification or advance for expenses is the subject of the decision being made, which relationship would, in the circumstances, reasonably be expected to exert an influence on the director's judgment when voting on the decision being made.

(4) "Expenses" include attorneys' fees.

(5) "Liability" means the obligation to pay a judgment, settlement, penalty, fine, including an excise tax assessed with respect to an employee benefit plan, or reasonable expenses incurred with respect to a proceeding.

(6)(A) "Official capacity" means:

(i) When used with respect to a director, the office of director in a nonprofit corporation; and

(ii) When used with respect to an officer, as contemplated in § 29-406.56, the office in a corporation held by the officer; and.

(B) The term "official capacity" does not include service for any other domestic or foreign corporation or any partnership, joint venture, trust, employee benefit plan, or other entity.

(7) "Party" means an individual who was, is, or is threatened to be made, a defendant or respondent in a proceeding.

(8) "Proceeding" includes a threatened, pending, or completed proceeding.

§ 29-406.51. Permissible indemnification.

(a) Except as otherwise provided in this section, a nonprofit corporation may indemnify an individual who is a party to a proceeding because he or she is or was a director against liability incurred in the proceeding if:

(1) The individual:

(A) Acted in good faith;

(B) Reasonably believed:

(i) In the case of conduct in an official capacity, that the conduct was in the best interests of the corporation; and

(ii) In all other cases, that the individual's conduct was at least not opposed to the best interests of the corporation; and

(C) In the case of any criminal proceeding, had no reasonable cause to believe his or her conduct was unlawful; or

(2) The individual engaged in conduct for which broader indemnification has been made permissible or obligatory under a provision of the articles of incorporation, as authorized by § 29-402.02(b)(8).

(b) A director's conduct with respect to an employee benefit plan for a purpose the

director reasonably believed to be in the interests of the participants in and the beneficiaries of the plan is conduct that satisfies the requirement of subsection (a)(1)(B)(ii) of this section.

(c) The termination of a proceeding by judgment, order, settlement, or conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, determinative that the director did not meet the relevant standard of conduct described in this section.

(d) Unless ordered by a court under § 29-406.54(a)(3), a nonprofit corporation shall not indemnify a director:

(1) In connection with a proceeding by or in the right of the corporation, except for reasonable expenses incurred in connection with the proceeding if it is determined that the director has met the relevant standard of conduct under subsection (a) of this section; or

(2) In connection with any proceeding with respect to conduct for which the director was adjudged liable on the basis that the director received a financial benefit to which the director was not entitled, whether or not involving action in an official capacity.

§ 29-406.52. Mandatory indemnification.

A nonprofit corporation shall indemnify a director or officer to the extent the director or officer was successful, on the merits or otherwise, in the defense of any proceeding to which the director or officer was a party because the director or officer was a director or officer of the corporation against reasonable expenses incurred by the director or officer in connection with the proceeding.

§ 29-406.53. Advance for expenses.

(a) A nonprofit corporation may, before final disposition of a proceeding, advance funds to pay for or reimburse the reasonable expenses incurred by an individual who is a party to a proceeding because he or she is or was a director if the individual delivers to the corporation:

(1) An affirmation in the form of a record of his or her good faith belief that he or she has met the relevant standard of conduct described in § 29-406.51 or that the proceeding involves conduct for which liability has been eliminated by § 29-406.31(d) or under a provision of the articles of incorporation as authorized by § 29-402.02(c); and

(2) An undertaking in the form of a record to repay any funds advanced if the individual is not entitled to mandatory indemnification under § 29-406.52 and it is ultimately determined under § 29-406.54 or § 29-406.55 that the individual has not met the relevant standard of conduct described in § 29-406.51.

(b) The undertaking required by subsection (a)(2) of this section shall be an unlimited general obligation of the director, but need not be secured and may be accepted without reference to the financial ability of the director to make repayment.

(c) Authorizations under this section shall be made:

(1) By the board of directors:

(A) If there are 2 or more disinterested directors, by a majority vote of all

the disinterested directors, a majority of whom will constitute a quorum for that purpose, or by a majority of the members of a committee of 2 or more disinterested directors appointed by such a vote; or

(B) If there are fewer than 2 disinterested directors, by the vote necessary for action by the board in accordance with § 29-406.24(c), in which authorization directors who do not qualify as disinterested directors may participate; or

(2) By the members.

§ 29-406.54. Court-ordered indemnification and advance for expenses.

(a) A director who is a party to a proceeding because he or she is or was a director may apply for indemnification or an advance for expenses to the Superior Court. After receipt of an application and after giving any notice it considers necessary, the court shall order:

(1) Indemnification if the court determines that the director is entitled to mandatory indemnification under § 29-406.52;

(2) Indemnification or advance for expenses if the court determines that the director is entitled to indemnification or advance for expenses pursuant to a provision authorized by § 29-406.58(a); or

(3) Indemnification or advance for expenses if the court determines, in view of all the relevant circumstances, that it is fair and reasonable to:

(A) Indemnify the director; or

(B) Advance expenses to the director, even if the director has not met the relevant standard of conduct set forth in § 29-406.51(a), failed to comply with § 29-406.53, or was adjudged liable in a proceeding referred to in § 29-406.51(d)(1) or (d)(2), but if the director was adjudged so liable, his or her indemnification shall be limited to reasonable expenses incurred in connection with the proceeding.

(b) If the Superior Court determines that the director is entitled to indemnification under subsection (a)(1) of this section or to indemnification or advance for expenses under subsection (a)(2) of this section, it shall also order the nonprofit corporation to pay the director's reasonable expenses incurred in connection with obtaining court-ordered indemnification or advance for expenses. If the court determines that the director is entitled to indemnification or advance for expenses under subsection (a)(3) of this section, it may also order the corporation to pay the director's reasonable expenses to obtain court-ordered indemnification or advance for expenses.

§ 29-406.55. Determination and authorization of indemnification.

(a) A nonprofit corporation shall not indemnify a director under § 29-406.51 unless authorized for a specific proceeding after a determination has been made that indemnification of the director is permissible because the director has met the relevant standard of conduct set forth in § 29-406.51.

(b) The determination shall be made:

(1) If there are 2 or more disinterested directors, by a majority vote of all the disinterested directors, a majority of whom will constitute a quorum for that purpose, or by a majority of the members of a committee of 2 or more disinterested directors appointed by such a vote;

(2) By special legal counsel:

(A) Selected in the manner prescribed in paragraph (1) of this subsection; or

(B) If there are fewer than 2 disinterested directors, selected by the board of directors, in which selection directors who do not qualify as disinterested directors may participate; or

(3) By the members.

(c) Authorization of indemnification shall be made in the same manner as the determination that indemnification is permissible, except that if there are fewer than 2 disinterested directors or if the determination is made by special legal counsel, authorization of indemnification shall be made by those entitled under subsection (b)(2)(B) of this section to select special legal counsel.

§ 29-406.56. Indemnification of officers.

(a) A nonprofit corporation may indemnify and advance expenses under this part to an officer of the corporation who is a party to a proceeding because he or she is or was an officer of the corporation:

(1) To the same extent as a director; and

(2) If he or she is an officer but not a director, to such further extent as may be provided by the articles of incorporation, the bylaws, a resolution of the board of directors, or contract, except for:

(A) Liability in connection with a proceeding by or in the right of the corporation other than for reasonable expenses incurred in connection with the proceeding; or

(B) Liability arising out of conduct that constitutes:

(i) Receipt by the officer of a financial benefit to which the officer is not entitled;

(ii) An intentional infliction of harm on the corporation or the members; or

(iii) An intentional violation of criminal law.

(b) Subsection (a)(2) of this section shall apply to an officer who is also a director if the basis on which he or she is made a party to the proceeding is an act or omission solely as an officer.

(c) An officer of a corporation who is not a director shall be entitled to mandatory indemnification under § 29-406.52, and may apply to a court under § 29-406.54 for indemnification or an advance for expenses, in each case to the same extent to which a director

may be entitled to indemnification or advance for expenses under those provisions.

§ 29-406.57. Insurance.

A nonprofit corporation may purchase insurance on behalf of an individual who is or was a director or officer of the corporation, or who, while a director or officer of the corporation, serves or served at the corporation's request as a director, officer, partner, trustee, employee, or agent of another domestic or foreign corporation, partnership, joint venture, trust, employee benefit plan, or other entity, against liability asserted against or incurred by the individual in that capacity or arising from the individual's status as a director or officer, whether or not the corporation would have power to indemnify or advance expenses to the individual against the same liability under this part.

§ 29-406.58. Variation of indemnification.

(a) A nonprofit corporation may, by a provision in its articles of incorporation or bylaws or in a resolution adopted or a contract approved by its board of directors or members, obligate itself in advance of the act or omission giving rise to a proceeding to provide indemnification as permitted by § 29-406.51 or advance funds to pay for or reimburse expenses as permitted by § 29-406.53. An obligatory provision satisfies the requirements for authorization referred to in §§ 29-406.53(c) and 29-406.55(c). Any such provision that obligates the corporation to provide indemnification to the fullest extent permitted by law shall obligate the corporation to advance funds to pay for or reimburse expenses in accordance with § 29-406.53 to the fullest extent permitted by law, unless the provision specifically provides otherwise.

(b) Any provision pursuant to subsection (a) of this section shall not obligate the nonprofit corporation to indemnify or advance expenses to a director of a predecessor of the corporation, pertaining to conduct with respect to the predecessor, unless otherwise specifically provided. Any provision for indemnification or advance for expenses in the organic records, articles of incorporation, bylaws, or a resolution of the governors, board of directors, members or interest holders of a predecessor of the corporation in a fundamental transaction, or in a contract to which the predecessor is a party, existing at the time the fundamental transaction takes effect, shall be governed by:

(1) Section 29-407.05(a)(2) in the case of a domestication;

(2) Section 29-204.06(a)(3) in the case of a for-profit conversion;

(3) Section 29-204.06(a)(3) in the case of a foreign for-profit domestication and conversion;

(4) Section 29-204.06(a)(3) in the case of an entity conversion; or

(5) Section 29-409.07(a)(4) in the case of a merger involving only nonprofit corporations, or § 29-202.06(a)(4) in the case of a merger involving another type of entity.

(c) A nonprofit corporation may, by a provision in its articles of incorporation or bylaws, limit any of the rights to indemnification or advance for expenses created by or pursuant to this

part.

(d) This part shall not limit a nonprofit corporation's power to pay or reimburse expenses incurred by a director or an officer in connection with appearance as a witness in a proceeding at a time when the director or officer is not a party.

(e) A nonprofit corporation may indemnify, advance expenses to, or provide or maintain insurance on behalf of an employee, agent, or volunteer.

Part F. Conflicting Interest Transactions; Voidability.

§ 29-406.70. Conflicting interest transactions; voidability.

(a) A contract or transaction between a nonprofit corporation and one or more of its members, directors, members of a designated body, or officers or between a nonprofit corporation and any other entity in which one or more of its directors, members of a designated body, or officers are directors or officers, hold a similar position, or have a financial interest, shall not be void or voidable solely for that reason, or solely because the member, director, member of a designated body, or officer is present at or participates in the meeting of the board of directors that authorizes the contract or transaction, or solely because his or their votes are counted for that purpose, if:

(1) The material facts as to the relationship or interest and as to the contract or transaction are disclosed or are known to the board of directors and the board in good faith authorizes the contract or transaction by the affirmative votes of a majority of the disinterested directors even though the disinterested directors are less than a quorum;

(2) The material facts as to the relationship or interest of the member, director, or officer and as to the contract or transaction are disclosed or are known to the members entitled to vote thereon, if any, and the contract or transaction is specifically approved in good faith by vote of those members; or

(3) The contract or transaction is fair as to the corporation as of the time it is authorized, approved, or ratified by the board of directors or the members.

(b) Common or interested directors may be counted in determining the presence of a quorum at a meeting of the board that authorizes a contract or transaction specified in subsection (a) of this section.

(c) This section shall be applicable except as otherwise restricted in the articles of incorporation or bylaws.

Part G. Business Opportunities.

§ 29-406.80. Business opportunities.

(a) The taking advantage, directly or indirectly, by a director of a business opportunity shall not be the subject of equitable relief, or give rise to an award of damages or other sanctions against the director, in a proceeding by or in the right of the nonprofit corporation on the ground that the opportunity should have first been offered to the corporation, if before becoming legally

obligated or entitled respecting the opportunity the director brings it to the attention of the corporation and action by the members or the directors disclaiming the corporation's interest in the opportunity is taken in compliance with the procedures set forth in § 29-406.70, as if the decision being made concerned a conflicting interest transaction.

(b) In any proceeding seeking equitable relief or other remedies, based upon an alleged improper taking advantage of a business opportunity by a director, the fact that the director did not employ the procedure described in subsection (a) of this section before taking advantage of the opportunity shall not support an inference that the opportunity should have been first presented to the nonprofit corporation or alter the burden of proof otherwise applicable to establish that the director breached a duty to the corporation in the circumstances.

(c) For the purposes of this section, the term "director" includes a member of a designated body.

Part H. Limitations on Liability of Volunteers and Employees.

§ 29-406.90. Immunity from civil liability for volunteer of corporation.

(a) For the purposes of this section, the term "volunteer" means an officer, director, trustee, or other person who performs services for the corporation and who does not receive compensation other than reimbursement of expenses for those services.

(b) Any person who serves as a volunteer of the corporation shall be immune from civil liability except if the injury or damage was a result of:

(1) The willful misconduct of the volunteer;

(2) A crime, unless the volunteer had reasonable cause to believe that the act was lawful;

(3) A transaction that resulted in an improper personal benefit of money, property, or service to the volunteer; or

(4) An act or omission that is not in good faith and is beyond the scope of authority of the corporation pursuant to this chapter or the corporate charter.

(c) This section shall apply only if the corporation maintains liability insurance with a limit of coverage of not less than $200,000 per individual claim and $500,000 per total claims that arise from the same occurrence. This subsection shall not apply to any corporation having annual total functional expenses, exclusive of grants and allocations, of less than $100,000, and which is exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code of 1954, approved August 26, 1954 (68A Stat. 163; 26 U.S.C. § 501(c)(3)).

(d) This section shall not be exempt the corporation from liability for the conduct of the volunteer, but the corporation shall be liable only to the extent of the applicable limit of insurance coverage it maintains.

§ 29-406.91. Limited liability for employee of corporation.

(a) For the purposes of this section, the term "employee" means a person regularly employed to perform a service for a salary or wages.

(b) Except as provided in subsections (c) and (d) of this section, an employee of the corporation shall not be held personally liable in damages for any acts or omissions in providing services or performing duties on behalf of the corporation in an amount greater than the amount of total compensation, other than reimbursement of expenses, received from the corporation for performing those services or duties during the 12 months immediately preceding the act or omission for which liability was imposed.

(c) The limitation of liability in this section shall not apply if the injury or damage was a result of:

(1) The willful misconduct of the employee;

(2) A crime, unless the employee had reasonable cause to believe that the act was lawful;

(3) A transaction that resulted in an improper personal benefit of money, property, or service to the employee;

(4) An act or omission that is not in good faith and is beyond the scope of authority of the corporation pursuant to this chapter or the articles of incorporation.

(d) The limitation of liability in this section does not apply to any licensed professional employee operating in his or her professional capacity.

(e) This section shall not exempt the corporation from liability, but the corporation is liable only to the extent of the applicable limit of insurance coverage it maintains.

Subchapter VII. Domestication.

§ 29-407.01. Definitions.

For the purposes of this subchapter, the term:

(1) "Domesticated corporation" means the domesticating corporation as it continues in existence after a domestication.

(2) "Domesticating corporation" means the domestic nonprofit corporation that adopts a plan of domestication pursuant to § 29-407.03 or the foreign nonprofit corporation that approves a domestication pursuant to its organic law.

(3) "Domestication" means a transaction authorized by this subchapter.

(4) "Surviving corporation" means the corporation as it continues in existence immediately after consummation of a domestication pursuant to this subchapter.

§ 29-407.02. Domestication.

(a) A foreign nonprofit corporation may become a domestic nonprofit corporation only if the domestication is authorized by the law of the foreign jurisdiction.

(b) A domestic nonprofit corporation may become a foreign nonprofit corporation if the

domestication is permitted by the laws of the foreign jurisdiction. Regardless of whether the laws of the foreign jurisdiction require the adoption of a plan of domestication, the domestication shall be approved by the adoption by the corporation of a plan of domestication in the manner provided in this subtitle.

(c) The plan of domestication shall include:

(1) A statement of the jurisdiction in which the corporation is to be domesticated;

(2) The terms and conditions of the domestication;

(3) The manner and basis of canceling or reclassifying the memberships of the corporation following its domestication into memberships, obligations, rights to acquire memberships, cash, other property, or any combination of the foregoing; and

(4) Any desired amendments to the articles of incorporation or bylaws of the corporation following its domestication.

(d) The plan of domestication may also include a provision that the plan may be amended prior to filing the document required by the laws of the District or the other jurisdiction to consummate the domestication; provided, that subsequent to approval of the plan by the members, the plan shall not be amended without the approval of the members to change:

(1) The amount or kind of memberships, obligations, rights to acquire memberships, cash, or other property to be received by the members under the plan;

(2) The articles of incorporation as they will be in effect immediately following the domestication, except for changes permitted by § 29-408.05 or by comparable provisions of the laws of the other jurisdiction; or

(3) Any of the other terms or conditions of the plan if the change would adversely affect any of the members in any material respect.

(e) Terms of a plan of domestication may be made dependent upon facts objectively ascertainable outside the plan in accordance with § 29-401.04.

(f) If any debt security, note, or similar evidence of indebtedness for money borrowed, whether secured or unsecured, or a contract of any kind, issued, incurred or executed by a domestic nonprofit corporation before the effective date of this chapter contains a provision applying to a merger of the corporation and the document does not refer to a domestication of the corporation, the provision shall be deemed to apply to a domestication of the corporation until such time as the provision is amended subsequent to that date.

§ 29-407.03. Action on plan of domestication.

In the case of a domestication of a domestic nonprofit corporation in a foreign jurisdiction:

(1) The plan of domestication shall be adopted by the board of directors.

(2) After adopting the plan of domestication, the board of directors shall submit the plan to the members for their approval if there are members entitled to vote on the plan. The board of directors shall also transmit to the members a recommendation that the members

approve the plan, unless the board of directors makes a determination that because of conflicts of interest or other special circumstances, it should not make such a recommendation, in which case the board of directors shall transmit to the members the basis for that determination.

(3) The board of directors may condition its submission of the plan of domestication to the members on any basis.

(4) If the approval of the members is to be given at a meeting, the corporation shall notify each member, whether or not entitled to vote, of the meeting of members at which the plan of domestication is to be submitted for approval. The notice shall state that the purpose, or one of the purposes, of the meeting is to consider the plan and shall contain or be accompanied by a copy or summary of the plan. The notice shall include or be accompanied by a copy of the articles of incorporation and bylaws as they will be in effect immediately after the domestication.

(5) Unless the articles of incorporation or bylaws, or the board of directors acting pursuant to paragraph (3) of this subsection, requires a greater vote or a greater number of votes to be present, the approval of the plan of domestication by the members shall require the approval of the members at a meeting at which a quorum exists, and, if any class of members is entitled to vote as a separate group on the plan, the approval of each such separate voting group at a meeting at which a quorum of the voting group exists.

(6) Separate voting by voting groups shall be required by each class of members that:

(A) Are to be reclassified under the plan of domestication into a different class of memberships, or into obligations, rights to acquire memberships, cash, other property, or any combination of the foregoing;

(B) Would be entitled to vote as a separate group on a provision of the plan that, if contained in a proposed amendment to articles of incorporation, would require action by separate voting groups under § 29-408.04; or

(C) Is entitled under the articles of incorporation or bylaws to vote as a voting group to approve an amendment of the articles.

(7) If any provision of the articles of incorporation, bylaws, or an agreement to which any of the directors, members of a designated body, or members are parties, adopted or entered into before the effective date of this chapter, applies to a merger of the corporation and that document does not refer to a domestication of the corporation, the provision shall be deemed to apply to a domestication of the corporation until such time as the provision is amended subsequent to that date.

§ 29-407.04. Articles of domestication.

(a) Articles of domestication shall be signed on behalf of the domesticating corporation by any officer or other duly authorized representative. The articles shall set forth:

(1) The name and jurisdiction of incorporation of the domesticating corporation;

(2) The name and jurisdiction of incorporation of the domesticated entity; and

(3) If the domesticating corporation is a domestic nonprofit corporation, a statement that the plan of domestication was approved in accordance with this subtitle or, if the domesticating corporation is a foreign nonprofit corporation, a statement that the domestication was approved in accordance with the law of its jurisdiction of incorporation.

(b) If the domesticated corporation is a domestic nonprofit corporation, the articles of domestication shall either contain all of the provisions that § 29-402.02(a) requires to be set forth in articles of incorporation and any other desired provisions that § 29-402.02(b) and (c) permits to be included in articles of incorporation, or must have attached articles of incorporation. In either case, provisions that would not be required to be included in restated articles of incorporation may be omitted, except that the name and address of the initial registered agent of the domesticated corporation shall be included. The name of the domesticated corporation shall satisfy the requirements of § 29-103.01.

(c) The articles of domestication shall be delivered to the Mayor for filing and take effect at the effective time provided in § 29-102.03.

(d) If the domesticating corporation is a qualified foreign nonprofit corporation, its certificate of registration shall be canceled automatically on the effective date of its domestication.

§ 29-407.05. Effect of domestication.

(a) When a domestication becomes effective:

(1) The title to all real and personal property, both tangible and intangible, of the domesticating corporation shall remain in the domesticated corporation without reversion or impairment;

(2) The liabilities of the domesticating corporation shall remain the liabilities of the domesticated corporation;

(3) An action or proceeding pending against the domesticating corporation shall continue against the domesticated corporation as if the domestication had not occurred;

(4) The articles of domestication, or the articles of incorporation attached to the articles of domestication, shall constitute the articles of incorporation of a foreign corporation domesticating in the District;

(5) The memberships in the domesticating corporation shall be reclassified into memberships, obligations, rights to acquire memberships, or cash or other property in accordance with the terms of the domestication, and the members shall be entitled only to the rights provided by those terms; and

(6) The domesticating corporation shall be deemed to be:

(A) Incorporated under and subject to the organic law of the domesticated corporation for all purposes; and

(B) The same corporation without interruption as the domesticating corporation.

(b) The interest holder liability of a member in a foreign nonprofit corporation that is domesticated in the District shall be as follows:

(1) The domestication shall not discharge any interest holder liability under the laws of the foreign jurisdiction to the extent any such interest holder liability arose before the effective time of the articles of domestication.

(2) The member shall not have interest holder liability under the laws of the foreign jurisdiction for any debt, obligation, or liability of the corporation that arises after the effective time of the articles of domestication.

(3) The laws of the foreign jurisdiction shall continue to apply to the collection or discharge of any interest holder liability preserved by paragraph (1) of this subsection, as if the domestication had not occurred.

(4) The member has whatever rights of contribution from other members are provided by the laws of the foreign jurisdiction with respect to any interest holder liability preserved by paragraph (1) of this subsection, as if the domestication had not occurred.

§ 29-407.06. Abandonment of a domestication.

(a) Unless otherwise provided in a plan of domestication of a domestic nonprofit corporation, after the plan has been adopted and approved as required by this subtitle, and at any time before the domestication has become effective, it may be abandoned by the board of directors without action by the members.

(b) If a domestication is abandoned under subsection (a) of this section after articles of domestication have been filed with the Mayor but before the domestication has become effective, a statement that the domestication has been abandoned in accordance with this section, signed by an officer or other duly authorized representative, shall be delivered to the Mayor for filing prior to the effective date of the domestication. The statement shall be effective upon filing and the domestication shall be abandoned and shall not become effective.

(c) If the domestication of a foreign nonprofit corporation in the District is abandoned in accordance with the laws of the foreign jurisdiction after articles of domestication have been filed with the Mayor, a statement that the domestication has been abandoned, signed by an officer or other duly authorized representative, shall be delivered to the Mayor for filing. The statement shall be effective upon filing and the domestication shall be abandoned and shall not become effective.

Subchapter VIII. Amendment of Articles of Incorporation and Bylaws.

Part A. Amendment of Articles of Incorporation.

§ 29-408.01. Authority to amend.

A nonprofit corporation may amend its articles of incorporation at any time to add or change a provision that is required or permitted in the articles as of the effective date of the amendment or to delete a provision that is not required to be contained in the articles.

§ 29-408.02. Amendment before issuance of memberships.

If a membership corporation has not yet issued memberships, its board of directors, or its incorporators if it has no board of directors, may adopt one or more amendments to the articles of incorporation.

§ 29-408.03. Amendment of articles of membership corporation.

(a) An amendment to the articles of incorporation of a membership corporation shall be adopted in the following manner:

(1) Except as otherwise provided in paragraph (5) of this subsection, the proposed amendment shall be adopted by the board of directors.

(2) Except as otherwise provided in §§ 29-408.05, 29-408.07, and 29-408.08, a proposed amendment shall be submitted to the members entitled to vote for their approval.

(3) The board of directors shall transmit to the members a recommendation that the members approve the amendment, unless the board of directors makes a determination that because of conflicts of interest or other special circumstances, it should not make such a recommendation, in which case the board of directors must transmit to the members the basis for that determination.

(4) The board of directors may condition its submission of the amendment to the members on any basis.

(5) Except as otherwise provided in the articles of incorporation or bylaws, an amendment may be proposed by 10% or more of the members entitled to vote on the amendment or by such greater or lesser number of members as is specified in the articles. Paragraphs (1), (3), and (4) of this section shall not apply to an amendment proposed by the members under this paragraph.

(6) If the amendment is required to be approved by the members, and the approval is to be given at a meeting, the corporation shall give notice to each member entitled to vote on the amendment of the meeting of members at which the amendment is to be submitted for approval. The notice shall state that the purpose, or one of the purposes, of the meeting is to consider the amendment and shall contain or be accompanied by a copy of the amendment.

(7) Unless the articles of incorporation or bylaws, or the board of directors acting pursuant to paragraph (4) of this subsection, requires a greater vote or a greater number of members to be present, the approval of an amendment requires the approval of the members at a meeting at which a quorum exists, and, if any class of members shall be entitled to vote as a separate group on the amendment, the approval of each such separate voting group at a meeting at which a quorum of the voting group exists.

(8) In addition to the adoption and approval of an amendment by the board of directors and members as required by this section, an amendment shall also be approved by a designated body whose approval is required by the articles of incorporation or bylaws.

(b) Unless the articles of incorporation provide otherwise, the board of directors of a membership corporation may adopt amendments to the corporation's articles of incorporation without approval of the members to:

(1) Extend the duration of the corporation if it was incorporated at a time when limited duration was required by law;

(2) Delete the names and addresses of the initial directors or members of a designated body;

(3) Change the information required by § 2-104.04;

(4) Change the corporation name by substituting or deleting the word "corporation", "incorporated", "company", "limited", or the abbreviation "corp.", "inc.", "co.", or "ltd.", for a similar word or abbreviation in the name; or

(5) Restate without change all of the then operative provisions of the articles.

§ 29-408.04. Voting on amendments by voting groups.

(a) Except as otherwise provided in the articles of incorporation or bylaws, if a nonprofit corporation has more than one class of members, the members of each class shall be entitled to vote as a separate voting group, if member voting is otherwise required by this chapter, on a proposed amendment to the articles of incorporation if the amendment would:

(1) Effect an exchange or reclassification of all or part of the memberships of the class into memberships of another class;

(2) Effect an exchange or reclassification, or create the right of exchange, of all or part of the memberships of another class into memberships of the class;

(3) Change the rights, preferences, or limitations of all or part of the memberships of the class in a manner different than the amendment would affect another class;

(4) Change the rights, preferences, or limitations of all or part of the memberships of the class by changing the rights, preferences, or limitations of another class;

(5) Increase or decrease the number of memberships authorized for that class;

(6) Increase the number of memberships authorized for another class; or

(7) Authorize a new class of memberships.

(b) If a class of members will be divided into 2 or more classes by an amendment to the articles of incorporation, the amendment shall be approved by a majority of the members of each class that will be created.

§ 29-408.05. Amendment of articles of nonmembership corporation.

Except as otherwise provided in the articles of incorporation, the board of directors of a nonmembership corporation may adopt amendments to the corporation's articles. Except as otherwise provided in the articles of incorporation, an amendment adopted by the board of directors under this subsection shall also be approved:

(1) By a designated body whose approval is required by the articles of

incorporation or bylaws;

(2) If the amendment changes or deletes a provision regarding the appointment of a director by persons other than the board, by those persons as if they constituted a voting group; and

(3) If the amendment changes or deletes a provision regarding the designation of a director, by the individual designated at the time as that director.

§ 29-408.06. Articles of amendment.

After an amendment to the articles of incorporation has been adopted and approved in the manner required by this chapter and by the articles of incorporation, the nonprofit corporation shall deliver to the Mayor, for filing, articles of amendment, which shall set forth:

(1) The name of the corporation;

(2) The text of the amendment adopted;

(3) If the amendment provides for an exchange, reclassification, or cancellation of memberships, provisions for implementing the amendment if not contained in the amendment itself, which may be made dependent upon facts objectively ascertainable outside the articles of amendment in accordance with § 29-401.04;

(4) The date of the amendment's adoption; and

(5) If the amendment:

(A) Was adopted by the incorporators, board of directors, or a designated body without member approval, a statement that the amendment was adopted by the incorporators or by the board of directors or designated body, as the case may be, and that member approval was not required; or

(B) Required approval by the members, a statement that the amendment was duly approved by the members in the manner required by this chapter and by the articles of incorporation and bylaws.

§ 29-408.07. Restated articles of incorporation.

(a) The board of directors of a nonprofit corporation may restate its articles of incorporation at any time, without approval by the members or any other person, to consolidate all amendments into a single document without substantive change.

(b) If restated articles of a membership corporation include one or more new amendments that require member approval, the amendments shall be adopted and approved as provided in §§ 29-408.03 and 29-408.04.

(c) A nonprofit corporation that restates its articles of incorporation shall deliver to the Mayor for filing articles of amendment under § 29-408.06 which include a statement that the articles of amendment are a restatement that consolidates all amendments into a single record.

(d) Duly adopted restated articles of incorporation shall supersede the original articles of incorporation and all amendments thereto.

(e) The Mayor shall certify restated articles of incorporation as the articles of incorporation currently in effect.

§ 29-408.08. Amendment pursuant to reorganization.

(a) A nonprofit corporation's articles of incorporation may be amended without action by the board of directors, a designated body, or the members to carry out a plan of reorganization ordered or decreed by a court of competent jurisdiction under the authority of a law of the United States.

(b) An individual designated by the court shall deliver to the Mayor for filing articles of amendment setting forth:

(1) The name of the corporation;

(2) The text of each amendment approved by the court;

(3) The date of the court's order or decree approving the articles of amendment;

(4) The title of the reorganization proceeding in which the order or decree was entered; and

(5) A statement that the court had jurisdiction of the proceeding under federal statute.

(c) This section shall not apply after entry of a final decree in the reorganization proceeding even though the court retains jurisdiction of the proceeding for limited purposes unrelated to consummation of the reorganization plan.

§ 29-408.09. Effect of articles amendment.

(a) Except as otherwise provided in subsections (b), (c), and (d) of this section, an amendment to the articles of incorporation does not affect a cause of action existing against or in favor of the nonprofit corporation, a proceeding to which the corporation is a party, or the existing rights of persons other than members of the corporation or persons referred to in the articles. An amendment changing a corporation's name shall not abate a proceeding brought by or against the corporation in its former name.

(b) Property held in trust by a nonprofit corporation or otherwise dedicated to a charitable purpose shall not be diverted from its purpose by an amendment of its articles of incorporation unless the corporation obtains an appropriate order of the Superior Court to the extent required by and pursuant to the law of the District on cy pres or otherwise dealing with the nondiversion of charitable assets.

(c) Unless a nonprofit corporation obtains an appropriate order of the Superior Court under the law of the District on cy pres or otherwise dealing with the nondiversion of charitable assets, an amendment of its articles of incorporation shall not affect:

(1) Any restriction imposed upon property held by the corporation by virtue of any trust under which it holds that property; or

(2) The existing rights of persons other than its members.

(d) A person that is a member or otherwise affiliated with a charitable corporation shall not receive a direct or indirect financial benefit in connection with an amendment of the articles of incorporation unless the person is itself a charitable corporation or an unincorporated entity with a charitable purpose. This subsection shall not apply to the receipt of reasonable compensation for services rendered.

Part B. Amendment of Bylaws.

§ 29-408.20. Amendment by board of directors or members.

(a) Except as otherwise provided in the articles of incorporation or bylaws, the members of a membership corporation may amend or repeal the corporation's bylaws.

(b) The board of directors of a membership corporation or nonmembership corporation may amend or repeal the corporation's bylaws, unless the articles of incorporation or bylaws or § 29-408.21 or § 29-408.22 reserve that power exclusively to the members or a designated body in whole or part.

§ 29-408.21. Bylaw increasing quorum or voting requirement for board of directors or designated body.

(a) A bylaw that increases a quorum or voting requirement for the board of directors or a designated body may be amended or repealed:

(1) If originally adopted by the members, only by the members, unless the bylaws otherwise provide;

(2) If adopted by the board of directors or designated body, either by the members or by the board of directors or designated body.

(b) A bylaw adopted or amended by the members that increases a quorum or voting requirement for the board of directors or a designated body may provide that it can be amended or repealed only by a specified vote of either the members or the board of directors or designated body.

(c) Action by the board of directors or a designated body under subsection (a) of this section to amend or repeal a bylaw that changes the quorum or voting requirement for the board of directors or a designated body shall meet the same quorum requirement and be adopted by the same vote required to take action under the quorum and voting requirement then in effect or proposed to be adopted, whichever is greater.

§ 29-408.22. Bylaw amendments requiring member approval.

(a) Except as otherwise provided in the articles of incorporation or bylaws, the board of directors or designated body of a membership corporation that has one or more members at the time shall not adopt or amend a bylaw under:

(1) Section 29-404.10 providing that some of the members have different rights or obligations than other members with respect to voting, dissolution, transfer of memberships or

other matters;

(2) Section 29-404.13 levying dues, assessments, or fees on some or all of the members;

(3) Section 29-404.21 relating to the termination or suspension of members;

(4) Section 29-404.22 authorizing the purchase of memberships;

(5) Section 29-406.08(a):

(A) Requiring cause to remove a director; or

(B) Specifying what constitutes cause to remove a director;

(6) Section 29-406.08(e) relating to the removal of a director who is designated in a manner other than election or appointment; or

(7) Section 29-406.12.

(b) The board of directors or designated body of a membership corporation shall not amend the articles of incorporation or bylaws to vary the application of subsection (a) of this section to the corporation.

(c) If a nonprofit corporation has more than one class of members, the members of a class shall be entitled to vote as a separate voting group on an amendment to the bylaws that:

(1) Is described in subsection (a) of this subsection if the amendment would affect the members of that class differently than the members of another class; or

(2) Has any of the effects described in § 29-408.04.

(d) If a class of members will be divided into 2 or more classes by an amendment to the bylaws, the amendment shall be approved by a majority of the members of each class that will be created.

§ 29-408.23. Effect of bylaw amendment.

(a) Property held in trust by a nonprofit corporation or otherwise dedicated to a charitable purpose shall not be diverted from its purpose by an amendment of its bylaws unless the corporation obtains an appropriate order of the Superior Court to the extent required by and pursuant to the law of the District on cy pres or otherwise dealing with the nondiversion of charitable assets.

(b) Unless a nonprofit corporation obtains an appropriate order of the Superior Court under the law of the District on cy pres or otherwise dealing with the nondiversion of charitable assets, an amendment of its bylaws shall not affect:

(1) Any restriction imposed upon property held by the corporation by virtue of any trust under which it holds that property; or

(2) The existing rights of persons other than its members.

(c) A person that is a member or otherwise affiliated with a charitable corporation shall not receive a direct or indirect financial benefit in connection with an amendment of the bylaws unless the person is itself a charitable corporation or an unincorporated entity with a charitable purpose. This subsection shall not apply to the receipt of reasonable compensation for services

rendered.

Part C. Special Rights.

§ 29-408.40. Approval by third persons.

(a) The articles of incorporation may require that an amendment to the articles be approved in the form of a record by a specified person or group of persons in addition to the board of directors and members.

(b) The articles of incorporation or bylaws may require that an amendment to the bylaws be approved in the form of a record by a specified person or group of persons in addition to the board of directors and members.

(c) A requirement in the articles of incorporation or bylaws described in subsection (a) or (b) of this section shall only be amended with the approval in the form of a record of the specified person or group of persons.

Subchapter IX. Mergers and Membership Exchanges.

§ 29-409.01. Preliminary provisions and restrictions.

(a) For the purposes of this subchapter, the term:

(1) "Exchanging entity" means the domestic or foreign nonprofit corporation or eligible entity in which all of one or more classes of memberships or classes or series of eligible interests are to be acquired in a membership exchange.

(2) "Membership exchange" means a transaction pursuant to § 29-409.03.

(3) "Merger" means a transaction pursuant to § 29-409.02.

(4) "Party to a merger" or "party to a membership exchange" means any domestic or foreign nonprofit corporation or eligible entity that:

(A) Will merge under a plan of merger;

(B) Will acquire memberships or eligible interests of another corporation or an eligible entity in a membership exchange; or

(C) Is an exchanging entity.

(5) "Survivor" in a merger means the corporation or eligible entity into which one or more other corporations or eligible entities are merged. A survivor of a merger may preexist the merger or be created by the merger.

(b) Property held in trust by an entity or otherwise dedicated to a charitable purpose shall not be diverted from its purpose by a transaction under this subchapter unless the entity obtains an appropriate order of the Superior Court to the extent required by and pursuant to the law of the District on cy pres or otherwise dealing with the nondiversion of charitable assets.

(c) Unless an entity that is a party to a transaction under this subchapter obtains an appropriate order of the Superior Court under the law of the District on cy pres or otherwise dealing with the nondiversion of charitable assets, the transaction shall not affect:

(1) Any restriction imposed upon the entity by its organic documents that may not

be amended by its governors, members, or interest holders;

(2) Any restriction imposed upon property held by the entity by virtue of any trust under which it holds that property; or

(3) The existing rights of persons other than members, shareholders, or interest holders of the entity.

(d) A person that is a member, interest holder, or otherwise affiliated with a charitable corporation or an unincorporated entity with a charitable purpose shall not receive a direct or indirect financial benefit in connection with a transaction under this subchapter to which the charitable corporation or unincorporated entity is a party unless the person is itself a charitable corporation or unincorporated entity with a charitable purpose. This subsection shall not apply to the receipt of reasonable compensation for services rendered.

§ 29-409.02. Merger.

(a) One or more domestic nonprofit corporations may merge with one or more domestic or foreign nonprofit corporations pursuant to a plan of merger or 2 or more foreign nonprofit corporations or domestic nonprofit corporations may merge into a new domestic nonprofit corporation to be created in the merger in the manner provided in this subchapter.

(b) A foreign nonprofit corporation may be a party to a merger with a domestic nonprofit corporation, or may be created by the terms of the plan of merger, only if the merger is permitted by the organic law of the corporation.

(c) If the organic law of a domestic eligible entity shall not prohibit a merger with a nonprofit corporation but does not provide procedures for the approval of such a merger, a plan of merger may be adopted and approved, and the merger may be effectuated, in accordance with the procedures in this subchapter.

(d) The plan of merger shall be in the form of a record and include:

(1) The name of each domestic or foreign nonprofit corporation that will merge and the name of the domestic or foreign nonprofit corporation that will be the survivor of the merger;

(2) The terms and conditions of the merger;

(3) The manner and basis of converting the memberships of each merging domestic or foreign nonprofit membership corporation into memberships, eligible interests, securities, or obligations; rights to acquire memberships, eligible interests, securities, or obligations; cash; other property or other consideration; or any combination of the foregoing;

(4) The articles of incorporation and bylaws of any corporation to be created by the merger, or if a new corporation is not to be created by the merger, any amendments to the survivor's articles or bylaws or organic records; and

(5) Any other provisions relating to the merger that the parties desire be included in the plan of merger.

(e) The plan of merger may also include a provision that the plan may be amended prior

to filing articles of merger, but if the members of a domestic corporation that is a party to the merger are required or permitted to vote on the plan, the plan shall provide that subsequent to approval of the plan by such members the plan shall not be amended to change:

(1) The amount or kind of memberships, eligible interests, securities, or obligations; rights to acquire memberships, eligible interests, securities, or obligations; cash; or other property or other consideration to be received by the members of or owners of eligible interests in any party to the merger;

(2) The articles of incorporation or bylaws of any corporation, or the organic records of any unincorporated entity, that will survive or be created as a result of the merger, except for changes permitted by § 29-408.05 or by comparable provisions of the organic law of any such foreign nonprofit or business corporation or domestic or foreign unincorporated entity; or

(3) Any of the other terms or conditions of the plan, if the change would adversely affect such members in any material respect.

(f) Terms of a plan of merger may be made dependent on facts objectively ascertainable outside the plan in accordance with § 29-401.04.

(g) A merger in which a nonprofit corporation and another form of entity are parties is governed by Chapter 2 of this title.

§ 29-409.03. Membership exchange.

(a) Through a membership exchange:

(1) A domestic nonprofit corporation may acquire, pursuant to a plan of membership exchange, all of the memberships of one or more classes of another domestic or foreign nonprofit corporation, or all of the eligible interests of one or more classes or series of eligible interests of a domestic or foreign nonprofit corporation, in exchange for memberships, eligible interests, securities, or obligations; rights to acquire memberships, eligible interests, securities, or obligations; cash; other property or other consideration; or any combination of the foregoing; and

(2) All of the memberships of one or more classes of a domestic nonprofit corporation may be acquired by another domestic or foreign nonprofit corporation or eligible entity, in exchange for memberships, eligible interests, securities, obligations; rights to acquire memberships, eligible interests, securities, or obligations; cash; other property or other consideration; or any combination of the foregoing, pursuant to a plan of membership exchange.

(b) A foreign nonprofit corporation or eligible entity may be a party to a membership exchange only if the membership exchange is permitted by the organic law of the corporation or eligible entity.

(c) If the organic law of a domestic eligible entity does not prohibit a membership exchange with a nonprofit corporation but does not provide procedures for the approval of an exchange of interests similar to a membership exchange, a plan of membership exchange may be

adopted and approved, and the membership exchange effectuated, in accordance with the procedures, if any, for a merger. If the organic law of a domestic eligible entity does not provide procedures for either an interest exchange or a merger, a plan of membership exchange may be adopted and approved, and the membership exchange effectuated, in accordance with the procedures in this subchapter. For the purposes of applying this subchapter:

(1) The eligible entity, its interest holders, eligible interests, and organic documents shall be deemed to be a domestic nonprofit corporation, members, memberships, and articles of incorporation and bylaws, respectively, as the context may require; and

(2) If the business and affairs of the eligible entity are managed by a group of persons that is not identical to the interest holders, that group shall be deemed to be the board of directors.

(d) The plan of membership exchange shall be in the form of a record and include:

(1) The name of each domestic or foreign nonprofit corporation or eligible entity whose memberships or eligible interests will be acquired and the name of the corporation or eligible entity that will acquire those memberships or eligible interests;

(2) The terms and conditions of the membership exchange;

(3) The manner and basis of exchanging the memberships of a corporation or the eligible interests in an eligible entity whose memberships or eligible interests will be acquired under the membership exchange into memberships, eligible interests, securities, or obligations; rights to acquire memberships, eligible interests, securities, or obligations; cash; other property or other consideration; or any combination of the foregoing;

(4) Any changes desired to be made in the organic records of the exchanging entity; and

(5) Any other provisions relating to the membership exchange that the parties desire be included in the plan of exchange.

(e) The plan of membership exchange may also include a provision that the plan may be amended prior to filing articles of membership exchange, but if the members of a domestic nonprofit corporation that is a party to the membership exchange are required or permitted to vote on the plan, the plan shall provide that subsequent to approval of the plan by such members the plan shall not be amended to change:

(1) The amount or kind of memberships, eligible interests, securities, or obligations; rights to acquire memberships, eligible interests, securities, or obligations; cash; or other property or other consideration to be issued by the domestic nonprofit corporation or to be received by its members, as the case may be; or

(2) Any of the other terms or conditions of the plan if the change would adversely affect such members in any material respect.

(f) Terms of a plan of membership exchange may be made dependent on facts objectively ascertainable outside the plan in accordance with § 29-401.04.

(g) This section shall not limit the power of a domestic nonprofit corporation to acquire

memberships in another corporation or eligible interests in an eligible entity in a transaction other than a membership exchange.

(h) If any debt security, note, or similar evidence of indebtedness for money borrowed, whether secured or unsecured, or a contract of any kind, issued, incurred, or signed by a domestic exchanging entity before the effective date of this chapter contains a provision applying to a merger or change in control of the exchanging entity that does not refer to a membership exchange, the provision shall be deemed to apply to a membership exchange of the exchanging entity until such time as the provision is amended subsequent to that date.

§ 29-409.04. Action on a plan of merger or membership exchange.

In the case of a nonprofit corporation that is a party to a merger or membership exchange:

(1) The plan of merger or membership exchange shall be adopted by the board of directors.

(2) Except as otherwise provided in paragraph (8) of this section, § 29-409.05, or the articles of incorporation or bylaws, after adopting the plan of merger or membership exchange, the board of directors shall submit the plan to the members entitled to vote on the plan for their approval. The board of directors shall also transmit to the members a recommendation that the members approve the plan, unless the board of directors makes a determination that because of conflicts of interest or other special circumstances, it should not make such a recommendation, in which case the board of directors must transmit to the members the basis for that determination.

(3) The board of directors may condition its submission of the plan of merger or membership exchange to the members on any basis.

(4) If the plan of merger or membership exchange is required to be approved by the members, and if the approval is to be given at a meeting, the nonprofit corporation shall give notice to each member entitled to vote on the merger or membership exchange of the meeting of members at which the plan is to be submitted for approval. The notice shall state that the purpose, or one of the purposes, of the meeting is to consider the plan and shall contain or be accompanied by a copy or summary of the plan. If the corporation is to be merged into an existing corporation or eligible entity, the notice shall also include or be accompanied by a copy or summary of the articles of incorporation and bylaws or organic records of that corporation or eligible entity. If the corporation is to be merged into a corporation or eligible entity that is to be created pursuant to the merger, the notice shall include or be accompanied by a copy or a summary of the articles of incorporation and bylaws or organic records of the new corporation or eligible entity.

(5) Unless the articles of incorporation or bylaws, or the board of directors acting pursuant to paragraph (3) of this subsection, requires a greater vote or a greater number of votes to be present, the approval of the plan of merger or membership exchange by the members shall require the approval of the members at a meeting at which a quorum exists, and, if any class of

memberships is entitled to vote as a separate group on the plan of merger or membership exchange, the approval of each such separate voting group at a meeting at which a quorum of the voting group exists.

(6) Separate voting by voting groups shall be required:

(A) On a plan of merger, by each class of memberships that:

(i) Are to be converted into memberships, eligible interests, securities, or obligations; rights to acquire memberships, eligible interests, securities, or obligations; cash; other property or other consideration; or any combination of the foregoing; or

(ii) Would be entitled to vote as a separate group on a provision in the plan that, if contained in a proposed amendment to articles of incorporation, would require action by separate voting groups under § 29-408.04;

(B) On a plan of membership exchange, by each class of memberships included in the exchange, with each class constituting a separate voting group; and

(C) On a plan of merger or membership exchange, if the voting group is entitled under the articles of incorporation to vote as a voting group to approve a plan of merger or membership exchange.

(7) If as a result of a merger or membership exchange one or more members of a domestic nonprofit corporation would become subject to owner liability for the debts, obligations, or liabilities of any other person or entity, approval of the plan of merger or membership exchange shall require the signature, by each such member, of a separate record consenting to become subject to such owner liability.

(8) If a domestic nonprofit corporation that is a party to a merger does not have any members entitled to vote thereon, a plan of merger shall be deemed adopted by the corporation when it has been adopted by the board of directors pursuant to paragraph (1) of this subsection.

(9) In addition to the adoption and approval of the plan of merger by the board of directors and members as required by this section, the plan of merger shall also be approved in the form of a record by any person or group of persons whose approval is required under § 29-408.40 to amend the articles of incorporation or bylaws.

§ 29-409.05. Merger with controlled corporation or between controlled corporations.

(a) A domestic or foreign entity that holds a membership in a domestic nonprofit corporation that carries at least 80% of the voting power of each class of membership of the controlled corporation that has voting power may merge the controlled corporation into itself or into another such controlled corporation, or merge itself into the controlled corporation, without the approval of the board of directors, designated body or members of the controlled corporation, unless the articles of incorporation or bylaws of any of the corporations or the organic records of a controlling unincorporated entity otherwise provide.

(b) If, under subsection (a) of this section, approval of a merger by the members of a

controlled corporation is not required, the controlling entity shall, within 10 days after the effective date of the merger, notify each of the members of the controlled corporation that the merger has become effective.

(c) Except as otherwise provided in subsections (a) and (b) of this subsection, a merger between a controlling entity and a controlled corporation shall be governed by the provisions of this subchapter applicable to mergers generally.

(d) A merger pursuant to this section shall also be approved in a record by a designated body whose approval is required to amend the articles of incorporation of the controlled corporation.

§ 29-409.06. Articles of merger or membership exchange.

(a) After a plan of merger or membership exchange has been adopted and approved as required by this chapter, articles of merger or membership exchange shall be signed on behalf of each party to the merger or membership exchange by any officer or other duly authorized representative. The articles shall set forth:

(1) The names of the parties to the merger or membership exchange;

(2) If the articles of incorporation of the survivor of a merger or an exchanging nonprofit corporation are amended, or if a new corporation is created as a result of a merger, the amendments to the articles of incorporation of the survivor or exchanging corporation or the articles of incorporation of the new corporation;

(3) If the plan of merger or membership exchange required approval by the members of a domestic nonprofit corporation that was a party to the merger or membership exchange, a statement that the plan was duly approved by the members and, if voting by any separate voting group was required, by each such separate voting group, in the manner required by this chapter and the articles of incorporation or bylaws;

(4) If the plan of merger or membership exchange did not require approval by the members of a domestic nonprofit corporation that was a party to the merger or membership exchange, a statement to that effect; and

(5) As to each foreign nonprofit corporation or eligible entity that was a party to the merger or membership exchange, a statement that the participation of the foreign corporation or eligible entity was duly authorized as required by the organic law of the corporation or eligible entity.

(b) Terms of articles of merger or membership exchange may be made dependent on facts objectively ascertainable outside the articles in accordance with § 29-401.04.

(c) Articles of merger or membership exchange shall be delivered to the Mayor for filing by the survivor of the merger or the acquiring corporation or eligible entity in a membership exchange and take effect at the effective time provided in § 29-102.03. Articles of merger or membership exchange filed under this section may be combined with any filing required under the organic law of any domestic eligible entity involved in the transaction if the combined filing

satisfies the requirements of both this section and the other organic law.

§ 29-409.07. Effect of merger or membership exchange.

(a) Subject to § 29-409.01(b), (c), and (d), when a merger becomes effective:

(1) The domestic or foreign nonprofit corporation or eligible entity that is designated in the plan of merger as the survivor shall continue or come into existence, as the case may be;

(2) The separate existence of every domestic or foreign nonprofit corporation or eligible entity that is merged into the survivor shall cease;

(3) All property owned by, and every contract and other right possessed by, each domestic or foreign nonprofit corporation or eligible entity that merges into the survivor shall be vested in the survivor without reversion or impairment;

(4) All liabilities of each domestic or foreign nonprofit corporation or eligible entity that is merged into the survivor shall be vested in the survivor;

(5) The name of the survivor may, but need not be, substituted in any pending proceeding for the name of any party to the merger whose separate existence ceased in the merger;

(6) The articles of incorporation and bylaws or organic records of the survivor shall be amended to the extent provided in the plan of merger;

(7) The articles of incorporation and bylaws or organic records of a survivor that is created by the merger shall become effective; and

(8) The memberships of each corporation that is a party to the merger, and the eligible interests in an eligible entity that is a party to a merger, that are to be converted under the plan of merger into memberships, eligible interests, securities, or obligations; rights to acquire memberships, eligible interests, securities, or obligations; cash; other property or other consideration; or any combination of the foregoing are converted.

(b) Subject to § 29-409.01(b), (c), and (d), when a membership exchange becomes effective:

(1) The memberships or eligible interests in the exchanging entity that are to be exchanged under the plan of membership exchange into memberships, eligible interests, securities, or obligations; rights to acquire memberships, eligible interests, securities, or obligations; cash; other property or other consideration; or any combination of the foregoing are exchanged; and

(2) The articles of incorporation and bylaws or organic records of the exchanging entity shall be amended to the extent provided in the plan of membership exchange.

(c) A person that becomes subject to owner liability for some or all of the debts, obligations, or liabilities of any entity as a result of a merger or membership exchange has owner liability only to the extent provided in the organic law of the entity and only for those debts, obligations, and liabilities that arise after the effective time of the articles of merger or

membership exchange.

(d) The effect of a merger or membership exchange on the owner liability of a person that had owner liability for some or all of the debts, obligations, or liabilities of a party to the merger or membership exchange shall be as follows:

(1) The merger or membership exchange shall not discharge any owner liability under the organic law of the entity in which the person was a member, shareholder, or interest holder to the extent any such owner liability arose before the effective time of the articles of merger or membership exchange.

(2) The person shall not have owner liability under the organic law of the entity in which the person was a member, shareholder, or interest holder prior to the merger or membership exchange for any debt, obligation, or liability that arises after the effective time of the articles of merger or membership exchange.

(3) The organic law of any entity for which the person had owner liability before the merger or membership exchange shall continue to apply to the collection or discharge of any owner liability preserved by paragraph (1) of this subsection, as if the merger or membership exchange had not occurred.

(4) The person has whatever rights of contribution from other persons are provided by the organic law of the entity for which the person had owner liability with respect to any owner liability preserved by paragraph (1) of this subsection, as if the merger or membership exchange had not occurred.

(e) A devise, bequest, gift, grant, or promise contained in a will or other instrument, in trust or otherwise, made before or after a merger, to or for any of the parties to the merger, shall inure to the survivor, subject to the express terms of the will or other instrument.

§ 29-409.08. Abandonment of a merger or membership exchange.

(a) Unless otherwise provided in a plan of merger or membership exchange or in the organic law of a foreign nonprofit corporation that is a party to a merger or a membership exchange, after the plan has been adopted and approved as required by this subchapter, and at any time before the merger or membership exchange has become effective, it may be abandoned by a domestic nonprofit corporation that is a party thereto without action by its members, in accordance with any procedures set forth in the plan of merger or membership exchange or, if no such procedures are set forth in the plan, in the manner determined by the board of directors, subject to any contractual rights of other parties to the merger or membership exchange.

(b) If a merger or membership exchange is abandoned under subsection (a) of this section after articles of merger or membership exchange have been filed with the Mayor but before the merger or membership exchange has become effective, a statement that the merger or membership exchange has been abandoned in accordance with this section, executed on behalf of a party to the merger or membership exchange by an officer or other duly authorized representative, shall be delivered to the Mayor for filing prior to the effective date of the merger

or membership exchange. Upon filing, the statement shall be effective and the merger or membership exchange shall be deemed abandoned and shall not become effective.

Subchapter X. Disposition of Assets.

§ 29-410.01. Disposition of assets not requiring member approval.

Approval of the members of a nonprofit corporation shall not be required, unless the articles of incorporation or bylaws otherwise provide, to:

(1) Sell, lease, exchange, or otherwise dispose of any or all of the corporation's assets:

(A) In the usual and regular course of its activities; or

(B) If the corporation and its consolidated subsidiaries retain an activity that represented or was supported by at least 33% of total assets at the end of the most recently completed fiscal year;

(2) Mortgage, pledge, dedicate to the repayment of indebtedness, whether with or without recourse, or otherwise encumber any or all of the corporation's assets, whether or not in the usual and regular course of business its activities; or

(3) Transfer any or all of the corporation's assets to one or more corporations or other entities all of the memberships or interests of which are owned by the corporation.

§ 29-410.02. Member approval of certain dispositions.

(a) Except as otherwise provided in the articles of incorporation or bylaws, a sale, lease, exchange, or other disposition of assets, other than a disposition described in § 29-410.01, shall require approval of the nonprofit corporation's members.

(b) A disposition that requires approval of the members under subsection (a) of this section shall be initiated by a resolution by the board of directors authorizing the disposition. After adoption of the resolution, the board of directors shall submit the proposed disposition to the members for their approval. The board of directors shall also transmit to the members a recommendation that the members approve the proposed disposition, unless the board of directors makes a determination that because of conflicts of interest or other special circumstances, it should not make such a recommendation, in which case the board of directors shall transmit to the members the basis for that determination.

(c) The board of directors may condition its submission of a disposition to the members under subsection (b) of this section on any basis.

(d) If a disposition is required to be approved by the members under subsection (a) of this section, and if the approval is to be given at a meeting, the nonprofit corporation shall give notice to each member, whether or not entitled to vote, of the meeting of members at which the disposition is to be submitted for approval. The notice shall state that the purpose, or one of the purposes, of the meeting is to consider the disposition and shall contain a description of the disposition, including the terms and conditions thereof and the consideration to be received by

the corporation.

(e) Unless the articles of incorporation or bylaws, or the board of directors acting pursuant to subsection (c) of this section, requires a greater vote, or a greater number of votes to be present, the approval of a disposition by the members shall require the approval of the members at a meeting at which a quorum exists, and, if any class of members is entitled to vote as a separate group on the disposition, the approval of each such separate voting group at a meeting at which a quorum of the voting group exists.

(f) After a disposition has been approved by the members under subsection (e) of this section, and at any time before the disposition has been consummated, it may be abandoned by the nonprofit corporation without action by the members, subject to any contractual rights of other parties to the disposition.

(g) A disposition of assets in the course of dissolution under subchapter XII of this chapter shall not be governed by this section.

(h) The assets of a direct or indirect consolidated subsidiary shall be deemed the assets of the parent nonprofit corporation for the purposes of this section.

(i) In addition to the approval of a disposition of assets by the board of directors and members as required by this section, the disposition shall also be approved in the form of a record by any person or group of persons whose approval is required under § 29-408.40 to amend the articles of incorporation or bylaws.

§ 29-410.03. Restrictions on dispositions of assets.

(a) Property held in trust or otherwise dedicated to a charitable purpose shall not be diverted from its purpose by a transaction described in § 29-410.01 or § 29-410.02 unless the nonprofit corporation obtains an appropriate order from the Superior Court to the extent required by and pursuant to the law of the District on cy pres or otherwise dealing with the nondiversion of charitable assets.

(b) A person that is a member or otherwise affiliated with a charitable corporation shall not receive a direct or indirect financial benefit in connection with a disposition of assets unless the person is a charitable corporation or an unincorporated entity that has a charitable purpose. This subsection shall not apply to the receipt of reasonable compensation for services rendered.

Subchapter XI. Derivative Proceedings.

§ 29-411.01. Definition.

For the purposes of this subchapter, the term "derivative proceeding" means a civil action in the right of a domestic nonprofit corporation or, to the extent provided in § 29-411.08, in the right of a foreign nonprofit corporation.

§ 29-411.02. Standing.

(a) A derivative proceeding may be brought in the Superior Court by:

(1) A member or members having 5% or more of the voting power, or by 50 members, whichever is less; or

(2) Any director or member of a designated body.

(b) The plaintiff in a derivative proceeding shall be a member, director, or member of a designated body at the time of bringing the proceeding. A plaintiff that is a member shall also have been a member at the time of any action complained of in the derivative proceeding.

§ 29-411.03. Demand.

A person shall not commence a derivative proceeding until:

(1) A demand in the form of a record has been delivered to the nonprofit corporation to take suitable action; and

(2) Ninety days have expired from the date the demand was effective unless:

(A) The person has earlier been notified that the demand has been rejected by the corporation; or

(B) Irreparable injury to the corporation would result by waiting for the expiration of the 90-day period.

§ 29-411.04. Stay of proceedings.

If the nonprofit corporation commences an inquiry into the allegations made in the demand or complaint, the Superior Court may stay any derivative proceeding for such period as the court considers appropriate.

§ 29-411.05. Dismissal.

(a) The Superior Court shall dismiss a derivative proceeding on motion by the nonprofit corporation if one of the groups specified in subsection (b) or (e) of this section has determined in good faith after conducting a reasonable inquiry upon which its conclusions are based that the maintenance of the derivative proceeding is not in the best interests of the corporation.

(b) Unless a panel is appointed pursuant to subsection (e) of this section, the determination in subsection (a) of this section shall be made by a majority vote of:

(1) Independent directors present at a meeting of the board of directors if the independent directors constitute a quorum; or

(2) A committee consisting of 2 or more independent directors appointed by majority vote of independent directors present at a meeting of the board of directors, whether or not such independent directors constituted a quorum.

(c) If a derivative proceeding is commenced after a determination has been made rejecting a demand by a member, the complaint shall allege with particularity facts establishing that:

(1) A majority of the board of directors did not consist of independent directors at

the time the determination was made; or

(2) The requirements of subsection (a) of this section have not been met.

(d) If a majority of the board of directors does not consist of independent directors at the time the determination is made, the nonprofit corporation shall have the burden of proving that the requirements of subsection (a) of this section have been met. If a majority of the board of directors consists of independent directors at the time the determination is made, the plaintiff shall have the burden of proving that the requirements of subsection (a) of this section have not been met.

(e) The Superior Court may appoint a panel of one or more independent persons upon motion by the nonprofit corporation to make a determination whether the maintenance of the derivative proceeding is in the best interests of the corporation. In such case, the plaintiff has the burden of proving that the requirements of subsection (a) of this section have not been met.

(f) A person is independent for purposes of this section if the person does not have:

(1) A material interest in the outcome of the proceeding; or

(2) A material relationship with a person that has such an interest.

(g) None of the following by itself causes a director to be considered not independent for purposes of this section:

(1) The nomination, election, or appointment of the director by persons that are defendants in the derivative proceeding or against whom action is demanded;

(2) The naming of the director as a defendant in the derivative proceeding or as a person against whom action is demanded; or

(3) The approval by the director of the act being challenged in the derivative proceeding or demand if the act resulted in no personal benefit to the director.

§ 29-411.06. Discontinuance or settlement.

A derivative proceeding shall not be discontinued or settled without the Superior Court's approval. If the court determines that a proposed discontinuance or settlement will substantially affect the interests of the members or a class of members of the nonprofit corporation, the court shall direct that notice be given to the members affected.

§ 29-411.07. Security for costs; payment of expenses.

(a) In any derivative proceeding brought under § 29-411.02(a), the nonprofit corporation shall be entitled at any stage of the proceeding to seek an order requiring the plaintiffs to give security for reasonable expenses, including attorney fees and expenses, that may be incurred by the corporation in connection with the proceeding, to which security the corporation may have recourse in such amount as the Superior Court determines upon termination of the proceeding. The amount of security may be increased or decreased in the discretion of the court upon a showing that the security provided has or may become inadequate or excessive. Security may be denied or limited in the discretion of the court upon a preliminary showing, by application and

upon such types of proof as may be required by the court, establishing prima facie that the requirement of full or partial security would impose undue hardship on plaintiffs and serious injustice would result.

(b) On termination of the derivative proceeding the Superior Court may order:

(1) The nonprofit corporation to pay the plaintiff's reasonable expenses, including attorneys' fees, incurred in the proceeding if it finds that the proceeding has resulted in a substantial benefit to the corporation;

(2) The plaintiff to pay any defendant's reasonable expenses, including attorneys' fees, incurred in defending the proceeding if it finds that the proceeding was commenced or maintained without reasonable cause or for an improper purpose; or

(3) A party to pay an opposing party's reasonable expenses, including attorneys' fees, incurred because of the filing of a pleading, motion, or other paper, if it finds that the pleading, motion, or other paper was not well grounded in fact, after reasonable inquiry, or warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law and was interposed for an improper purpose, such as to harass or cause unnecessary delay or needless increase in the cost of litigation.

§ 29-411.08. Applicability to foreign corporations.

In any derivative proceeding in the right of a foreign nonprofit corporation, the matters covered by this subchapter shall be governed by the laws of the jurisdiction of incorporation of the foreign corporation, except for §§ 29-411.04, 29-411.06, and 29-411.07.

§ 29-411.09. Notice to Attorney General.

The plaintiff in a derivative proceeding shall notify the Attorney General for the District of Columbia within 10 days after commencing the proceeding if it involves a charitable corporation.

Subchapter XII. Dissolution.

Part A. Voluntary Dissolution.

§ 29-412.01. Dissolution by incorporators or directors.

A majority of the incorporators or directors of a nonprofit corporation that has not commenced activity, or of a membership corporation that has not admitted any members, may dissolve the corporation by delivering to the Mayor for filing articles of dissolution that set forth:

(1) The name of the corporation;

(2) The date of its incorporation;

(3)(A) That the corporation has not commenced activity; or

(B) That the corporation is a membership corporation and has not admitted any members;

(4) That no debt of the corporation remains unpaid;

(5) That, except as otherwise provided in the articles of incorporation or bylaws, the net assets of the corporation remaining after winding up have been distributed to the members, if members were admitted; and

(6) That a majority of the incorporators or directors authorized the dissolution.

§ 29-412.02. Approval of dissolution.

(a) The board of directors of a membership corporation may propose dissolution for submission to the members.

(b) For a proposal to dissolve to be adopted:

(1) The board of directors shall recommend dissolution to the members unless the board of directors determines that because of conflict of interest or other special circumstances, it should make no recommendation and communicates the basis for its determination to the members; and

(2) The members entitled to vote must approve the proposal to dissolve as provided in subsection (e) of this section.

(c) The board of directors may condition its submission of the proposal for dissolution on any basis.

(d) The nonprofit corporation shall give notice to each member, whether or not entitled to vote, of the proposed meeting of members. The notice shall also state:

(1) That the purpose, or one of the purposes, of the meeting is to consider dissolving the corporation; and

(2) How the assets of the corporation will be distributed after all creditors have been paid or how the distribution of assets will be determined.

(e) Unless the articles of incorporation, the bylaws, or the board of directors acting pursuant to subsection (c) of this section, requires a greater vote or a greater number of members to be present, the adoption of the proposal to dissolve by the members shall require the approval of the members at a meeting at which a quorum exists, and, if any class of members is entitled to vote as a separate group on the proposal, the approval of each such separate voting group at a meeting at which a quorum of the voting group exists.

(f) If the nonprofit corporation does not have any members entitled to vote on its dissolution, a proposal to dissolve shall be adopted by the corporation when it has been adopted by the board of directors.

(g) A charitable corporation shall give the Attorney General for the District of Columbia notice in the form of a record that it intends to dissolve before the time it delivers articles of dissolution to the Mayor. Notice to the Attorney General under this section shall not delay or otherwise affect the dissolution process.

§ 29-412.03. Articles of dissolution.

(a) At any time after dissolution is authorized, the nonprofit corporation may dissolve by delivering to the Mayor for filing articles of dissolution setting forth:

(1) The name of the corporation;

(2) The date dissolution was authorized; and

(3) That the dissolution was approved in the manner required by this chapter and by the articles of incorporation and bylaws.

(b) A nonprofit corporation shall be dissolved upon the effective date of its articles of dissolution.

(c) For purposes of this part, the term "dissolved corporation" means a nonprofit corporation whose articles of dissolution have become effective and includes a successor entity to which the remaining assets of the corporation are transferred subject to its liabilities for purposes of liquidation.

§ 29-412.04. Revocation of dissolution.

(a) A nonprofit corporation may revoke its dissolution within 120 days of its effective date.

(b) Revocation of dissolution shall be authorized in the same manner as the dissolution was authorized unless that authorization permitted revocation by action of the board of directors alone, in which event the board of directors may revoke the dissolution without action by the members.

(c) After the revocation of dissolution is authorized, the nonprofit corporation may revoke the dissolution by delivering to the Mayor for filing articles of revocation of dissolution, together with a copy of its articles of dissolution, that set forth:

(1) The name of the corporation;

(2) The effective date of the dissolution that was revoked;

(3) The date that the revocation of dissolution was authorized; and

(4) That the revocation of dissolution was approved in the manner required by this chapter and by the articles of incorporation and bylaws.

(d) Revocation of dissolution shall be effective upon the effective date of the articles of revocation of dissolution.

(e) When the revocation of dissolution is effective, it relates back to and takes effect as of the effective date of the dissolution and the nonprofit corporation resumes carrying on its activities as if dissolution had never occurred.

§ 29-412.05. Effect of dissolution.

(a) A dissolved nonprofit corporation continues its corporate existence but shall not carry on any activities except those appropriate to wind up and liquidate its affairs, including:

(1) Collecting its assets;

(2) Disposing of its properties that will not be distributed in kind;

(3) Discharging or making provision for discharging its liabilities;

(4) Distributing its remaining property as required by law and its articles of incorporation and bylaws, and otherwise as approved when the dissolution was approved or among the members per capita; and

(5) Doing every other act necessary to wind up and liquidate its activities and affairs.

(b) Dissolution of a nonprofit corporation shall not:

(1) Transfer title to the corporation's property;

(2) Subject its directors, members of a designated body, or officers to standards of conduct different from those prescribed in subchapter VI of this chapter;

(3) Change:

(A) Quorum or voting requirements for its board of directors or members;

(B) Provisions for selection, resignation, or removal of its directors or officers, or both;

(C) Provisions for amending its bylaws;

(4) Prevent commencement of a proceeding by or against the corporation in its corporate name;

(5) Abate or suspend a proceeding pending by or against the corporation on the effective date of dissolution; or

(6) Terminate the authority of the registered agent of the corporation.

(c) Property held in trust or otherwise dedicated to a charitable purpose shall not be diverted from its purpose by the dissolution of a nonprofit corporation unless and until the corporation obtains an order of the Superior Court to the extent required by and pursuant to the law of the District on cy pres or otherwise dealing with the nondiversion of charitable assets.

(d) A person that is a member or otherwise affiliated with a charitable corporation shall not receive a direct or indirect financial benefit in connection with the dissolution of the corporation unless the person is a charitable corporation or an unincorporated entity that has a charitable purpose. This subsection shall not apply to the receipt of reasonable compensation for services rendered.

§ 29-412.06. Known claims against dissolved corporation.

(a) A dissolved nonprofit corporation may dispose of the known claims against it by delivering notice to its known claimants of the dissolution at any time after its effective date.

(b) The notice shall be in the form of a record and:

(1) Describe information that shall be included in a claim;

(2) Provide a mailing address where a claim may be sent;

(3) State the deadline, which may not be fewer than 120 days from the effective date of the notice, by which the dissolved nonprofit corporation must receive the claim; and

(4) State that the claim will be barred if not received by the deadline.

(c) A claim against the dissolved nonprofit corporation shall be barred if the claimant:

(1) That was given notice under subsection (b) of this section does not deliver the claim to the dissolved corporation by the deadline; or

(2) Whose claim was rejected by the dissolved corporation does not commence a proceeding to enforce the claim within 90 days from the effective date of the rejection notice.

(d) For purposes of this section, the term "claim" does not include a contingent liability or a claim based on an event occurring after the effective date of dissolution.

§ 29-412.07. Other claims against dissolved corporation.

(a) A dissolved nonprofit corporation may publish notice of its dissolution and request that persons with claims against the dissolved corporation present them in accordance with the notice.

(b) The notice shall:

(1) Be published one time in a newspaper of general circulation in the District, or, if there was no office in the District, where its principal office is or was last located;

(2) Describe the information that must be included in a claim and provide a mailing address where the claim must be sent; and

(3) State that a claim against the dissolved corporation will be barred unless a proceeding to enforce the claim is commenced within 3 years after the publication of the notice.

(c) If the dissolved nonprofit corporation publishes a newspaper notice in accordance with subsection (b) of this section, the claim of each of the following claimants shall be barred unless the claimant commences a proceeding to enforce the claim against the dissolved corporation within 3 years after the publication date of the newspaper notice:

(1) A claimant that was not given notice under § 29-412.06;

(2) A claimant whose claim was timely sent to the dissolved corporation but not acted on; or

(3) A claimant whose claim is contingent or based on an event occurring after the effective date of dissolution.

(d) A claim that is not barred by § 29-412.06(b) or § 29-412.07(c) may be enforced:

(1) Against the dissolved nonprofit corporation, to the extent of its undistributed assets; or

(2) Except as otherwise provided in § 29-412.08(d), if the assets have been distributed in liquidation, against any person, other than a creditor of the dissolved corporation, to whom the corporation distributed its property to the extent of the distributee's pro rata share of the claim or the corporate assets distributed to the distributee in liquidation, whichever is less, but a distributee's total liability for all claims under this section shall not exceed the total amount of assets distributed to the distributee.

§ 29-412.08. Judicial proceedings.

(a) A dissolved nonprofit corporation that has published a notice under § 29-412.07 may file an application with the Superior Court for a determination of the amount and form of security to be provided for payment of claims that are contingent or have not been made known to the dissolved corporation or that are based on an event occurring after the effective date of dissolution but that, based on the facts known to the dissolved corporation, are reasonably estimated to arise after the effective date of dissolution. Provision need not be made for any claim that is or is reasonably anticipated to be barred under § 29-412.07(c).

(b) Within 10 days after the filing of the application, notice of the proceeding must be given by the dissolved nonprofit corporation to each claimant holding a contingent claim whose contingent claim is shown on the records of the dissolved corporation.

(c) The Superior Court may appoint a guardian ad litem to represent all claimants whose identities are unknown in any proceeding brought under this section. The reasonable fees and expenses of the guardian, including all reasonable expert witness fees, shall be paid by the dissolved nonprofit corporation.

(d) Provision by the dissolved nonprofit corporation for security in the amount and the form ordered by the Superior Court under subsection (a) of this section shall satisfy the dissolved corporation's obligations with respect to claims that are contingent, have not been made known to the dissolved corporation, or are based on an event occurring after the effective date of dissolution, and such claims shall not be enforced against a person that received assets in liquidation.

§ 29-412.09. Directors' duties.

(a) Directors shall cause the dissolved nonprofit corporation to discharge or make reasonable provision for the payment of claims and make distributions of assets after payment or provision for claims.

(b) Directors of a dissolved nonprofit corporation that has disposed of claims under § 29-412.06, § 29-412.07, or § 29-412.08 shall not be liable for breach of § 29-412.09(a) with respect to claims against the dissolved corporation that are barred or satisfied under § 29-412.06, § 29-412.07, or § 29-412.08.

Part B. Judicial Dissolution or Other Equitable Relief.

§ 29-412.20. Grounds for judicial dissolution or other equitable relief.

(a) The Superior Court may dissolve a nonprofit corporation, place a corporation in receivership, impose a constructive trust on compensation paid to a corporation's director, officer, or manager, or grant other injunctive or equitable relief with respect to a corporation:

(1) In a proceeding by the Attorney General for the District of Columbia if it is established that:

(A) The corporation obtained its articles of incorporation through fraud;

(B) The corporation has exceeded or abused and is continuing to exceed or abuse the authority conferred upon it by law; or

(C) The corporation has continued to act contrary to its nonprofit purposes;

(2) Except as otherwise provided in the articles of incorporation or bylaws, in a proceeding by 50 members or members holding at least 5% of the voting power, whichever is less, or by a director or member of a designated body, if it is established that:

(A) The directors or a designated body are deadlocked in the management of the corporate affairs, the members, if any, are unable to break the deadlock, and irreparable injury to the corporation or its mission is threatened or being suffered because of the deadlock;

(B) The directors or those in control of the corporation have acted, are acting, or will act in a manner that is illegal, oppressive, or fraudulent;

(C) The members are deadlocked in voting power and have failed, for a period that includes at least 2 consecutive annual meeting dates, to elect successors to directors whose terms have, or otherwise would have, expired;

(D) The corporate assets are being misapplied or wasted; or

(E) The corporation has insufficient assets to continue its activities and it is no longer able to assemble a quorum of directors or members;

(3) In a proceeding by a creditor, if it is established that:

(A) The creditor's claim has been reduced to judgment, the execution on the judgment returned unsatisfied, and the corporation is insolvent; or

(B) The corporation has admitted in a record that the creditor's claim is due and owing and the corporation is insolvent; or

(4) In a proceeding by the corporation to have its voluntary dissolution continued under court supervision.

(b)(1) If the Attorney General, in the course of an investigation to determine whether to bring a court action under this section, has reason to believe that a person may have information, or may be in possession, custody, or control of documentary material, relevant to the investigation, the Attorney General may issue in writing, and cause to be served upon the person, a subpoena requiring the person to give oral testimony under oath, or to produce records, books, papers, contracts, electronically-stored data, and other documentary material for inspection and copying.

(2) Information obtained pursuant to this authority to subpoena shall not be admissible in a later criminal proceeding against the person who provided the information.

(3) The Attorney General may petition the Superior Court for an order compelling compliance with a subpoena issued pursuant to this authority to subpoena.

§ 29-412.21. Procedure for judicial dissolution.

(a) It shall not be necessary to make directors or members parties to a proceeding to dissolve a nonprofit corporation unless relief is sought against them individually.

(b) The Superior Court, in a proceeding brought to dissolve a nonprofit corporation, may issue injunctions, appoint a receiver or custodian pendente lite with all powers and duties the court directs, take other action required to preserve the corporate assets wherever located, and carry on the activities of the corporation until a full hearing can be held.

§ 29-412.22. Receivership or custodianship.

(a) The Superior Court in a judicial proceeding brought to dissolve a nonprofit corporation may appoint one or more receivers to wind up and liquidate, or one or more custodians to manage, the affairs of the corporation. The court shall hold a hearing, after giving notice to all parties to the proceeding and any interested persons designated by the court, before appointing a receiver or custodian. The court appointing a receiver or custodian has exclusive jurisdiction over the corporation and all of its property wherever located.

(b) The Superior Court may require the receiver or custodian to post bond, with or without sureties, in an amount the court directs.

(c) The Superior Court shall describe the powers and duties of the receiver or custodian in its appointing order, which may be amended. Among other powers:

(1) The receiver:

(A) May dispose of all or any part of the assets of the nonprofit corporation wherever located, at a public or private sale, if authorized by the court; and

(B) May sue and defend in his or her own name as receiver of the corporation;

(2) The custodian may exercise all of the powers of the corporation, through or in place of its board of directors and any designated body, to the extent necessary to manage the affairs of the corporation consistent with its mission and in the best interests of its members, if any, and creditors.

(d) During a receivership, the Superior Court may redesignate the receiver a custodian, and during a custodianship may redesignate the custodian a receiver, if doing so is consistent with the mission of the nonprofit corporation and in the best interests of the corporation, its members, and creditors.

(e) The Superior Court during the receivership or custodianship may order compensation paid and expense disbursements or reimbursements made to the receiver or custodian and counsel from the assets of the nonprofit corporation or proceeds from the sale of the assets.

(f) This section does not apply to a religious corporation.

§ 29-412.23. Decree of dissolution.

(a) If, after a hearing, the Superior Court determines that one or more grounds for judicial dissolution described in § 29-412.20 exist, it may enter a decree dissolving the nonprofit corporation and specifying the effective date of the dissolution, and the clerk of the court shall deliver a certified copy of the decree to the Mayor, who shall file it.

(b) After entering the decree of dissolution, the Superior Court shall direct the winding-up and liquidation of the nonprofit corporation's affairs in accordance with § 29-412.05 and the notification of claimants in accordance with §§ 29-412.06 and 29-412.07.

Part C. Miscellaneous.

§ 29-412.30. Deposit with Mayor.

Assets of a dissolved nonprofit corporation that should be transferred to a creditor, claimant, or member of the corporation who cannot be found or who is not competent to receive them shall be reduced to cash and deposited with the Mayor for safekeeping. When the creditor, claimant, or member furnishes satisfactory proof of entitlement to the amount deposited, the Mayor shall pay the amount held.

Subchapter XIII. Records and Reports.

Part A. Records.

§ 29-413.01. Corporate records.

(a) A nonprofit corporation shall keep as permanent records minutes of all meetings of its members, board of directors, and any designated body, a record of all actions taken by the members, board of directors, or members of a designated body without a meeting, and a record of all actions taken by a committee of the board of directors or a designated body on behalf of the corporation.

(b) A nonprofit corporation shall maintain appropriate accounting records.

(c) A membership corporation or its agent shall maintain a record of its members, in a form that permits preparation of a list of the names and addresses of all members, in alphabetical order by class, showing the number of votes each member is entitled to cast.

(d) A nonprofit corporation shall maintain its records in written form or in any other form of a record.

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

(1) Its articles of incorporation or restated articles of incorporation and all amendments to them currently in effect;

(2) Its bylaws or restated bylaws and all amendments to them currently in effect;

(3) The minutes and records described in subsection (a) of this section for the past 3 years;

(4) All communications in the form of a record to members generally within the

past 3 years, including the financial statements furnished for the past 3 years under § 29-413.20;

(5) A list of the names and business addresses of its current directors and officers; and

(6) Its most recent biennial report delivered to the Mayor under § 29-102.11.

§ 29-413.02. Inspection of records by members.

(a) Subject to § 29-413.07, a member of a nonprofit corporation shall be entitled to inspect and copy, during regular business hours at the corporation's principal office, any of the records of the corporation described in § 29-413.01(e) if the member delivers to the corporation a signed notice in the form of a record at least 5 business days before the date on which the member wishes to inspect and copy.

(b) A member of a nonprofit corporation shall be entitled to inspect and copy, during regular business hours at a reasonable location specified by the corporation, any of the following records of the corporation if the member meets the requirements of subsection (c) of this section and delivers to the corporation a signed notice in the form of a record at least 5 business days before the date on which the member wishes to inspect and copy:

(1) Excerpts from any records required to be maintained under § 29-413.01(a), to the extent not subject to inspection under § 29-413.02(a);

(2) Accounting records of the corporation; and

(3) Subject to § 29-413.07, the membership list.

(c) A member may inspect and copy the records described in subsection (b) of this section only if:

(1) The member's demand is made in good faith and for a proper purpose;

(2) The member describes with reasonable particularity the purpose and the records the member desires to inspect; and

(3) The records are directly connected with this purpose.

(d) The right of inspection granted by this section may be abolished or limited by a nonprofit corporation's articles of incorporation or bylaws.

(e) This section shall not affect:

(1) The right of a member to inspect records under § 29-405.20 or, if the member is in litigation with the corporation, to the same extent as any other litigant; or

(2) The power of a court, independently of this chapter, to compel the production of corporate records for examination.

§ 29-413.03. Scope of inspection right.

(a) A member's agent or attorney shall have the same inspection and copying rights as the member represented.

(b) The right to copy records under § 29-413.02 shall include, if reasonable, the right to receive copies. Copies may be provided through an electronic transmission if available and so

requested by the member.

(c) The nonprofit corporation may comply at its expense with a member's demand to inspect the record of members under § 29-413.02(b)(3) by providing the member with a list of members that was compiled no earlier than the date of the member's demand.

(d) The nonprofit corporation may impose a reasonable charge, covering the costs of labor and material, for copies of any documents provided to the member. The charge shall not exceed the estimated cost of production, reproduction, or transmission of the records.

§ 29-413.04. Court-ordered inspection.

(a) If a nonprofit corporation does not allow a member who complies with § 29-413.02(a) to inspect and copy any records required by that subsection to be available for inspection, the Superior Court may summarily order inspection and copying of the records demanded at the corporation's expense upon application of the member.

(b) If a nonprofit corporation does not within a reasonable time allow a member to inspect and copy any other record, the member who complies with § 29-413.02(b) and (c) may apply to the Superior Court for an order to permit inspection and copying of the records demanded. The court shall dispose of an application under this subsection on an expedited basis.

(c) If the Superior Court orders inspection and copying of the records demanded, it shall also order the nonprofit corporation to pay the member's costs, including reasonable attorneys' fees, incurred to obtain the order unless the corporation proves that it refused inspection in good faith because it had a reasonable basis for doubt about the right of the member to inspect the records demanded.

(d) If the Superior Court orders inspection and copying of the records demanded, it may impose reasonable restrictions on the use or distribution of the records by the demanding member.

§ 29-413.05. Inspection of records by directors.

(a) A director of a nonprofit corporation shall be entitled to inspect and copy the books, records, and documents of the corporation at any reasonable time to the extent reasonably related to the performance of the director's duties as a director, including duties as a member of a committee, but not for any other purpose or in any manner that would violate any duty to the corporation or law other than this chapter.

(b) The Superior Court may order inspection and copying of the books, records, and documents at the corporation's expense, upon application of a director who has been refused such inspection rights, unless the corporation establishes that the director is not entitled to such inspection rights. The court shall dispose of an application under this subsection on an expedited basis.

(c) If an order is issued, the court may include provisions protecting the nonprofit corporation from undue burden or expense, and prohibiting the director from using information

obtained upon exercise of the inspection rights in a manner that would violate a duty to the corporation, and may also order the corporation to reimburse the director for the director's costs, including reasonable attorney's fees, incurred in connection with the application.

§ 29-413.06. Exception to notice requirement.

(a) Whenever notice would otherwise be required to be given under any provision of this chapter to a member, the notice need not be given if notice of 2 consecutive annual meetings, and all notices of meetings during the period between such 2 consecutive annual meetings, have been returned undeliverable or could not be delivered.

(b) If a member delivers to the nonprofit corporation a notice setting forth the member's then-current address, the requirement that notice be given to that member shall be reinstated.

§ 29-413.07. Limitations on use of membership list.

(a) Without consent of the board of directors, a membership list or any part thereof shall not be obtained or used by any person and shall not be:

(1) Used to solicit money or property unless the money or property will be used solely to solicit the votes of the members in an election to be held by the nonprofit corporation;

(2) Used for any commercial purpose; or

(3) Sold to or purchased by any person.

(b) Instead of making a membership list available for inspection and copying under this subpart, a nonprofit corporation may elect to proceed under the procedures set forth in § 29-405.20(f).

Part B. Reports.

§ 29-413.20. Financial statements for members.

(a) Upon a demand in the form of a record from a member, a nonprofit corporation shall furnish that member with its latest annual financial statements, which may be consolidated or combined statements of the nonprofit corporation and one or more of its subsidiaries, as appropriate, that include a balance sheet as of the end of the fiscal year and a statement of operations for the year. If financial statements are prepared for the nonprofit corporation on the basis of generally accepted accounting principles, the annual financial statements shall also be prepared on that basis. A nonprofit corporation may impose a reasonable charge for copying the report.

(b) If the annual financial statements are reported upon by a certified public accountant, the accountant's report must accompany them. If not, the statements shall be accompanied by a statement of the president or the person responsible for the nonprofit corporation's accounting records:

(1) Stating the reasonable belief of the president or other person as to whether the statements were prepared on the basis of generally accepted accounting principles and, if not, describing the basis of preparation; and

(2) Describing any respects in which the statements were not prepared on a basis of accounting consistent with the statements prepared for the preceding year.

(c) The rights of a member under this section are in addition to the rights under § 29-413.02.

Subchapter XIV. Transition Provisions.

§ 29-414.01. Application to existing domestic corporations.

This chapter shall apply to all domestic nonprofit corporations in existence on its effective date that were incorporated under any general statute of the District providing for incorporation of nonprofit corporations.

§ 29-414.02. Application to qualified foreign corporations.

A foreign nonprofit corporation authorized to do business in the District on the effective date of this chapter shall be subject to this chapter, but is not required to obtain a new certificate of registration to do business under this chapter.

§ 29-414.03. Entitlement to cumulate votes.

Members of a nonprofit corporation that were entitled to cumulate their votes for the election of directors on the effective date of this chapter shall continue to be entitled to cumulate their votes for the election of directors until otherwise provided in the articles of incorporation or bylaws of the corporation.

CHAPTER 5. PROFESSIONAL CORPORATIONS.

Section

29-501. Short title.
29-502. Definitions.
29-503. Applicability.
29-504. Construction; applicability of Chapter 3 of this title to corporations organized under chapter.
29-505. Purpose for organization; powers authorized.
29-506. Incorporation.
29-507. Number of directors.
29-508. Qualifications of shareholders, director, and officer.
29-509. Proxy prohibited.
29-510. Professional relationship; liabilities.
29-511. Transfer of shares.
29-512. Merger or consolidation restricted.
29-513. Disqualified professional.
29-514. Disposition of stock of disqualified, deceased, legally incompetent shareholder.
29-515. Redemption price.

29-516. Perpetual duration; dissolution.

CHAPTER 5. PROFESSIONAL CORPORATIONS

§ 29-501. Short title.

This chapter may be cited as the "Professional Corporation Act of 2010".

§ 29-502. Definitions.

For the purposes of this chapter, the term:

(1) "License" means license, certification, certificate, or registration, or other legal authorization required by law as a condition precedent to the rendering of professional service within the District.

(2) "Professional corporation" means a corporation organized under this chapter solely for the specific purposes provided under this chapter and which has, as its shareholders, only individuals who themselves are duly licensed to render the same professional service as the corporation.

(3) "Professional service" means any type of personal service to the public which may be lawfully rendered only pursuant to a license and which by law, custom, standards of professional conduct or practice in the District before December 10, 1971, could not be rendered by a corporation, including the services performed by certified public accountants, attorneys, architects, practitioners of the healing arts, dentists, optometrists, podiatrists, and professional engineers.

§ 29-503. Applicability.

This chapter shall not apply to any corporation now in existence or hereafter organized which may lawfully render professional services other than pursuant to this chapter. This chapter shall not alter or affect any existing or future right or privilege permitting or not prohibiting performance of professional services through the use of any form of business organization. A corporation organized under Chapter 3 of this title may be brought within this chapter by complying with this chapter and filing amended or restated articles of incorporation meeting the requirements of § 29-506.

§ 29-504. Construction; applicability of Chapter 3 of this title to corporations organized under chapter.

(a) This chapter shall not repeal, modify, or restrict the laws relating to corporations, or regulating the professions covered by this chapter, unless these laws conflict with this chapter.

(b) Except as otherwise provided in this chapter, Chapter 3 of this title shall apply to a professional corporation organized under this chapter.

§ 29-505. Purpose for organization; powers authorized.

(a) A professional corporation may be organized solely to render professional services through its shareholders, directors, officers, employees, or agents who are themselves licensed to render the particular service, and to render service ancillary thereto. A professional corporation may charge for these services, may collect such charges, and may compensate those who render these services. A professional corporation may employ individuals who are not licensed, but they shall not perform professional services. No license shall be required of any person employed by a professional corporation to perform services for which a license is not otherwise required.

(b) A professional corporation may not do any act that is prohibited to an individual licensed to render the professional service for which the corporation is organized.

(c) A professional corporation may:

(1) Invest its funds in real estate, mortgages, stocks, bonds, or other type of investment;

(2) Own real estate or personal property; and

(3) Enter into partnership and other agreements with individuals, who may be shareholders, directors, employees, or agents of the professional corporation, partnerships, or professional corporations rendering the same type of professional services within or without the District to the same extent that an individual licensed to render the same professional service may enter into such partnership or other agreements pursuant to law, rules, regulations, or standards of professional conduct of the profession practiced through the professional corporation.

§ 29-506. Incorporation.

One or more individuals may incorporate a professional corporation by delivering articles of incorporation for filing to the Mayor. The articles of incorporation shall meet the requirements of Chapter 3 of this title and shall set forth:

(1) The designation of the professional services to be rendered through the corporation;

(2) The names and addresses, including street address, if any, of the original shareholders of the corporation; and

(3) A statement that each of the original shareholders and directors named in the articles of incorporation is licensed to render a professional service for which the corporation is to be organized.

§ 29-507. Number of directors.

A professional corporation shall have one or more directors, without regard to the number of shareholders.

§ 29-508. Qualifications of shareholders, director, and officer.

(a) For the purposes of this section, the term "officer" means the chair of the board, president, vice-president, treasurer, or secretary.

(b) A person shall not be a shareholder, director, or officer of a professional corporation or render professional services on its behalf unless the person is an individual licensed to render a professional service for which the corporation is organized; provided, that if a professional corporation has only one shareholder, the secretary of the corporation need not be licensed to perform, and shall not perform if not so licensed, such professional services.

(c) Nothing in this chapter shall require a shareholder or incorporator of a professional corporation to have a present or future employment relationship with the corporation or actively to participate in any capacity in the production of income of, or performance of professional service by, such corporation.

§ 29-509. Proxy prohibited.

A shareholder of a professional corporation shall not enter into a voting trust, proxy, or any other arrangement vesting another person, other than another shareholder of the same corporation, with the authority to exercise the voting power of any or all of his shares, and any such voting trust, proxy, or other arrangement shall be void.

§ 29-510. Professional relationship; liabilities.

(a) This chapter shall not alter or affect the professional relationship between an individual furnishing professional services and an individual receiving such service, either with respect to liability arising out of such professional service or the confidential relationship, if any, between the individual rendering, and the individual receiving, the professional service. An individual shall be personally liable and accountable only for any negligent or wrongful acts or misconduct committed by the individual, or by any individual under the individual's supervision and control in the rendering of professional service, on behalf of a corporation organized under this chapter. An individual shall not be personally liable merely because the individual is a director, officer, or manager of the professional corporation.

(b) A professional corporation shall be liable up to the full value of its assets for any negligent or wrongful acts or misconduct committed by any of its officers, shareholders, directors, agents, or employees in their rendering of professional services on behalf of the corporation. Except as otherwise provided in this section, the liabilities of a professional corporation and its shareholders shall be governed by Chapter 3 of this title.

§ 29-511. Transfer of shares.

(a) Shares in a professional corporation may be transferred only to an individual who is eligible under this chapter to be a shareholder of the corporation, or to the professional corporation, or may devolve by operation of law upon the personal representative or estate of a

deceased or legally incompetent shareholder. The articles of incorporation, bylaws, or an agreement among its shareholders may provide that any such transfer is subject to the express approval of all, or of any lesser proportion of the remaining shareholders of the corporation, and may provide for the manner in which such consent is given. Any transfer made in violation of this section shall be void.

(b) A professional corporation may reacquire its own shares through purchase or redemption, and may cancel those shares if at least one share remains issued and outstanding, except when it is insolvent or the purchase or redemption would render it insolvent.

(c) The Securities Act of 2000, effective October 26, 2000 (D.C. Law 13-203; D.C. Official Code § 31-5601.01 *et seq.*), and the Securities Act of 1933, approved May 27, 1933 (48 Stat. 74; 15 U.S.C. § 77a *et seq.*), shall not apply to the issuance or transfer of securities of a professional corporation.

(d) Every certificate for shares of a professional corporation shall contain on its face the following legend: "The ownership and transfer of these shares and the rights and obligations of shareholders are subject to the limitations of the Professional Corporation Act of 2010, D.C. Official Code Title 29, Chapter 5."

(e) If shares of a professional corporation are attached for the individual debts of a shareholder, or are executed upon under any pledge or hypothecation thereof, the sole right of the creditor with respect to such shares shall be to obtain their redemption by the professional corporation within 60 days after serving written demand for redemption upon the corporation. The redemption price for such shares shall be:

(1) The amount to which the shareholder is entitled upon voluntary redemption of the shareholder's shares by the provisions of the articles of incorporation, bylaws, or an agreement among its shareholders; or

(2) If there are no provisions as set forth in paragraph (1) of this subsection, the book value of such shares at the end of the month immediately preceding the date of the demand, determined under generally accepted accounting methods consistent with the method of accounting used by the corporation for federal income tax purposes, by an independent certified public accountant selected by the corporation, but paid by the creditor, for the purpose.

§ 29-512. Merger or consolidation restricted.

(a) A professional corporation may merge or consolidate only with another domestic professional corporation or a domestic limited liability company and only if both entities are organized to render the same professional services, which, although not the same, could otherwise be rendered by a single professional corporation or limited liability company.

(b) A member of a domestic limited liability company that is a party to a merger or consolidation shall not, as a result of the merger or consolidation, be personally liable for the liabilities or obligations of any other person or entity unless that member approves the agreement of merger or consolidation or otherwise consents to becoming personally liable.

§ 29-513. Disqualified professional.

If any individual rendering professional services on behalf of a professional corporation assumes a public office that prohibits his or her rendering of the professional services, or for any other reason is disqualified by law to render the professional services, the individual immediately shall sever all employment relationships in which the individual shares in the corporation's profits attributable to professional services rendered after such assumption of office or other disqualification. For the purposes of § 29-514, the individual shall be referred to as a "disqualified shareholder".

§ 29-514. Disposition of stock of disqualified, deceased, or legally incompetent shareholder.

(a) Subject to the limitations of this section, a disqualified shareholder and personal representatives, legatees, or heirs of a deceased or legally incompetent shareholder may continue to own shares of a professional corporation, but shall not participate in any decision concerning the rendering of professional services by the corporation. The articles of incorporation, bylaws, or an agreement among the shareholders of a professional corporation may provide, consistent with this section, for the disposition of shares of a disqualified, deceased, or legally incompetent shareholder.

(b) The articles of incorporation, bylaws, or an agreement among shareholders may provide that, within 90 days, or any earlier date, after the date a shareholder becomes a disqualified shareholder, the disqualified shareholder shall sell and surrender, and the corporation or any individuals qualified to be shareholders shall purchase and receive, the shareholder's shares of stock of the corporation. In the absence of such a provision, the disqualified shareholder shall sell and surrender, and the corporation shall purchase and receive, the shareholder's shares of stock of the corporation within 30 days after the date the shareholder becomes a disqualified shareholder. Unless otherwise provided by the articles of incorporation, bylaws, or an agreement among the shareholders, payment for the shares of stock purchased pursuant to this subsection shall be made in full no later than 6 months after the expiration of the period by which the purchases must be made.

(c) The articles of incorporation, bylaws, or an agreement among shareholders may provide that, within one year, or any earlier date, after the date of death of a shareholder, the shareholder's personal representative, legatees, or heirs shall sell and surrender, and the corporation or any individuals qualified to be shareholders shall purchase and receive, the shares of stock of the corporation owned by the deceased shareholder. In the absence of such a provision, the personal representatives, legatees, or heirs shall sell and surrender, and the corporation shall purchase and receive, the shares of stock of the corporation within 180 days after the date of death of the shareholder. Unless otherwise provided by the articles of incorporation, bylaws, or an agreement among the shareholders, payment for the shares of stock purchased pursuant to this subsection shall be made in full no later than one year after the date of

death of the shareholder.

§ 29-515. Redemption price.

If the articles of incorporation, bylaws, or an agreement among the shareholders, does not fix the price at which the corporation or its shareholders may purchase the shares of a disqualified, deceased, legally incompetent, retired, or expelled shareholder, or does not provide a method of determining such price, the price for such shares shall be the book value of the shares on the last day of the month immediately preceding the disqualification, death, adjudication of incompetence, retirement, or expulsion of the shareholder, determined under generally accepted accounting methods, consistent with the method of accounting used by the corporation for federal income tax purposes, by an independent certified public accountant employed by the corporation for the purpose.

§ 29-516. Perpetual duration; dissolution.

A professional corporation shall have perpetual duration, except that whenever all shareholders of a professional corporation cease at any time for any reason to be licensed to perform the professional services for which the corporation was organized, the professional corporation shall be treated as having converted into a corporation organized under Chapter 3 of this title. Unless the holders of all of the outstanding shares of the corporation unanimously amend the articles of incorporation to adopt purposes consistent with Chapter 3 of this title within 60 days after the date on which the last shareholder of the corporation ceased to be licensed to perform those professional services, the dissolution of the corporation shall be deemed to have been authorized by the act of the corporation and any shareholder may at any time thereafter file with the Mayor, on behalf of the corporation, a statement of intent to dissolve.

CHAPTER 6. GENERAL PARTNERSHIPS.

Section

Subchapter I. General Provisions.

29-601.01. Short title.
29-601.02. Definitions.
29-601.03. Knowledge and notice.
29-601.04. Effect of partnership agreement; nonwaivable provisions.
29-601.05. Execution, filing, and recording of statements.
29-601.06. Governing law.
29-601.07. Applicability of act to foreign and interstate commerce.

Subchapter II. Nature of Partnership.

29-602.01. Partnership as entity.
29-602.02. Formation of partnership.
29-602.03. Partnership property.

29-602.04. When property is partnership property.

Subchapter III. Relations of Partners to Persons Dealing with Partnership.
29-603.01. Partner agent of partnership.
29-603.02. Transfer of partnership property.
29-603.03. Statement of partnership authority.
29-603.04. Statement of denial.
29-603.05. Partnership liable for partner's actionable conduct.
29-603.06. Partner's liability.
29-603.07. Actions by and against partnership and partners.
29-603.08. Liability of purported partner.
Subchapter IV. Relations of Partners to Each Other and to Partnership.
29-604.01. Partner's rights and duties.
29-604.02. Distributions in kind.
29-604.03. Partner's rights and duties with respect to information.
29-604.04. General standards of partner's conduct.
29-604.05. Actions by partnership and partners.
29-604.06. Continuation of partnership beyond definite term or particular undertaking.
Subchapter V. Transferees and Creditors of Partner.
29-605.01. Partner not co-owner of partnership property.
29-605.02. Partner's transferable interest in partnership.
29-605.03. Transfer of partner's transferable interest.
29-605.04. Partner's transferable interest subject to charging order.
Subchapter VI. Partner's Dissociation.
29-606.01. Events causing partner's dissociation.
29-606.02. Partner's power to dissociate; wrongful dissociation.
29-606.03. Effect of partner's dissociation.
Subchapter VII. Partner's Dissociation When Business Not Wound up.
29-607.01. Purchase of dissociated partner's interest.
29-607.02. Dissociated partner's power to bind and liability to partnership.
29-607.03. Dissociated partner's liability to other persons.
29-607.04. Statement of dissociation.
29-607.05. Continued use of partnership name.
Subchapter VIII. Winding up Partnership Business.
29-608.01. Events causing dissolution and winding up of partnership business.
29-608.02. Partnership continues after dissolution.
29-608.03. Right to wind up partnership business.
29-608.04. Partner's power to bind partnership after dissolution.
29-608.05. Statement of dissolution.

29-608.06. Partner's liability to other partners after dissolution.
29-608.07. Settlement of accounts and contributions among partners.
Subchapter IX. Mergers and Interest Exchanges.
29-609.01. Definitions.
29-609.02. Merger of partnerships.
29-609.03. Effect of merger.
29-609.04. Statement of merger.
29-609.05. Interest Exchanges.
29-609.06. Nonexclusive.
Subchapter X. Limited Liability Partnership.
29-610.01. Statement of qualification.
Subchapter XI. Transition Provisions.
29-611.01. Application to existing relations.

CHAPTER 6. GENERAL PARTNERSHIPS.

Subchapter I. General Provisions.

§ 29-601.01. Short title.

This chapter may be cited as the "Uniform Partnership Act of 2010".

§ 29-601.02. Definitions.

For the purposes of this chapter, the term:

(1) "Business" includes every trade, occupation, and profession.

(2) "Distribution" means a transfer of money or other property from a partnership to a partner in the partner's capacity as a partner or to the partner's transferee.

(3) "Domestic partnership" means a partnership whose internal relations are governed by the laws of the District.

(4) "Foreign limited liability partnership" means a partnership that:

(A) Is formed under laws other than the laws of the District; and

(B) Has the status of a limited liability partnership under those laws.

(5) "Foreign partnership" means a partnership other than a domestic partnership.

(6) "Limited liability partnership" or "domestic limited liability partnership" means a partnership that has filed a statement of qualification under § 29-610.01 and does not have a similar statement in effect in any other jurisdiction.

(7) "Partnership" means an association of 2 or more persons to carry on as co-owners a business for profit formed under § 29-602.02, predecessor law, or comparable law of another jurisdiction.

(8) "Partnership agreement" means the agreement, whether written, oral, or implied, among the partners concerning the partnership, including amendments to the partnership agreement.

(9) "Partnership at will" means a partnership in which the partners have not agreed to remain partners until the expiration of a definite term or the completion of a particular undertaking.

(10) "Partnership interest" or "partner's interest in the partnership" means all of a partner's interests in the partnership, including the partner's transferable interest and all management and other rights.

(11) "Statement" means a statement of partnership authority under § 29-603.03, a statement of denial under § 29-603.04, a statement of dissociation under § 29-607.04, a statement of dissolution under § 29-608.05, a statement of merger under § 29-609.04, a statement of qualification under § 29-610.01, a foreign registration statement under § 29-105.03, or an amendment or cancellation of any of the foregoing.

(12) "Surviving partnership" means a domestic or foreign partnership into which one or more domestic or foreign partnerships are merged. A surviving partnership may preexist the merger or be created by the merger.

§ 29-601.03. Knowledge and notice.

(a) A person knows a fact if the person has actual knowledge of it.

(b) A person has notice of a fact if the person:

(1) Knows of it;

(2) Has received a notification of it; or

(3) Has reason to know it exists from all of the facts known to the person at the time in question.

(c) A person notifies or gives a notification to another by taking steps reasonably required to inform the other person in ordinary course, whether or not the other person learns of it.

(d) A person receives a notification when the notification:

(1) Comes to the person's attention; or

(2) Is duly delivered at the person's place of business or at any other place held out by the person as a place for receiving communications.

(e) Except as otherwise provided in subsection (f) of this section, a person other than an individual knows, has notice, or receives a notification of a fact for purposes of a particular transaction when the individual conducting the transaction knows, has notice, or receives a notification of the fact, or in any event when the fact would have been brought to the individual's attention if the person had exercised reasonable diligence. The person exercises reasonable diligence if it maintains reasonable routines for communicating significant information to the individual conducting the transaction and there is reasonable compliance with the routines. Reasonable diligence shall not require an individual acting for the person to communicate information unless the communication is part of the individual's regular duties or the individual has reason to know of the transaction and that the transaction would be materially affected by the information.

(f) A partner's knowledge, notice, or receipt of a notification of a fact relating to the partnership shall be effective immediately as knowledge by notice to, or receipt of a notification by, the partnership, except in the case of a fraud on the partnership committed by or with the consent of that partner.

§ 29-601.04. Effect of partnership agreement; nonwaivable provisions.

(a) Except as otherwise provided in subsection (b) of this section, relations among the partners and between the partners and the partnership shall be governed by the partnership agreement. To the extent the partnership agreement does not otherwise provide, this chapter shall govern relations among the partners and between the partners and the partnership.

(b) The partnership agreement shall not:

(1) Vary the rights and duties under § 29-601.05, except to eliminate the duty to provide copies of statements to all of the partners;

(2) Unreasonably restrict the right of access to books and records under § 29-604.03(b);

(3) Eliminate the duty of loyalty under § 29-604.04(b) or § 29-606.03(b)(3), but:

(A) The partnership agreement may identify specific types or categories of activities that do not violate the duty of loyalty, if not manifestly unreasonable; or

(B) All of the partners or a number or percentage specified in the partnership agreement may authorize or ratify, after full disclosure of all material facts, a specific act or transaction that otherwise would violate the duty of loyalty;

(4) Unreasonably reduce the duty of care under § 29-604.04(c) or § 29-606.03(b)(3);

(5) Eliminate the obligation of good faith and fair dealing under § 29-604.04(d), but the partnership agreement may prescribe the standards by which the performance of the obligation is to be measured, if the standards are not manifestly unreasonable;

(6) Vary the power to dissociate as a partner under § 29-606.02(a), except to require the notice under § 29-606.01(1) to be in writing;

(7) Vary the right of a court to expel a partner in the events specified in § 29-606.01(5);

(8) Vary the requirement to wind up the partnership business in cases specified in § 29-608.01(4), (5), or (6);

(9) Vary the law applicable to a limited liability partnership under § 29-105.01(a); or

(10) Restrict rights of third parties under this chapter.

§ 29-601.05. Execution, filing, and recording of statements.

(a) A statement delivered to the Mayor for filing by a partnership shall be executed by at least 2 partners. Other statements shall be executed by a partner or other person authorized by this chapter.

(b) A person that delivers a statement to the Mayor for filing pursuant to this section shall promptly send a copy of the statement to every nonfiling partner and to any other person named as a partner in the statement. Failure to send a copy of a statement to a partner or other person shall not limit the effectiveness of the statement as to a person not a partner.

(c) A statement delivered to the Mayor for filing by a partnership shall be executed by at least 2 partners. Other statements shall be executed by a partner or other person authorized by this chapter An individual who executes a statement shall personally declare under penalty of perjury that the contents of the statement are accurate.

(d) A person authorized by this chapter to deliver a statement to the Mayor for filing may amend or cancel the statement by delivering filing an amendment or cancellation to the Mayor for filing that names the partnership, identifies the statement, and states the substance of the amendment or cancellation.

(e) A person that delivers a statement to the Mayor for filing pursuant to this section shall promptly send a copy of the statement to every nonfiling partner and to any other person named as a partner in the statement. Failure to send a copy of a statement to a partner or other person shall not limit the effectiveness of the statement as to a person not a partner.

§ 29-601.06. Governing law.

(a) Except as otherwise provided in subsection (b) of this section or § 29-611.01(a), the law of the jurisdiction in which a partnership has its principal office shall govern relations among the partners and between the partners and the partnership.

(b) The law of District of Columbia shall govern relations among the partners and between the partners and the partnership and the liability of partners for an obligation of a limited liability partnership.

§ 29-601.07. Applicability of act to foreign and interstate commerce.

(a) A partnership or limited liability partnership organized and existing under this chapter may conduct its business, carry on its operations, and exercise the powers granted by this chapter in any state, territory, district, or possession of the United States or in any foreign country.

(b) It is the intent of the Council of the District of Columbia that the legal existence of limited liability partnerships organized in the District be recognized outside the boundaries of the District and that, subject to any reasonable requirement of registration, a District limited liability partnership doing business outside the District be granted full faith and credit.

(c) The liability of partners in a limited liability partnership organized and existing under this chapter for the debts and obligations of the limited liability partnership, or for the acts or omission of other partners, employees, or representatives of the limited liability partnership, shall at all be times determined solely and exclusively by this chapter and any rules promulgated hereunder.

Subchapter II. Nature of Partnership.

§ 29-602.01. Partnership as entity.

(a) A partnership is an entity distinct from its partners.

(b) A limited liability partnership shall continue to be the same entity that existed before the filing of a statement of qualification under § 29-610.01.

§ 29-602.02. Formation of partnership.

(a) Except as otherwise provided in subsection (b) of this section, the association of 2 or more persons to carry on as co-owners of a business for profit shall form a partnership, whether or not the persons intend to form a partnership.

(b) An association formed under a statute other than this chapter, a predecessor statute, or a comparable statute of another jurisdiction shall not be a partnership under this chapter.

(c) In determining whether a partnership is formed, the following rules shall apply:

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

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

(3) A person that receives a share of the profits of a business shall be presumed to be a partner in the business, unless the profits were received in payment:

(A) Of a debt by installments or otherwise;

(B) For services as an independent contractor or of wages or other compensation to an employee;

(C) Of rent;

(D) Of an annuity or other retirement or health benefit to a beneficiary, representative, or designee of a deceased or retired partner;

(E) Of interest or other charge on a loan, even if the amount of payment varies with the profits of the business, including a direct or indirect present or future ownership of the collateral, or rights to income, proceeds, or increase in value derived from the collateral; or

(F) For the sale of the goodwill of a business or other property by installments or otherwise.

§ 29-602.03. Partnership property.

Property acquired by a partnership shall be property of the partnership and not of the partners individually.

§ 29-602.04. When property is partnership property.

(a) Property shall be partnership property if acquired in the name of:

(1) The partnership; or

(2) One or more partners with an indication in the instrument transferring title to the property of the person's capacity as a partner or of the existence of a partnership but without an indication of the name of the partnership.

(b) Property shall be acquired in the name of the partnership by a transfer to:

(1) The partnership in its name; or

(2) One or more partners in their capacity as partners in the partnership, if the name of the partnership is indicated in the instrument transferring title to the property.

(c) Property shall be presumed to be partnership property if purchased with partnership assets, even if not acquired in the name of the partnership or of one or more partners with an indication in the instrument transferring title to the property of the person's capacity as a partner or of the existence of a partnership.

(d) Property acquired in the name of one or more of the partners, without an indication in the instrument transferring title to the property of the person's capacity as a partner or of the existence of a partnership and without use of partnership assets, shall be presumed to be separate property, even if used for partnership purposes.

Subchapter III. Relations of Partners to Persons Dealing with Partnership.

§ 29-603.01. Partner agent of partnership.

Subject to the effect of a statement of partnership authority under § 29-603.03:

(1) Each partner shall be an agent of the partnership for the purpose of its business.

(2) An act of a partner, including the execution of an instrument in the partnership name, for apparently carrying on in the ordinary course the partnership business or business of the kind carried on by the partnership shall bind the partnership, unless the partner had no authority to act for the partnership in the particular matter and the person with whom the partner was dealing knew or had received a notification that the partner lacked authority.

(3) An act of a partner which is not apparently for carrying on in the ordinary course the partnership business or business of the kind carried on by the partnership shall bind the partnership only if the act was authorized by the other partners.

§ 29-603.02. Transfer of partnership property.

(a) Partnership property may be transferred as follows:

(1) Subject to the effect of a statement of partnership authority under § 29-603.03, partnership property held in the name of the partnership may be transferred by an instrument of transfer executed by a partner in the partnership name.

(2) Partnership property held in the name of one or more partners with an

indication in the instrument transferring the property to them in their capacity as partners or of the existence of a partnership, but without an indication of the name of the partnership, may be transferred by an instrument of transfer executed by the persons in whose name the property is held.

(3) Partnership property held in the name of one or more persons other than the partnership, without an indication in the instrument transferring the property to them in their capacity as partners or of the existence of a partnership, may be transferred by an instrument of transfer executed by the persons in whose name the property is held.

(b) A partnership may recover partnership property from a transferee only if it proves that execution of the instrument of initial transfer did not bind the partnership under § 29-603.01 and:

(1) As to a subsequent transferee who gave value for property transferred under subsection (a)(1) and (2) of this section, proves that the subsequent transferee knew or had received a notification that the person that executed the instrument of initial transfer lacked authority to bind the partnership; or

(2) As to a transferee who gave value for property transferred under subsection (a)(3) of this section, proves that the transferee knew or had received a notification that the property was partnership property and that the person that executed the instrument of initial transfer lacked authority to bind the partnership.

(c) A partnership shall not recover partnership property from a subsequent transferee if the partnership would not have been entitled to recover the property, under subsection (b) of this section, from any earlier transferee of the property.

(d) If a person holds all of the partners' interests in the partnership, all of the partnership property shall vest in that person. The person may execute a document in the name of the partnership to evidence vesting of the property in that person and may file or record the document.

§ 29-603.03. Statement of partnership authority.

(a) A partnership may file a statement of partnership authority, which:

(1) Shall include:

(A) The name of the partnership;

(B) The street address of its principal office and of one office in District, if there is one;

(C) The names and mailing addresses of all of the partners or of an agent appointed and maintained by the partnership for the purposes of subsection (b) of this section; and

(D) The names of the partners authorized to execute an instrument transferring real property held in the name of the partnership; and

(2) May state the authority, or limitations on the authority, of some or all of the partners to enter into other transactions on behalf of the partnership and any other matter.

(b) If a statement of partnership authority names an agent, the agent shall maintain a list of the names and mailing addresses of all of the partners and make it available to any person on request for good cause shown.

(c) If a filed statement of partnership authority is executed pursuant to § 29-601.05(c) and states the name of the partnership, but does not contain all of the other information required by subsection (a) of this section, the statement shall nevertheless operate with respect to a person not a partner as provided in subsections (d) and (e) of this section.

(d) Except as otherwise provided in subsection (g) of this section, a filed statement of partnership authority shall supplement the authority of a partner to enter into transactions on behalf of the partnership as follows:

(1) Except for transfers of real property, a grant of authority contained in a filed statement of partnership authority shall be conclusive in favor of a person that gives value without knowledge to the contrary, so long as and to the extent that a limitation on that authority is not then contained in another filed statement. A filed cancellation of a limitation on authority shall revive the previous grant of authority.

(2) A grant of authority to transfer real property held in the name of the partnership contained in a certified copy of a filed statement of partnership authority recorded in the office for recording transfers of that real property shall be conclusive in favor of a person that gives value without knowledge to the contrary, so long as and to the extent that a certified copy of a filed statement containing a limitation on that authority is not then of record in the office for recording transfers of that real property. The recording in the office for recording transfers of that real property of a certified copy of a filed cancellation of a limitation on authority shall revive the previous grant of authority

(e) A person not a partner shall be deemed to know of a limitation on the authority of a partner to transfer real property held in the name of the partnership if a certified copy of the filed statement containing the limitation on authority is of record in the office for recording transfers of that real property.

(f) Except as otherwise provided in subsections (d) and (e) of this section and §§ 29-607.04 and 29-608.05, a person not a partner shall not be deemed to know of a limitation on the authority of a partner merely because the limitation is contained in a filed statement.

(g) Unless earlier canceled, a filed statement of partnership authority shall be canceled by operation of law 5 years after the date on which the statement, or the most recent amendment, was filed with the Mayor.

§ 29-603.04. Statement of denial.

A partner or other person named as a partner in a filed statement of partnership authority or in a list maintained by an agent pursuant to § 29-603.03(b) may file a statement of denial stating the name of the partnership and the fact that is being denied, which may include denial of a person's authority or status as a partner. A statement of denial shall be a limitation on authority

as provided in § 29-603.03(d) and (e).

§ 29-603.05. Partnership liable for partner's actionable conduct.

(a) A partnership shall be liable for loss or injury caused to a person, or for a penalty incurred, as a result of a wrongful act or omission, or other actionable conduct, of a partner acting in the ordinary course of business of the partnership or with authority of the partnership.

(b) If, in the course of the partnership's business or while acting with authority of the partnership, a partner receives or causes the partnership to receive money or property of a person not a partner, and the money or property is misapplied by a partner, the partnership shall be liable for the loss.

§ 29-603.06. Partner's liability.

(a) Except as otherwise provided in subsections (b) and (c) of this section, all partners shall be liable jointly and severally for all obligations of the partnership unless otherwise agreed by the claimant or provided by law.

(b) A person admitted as a partner into an existing partnership shall not be personally liable for any partnership obligation incurred before the person's admission as a partner.

(c) An obligation of a partnership incurred while the partnership is a limited liability partnership, whether arising in contract, tort, or otherwise, shall be solely the obligation of the partnership. A partner shall not be personally liable, directly or indirectly, by way of contribution or otherwise, for such an obligation solely by reason of being or so acting as a partner. This subsection shall apply notwithstanding anything inconsistent in the partnership agreement that existed immediately before the vote required to become a limited liability partnership under § 29-610.01(b).

§ 29-603.07. Actions by and against partnership and partners.

(a) A partnership may sue and be sued in the name of the partnership.

(b) Except as otherwise provided in subsection (f) of this section, action may be brought against the partnership and, to the extent not inconsistent with § 29-603.06, any or all of the partners in the same action or in separate actions.

(c) A judgment against a partnership shall not by itself be a judgment against a partner. A judgment against a partnership shall not be satisfied from a partner's assets unless there is also a judgment against the partner.

(d) A judgment creditor of a partner may not levy execution against the assets of the partner to satisfy a judgment based on a claim against the partnership unless the partner is personally liable for the claim under § 29-603.06 and:

(1) A judgment based on the same claim has been obtained against the partnership and a writ of execution on the judgment has been returned unsatisfied in whole or in part;

(2) The partnership is a debtor in bankruptcy;

(3) The partner has agreed that the creditor need not exhaust partnership assets;

(4) A court grants permission to the judgment creditor to levy execution against the assets of a partner based on a finding that partnership assets subject to execution are clearly insufficient to satisfy the judgment, that exhaustion of partnership assets is excessively burdensome, or that the grant of permission is an appropriate exercise of the court's equitable powers; or

(5) Liability is imposed on the partner by law or contract independent of the existence of the partnership.

(e) This section shall apply to any partnership liability or obligation resulting from a representation by a partner or purported partner under § 29-603.08.

(f) A partner shall not be a proper party to an action against a partnership if that partner is not personally liable for the claim under § 29-603.06.

§ 29-603.08. Liability of purported partner.

(a) If a person, by words or conduct, purports to be a partner, or consents to being represented by another as a partner, in a partnership or with one or more persons not partners, the purported partner shall be liable to a person to whom the representation is made, if that person, relying on the representation, enters into a transaction with the actual or purported partnership. If the representation, either by the purported partner or by a person with the purported partner's consent, is made in a public manner, the purported partner shall be liable to a person that relies upon the purported partnership even if the purported partner is not aware of being held out as a partner to the claimant. If partnership liability results, the purported partner shall be liable with respect to that liability as if the purported partner were a partner. If no partnership liability results, the purported partner shall be liable with respect to that liability jointly and severally with any other person consenting to the representation.

(b) If a person is thus represented to be a partner in an existing partnership, or with one or more persons not partners, the purported partner shall be an agent of persons consenting to the representation to bind them to the same extent and in the same manner as if the purported partner were a partner, with respect to persons that enter into transactions in reliance upon the representation. If all of the partners of the existing partnership consent to the representation, a partnership act or obligation shall result. If fewer than all of the partners of the existing partnership consent to the representation, the person acting and the partners consenting to the representation shall be jointly and severally liable.

(c) A person shall not be liable as a partner merely because the person is named by another in a statement of partnership authority.

(d) A person shall not continue to be liable as a partner merely because of a failure to file a statement of dissociation or to amend a statement of partnership authority to indicate the partner's dissociation from the partnership.

(e) Except as otherwise provided in subsections (a) and (b) of this section, persons that

are not partners as to each other shall not be liable as partners to other persons.

Subchapter IV. Relations of Partners to Each Other and to Partnership.

§ 29-604.01. Partner's rights and duties.

(a) Each partner shall deemed to have an account that is:

(1) Credited with an amount equal to the money plus the value of any other property, net of the amount of any liabilities, the partner contributes to the partnership and the partner's share of the partnership profits; and

(2) Charged with an amount equal to the money plus the value of any other property, net of the amount of any liabilities, distributed by the partnership to the partner and the partner's share of the partnership losses.

(b) Each partner shall be entitled to an equal share of the partnership profits and shall be chargeable with a share of the partnership losses in proportion to the partner's share of the profits.

(c) A partnership shall reimburse a partner for payments made, and indemnify a partner for liabilities incurred, by the partner in the ordinary course of the business of the partnership or for the preservation of its business or property.

(d) A partnership shall reimburse a partner for an advance to the partnership beyond the amount of capital the partner agreed to contribute.

(e) A payment or advance made by a partner which gives rise to a partnership obligation under subsection (c) or (d) of this section shall constitute a loan to the partnership which accrues interest from the date of the payment or advance.

(f) Each partner shall have equal rights in the management and conduct of the partnership business.

(g) A partner shall use or possess partnership property only on behalf of the partnership.

(h) A partner shall not be entitled to remuneration for services performed for the partnership, except for reasonable compensation for services rendered in winding up the business of the partnership.

(i) A person shall become a partner only with the consent of all of the partners.

(j) Except as otherwise provided in subchapter IX of this chapter or Chapter 2 of this title, a person shall become a partner only with the consent of all of the partners.

(k) A difference arising as to a matter in the ordinary course of business of a partnership shall be decided by a majority of the partners. An act outside the ordinary course of business of a partnership and an amendment to the partnership agreement shall be undertaken only with the consent of all of the partners.

(l) This section shall not affect the obligations of a partnership to other persons under § 29-603.01.

§ 29-604.02. Distributions in kind.

A partner shall have no right to receive, and shall not be required to accept, a distribution in kind.

§ 29-604.03. Partner's rights and duties with respect to information.

(a) A partnership shall keep its books and records, if any, at its principal office.

(b) A partnership shall provide partners and their agents and attorneys access to its books and records. It shall provide former partners and their agents and attorneys access to books and records pertaining to the period during which they were partners. The right of access provides the opportunity to inspect and copy books and records during ordinary business hours. A partnership may impose a reasonable charge, covering the costs of labor and material, for copies of documents furnished.

(c) Each partner and the partnership shall furnish to a partner, and to the legal representative of a deceased partner or partner under legal disability:

(1) Without demand, any information concerning the partnership's business and affairs reasonably required for the proper exercise of the partner's rights and duties under the partnership agreement or this chapter; and

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

§ 29-604.04. General standards of partner's conduct.

(a) The only fiduciary duties a partner owes to the partnership and the other partners are the duty of loyalty and the duty of care set forth in subsections (b) and (c) of this section.

(b) A partner's duty of loyalty to the partnership and the other partners shall be limited to the following:

(1) To account to the partnership and hold as trustee for it any property, profit, or benefit derived by the partner in the conduct and winding up of the partnership business or derived from a use by the partner of partnership property, including the appropriation of a partnership opportunity;

(2) To refrain from dealing with the partnership in the conduct or winding up of the partnership business as or on behalf of a party having an interest adverse to the partnership; and

(3) To refrain from competing with the partnership in the conduct of the partnership business before the dissolution of the partnership.

(c) A partner's duty of care to the partnership and the other partners in the conduct and winding up of the partnership business shall be limited to refraining from engaging in grossly negligent or reckless conduct, intentional misconduct, or a knowing violation of law.

(d) A partner shall discharge the duties to the partnership and the other partners under this

chapter or under the partnership agreement and exercise any rights consistently with the obligation of good faith and fair dealing.

(e) A partner shall not violate a duty or obligation under this chapter or under the partnership agreement merely because the partner's conduct furthers the partner's own interest.

(f) A partner may lend money to and do other business with the partnership, and, as to each loan or transaction, the rights and obligations of the partner shall be the same as those of a person that is not a partner, subject to other applicable law.

(g) This section shall apply to a person winding up the partnership business as the personal or legal representative of the last surviving partner as if the person were a partner.

§ 29-604.05. Actions by partnership and partners.

(a) A partnership may maintain an action against a partner for a breach of the partnership agreement, or for the violation of a duty to the partnership, causing harm to the partnership.

(b) A partner may maintain an action against the partnership or another partner for legal or equitable relief, with or without an accounting as to partnership business, to enforce the:

(1) Partner's rights under the partnership agreement;

(2) Partner's rights under this chapter, including:

(A) The partner's rights under § 29-604.01, § 29-604.03, or § 29-604.04 ;

(B) The partner's right on dissociation to have the partner's interest in the partnership purchased pursuant to § 29-607.01 or enforce any other right under subchapter VI or VII of this chapter; or

(C) The partner's right to compel a dissolution and winding up of the partnership business under § 29-608.01 or enforce any other right under subchapter VIII of this chapter; or

(3) Rights and otherwise protect the interests of the partner, including rights and interests arising independently of the partnership relationship.

(c) The accrual of, and any time limitation on, a right of action for a remedy under this section shall be governed by other law. A right to an accounting upon a dissolution and winding up shall not revive a claim barred by law.

§ 29-604.06. Continuation of partnership beyond definite term or particular undertaking.

(a) If a partnership for a definite term or particular undertaking is continued, without an express agreement, after the expiration of the term or completion of the undertaking, the rights and duties of the partners shall remain the same as they were at the expiration or completion, so far as is consistent with a partnership at will.

(b) If the partners, or those of them who habitually acted in the business during the term or undertaking, continue the business without any settlement or liquidation of the partnership, they shall be presumed to have agreed that the partnership will continue.

Subchapter V. Transferees and Creditors of Partner.

§ 29-605.01. Partner not co-owner of partnership property.

A partner shall not be a co-owner of partnership property and has no interest in partnership property which can be transferred, either voluntarily or involuntarily.

§ 29-605.02. Partner's transferable interest in partnership.

Except as otherwise provided in subchapter IX of this chapter or Chapter 2 of this title, the only transferable interest of a partner in the partnership shall be the partner's share of the profits and losses of the partnership and the partner's right to receive distributions. The interest of a partner, whether or not transferable, shall be personal property.

§ 29-605.03. Transfer of partner's transferable interest.

(a) A transfer, in whole or in part, of a partner's transferable interest in the partnership:

(1) Is permissible;

(2) Shall not by itself cause the partner's dissociation or a dissolution and winding up of the partnership business; and

(3) Shall not, as against the other partners or the partnership, entitle the transferee, during the continuance of the partnership, to participate in the management or conduct of the partnership business, to require access to information concerning partnership transactions, or to inspect or copy the partnership books or records.

(b) A transferee of a partner's transferable interest in the partnership shall have a right to:

(1) Receive, in accordance with the transfer, distributions to which the transferor would otherwise be entitled;

(2) Receive upon the dissolution and winding up of the partnership business, in accordance with the transfer, the net amount otherwise distributable to the transferor; and

(3) Seek under § 29-608.01(6) a judicial determination that it is equitable to wind up the partnership business.

(c) In a dissolution and winding up, a transferee shall be entitled to an account of partnership transactions only from the date of the latest account agreed to by all of the partners.

(d) Upon transfer, the transferor shall retain the rights and duties of a partner other than the interest in distributions transferred.

(e) A partnership need not give effect to a transferee's rights under this section until it has notice of the transfer.

(f) A transfer of a partner's transferable interest in the partnership in violation of a restriction on transfer contained in the partnership agreement shall be ineffective as to a person having notice of the restriction at the time of transfer.

§ 29-605.04. Partner's transferable interest subject to charging order.

(a) On application by a judgment creditor of a partner or of a partner's transferee, a court having jurisdiction may charge the transferable interest of the judgment debtor to satisfy the judgment. The court may appoint a receiver of the share of the distributions due or to become due to the judgment debtor in respect of the partnership and make all other orders, directions, accounts, and inquiries the judgment debtor might have made or which the circumstances of the case may require.

(b) A charging order shall constitute a lien on the judgment debtor's transferable interest in the partnership. The court may order a foreclosure of the interest subject to the charging order at any time. The purchaser at the foreclosure sale shall have the rights of a transferee.

(c) At any time before foreclosure, an interest charged may be redeemed:

(1) By the judgment debtor;

(2) With property other than partnership property, by one or more of the other partners; or

(3) With partnership property, by one or more of the other partners with the consent of all of the partners whose interests are not so charged.

(d) This chapter shall not deprive a partner of a right under exemption laws with respect to the partner's interest in the partnership.

(e) This section provides the exclusive remedy by which a judgment creditor of a partner or partner's transferee may satisfy a judgment out of the judgment debtor's transferable interest in the partnership.

Subchapter VI. Partner's Dissociation.

§ 29-606.01. Events causing partner's dissociation.

A partner shall be dissociated from a partnership when:

(1) The partnership has notice of the partner's express will to withdraw as a partner or on a later date specified by the partner;

(2) An event agreed to in the partnership agreement as causing the partner's dissociation occurs;

(3) The partner is expelled pursuant to the partnership agreement;

(4) The partner is expelled by the unanimous vote of the other partners if:

(A) It is unlawful to carry on the partnership business with that partner;

(B) There has been a transfer of all or substantially all of that partner's transferable interest in the partnership, other than a transfer for security purposes, or a court order charging the partner's interest, which has not been foreclosed;

(C) Within 90 days after the partnership notifies a corporate partner that it will be expelled because it has filed a certificate of dissolution or the equivalent, its charter has been revoked, or its right to conduct business has been suspended by the jurisdiction of its incorporation, there is no revocation of the certificate of dissolution or no reinstatement of its

charter or its right to conduct business; or

(D) A partnership that is a partner has been dissolved and its business is being wound up;

(5) On application by the partnership or another partner, the partner is expelled by judicial determination because the partner:

(A) Engaged in wrongful conduct that adversely and materially affected the partnership business;

(B) Willfully or persistently committed a material breach of the partnership agreement or of a duty owed to the partnership or the other partners under § 29-604.04; or

(C) Engaged in conduct relating to the partnership business which makes it not reasonably practicable to carry on the business in partnership with the partner;

(6) The partner:

(A) Became a debtor in bankruptcy;

(B) Executed an assignment for the benefit of creditors;

(C) Sought, consented to, or acquiesced in the appointment of a trustee, receiver, or liquidator of that partner or of all or substantially all of that partner's property; or

(D) Failed, within 90 days after the appointment, to have vacated or stayed the appointment of a trustee, receiver, or liquidator of the partner or of all or substantially all of the partner's property obtained without the partner's consent or acquiescence, or failed within 90 days after the expiration of a stay to have the appointment vacated;

(7) In the case of a partner who is an individual:

(A) The partner dies;

(B) A guardian or general conservator is appointed for the partner; or

(C) There is a judicial determination that the partner has otherwise become incapable of performing the partner's duties under the partnership agreement;

(8) In the case of a partner that is a trust or is acting as a partner by virtue of being a trustee of a trust, the trust's entire transferable interest in the partnership is distributed;

(9) In the case of a partner that is an estate or is acting as a partner by virtue of being a personal representative of an estate, the estate's entire transferable interest in the partnership is distributed; or

(10) A partner that is not an individual, partnership, corporation, trust, or estate is terminated.

§ 29-606.02. Partner's power to dissociate; wrongful dissociation.

(a) A partner may dissociate at any time, rightfully or wrongfully, by express will pursuant to § 29-606.01(1).

(b) A partner's dissociation shall be wrongful only if:

(1) It is in breach of an express provision of the partnership agreement; or

(2) In the case of a partnership for a definite term or particular undertaking, before the expiration of the term or the completion of the undertaking:

(A) The partner withdraws by express will, unless the withdrawal follows within 90 days after another partner's dissociation by death or otherwise under § 29-606.01(6) through (10) or wrongful dissociation under this subsection;

(B) The partner is expelled by judicial determination under § 29-606.01(5);

(C) The partner is dissociated by becoming a debtor in bankruptcy; or

(D) In the case of a partner that is not an individual, trust other than a business trust, or estate, the partner is expelled or otherwise dissociated because it willfully dissolved or terminated.

(c) A partner that wrongfully dissociates shall be liable to the partnership and to the other partners for damages caused by the dissociation. The liability shall be in addition to any other obligation of the partner to the partnership or to the other partners.

§ 29-606.03. Effect of partner's dissociation.

(a) If a partner's dissociation results in a dissolution and winding up of the partnership business, subchapter VIII of this chapter shall apply; otherwise, subchapter VII of this chapter applies.

(b) Upon a partner's dissociation:

(1) The partner's right to participate in the management and conduct of the partnership business terminates, except as otherwise provided in § 29-608.03;

(2) The partner's duty of loyalty under § 29-604.04(b)(3) terminates; and

(3) The partner's duty of loyalty under § 29-604.04(b)(1) and (2) and duty of care under § 29-604.04(c) continue only with regard to matters arising and events occurring before the partner's dissociation, unless the partner participates in winding up the partnership's business pursuant to § 29-608.03.

Subchapter VII. Partner's Dissociation When Business Not Wound up.

§ 29-607.01. Purchase of dissociated partner's interest.

(a) If a partner is dissociated from a partnership without resulting in a dissolution and winding up of the partnership business under § 29-608.01, the partnership shall cause the dissociated partner's interest in the partnership to be purchased for a buyout price determined pursuant to subsection (b) of this section.

(b) The buyout price of a dissociated partner's interest shall be the amount that would have been distributable to the dissociating partner under § 29-608.07(b) if, on the date of dissociation, the assets of the partnership were sold at a price equal to the greater of the liquidation value or the value based on a sale of the entire business as a going concern without the dissociated partner and the partnership were wound up as of that date. Interest shall be paid

from the date of dissociation to the date of payment.

(c) Damages for wrongful dissociation under § 29-606.02(b), and all other amounts owing, whether or not presently due, from the dissociated partner to the partnership, shall be offset against the buyout price. Interest shall be paid from the date the amount owed becomes due to the date of payment.

(d) A partnership shall indemnify a dissociated partner whose interest is being purchased against all partnership liabilities, whether incurred before or after the dissociation, except liabilities incurred by an act of the dissociated partner under § 29-607.02.

(e) If no agreement for the purchase of a dissociated partner's interest is reached within 120 days after a written demand for payment, the partnership shall pay, or cause to be paid, in cash to the dissociated partner the amount the partnership estimates to be the buyout price and accrued interest, reduced by any offsets and accrued interest under subsection (c) of this section.

(f) If a deferred payment is authorized under subsection (h) of this section, the partnership may tender a written offer to pay the amount it estimates to be the buyout price and accrued interest, reduced by any offsets under subsection (c) of this section, stating the time of payment, the amount and type of security for payment, and the other terms and conditions of the obligation.

(g) The payment or tender required by subsection (e) or (f) of this section shall be accompanied by the following:

(1) A statement of partnership assets and liabilities as of the date of dissociation;

(2) The latest available partnership balance sheet and income statement, if any;

(3) An explanation of how the estimated amount of the payment was calculated; and

(4) Written notice that the payment is in full satisfaction of the obligation to purchase unless, within 120 days after the written notice, the dissociated partner commences an action to determine the buyout price, any offsets under subsection (c) of this section, or other terms of the obligation to purchase.

(h) A partner that wrongfully dissociates before the expiration of a definite term or the completion of a particular undertaking shall not be entitled to payment of any portion of the buyout price until the expiration of the term or completion of the undertaking, unless the partner establishes to the satisfaction of the court that earlier payment will not cause undue hardship to the business of the partnership. A deferred payment shall be adequately secured and bear interest.

(i) A dissociated partner may maintain an action against the partnership, pursuant to § 29-604.05(b)(2)(B), to determine the buyout price of that partner's interest, any offsets under subsection (c) of this section, or other terms of the obligation to purchase. The action shall be commenced within 120 days after the partnership has tendered payment or an offer to pay or within one year after written demand for payment if no payment or offer to pay is tendered. The court shall determine the buyout price of the dissociated partner's interest, any offset due under subsection (c) of this section, and accrued interest, and enter judgment for any additional

payment or refund. If deferred payment is authorized under subsection (h) of this section, the court shall also determine the security for payment and other terms of the obligation to purchase. The court may assess reasonable attorneys' fees and the fees and expenses of appraisers or other experts for a party to the action, in amounts the court finds equitable, against a party that the court finds acted arbitrarily, vexatiously, or not in good faith. The finding may be based on the partnership's failure to tender payment or an offer to pay or to comply with subsection (g) of this section.

§ 29-607.02. Dissociated partner's power to bind and liability to partnership.

(a) For 2 years after a partner dissociates without resulting in a dissolution and winding up of the partnership business, the partnership, including a surviving partnership under subchapter IX of this chapter, shall be bound by an act of the dissociated partner which would have bound the partnership under § 29-603.01 before dissociation only if at the time of entering into the transaction the other party:

(1) Reasonably believed that the dissociated partner was then a partner;

(2) Did not have notice of the partner's dissociation; and

(3) Is not deemed to have had knowledge under § 29-603.03(e) or notice under § 29-607.04(c).

(b) A dissociated partner shall be liable to the partnership for any damage caused to the partnership arising from an obligation incurred by the dissociated partner after dissociation for which the partnership is liable under subsection (a) of this section.

§ 29-607.03. Dissociated partner's liability to other persons.

(a) A partner's dissociation shall not of itself discharge the partner's liability for a partnership obligation incurred before dissociation. A dissociated partner shall not be liable for a partnership obligation incurred after dissociation, except as otherwise provided in subsection (b) of this section.

(b) A partner that dissociates without resulting in a dissolution and winding up of the partnership business shall be liable as a partner to the other party in a transaction entered into by the partnership, or a surviving partnership under subchapter IX of this chapter, within 2 years after the partner's dissociation, only if the partner is liable for the obligation under § 29-603.06 and at the time of entering into the transaction the other party:

(1) Reasonably believed that the dissociated partner was then a partner;

(2) Did not have notice of the partner's dissociation; and

(3) Is not deemed to have had knowledge under § 29-603.03(e) or notice under § 29-607.04(c).

(c) By agreement with the partnership creditor and the partners continuing the business, a dissociated partner may be released from liability for a partnership obligation.

(d) A dissociated partner shall be released from liability for a partnership obligation if a

partnership creditor, with notice of the partner's dissociation but without the partner's consent, agrees to a material alteration in the nature or time of payment of a partnership obligation.

§ 29-607.04. Statement of dissociation.

(a) A dissociated partner or the partnership may file a statement of dissociation stating the name of the partnership and that the partner is dissociated from the partnership.

(b) A statement of dissociation shall be a limitation on the authority of a dissociated partner for the purposes of § 29-603.03(d) and (e).

(c) For the purposes of §§ 29-607.02(a)(3) and 29-607.03(b)(3), a person not a partner shall be deemed to have notice of the dissociation 90 days after the statement of dissociation is filed.

§ 29-607.05. Continued use of partnership name.

Continued use of a partnership name, or a dissociated partner's name as part thereof, by partners continuing the business shall not of itself make the dissociated partner liable for an obligation of the partners or the partnership continuing the business.

Subchapter VIII. Winding up Partnership Business.

§ 29-608.01. Events causing dissolution and winding up of partnership business.

A partnership is dissolved, and its business shall be wound up, only upon the occurrence of any of the following events:

(1) In a partnership at will, the partnership's having notice from a partner, other than a partner that is dissociated under § 29-606.01(2) through (10), of that partner's express will to withdraw as a partner, or on a later date specified by the partner;

(2) In a partnership for a definite term or particular undertaking:

(A) Within 90 days after a partner's dissociation by death or otherwise under § 29-606.01(6) through (10) or wrongful dissociation under § 29-606.02(b), the express will of at least half of the remaining partners to wind up the partnership business, for which purpose a partner's rightful dissociation pursuant to § 29-606.02(b)(2)(A) constitutes the expression of that partner's will to wind up the partnership business;

(B) The express will of all of the partners to wind up the partnership business; or

(C) The expiration of the term or the completion of the undertaking;

(3) An event agreed to in the partnership agreement resulting in the winding up of the partnership business;

(4) An event that makes it unlawful for all or substantially all of the business of the partnership to be continued, but a cure of illegality within 90 days after notice to the partnership of the event shall be effective retroactively to the date of the event for purposes of this section;

(5) On application by a partner, a judicial determination that:

(A) The economic purpose of the partnership is likely to be unreasonably frustrated;

(B) Another partner has engaged in conduct relating to the partnership business which makes it not reasonably practicable to carry on the business in partnership with that partner; or

(C) It is not otherwise reasonably practicable to carry on the partnership business in conformity with the partnership agreement; or

(6) On application by a transferee of a partner's transferable interest, a judicial determination that it is equitable to wind up the partnership business:

(A) After the expiration of the term or completion of the undertaking, if the partnership was for a definite term or particular undertaking at the time of the transfer or entry of the charging order that gave rise to the transfer; or

(B) At any time, if the partnership was a partnership at will at the time of the transfer or entry of the charging order that gave rise to the transfer.

§ 29-608.02. Partnership continues after dissolution.

(a) Subject to subsection (b) of this section, a partnership shall continue after dissolution only for the purpose of winding up its business. The partnership shall be terminated when the winding up of its business is completed.

(b) At any time after the dissolution of a partnership and before the winding up of its business is completed, all of the partners, including any dissociating partner other than a wrongfully dissociating partner, may waive the right to have the partnership's business wound up and the partnership terminated. In that event:

(1) The partnership shall resume carrying on its business as if dissolution had never occurred, and any liability incurred by the partnership or a partner after the dissolution and before the waiver shall be determined as if dissolution had never occurred; and

(2) The rights of a third party accruing under § 29-608.04(1) or arising out of conduct in reliance on the dissolution before the third party knew or received a notification of the waiver shall not be adversely affected.

§ 29-608.03. Right to wind up partnership business.

(a) After dissolution, a partner that has not wrongfully dissociated may participate in winding up the partnership's business, but on application of any partner, partner's legal representative, or transferee, the Superior Court, for good cause shown, may order judicial supervision of the winding up.

(b) The legal representative of the last surviving partner may wind up a partnership's business.

(c) A person winding up a partnership's business may preserve the partnership business

or property as a going concern for a reasonable time, prosecute and defend actions and proceedings, whether civil, criminal, or administrative, settle and close the partnership's business, dispose of and transfer the partnership's property, discharge the partnership's liabilities, distribute the assets of the partnership pursuant to § 29-608.07, settle disputes by mediation or arbitration, and perform other necessary acts.

§ 29-608.04. Partner's power to bind partnership after dissolution.

Subject to § 29-608.05, a partnership shall be bound by a partner's act after dissolution that:

(1) Is appropriate for winding up the partnership business; or

(2) Would have bound the partnership under § 29-603.01 before dissolution, if the other party to the transaction did not have notice of the dissolution.

§ 29-608.05. Statement of dissolution.

(a) After dissolution, a partner that has not wrongfully dissociated may file a statement of dissolution stating the name of the partnership and that the partnership has dissolved and is winding up its business.

(b) A statement of dissolution shall cancel a filed statement of partnership authority for the purposes of § 29-603.03(d) and shall be a limitation on authority for the purposes of § 29-603.03(e).

(c) For the purposes of §§ 29-603.01 and 29-608.04, a person not a partner shall be deemed to have notice of the dissolution and the limitation on the partners' authority as a result of the statement of dissolution 90 days after it is filed.

(d) After filing and, if appropriate, recording a statement of dissolution, a dissolved partnership may file and, if appropriate, record a statement of partnership authority which will operate with respect to a person not a partner as provided in § 29-603.03(d) and (e) in any transaction, whether or not the transaction is appropriate for winding up the partnership business.

§ 29-608.06. Partner's liability to other partners after dissolution.

(a) Except as otherwise provided in subsection (b) of this section and § 29-603.06, after dissolution, a partner shall be liable to the other partners for the partner's share of any partnership liability incurred under § 29-608.04.

(b) A partner that, with knowledge of the dissolution, incurs a partnership liability under § 29-608.04(2) by an act that is not appropriate for winding up the partnership business shall be liable to the partnership for any damage caused to the partnership arising from the liability.

§ 29-608.07. Settlement of accounts and contributions among partners.

(a) In winding up a partnership's business, the assets of the partnership, including the contributions of the partners required by this section, shall be applied to discharge its obligations

to creditors, including, to the extent permitted by law, partners who are creditors. Any surplus shall be applied to pay in cash the net amount distributable to partners in accordance with their right to distributions under subsection (b) of this section.

(b) Each partner shall be entitled to a settlement of all partnership accounts upon winding up the partnership business. In settling accounts among the partners, profits and losses that result from the liquidation of the partnership assets shall be credited and charged to the partners' accounts. The partnership shall make a distribution to a partner in an amount equal to any excess of the credits over the charges in the partner's account. A partner shall contribute to the partnership an amount equal to any excess of the charges over the credits in the partner's account but excluding from the calculation charges attributable to an obligation for which the partner is not personally liable under § 29-603.06.

(c) If a partner fails to contribute the full amount required under subsection (b) of this section, all of the other partners shall contribute, in the proportions in which those partners share partnership losses, the additional amount necessary to satisfy the partnership obligations for which they are personally liable under § 29-603.06. A partner or partner's legal representative may recover from the other partners any contributions the partner makes to the extent the amount contributed exceeds that partner's share of the partnership obligations for which the partner is personally liable under § 29-603.06.

(d) After the settlement of accounts, each partner shall contribute, in the proportion in which the partner shares partnership losses, the amount necessary to satisfy partnership obligations that were not known at the time of the settlement and for which the partner is personally liable under § 29-603.06.

(e) The estate of a deceased partner shall be liable for the partner's obligation to contribute to the partnership.

(f) An assignee for the benefit of creditors of a partnership or a partner, or a person appointed by a court to represent creditors of a partnership or a partner, may enforce a partner's obligation to contribute to the partnership.

Subchapter IX. Mergers and Interest Exchanges.

§ 29-609.01. Definitions.

For the purposes of this subchapter, the term:

(1) "General partner" means a partner in a partnership and a general partner in a limited partnership.

(2) "Limited partner" means a limited partner in a limited partnership.

(3) "Limited partnership" means a limited partnership created under Chapter 2 of this title, predecessor law, or comparable law of another jurisdiction.

(4) "Partner" includes both a general partner and a limited partner.

§ 29-609.02. Merger of partnerships.

(a) Pursuant to a plan of merger approved as provided in subsection (c) of this section, a partnership may be merged with one or more partnerships.

(b) The plan of merger shall set forth:

(1) The name of each partnership that is a party to the merger;

(2) The name of the surviving partnership into which the other partnerships will merge;

(3) The terms and conditions of the merger;

(4) The manner and basis of converting the interests of each party to the merger into interests or obligations of the surviving partnership, or into money or other property in whole or part; and

(5) The street address of the surviving partnership's principal office.

(c) The plan of merger shall be approved by all of the partners, or a number or percentage specified for merger in the partnership agreement.

(d) After a plan of merger is approved and before the merger takes effect, the plan may be amended or abandoned as provided in the plan.

(e) The merger shall be effective on the later of:

(1) The filing of all documents required by law to be filed as a condition to the effectiveness of the merger; or

(2) Any effective date specified in the plan of merger.

(f) A merger in which a partnership and another form of entity are parties shall be governed by Chapter 2 of this title.

§ 29-609.03. Effect of merger.

(a) When a merger takes effect:

(1) The separate existence of every partnership that is a party to the merger, other than the surviving partnership, shall cease;

(2) All property owned by each of the merged partnerships vests in the surviving partnership;

(3) All obligations of every partnership that is a party to the merger shall be the obligations of the surviving partnership;

(4) An action or proceeding pending against a partnership that is a party to the merger may be continued as if the merger had not occurred, or the surviving partnership may be substituted as a party to the action or proceeding; and

(5) If the plan of merger provides for a person to become a partner in a surviving domestic partnership, the person becomes a partner without the need for the consent that would otherwise be required by § 29-604.01(i).

(b) Service of process in an action or proceeding against a surviving foreign partnership to enforce an obligation of a domestic partnership that is a party to a merger may be served

pursuant to § 29-104.12.

(c) A partner of the surviving partnership shall be liable for:

(1) All obligations of a party to the merger for which the partner was personally liable before the merger;

(2) All other obligations of the surviving partnership incurred before the merger by a party to the merger, but those obligations shall be satisfied only out of property of the partnership; and

(3) Except as otherwise provided in § 29-603.06, all obligations of the surviving partnership incurred after the merger takes effect.

(d) Except as otherwise provided in § 29-603.06, if the obligations incurred before the merger by a party to the merger are not satisfied out of the property of the surviving partnership, the general partners of that party immediately before the effective date of the merger shall contribute the amount necessary to satisfy that party's obligations to the surviving partnership, in the manner provided in § 29-608.07 as if the merged party were dissolved.

(e) A partner of a party to a merger who is not a partner of the surviving partnership shall be dissociated from the partnership of which that partner was a partner, as of the date the merger takes effect. A surviving domestic partnership shall be bound under § 29-607.02 by an act of a general partner dissociated under this subsection, and the partner shall be liable under § 29-607.03 for transactions entered into by the surviving partnership after the merger takes effect.

§ 29-609.04. Statement of merger.

(a) After a merger, the surviving partnership may file a statement that the parties to the merger have merged into the surviving partnership.

(b) A statement of merger shall contain:

(1) The name of each partnership that is a party to the merger;

(2) The name of the surviving partnership into which the other partnerships were merged; and

(3) The street address of the surviving partnership's principal office and of an office in the District, if any.

(c) Except as otherwise provided in subsection (d) of this section, for the purposes of § 29-603.02, property of the surviving partnership that before the merger was held in the name of another party to the merger shall be property held in the name of the surviving partnership upon filing a statement of merger.

(d) For the purposes of § 29-603.02, real property of the surviving partnership that before the merger was held in the name of another party to the merger shall be property held in the name of the surviving partnership upon recording a certified copy of the statement of merger in the office for recording transfers of that real property.

(e) A filed and, if appropriate, recorded statement of merger, executed and declared to be accurate pursuant to § 29-601.05(c), stating the name of a partnership that is a party to the merger

in whose name property was held before the merger and the name of the surviving partnership, but not containing all of the other information required by subsection (b) of this section, shall operate with respect to the partnerships named to the extent provided in subsections (c) and (d) of this section.

§ 29-609.05. Interest exchanges.

(a) One or more domestic or foreign partnerships may adopt a plan of interest exchange by which a domestic or foreign partnership acquires all of the outstanding partnership interests of one or more domestic partnerships in exchange for cash or securities of the acquiring domestic or foreign partnership, if:

(1) Each domestic or foreign partnership, the partnership interests of which are to be acquired under the plan of exchange, approves the plan of exchange in the manner prescribed in its partnership agreement; and

(2) Each acquiring domestic or foreign partnership takes all action that may be required by the laws of the state under which it was formed and as required by its partnership agreement in order to effect the exchange.

(b) A statement of interest exchange shall be signed on behalf of a domestic acquired entity and filed with the Mayor in accordance with § 29-102.03(a). When an interest exchange takes effect as provided in the plan of exchange:

(1) The partnership interest of each domestic partnership that is to be acquired under the plan of exchange shall be considered exchanged as provided in the plan of exchange;

(2) The former holders of the partnership interests exchanged under the plan of exchange shall be entitled only to the exchange rights provided in the plan of exchange; and

(3) The acquiring domestic or foreign partnership shall be entitled to all rights, title, and interest with respect to the partnership interests so acquired and exchanged, subject to the provisions in the plan of exchange.

§ 29-609.06. Nonexclusive.

This subchapter shall not be exclusive. Partnerships may merge or engage in interest exchanges in any other manner provided or permitted by law.

Subchapter X. Limited Liability Partnership.

§ 29-610.01. Statement of qualification.

(a) A partnership may become a limited liability partnership pursuant to this section.

(b) The terms and conditions on which a partnership becomes a limited liability partnership shall be approved by the vote necessary to amend the partnership agreement except, in the case of a partnership agreement that expressly considers obligations to contribute, the vote necessary to amend those provisions.

(c) After the approval required by subsection (b) of this section, a partnership may

become a limited liability partnership by delivering to the Mayor for filing a statement of qualification. The statement shall contain:

(1) The name of the partnership, which shall satisfy the requirements of §§ 29-103.01 and 29-103.02(e);

(2) The street address of the partnership's principal office and, if different, the street address of an office in District, if any;

(3) If the partnership does not have an office in District, the information required by § 29-104.04;

(4) A statement that the partnership elects to be a limited liability partnership; and

(5) A deferred effective date, if any.

(d) The agent of a limited liability partnership for service of process shall be an individual who is a resident of the District or other person authorized to do business in the District.

(e) The status of a partnership as a limited liability partnership shall be effective on the later of the filing of the statement or a date specified in the statement. The status shall remain effective, regardless of changes in the partnership, until it is canceled pursuant to § 29-601.05(d) or revoked pursuant to § 29-106.01(3).

(f) The status of a partnership as a limited liability partnership and the liability of its partners shall not be affected by errors or later changes in the information required to be contained in the statement of qualification under subsection (c) of this section.

(g) The filing of a statement of qualification establishes that a partnership has satisfied all conditions precedent to the qualification of the partnership as a limited liability partnership.

(h) An amendment or cancellation of a statement of qualification shall be effective when it is filed or on a deferred effective date specified in the amendment or cancellation.

Subchapter XI. Transition Provisions.

§ 29-611.01. Application to existing relations.

(a) This chapter shall apply to a partnership formed after the applicability date of this chapter and to a partnership that elects, as provided by subsection (c) of this section, to be governed by this chapter.

(b) On and after one year after the applicability date of this chapter, this chapter shall govern all partnerships, whenever formed.

(c) After the applicability date of this chapter, a partnership voluntarily may elect, in the manner provided in its partnership agreement or by law for amending the partnership agreement, to be governed by this chapter. The provisions of this chapter relating to the liability of the partnership's partners to third parties shall apply to limit those partners' liability to a third party that had done business with the partnership within one year before the partnership's election to be governed by this chapter only if the third party knows or has received a notification of the partnership's election to be governed by this chapter.

CHAPTER 7. LIMITED PARTNERSHIPS.

Section

Subchapter I. General Provisions.

29-701.01. Short title.
29-701.02. Definitions.
29-701.03. Knowledge and notice.
29-701.04. Nature, purpose, and duration of entity.
29-701.05. Powers.
29-701.06. Governing law.
29-701.07. Effect of partnership agreement; nonwaivable provisions.
29-701.08. Required information.
29-701.09. Business transactions of partner with partnership.
29-701.10. Dual capacity.
29-701.11. Consent and proxies of partners.

Subchapter II. Formation; Certificate of Limited Partnership and Other Filings.

29-702.01. Formation of limited partnership; certificate of limited partnership.
29-702.02. Amendment or restatement of certificate.
29-702.03. Statement of termination.
29-702.04. Signing of records.
29-702.05. Signing and filing pursuant to judicial order.
29-702.06. Liability for false information in filed record.

Subchapter III. Limited Partners.

29-703.01. Becoming limited partner.
29-703.02. No right or power as limited partner to bind limited partnership.
29-703.03. No liability as limited partner for limited partnership obligations.
29-703.04. Right of limited partner and former limited partner to information.
29-703.05. Limited duties of limited partners.
29-703.06. Person erroneously believing self to be limited partner.

Subchapter IV. General Partners.

29-704.01. Becoming general partner.
29-704.02. General partner agent of limited partnership.
29-704.03. Limited partnership liable for general partner's actionable conduct.
29-704.04. General partner's liability.
29-704.05. Actions by and against partnership and partners.
29-704.06. Management rights of general partner.
29-704.07. Right of general partner and former general partner to information.
29-704.08. General standards of general partner's conduct.

Subchapter V. Contributions and Distributions.

29-705.01. Form of contribution.

29-705.02. Liability for contribution.
29-705.03. Sharing of distributions.
29-705.04. Interim distributions.
29-705.05. No distribution on account of dissociation.
29-705.06. Distribution in kind.
29-705.07. Right to distribution.
29-705.08. Limitations on distribution.
29-705.09. Liability for improper distributions.
Subchapter VI. Dissociation.
29-706.01. Dissociation as limited partner.
29-706.02. Effect of dissociation as limited partner.
29-706.03. Dissociation as general partner.
29-706.04. Person's power to dissociate as general partner; wrongful dissociation.
29-706.05. Effect of dissociation as general partner.
29-706.06. Power to bind and liability to limited partnership before dissolution of partnership of person dissociated as general partner.
29-706.07. Liability to other persons of person dissociated as general partner.
Subchapter VII. Transferable Interests and Rights of Transferees and Creditors.
29-707.01. Partner's transferable interest.
29-707.02. Transfer of partner's transferable interest.
29-707.03. Rights of creditor of partner or transferee.
29-707.04. Power of estate of deceased partner.
Subchapter VIII. Dissolution.
29-708.01. Nonjudicial dissolution.
29-708.02. Judicial dissolution.
29-708.03. Winding up.
29-708.04. Power of general partner and person dissociated as general partner to bind partnership after dissolution.
29-708.05. Liability after dissolution of general partner and person dissociated as general partner to limited partnership, other general partners, and persons dissociated as general partner.
29-708.06. Known claims against dissolved limited partnership.
29-708.07. Other claims against dissolved limited partnership.
29-708.08. Liability of general partner and person dissociated as general partner when claim against limited partnership barred.
29-708.09. Disposition of assets; when contributions required.
Subchapter IX. Actions by Partners.
29-709.01. Direct action by partner.
29-709.02. Derivative action.
29-709.03. Proper plaintiff.

29-709.04. Pleading.
29-709.05. Proceeds and expenses.

Subchapter X. Merger.

29-710.01. Definitions.
29-710.02. Merger.
29-710.03. Action on plan of merger by constituent limited partnership.
29-710.04. Filings required for merger; effective date.
29-710.05. Effect of merger.
29-710.06. Restrictions on approval of mergers and on relinquishing limited liability limited partnership status.
29-710.07. Liability of general partner after merger.
29-710.08. Power of general partners and persons dissociated as general partners to bind limited partnership after merger.

Subchapter XI. Transition Provisions.

29-711.01. Application to existing relationships.

CHAPTER 7. LIMITED PARTNERSHIPS.

Subchapter I. General Provisions.

§ 29-701.01. Short title.

This chapter may be cited as the "Uniform Limited Partnership Act of 2010".

§ 29-701.02. Definitions.

For the purposes of this chapter, the term:

(1) "Certificate of limited partnership" means the certificate required by § 29-702.01. The term includes the certificate as amended or restated.

(2) "Contribution", except in the phrase "right of contribution", means any benefit provided by a person to a limited partnership to become a partner or in the person's capacity as a partner.

(3) "Distribution" means a transfer of money or other property from a limited partnership to a partner in the partner's capacity as a partner or to a transferee on account of a transferable interest owned by the transferee.

(4) "Foreign limited liability limited partnership" means a foreign limited partnership whose general partners have limited liability for the obligations of the foreign limited partnership under a provision similar to § 29-704.04(c).

(5) "Foreign limited partnership" means a partnership formed under the laws of a jurisdiction other than the District and required by those laws to have one or more general partners and one or more limited partners. The term includes a foreign limited liability limited partnership.

(6) "General partner" means:

(A) With respect to a limited partnership, a person that:

(i) Becomes a general partner under § 29-704.01; or

(ii) Was a general partner in a limited partnership when the limited partnership became subject to this chapter under § 29-711.01(a) or (b); and

(B) With respect to a foreign limited partnership, a person that has rights, powers, and obligations similar to those of a general partner in a limited partnership.

(7) "Limited liability limited partnership", except in the phrase "foreign limited liability limited partnership", means a limited partnership whose certificate of limited partnership states that the limited partnership is a limited liability limited partnership.

(8) "Limited partner" means:

(A) With respect to a limited partnership, a person that:

(i) Becomes a limited partner under § 29-703.01; or

(ii) Was a limited partner in a limited partnership when the limited partnership became subject to this chapter under § 29-711.01(a) or (b); and

(B) With respect to a foreign limited partnership, a person that has rights, powers, and obligations similar to those of a limited partner in a limited partnership.

(9) "Limited partnership", except in the phrases "foreign limited partnership" and "foreign limited liability limited partnership", or "domestic limited partnership", means an entity, having one or more general partners and one or more limited partners, which is formed under this chapter by 2 or more persons or becomes subject to this chapter under subchapter X of this chapter, Chapter 2 of this title, or § 29-711.01(a) or (b). The term includes a limited liability limited partnership.

(10) "Partner" means a limited partner or general partner.

(11) "Partnership agreement" means the partners' agreement, whether oral, implied, in a record, or in any combination, concerning the limited partnership. The term includes the agreement as amended.

(12) "Person dissociated as a general partner" means a person dissociated as a general partner of a limited partnership.

(13) "Required information" means the information that a limited partnership is required to maintain under § 29-701.08.

(14) "Transferee" means a person to which all or part of a transferable interest has been transferred, whether or not the transferor is a partner.

§ 29-701.03. Knowledge and notice.

(a) A person knows a fact if the person has actual knowledge of it.

(b) A person has notice of a fact if the person:

(1) Knows of it;

(2) Has received a notification of it;

(3) Has reason to know it exists from all of the facts known to the person at the time in question; or

(4) Has notice of it under subsection (c) or (d) of this section.

(c) A certificate of limited partnership on file in the office of the Mayor shall be notice that the partnership is a limited partnership and the persons designated in the certificate as general partners are general partners. Except as otherwise provided in subsection (d) of this section, the certificate shall not be notice of any other fact.

(d) A person has notice of:

(1) Another person's dissociation as a general partner, 90 days after the effective date of an amendment to the certificate of limited partnership which states that the other person has dissociated or 90 days after the effective date of a statement of dissociation pertaining to the other person, whichever occurs first;

(2) A limited partnership's dissolution, 90 days after the effective date of an amendment to the certificate of limited partnership stating that the limited partnership is dissolved;

(3) A limited partnership's termination, 90 days after the effective date of a statement of termination;

(4) A limited partnership's conversion or domestication under Chapter 2 of this title, 90 days after the effective date of the statement of conversion or domestication;

(5) A merger under subchapter X of this chapter, 90 days after the effective date of the articles of merger; and

(6) A merger or interest exchange under Chapter 2 of this title, 90 days after the effective date of the statement of merger or interest exchange.

(e) A person notifies or gives a notification to another person by taking steps reasonably required to inform the other person in ordinary course, whether or not the other person learns of it.

(f) A person receives a notification when the notification:

(1) Comes to the person's attention; or

(2) Is delivered at the person's place of business or at any other place held out by the person as a place for receiving communications.

(g) Except as otherwise provided in subsection (h) of this section, a person other than an individual knows, has notice, or receives a notification of a fact for purposes of a particular transaction when the individual conducting the transaction for the person knows, has notice, or receives a notification of the fact, or in any event when the fact would have been brought to the individual's attention if the person had exercised reasonable diligence. A person other than an individual exercises reasonable diligence if it maintains reasonable routines for communicating significant information to the individual conducting the transaction for the person and there is reasonable compliance with the routines. Reasonable diligence shall not require an individual acting for the person to communicate information unless the communication is part of the

individual's regular duties or the individual has reason to know of the transaction and that the transaction would be materially affected by the information.

(h) A general partner's knowledge, notice, or receipt of a notification of a fact relating to the limited partnership shall be effective immediately as knowledge of, notice to, or receipt of a notification by the limited partnership, except in the case of a fraud on the limited partnership committed by or with the consent of the general partner. A limited partner's knowledge, notice, or receipt of a notification of a fact relating to the limited partnership shall not be effective as knowledge of, notice to, or receipt of a notification by the limited partnership.

§ 29-701.04. Nature, purpose, and duration of entity.

(a) A limited partnership is an entity distinct from its partners. A limited partnership is the same entity regardless of whether its certificate states that the limited partnership is a limited liability limited partnership.

(b) A limited partnership may be organized under this chapter for any lawful purpose.

(c) A limited partnership shall have a perpetual duration.

§ 29-701.05. Powers.

A limited partnership shall have the powers to do all things necessary or convenient to carry on its activities, including the power to sue, be sued, and defend in its own name and to maintain an action against a partner for harm caused to the limited partnership by a breach of the partnership agreement or violation of a duty to the partnership.

§ 29-701.06. Governing law.

The law of the District shall govern relations among the partners of a limited partnership and between the partners and the limited partnership and the liability of partners as partners for an obligation of the limited partnership.

§ 29-701.07. Effect of partnership agreement; nonwaivable provisions.

(a) Except as otherwise provided in subsection (b) of this section , the partnership agreement shall govern relations among the partners and between the partners and the partnership. To the extent the partnership agreement does not otherwise provide, this chapter shall govern relations among the partners and between the partners and the partnership.

(b) A partnership agreement shall not:

(1) Vary a limited partnership's power under § 29-701.05 to sue, be sued, and defend in its own name;

(2) Vary the law applicable to a limited partnership under § 29-701.06;

(3) Vary the requirements of § 29-702.04;

(4) Vary the information required under § 29-701.08 or unreasonably restrict the right to information under § 29-703.04 or § 29-704.07, but the partnership agreement may

impose reasonable restrictions on the availability and use of information obtained under those sections and may define appropriate remedies, including liquidated damages, for a breach of any reasonable restriction on use;

(5) Eliminate the duty of loyalty under § 29-704.08, but the partnership agreement may:

(A) Identify specific types or categories of activities that do not violate the duty of loyalty, if not manifestly unreasonable; and

(B) Specify the number or percentage of partners which may authorize or ratify, after full disclosure to all partners of all material facts, a specific act or transaction that otherwise would violate the duty of loyalty;

(6) Unreasonably reduce the duty of care under § 29-704.08(c);

(7) Eliminate the obligation of good faith and fair dealing under §§ 29-703.05(b) and 29-704.08(d), but the partnership agreement may prescribe the standards by which the performance of the obligation is to be measured, if the standards are not manifestly unreasonable;

(8) Vary the power of a person to dissociate as a general partner under § 29-706.04(a), except to require that the notice under § 29-706.03(1) be in a record;

(9) Vary the power of a court to decree dissolution in the circumstances specified in § 29-708.02;

(10) Vary the requirement to wind up the partnership's business as specified in § 29-708.03;

(11) Unreasonably restrict the right to maintain an action under subchapter IX of this chapter;

(12) Restrict the right of a partner:

(A) Under § 29-710.06(a) to approve a merger; or

(B) Under Chapter 2 of this title to approve a merger, interest exchange, conversion, or domestication;

(13) Restrict the right of a general partner under § 29-710.06(b) to consent to an amendment to the certificate of limited partnership which deletes a statement that the limited partnership is a limited liability limited partnership; or

(14) Restrict rights under this chapter of a person other than a partner or a transferee.

. § 29-701.08. Required information.

A limited partnership shall maintain at its principal office the following information:

(1) A current list in a record showing the full name and last known street and mailing address of each partner, separately identifying the general partners, in alphabetical order, and the limited partners, in alphabetical order;

(2) A copy of the initial certificate of limited partnership and all amendments to and restatements of the certificate, together with signed copies of any powers of attorney under

which any certificate, amendment, or restatement has been signed;

(3) A copy of any articles of merger filed under subchapter X of this chapter and of any statement of merger, interest exchange, conversion, or domestication filed under Chapter 2 of this title;

(4) A copy of the limited partnership's federal, state, and local income tax returns and reports, if any, for the 3 most recent years;

(5) A copy of any partnership agreement made in a record and any amendment made in a record to any partnership agreement;

(6) A copy of any financial statement of the limited partnership for the 3 most recent years;

(7) A copy of the 3 most recent biennial reports delivered by the limited partnership to the Mayor pursuant to § 29-102.11;

(8) A copy of any record made by the limited partnership during the past 3 years of any consent given by or vote taken of any partner pursuant to this chapter or the partnership agreement; and

(9) Unless contained in a partnership agreement made in a record, a record stating:

(A) The amount of cash, and a description and statement of the agreed value of the other benefits, contributed and agreed to be contributed by each partner;

(B) The times at which, or events on the happening of which, any additional contributions agreed to be made by each partner are to be made;

(C) For any person that is both a general partner and a limited partner, a specification of what transferable interest the person owns in each capacity; and

(D) Any events upon the happening of which the limited partnership is to be dissolved and its activities wound up.

§ 29-701.09. Business transactions of partner with partnership.

A partner may lend money to and do other business with the limited partnership and has the same rights and obligations with respect to the loan or other transaction as a person that is not a partner.

§ 29-701.10. Dual capacity.

A person may be both a general partner and a limited partner. A person that is both a general and limited partner shall have the rights, powers, duties, and obligations provided by this chapter and the partnership agreement in each of those capacities. When the person acts as a general partner, the person shall be subject to the obligations, duties, and restrictions under this chapter and the partnership agreement for general partners. When the person acts as a limited partner, the person shall be subject to the obligations, duties, and restrictions under this chapter and the partnership agreement for limited partners.

§ 29-701.11. Consent and proxies of partners.

Action requiring the consent of partners under this chapter may be taken without a meeting, and a partner may appoint a proxy to consent or otherwise act for the partner by signing an appointment record, either personally or by the partner's attorney in fact.

Subchapter II. Formation; Certificate of Limited Partnership and Other Filings.

§ 29-702.01. Formation of limited partnership; certificate of limited partnership.

(a) In order for a limited partnership to be formed, a certificate of limited partnership shall be delivered to the Mayor for filing. The certificate shall state:

(1) The name of the limited partnership, which shall comply with §§ 29-103.01 and 29-103.02(d);

(2) The information required by § 29-104.04;

(3) The name and the street and mailing address of each general partner;

(4) Whether the limited partnership is a limited liability limited partnership; and

(5) Any additional information required by subchapter X of this chapter.

(b) A certificate of limited partnership may also contain any other matters but may not vary or otherwise affect the provisions specified in § 29-701.07(b) in a manner inconsistent with that section.

(c) If there has been substantial compliance with subsection (a) of this section , subject to subchapter II of Chapter 1 of this title, a limited partnership shall be formed when the Mayor files the certificate of limited partnership.

(d) Subject to subsection (b) of this section, if any provision of a partnership agreement is inconsistent with the filed certificate of limited partnership, or with a filed statement of dissociation, termination, or change, or with filed articles of merger, or with a statement of merger, interest exchange, conversion, or domestication filed under Chapter 2 of this title:

(1) The partnership agreement shall prevail as to partners and transferees; and

(2) The filed document shall prevail as to persons, other than partners and transferees, that reasonably rely on the filed record to their detriment.

§ 29-702.02. Amendment or restatement of certificate.

(a) To amend its certificate of limited partnership, a limited partnership shall deliver to the Mayor for filing an amendment stating:

(1) The name of the limited partnership;

(2) The date of filing of its initial certificate; and

(3) The changes the amendment makes to the certificate as most recently amended or restated.

(b) A limited partnership shall promptly deliver to the Mayor for filing an amendment to a certificate of limited partnership to reflect the:

(1) Admission of a new general partner;

(2) Dissociation of a person as a general partner; or

(3) Appointment of a person to wind up the limited partnership's activities under § 29-708.03(c) or (d).

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

(1) Cause the certificate to be amended; or

(2) If appropriate, deliver to the Mayor for filing a statement of correction pursuant to § 29-102.05 or § 29-104.07.

(d) A certificate of limited partnership may be amended at any time for any other proper purpose as determined by the limited partnership.

(e) A restated certificate of limited partnership may be delivered to the Mayor for filing in the same manner as an amendment.

(f) Subject to § 29-102.03, an amendment or restated certificate shall be effective when filed by the Mayor.

(g) A certificate of limited partnership may also be amended by filing articles of merger under subchapter X of this chapter or a statement of merger, interest exchange, conversion, or domestication under Chapter 2 of this title.

§ 29-702.03. Statement of termination.

A dissolved limited partnership that has completed winding up may deliver to the Mayor for filing a statement of termination that states:

(1) The name of the limited partnership;

(2) The date of filing of its initial certificate of limited partnership; and

(3) Any other information as determined by the general partners filing the statement or by a person appointed pursuant to § 29-708.03(c) or (d).

§ 29-702.04. Signing of records.

(a) Each record delivered to the Mayor for filing pursuant to this chapter shall be signed in the following manner:

(1) An initial certificate of limited partnership shall be signed by all general partners listed in the certificate.

(2) An amendment adding or deleting a statement that the limited partnership is a limited liability limited partnership shall be signed by all general partners listed in the certificate.

(3) An amendment designating as general partner a person admitted under § 29-708.01(3)(B) following the dissociation of a limited partnership's last general partner shall be signed by that person.

(4) An amendment required by § 29-708.03(c) following the appointment of a person to wind up the dissolved limited partnership's activities shall be signed by that person.

(5) Any other amendment shall be signed by:

(A) At least one general partner listed in the certificate;

(B) Each other person designated in the amendment as a new general partner; and

(C) Each person that the amendment indicates has dissociated as a general partner, unless:

(i) The person is deceased or a guardian or general conservator has been appointed for the person and the amendment so states; or

(ii) The person has previously delivered to the Mayor for filing a statement of dissociation.

(6) A restated certificate of limited partnership shall be signed by at least one general partner listed in the certificate, and, to the extent the restated certificate effects a change under any other paragraph of this subsection, the certificate shall be signed in a manner that satisfies that paragraph.

(7) A statement of termination shall be signed by all general partners listed in the certificate or, if the certificate of a dissolved limited partnership lists no general partners, by the person appointed pursuant to § 29-708.03(c) or (d) to wind up the dissolved limited partnership's activities.

(8) Articles of merger shall be signed as provided in § 29-710.04(a).

(9) Any other record delivered on behalf of a limited partnership to the Mayor for filing shall be signed by at least one general partner listed in the certificate.

(10) A statement by a person pursuant to § 29-706.05(a)(4) stating that the person has dissociated as a general partner shall be signed by that person.

(11) A statement of withdrawal by a person pursuant to § 29-703.06 shall be signed by that person.

(12) A record delivered on behalf of a foreign limited partnership to the Mayor for filing shall be signed by at least one general partner of the foreign limited partnership.

(13) Any other record delivered on behalf of any person to the Mayor for filing shall be signed by that person.

(b) Any person may sign by an attorney in fact any record to be filed pursuant to this chapter.

(c) Each record delivered to the Mayor for filing pursuant to Chapter 2 of this title shall be signed by each general partner listed in the certificate of limited partnership.

§ 29-702.05. Signing and filing pursuant to judicial order.

(a) If a person required by this chapter to sign a record or deliver a record to the Mayor for filing does not do so, any other person that is aggrieved may petition the Superior Court to order:

(1) The person to sign the record;

(2) Deliver the record to the Mayor for filing; or

(3) The Mayor to file the record unsigned.

(b) If the person aggrieved under subsection (a) of this section is not the limited partnership or foreign limited partnership to which the record pertains, the aggrieved person shall make the limited partnership or foreign limited partnership a party to the action. A person aggrieved under subsection (a) of this section may seek the remedies provided in subsection (a) of this section in the same action in combination or in the alternative.

(c) A record filed unsigned pursuant to this section shall be effective without being signed.

§ 29-702.06. Liability for false information in filed record.

(a) If a record delivered to the Mayor for filing under this chapter and filed by the Mayor contains false information, a person that suffers loss by reliance on the information may recover damages for the loss from:

(1) A person that signed the record, or caused another to sign it on the person's behalf, and knew the information to be false at the time the record was signed; and

(2) A general partner that has notice that the information was false when the record was filed or has become false because of changed circumstances, if the general partner has notice for a reasonably sufficient time before the information is relied upon to enable the general partner to effect an amendment under § 29-702.02, file a petition pursuant to § 29-702.05, or deliver to the Mayor for filing a statement of change pursuant to § 29-104.07 or a statement of correction pursuant to § 29-102.05.

(b) Signing a record authorized or required to be filed under this chapter shall constitute an affirmation under the penalties of perjury that the facts stated in the record are true.

Subchapter III. Limited Partners.

§ 29-703.01. Becoming limited partner.

A person becomes a limited partner:

(1) As provided in the partnership agreement;

(2) As the result of a merger under subchapter X of this chapter or a transaction under Chapter 2 of this title; or

(3) With the consent of all the partners.

§ 29-703.02. No right or power as limited partner to bind limited partnership.

A limited partner shall not have the right or the power as a limited partner to act for or bind the limited partnership.

§ 29-703.03. No liability as limited partner for limited partnership obligations.

An obligation of a limited partnership, whether arising in contract, tort, or otherwise,

shall not be the obligation of a limited partner. A limited partner shall not be personally liable, directly or indirectly, by way of contribution or otherwise, for an obligation of the limited partnership solely by reason of being a limited partner, even if the limited partner participates in the management and control of the limited partnership.

§ 29-703.04. Right of limited partner and former limited partner to information.

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

(b) During regular business hours and at a reasonable location specified by the limited partnership, a limited partner may obtain from the limited partnership and inspect and copy true and full information regarding the state of the activities and financial condition of the limited partnership and other information regarding the activities of the limited partnership as is just and reasonable if:

(1) The limited partner seeks the information for a purpose reasonably related to the partner's interest as a limited partner;

(2) The limited partner makes a demand in a record received by the limited partnership, describing with reasonable particularity the information sought and the purpose for seeking the information; and

(3) The information sought is directly connected to the limited partner's purpose.

(c) Within 10 days after receiving a demand pursuant to subsection (b) of this section, the limited partnership in a record shall inform the limited partner that made the demand:

(1) What information the limited partnership will provide in response to the demand;

(2) When and where the limited partnership will provide the information; and

(3) If the limited partnership declines to provide any demanded information, the limited partnership's reasons for declining.

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

(1) The information pertains to the period during which the person was a limited partner;

(2) The person seeks the information in good faith; and

(3) The person meets the requirements of subsection (b) of this section.

(e) The limited partnership shall respond to a demand made pursuant to subsection (d) of this section in the same manner as provided in subsection (c) of this section.

(f) If a limited partner dies, § 29-707.04 shall apply.

(g) A limited partnership may impose reasonable restrictions on the use of information

obtained under this section. In a dispute concerning the reasonableness of a restriction under this subsection, the limited partnership shall have the burden of proving reasonableness.

(h) A limited partnership may charge a person that makes a demand under this section reasonable costs of copying, limited to the costs of labor and material.

(i) Whenever this chapter or a partnership agreement provides for a limited partner to give or withhold consent to a matter, before the consent is given or withheld, the limited partnership shall, without demand, provide the limited partner with all information material to the limited partner's decision that the limited partnership knows.

(j) A limited partner or person dissociated as a limited partner may exercise the rights under this section through an attorney or other agent. Any restriction imposed under subsection (g) of this section or by the partnership agreement shall apply both to the attorney or other agent and to the limited partner or person dissociated as a limited partner.

(k) The rights stated in this section shall not extend to a person as transferee, but may be exercised by the legal representative of an individual under legal disability who is a limited partner or person dissociated as a limited partner.

§ 29-703.05. Limited duties of limited partners.

(a) A limited partner shall not have any fiduciary duty to the limited partnership or to any other partner solely by reason of being a limited partner.

(b) A limited partner shall discharge the duties to the partnership and the other partners under this chapter or under the partnership agreement and exercise any rights consistently with the obligation of good faith and fair dealing.

(c) A limited partner shall not violate a duty or obligation under this chapter or under the partnership agreement merely because the limited partner's conduct furthers the limited partner's own interest.

§ 29-703.06. Person erroneously believing self to be limited partner.

(a) Except as otherwise provided in subsection (b) of this section, a person that makes an investment in a business enterprise and erroneously but in good faith believes that the person has become a limited partner in the enterprise shall not be liable for the enterprise's obligations by reason of making the investment, receiving distributions from the enterprise, or exercising any rights of or appropriate to a limited partner, if, on ascertaining the mistake, the person:

(1) Causes an appropriate certificate of limited partnership, amendment, or statement of correction to be signed and delivered to the Mayor for filing; or

(2) Withdraws from future participation as an owner in the enterprise by signing and delivering to the Mayor for filing a statement of withdrawal under this section.

(b) A person that makes an investment described in subsection (a) of this section shall be liable to the same extent as a general partner to any third party that enters into a transaction with the enterprise, believing in good faith that the person is a general partner, before the Mayor files a

statement of withdrawal, certificate of limited partnership, amendment, or statement of correction to show that the person is not a general partner.

(c) If a person makes a diligent effort in good faith to comply with subsection (a)(1) of this section and is unable to cause the appropriate certificate of limited partnership, amendment, or statement of correction to be signed and delivered to the Mayor for filing, the person shall have the right to withdraw from the enterprise pursuant to subsection (a)(2) of this section even if the withdrawal would otherwise breach an agreement with others that are or have agreed to become co-owners of the enterprise.

Subchapter IV. General Partners.

§ 29-704.01. Becoming general partner.

A person becomes a general partner:

(1) As provided in the partnership agreement:

(2) Under § 29-708.01(3)(B) following the dissociation of a limited partnership's last general partner;

(3) As the result of a merger under subchapter X of this chapter or a transaction under Chapter 2 of this title; or

(4) With the consent of all the partners.

§ 29-704.02. General partner agent of limited partnership.

(a) Each general partner shall be an agent of the limited partnership for the purposes of its activities.

(b) An act of a general partner, including the signing of a record in the partnership's name, for apparently carrying on in the ordinary course the limited partnership's activities or activities of the kind carried on by the limited partnership shall bind the limited partnership, unless the general partner did not have authority to act for the limited partnership in the particular matter and the person with which the general partner was dealing knew, had received a notification, or had notice under § 29-701.03(d) that the general partner lacked authority.

(c) An act of a general partner which is not apparently for carrying on in the ordinary course the limited partnership's activities or activities of the kind carried on by the limited partnership shall bind the limited partnership only if the act was actually authorized by all the other partners.

§ 29-704.03. Limited partnership liable for general partner's actionable conduct.

(a) A limited partnership shall be liable for loss or injury caused to a person, or for a penalty incurred, as a result of a wrongful act or omission, or other actionable conduct, of a general partner acting in the ordinary course of activities of the limited partnership or with authority of the limited partnership.

(b) If, in the course of the limited partnership's activities or while acting with authority of

the limited partnership, a general partner receives or causes the limited partnership to receive money or property of a person not a partner, and the money or property is misapplied by a general partner, the limited partnership shall be liable for the loss.

§ 29-704.04. General partner's liability.

(a) Except as otherwise provided in subsections (b) and (c) of this section, all general partners shall be liable jointly and severally for all obligations of the limited partnership unless otherwise agreed by the claimant or provided by law.

(b) A person that becomes a general partner of an existing limited partnership shall not be personally liable for an obligation of a limited partnership incurred before the person became a general partner.

(c) An obligation of a limited partnership incurred while the limited partnership is a limited liability limited partnership, whether arising in contract, tort, or otherwise, shall be solely the obligation of the limited partnership. A general partner shall not be personally liable, directly or indirectly, by way of contribution or otherwise, for such an obligation solely by reason of being or acting as a general partner. This subsection shall apply despite anything inconsistent in the partnership agreement that existed immediately before the consent required to become a limited liability limited partnership under § 29-704.06(b)(2).

§ 29-704.05. Actions by and against partnership and partners.

(a) To the extent not inconsistent with § 29-704.04, a general partner may be joined in an action against the limited partnership or named in a separate action.

(b) A judgment against a limited partnership shall not by itself be a judgment against a general partner. A judgment against a limited partnership shall not be satisfied from a general partner's assets unless there is also a judgment against the general partner.

(c) A judgment creditor of a general partner shall not levy execution against the assets of the general partner to satisfy a judgment based on a claim against the limited partnership, unless the partner is personally liable for the claim under § 29-704.04 and:

(1) A judgment based on the same claim has been obtained against the limited partnership and a writ of execution on the judgment has been returned unsatisfied in whole or in part;

(2) The limited partnership is a debtor in bankruptcy;

(3) The general partner has agreed that the creditor need not exhaust limited partnership assets;

(4) A court grants permission to the judgment creditor to levy execution against the assets of a general partner based on a finding that limited partnership assets subject to execution are clearly insufficient to satisfy the judgment, that exhaustion of limited partnership assets is excessively burdensome, or that the grant of permission is an appropriate exercise of the court's equitable powers; or

(5) Liability is imposed on the general partner by law or contract independent of the existence of the limited partnership.

§ 29-704.06. Management rights of general partner.

(a) Each general partner shall have equal rights in the management and conduct of the limited partnership's activities. Except as expressly provided in this chapter, any matter relating to the activities of the limited partnership may be exclusively decided by the general partner or, if there is more than one general partner, by a majority of the general partners.

(b) The consent of each partner shall be necessary to:

(1) Amend the partnership agreement;

(2) Amend the certificate of limited partnership to add or, subject to § 29-710.06, delete a statement that the limited partnership is a limited liability limited partnership; and

(3) Sell, lease, exchange, or otherwise dispose of all, or substantially all, of the limited partnership's property, with or without the good will, other than in the usual and regular course of the limited partnership's activities.

(c) A limited partnership shall reimburse a general partner for payments made and indemnify a general partner for liabilities incurred by the general partner in the ordinary course of the activities of the partnership or for the preservation of its activities or property.

(d) A limited partnership shall reimburse a general partner for an advance to the limited partnership beyond the amount of capital the general partner agreed to contribute.

(e) A payment or advance made by a general partner which gives rise to an obligation of the limited partnership under subsection (c) or (d) of this section shall constitute a loan to the limited partnership which accrues interest from the date of the payment or advance.

(f) A general partner shall not be entitled to remuneration for services performed for the partnership.

§ 29-704.07. Right of general partner and former general partner to information.

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

(1) In the limited partnership's principal office, required information; and

(2) At a reasonable location specified by the limited partnership, any other records maintained by the limited partnership regarding the limited partnership's activities and financial condition.

(b) Each general partner and the limited partnership shall furnish to a general partner:

(1) Without demand, any information concerning the limited partnership's activities and activities reasonably required for the proper exercise of the general partner's rights and duties under the partnership agreement or this chapter; and

(2) On demand, any other information concerning the limited partnership's activities, except to the extent the demand or the information demanded is unreasonable or

otherwise improper under the circumstances.

(c) Subject to subsection (e) of this section, on 10 days' demand made in a record received by the limited partnership, a person dissociated as a general partner may have access to the information and records described in subsection (a) of this section at the location specified in subsection (a) of this section if:

(1) The information or record pertains to the period during which the person was a general partner;

(2) The person seeks the information or record in good faith; and

(3) The person satisfies the requirements imposed on a limited partner by § 29-703.04(b).

(d) The limited partnership shall respond to a demand made pursuant to subsection (c) of this section in the same manner as provided in § 29-703.04(c).

(e) If a general partner dies, § 29-707.04 shall apply.

(f) The limited partnership may impose reasonable restrictions on the use of information under this section. In any dispute concerning the reasonableness of a restriction under this subsection, the limited partnership shall have the burden of proving reasonableness.

(g) A limited partnership may charge a person dissociated as a general partner that makes a demand under this section reasonable costs of copying, limited to the costs of labor and material.

(h) A general partner or person dissociated as a general partner may exercise the rights under this section through an attorney or other agent. Any restriction imposed under subsection (f) or by the partnership agreement shall apply both to the attorney or other agent and to the general partner or person dissociated as a general partner.

(i) The rights under this section shall not extend to a person as transferee, but the rights under subsection (c) of this section of a person dissociated as a general may be exercised by the legal representative of an individual who dissociated as a general partner under § 29-706.03(7)(B) or (C).

§ 29-704.08. General standards of general partner's conduct.

(a) The only fiduciary duties that a general partner shall have to the limited partnership and the other partners are the duties of loyalty and care under subsections (b) and (c) of this section.

(b) A general partner's duty of loyalty to the limited partnership and the other partners shall be limited to the following:

(1) To account to the limited partnership and hold as trustee for it any property, profit, or benefit derived by the general partner in the conduct and winding up of the limited partnership's activities or derived from a use by the general partner of limited partnership property, including the appropriation of a limited partnership opportunity;

(2) To refrain from dealing with the limited partnership in the conduct or winding

up of the limited partnership's activities as or on behalf of a party having an interest adverse to the limited partnership; and

(3) To refrain from competing with the limited partnership in the conduct or winding up of the limited partnership's activities.

(c) A general partner's duty of care to the limited partnership and the other partners in the conduct and winding up of the limited partnership's activities shall be limited to refraining from engaging in grossly negligent or reckless conduct, intentional misconduct, or a knowing violation of law.

(d) A general partner shall discharge the duties to the partnership and the other partners under this chapter or under the partnership agreement and exercise any rights consistently with the obligation of good faith and fair dealing.

(e) A general partner shall not violate a duty or obligation under this chapter or under the partnership agreement merely because the general partner's conduct furthers the general partner's own interest.

Subchapter V. Contributions and Distributions.

§ 29-705.01. Form of contribution.

A contribution of a partner may consist of tangible or intangible property or other benefit to the limited partnership, including money, services performed, promissory notes, other agreements to contribute cash or property, and contracts for services to be performed.

§ 29-705.02. Liability for contribution.

(a) A partner's obligation to contribute money or other property or other benefit to, or to perform services for, a limited partnership shall not be excused by the partner's death, disability, or other inability to perform personally.

(b) If a partner does not make a promised non-monetary contribution, the partner shall be obligated at the option of the limited partnership to contribute money equal to that portion of the value, as stated in the required information, of the stated contribution which has not been made.

(c) The obligation of a partner to make a contribution or return money or other property paid or distributed in violation of this chapter may be compromised only by consent of all partners. A creditor of a limited partnership which extends credit or otherwise acts in reliance on an obligation described in subsection (a) of this section, without notice of any compromise under this subsection, may enforce the original obligation.

§ 29-705.03. Sharing of distributions.

A distribution by a limited partnership shall be shared among the partners on the basis of the value, as stated in the required records when the limited partnership decides to make the distribution, of the contributions the limited partnership has received from each partner.

§ 29-705.04. Interim distributions.

A partner shall not have a right to any distribution before the dissolution and winding up of the limited partnership unless the limited partnership decides to make an interim distribution.

§ 29-705.05. No distribution on account of dissociation.

A person shall not have a right to receive a distribution on account of dissociation.

§ 29-705.06. Distribution in kind.

A partner shall not have a right to demand or receive any distribution from a limited partnership in any form other than cash. Subject to § 29-708.09(b), a limited partnership may distribute an asset in kind to the extent each partner receives a percentage of the asset equal to the partner's share of distributions.

§ 29-705.07. Right to distribution.

When a partner or transferee becomes entitled to receive a distribution, the partner or transferee has the status of, and is entitled to all remedies available to, a creditor of the limited partnership with respect to the distribution. However, the limited partnership's obligation to make a distribution shall be subject to offset for any amount owed to the limited partnership by the partner or dissociated partner on whose account the distribution is made.

§ 29-705.08. Limitations on distribution.

(a) A limited partnership shall not make a distribution in violation of the partnership agreement.

(b) A limited partnership shall not make a distribution if after the distribution:

(1) The limited partnership would not be able to pay its debts as they become due in the ordinary course of the limited partnership's activities; or

(2) The limited partnership's total assets would be less than the sum of its total liabilities plus the amount that would be needed, if the limited partnership were to be dissolved, wound up, and terminated at the time of the distribution, to satisfy the preferential rights upon dissolution, winding up, and termination of partners whose preferential rights are superior to those of persons receiving the distribution.

(c) A limited partnership may base a determination that a distribution is not prohibited under subsection (b) of this section on financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances or on a fair valuation or other method that is reasonable in the circumstances.

(d) Except as otherwise provided in subsection (g) of this section, the effect of a distribution under subsection (b) of this section shall be measured:

(1) In the case of distribution by purchase, redemption, or other acquisition of a transferable interest in the limited partnership, as of the date money or other property is

transferred or debt incurred by the limited partnership; and

(2) In all other cases, as of the date:

(A) The distribution is authorized, if the payment occurs within120 days after that date; or

(B) The payment is made, if payment occurs more than 120 days after the distribution is authorized.

(e) A limited partnership's indebtedness to a partner incurred by reason of a distribution made in accordance with this section shall be at parity with the limited partnership's indebtedness to its general, unsecured creditors.

(f) A limited partnership's indebtedness, including indebtedness issued in connection with or as part of a distribution, shall not considered a liability for purposes of subsection (b) of this section if the terms of the indebtedness provide that payment of principal and interest are made only to the extent that a distribution could then be made to partners under this section.

(g) If indebtedness is issued as a distribution, each payment of principal or interest on the indebtedness shall be treated as a distribution, the effect of which is measured on the date the payment is made.

§ 29-705.09. Liability for improper distributions.

(a) A general partner that consents to a distribution made in violation of § 29-705.08 shall be personally liable to the limited partnership for the amount of the distribution which exceeds the amount that could have been distributed without the violation if it is established that in consenting to the distribution the general partner failed to comply with § 29-704.08.

(b) A partner or transferee that received a distribution knowing that the distribution to that partner or transferee was made in violation of § 29-705.08 shall be personally liable to the limited partnership but only to the extent that the distribution received by the partner or transferee exceeded the amount that could have been properly paid under § 29-705.08.

(c) A general partner against which an action is commenced under subsection (a) of this section may implead in the action any:

(1) Other person that is liable under subsection (a) of this section and compel contribution from the person; and

(2) Person that received a distribution in violation of subsection (b) of this section and compel contribution from the person in the amount the person received in violation of subsection (b) of this section.

(d) An action under this section shall be barred if it is not commenced within 2 years after the distribution.

Subchapter VI. Dissociation.

§ 29-706.01. Dissociation as limited partner.

(a) A person shall not have a right to dissociate as a limited partner before the termination of the limited partnership.

(b) A person shall be dissociated from a limited partnership as a limited partner upon the occurrence of any of the following events:

(1) The limited partnership's having notice of the person's express will to withdraw as a limited partner or on a later date specified by the person;

(2) An event agreed to in the partnership agreement as causing the person's dissociation as a limited partner;

(3) The person's expulsion as a limited partner pursuant to the partnership agreement;

(4) The person's expulsion as a limited partner by the unanimous consent of the other partners if:

(A) It is unlawful to carry on the limited partnership's activities with the person as a limited partner;

(B) There has been a transfer of all of the person's transferable interest in the limited partnership, other than a transfer for security purposes, or a court order charging the person's interest, which has not been foreclosed;

(C) The person is a corporation and, within 90 days after the limited partnership notifies the person that it will be expelled as a limited partner because it has filed a certificate of dissolution or the equivalent, its charter has been revoked, or its right to conduct business has been suspended by the jurisdiction of its incorporation, there is no revocation of the certificate of dissolution or no reinstatement of its charter or its right to conduct business; or

(D) The person is a limited liability company or partnership that has been dissolved and whose business is being wound up;

(5) On application by the limited partnership, the person's expulsion as a limited partner by judicial order because:

(A) The person engaged in wrongful conduct that adversely and materially affected the limited partnership's activities;

(B) The person willfully or persistently committed a material breach of the partnership agreement or of the obligation of good faith and fair dealing under § 29-703.05(b); or

(C) The person engaged in conduct relating to the limited partnership's activities which makes it not reasonably practicable to carry on the activities with the person as limited partner;

(6) In the case of a person who is an individual, the person's death;

(7) In the case of a person that is a trust or is acting as a limited partner by virtue of being a trustee of a trust, distribution of the trust's entire transferable interest in the limited partnership, but not merely by reason of the substitution of a successor trustee;

(8) In the case of a person that is an estate or is acting as a limited partner by virtue of being a personal representative of an estate, distribution of the estate's entire transferable interest in the limited partnership, but not merely by reason of the substitution of a successor personal representative;

(9) Termination of a limited partner that is not an individual, partnership, limited liability company, corporation, trust, or estate;

(10) The limited partnership's participation in a merger under subchapter X of this chapter, if the limited partnership is;

(A) Not the surviving entity; or

(B) The surviving entity but, as a result of the merger, the person ceases to be a limited partner;

(11) The limited partnership's participation in a transaction under Chapter 2 of this title if the limited partnership shall:

(A) Not survive the transaction; or

(B) Survive the transaction, but as a result of the transaction, the person ceases to be a limited partner.

§ 29-706.02. Effect of dissociation as limited partner.

(a) Upon a person's dissociation as a limited partner:

(1) Subject to § 29-707.04, the person shall not have further rights as a limited partner;

(2) The person's obligation of good faith and fair dealing as a limited partner under § 29-703.05(b) shall continue only as to matters arising and events occurring before the dissociation; and

(3) Subject to § 29-707.04 and subchapter X of this chapter, any transferable interest owned by the person in the person's capacity as a limited partner immediately before dissociation shall be owned by the person as a mere transferee.

(b) A person's dissociation as a limited partner shall not of itself discharge the person from any obligation to the limited partnership or the other partners which the person incurred while a limited partner.

§ 29-706.03. Dissociation as general partner.

A person shall be dissociated from a limited partnership as a general partner when:

(1) The limited partnership has notice of the person's express will to withdraw as a general partner or on a later date specified by the person;

(2) An event agreed to in the partnership agreement as causing the person's dissociation as a general partner occurs;

(3) The person is expelled as a general partner pursuant to the partnership agreement;

(4) The person is expelled as a general partner by the unanimous consent of the other partners if:

(A) It is unlawful to carry on the limited partnership's activities with the person as a general partner;

(B) There has been a transfer of all or substantially all of the person's transferable interest in the limited partnership, other than a transfer for security purposes, or a court order charging the person's interest, which has not been foreclosed;

(C) The person is a corporation and, within 90 days after the limited partnership notifies the person that it will be expelled as a general partner because it has filed a certificate of dissolution or the equivalent, its charter has been revoked, or its right to conduct business has been suspended by the jurisdiction of its incorporation, there is no revocation of the certificate of dissolution or no reinstatement of its charter or its right to conduct business; or

(D) The person is a limited liability company or partnership that has been dissolved and whose business is being wound up;

(5) On application by the limited partnership, the person is expelled as a general partner by judicial determination because:

(A) The person engaged in wrongful conduct that adversely and materially affected the limited partnership activities;

(B) The person willfully or persistently committed a material breach of the partnership agreement or of a duty owed to the partnership or the other partners under § 29-704.08; or

(C) The person engaged in conduct relating to the limited partnership's activities which makes it not reasonably practicable to carry on the activities of the limited partnership with the person as a general partner;

(6) The person:

(A) Became a debtor in bankruptcy;

(B) Executes an assignment for the benefit of creditors;

(C) Seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the person or of all or substantially all of the person's property; or

(D) Fails, within 90 days after the appointment, to have vacated or stayed the appointment of a trustee, receiver, or liquidator of the general partner or of all or substantially all of the person's property obtained without the person's consent or acquiescence, or failing within 90 days after the expiration of a stay to have the appointment vacated;

(7) In the case of a person who is an individual:

(A) The person dies;

(B) A guardian or general conservator is appointed for the person; or

(C) There is a judicial determination that the person has otherwise become incapable of performing the person's duties as a general partner under the partnership agreement;

(8) In the case of a person that is a trust or is acting as a general partner by virtue

of being a trustee of a trust, the trust's entire transferable interest in the limited partnership is distributed;

(9) In the case of a person that is an estate or is acting as a general partner by virtue of being a personal representative of an estate, the estate's entire transferable interest in the limited partnership is distributed;

(10) A general partner that is not an individual, partnership, limited liability company, corporation, trust, or estate terminates;

(11) The limited partnership's participation in a merger under subchapter X of this chapter, if the limited partnership is:

(A) Not the surviving entity; or

(B) The surviving entity but, as a result of the merger, the person ceases to be a general partner; or

(12) The limited partnership's participation in a transaction under the Chapter 2 of this title if the limited partnership shall:

(A) Not survive the transaction; or

(B) Survive the transaction, but as a result of the transaction, the person ceases to be a general partner.

§ 29-706.04. Person's power to dissociate as general partner; wrongful dissociation.

(a) A person may dissociate as a general partner at any time, rightfully or wrongfully, by express will pursuant to § 29-706.03(1).

(b) A person's dissociation as a general partner shall be wrongful only if:

(1) It is in breach of an express provision of the partnership agreement; or

(2) It occurs before the termination of the limited partnership and the person:

(A) Withdraws as a general partner by express will;

(B) Expelled as a general partner by judicial determination under § 29-706.03(5);

(C) Is dissociated as a general partner by becoming a debtor in bankruptcy; or

(D) In the case of a person that is not an individual, trust (other than a business trust), or estate, is expelled or otherwise dissociated as a general partner because it willfully dissolved or terminated.

(c) A person that wrongfully dissociates as a general partner shall be liable to the limited partnership and, subject to § 29-709.01, to the other partners for damages caused by the dissociation. The liability shall be in addition to any other obligation of the general partner to the limited partnership or to the other partners.

§ 29-706.05. Effect of dissociation as general partner.

(a) Upon a person's dissociation as a general partner:

(1) The person's right to participate as a general partner in the management and conduct of the partnership's activities shall terminate;

(2) The person's duty of loyalty as a general partner under § 29-704.08(b)(3) shall terminate;

(3) The person's duty of loyalty as a general partner under § 29-704.08(b)(1) and (2) and duty of care under § 29-704.08(c) continue only with regard to matters arising and events occurring before the person's dissociation as a general partner;

(4) The person may sign and deliver to the Mayor for filing a statement of dissociation pertaining to the person and, at the request of the limited partnership, shall sign an amendment to the certificate of limited partnership which states that the person has dissociated; and

(5) Subject to § 29-707.04, subchapter X of this chapter, and Chapter 2 of this title, any transferable interest owned by the person immediately before dissociation in the person's capacity as a general partner shall be owned by the person as a mere transferee.

(b) A person's dissociation as a general partner shall not of itself discharge the person from any obligation to the limited partnership or the other partners which the person incurred while a general partner.

§ 29-706.06. Power to bind and liability to limited partnership before dissolution of partnership of person dissociated as general partner.

(a) After a person is dissociated as a general partner and before the limited partnership is dissolved, merged under subchapter X of this chapter or Chapter 2 of this title, or otherwise ceases to exist in the form of a limited partnership as a result of a transaction under Chapter 2 of this title, the limited partnership shall be bound by an act of the person only if:

(1) The act would have bound the limited partnership under § 29-704.02 before the dissociation; and

(2) At the time the other party enters into the transaction:

(A) Less than 2 years has passed since the dissociation; and

(B) The other party does not have notice of the dissociation and reasonably believes that the person is a general partner.

(b) If a limited partnership is bound under subsection (a) of this section, the person dissociated as a general partner which caused the limited partnership to be bound shall be liable:

(1) To the limited partnership for any damage caused to the limited partnership arising from the obligation incurred under subsection (a) of this section; and

(2) If a general partner or another person dissociated as a general partner is liable for the obligation, to the general partner or other person for any damage caused to the general partner or other person arising from the liability.

§ 29-706.07. Liability to other persons of person dissociated as general partner.

(a) A person's dissociation as a general partner shall not of itself discharge the person's liability as a general partner for an obligation of the limited partnership incurred before dissociation. Except as otherwise provided in subsections (b) and (c) of this section, the person shall not be liable for a limited partnership's obligation incurred after dissociation.

(b) A person whose dissociation as a general partner resulted in a dissolution and winding up of the limited partnership's activities shall not be liable to the same extent as a general partner under § 29-704.04 on an obligation incurred by the limited partnership under § 29-708.04.

(c) A person that has dissociated as a general partner but whose dissociation did not result in a dissolution and winding up of the limited partnership's activities shall not be liable on a transaction entered into by the limited partnership after the dissociation only if:

(1) A general partner would be liable on the transaction; and

(2) At the time the other party enters into the transaction:

(A) Less than 2 years has passed since the dissociation; and

(B) The other party does not have notice of the dissociation and reasonably believes that the person is a general partner.

(d) By agreement with a creditor of a limited partnership and the limited partnership, a person dissociated as a general partner may be released from liability for an obligation of the limited partnership.

(e) A person dissociated as a general partner shall be released from liability for an obligation of the limited partnership if the limited partnership's creditor, with notice of the person's dissociation as a general partner but without the person's consent, agrees to a material alteration in the nature or time of payment of the obligation.

Subchapter VII. Transferable Interests and Rights of Transferees and Creditors.

§ 29-707.01. Partner's transferable interest.

Except as otherwise provided in subchapter X of this chapter or Chapter 2 of this title, the only interest of a partner which is transferable shall be partner's transferable interest. The interest of a partner, whether or not transferable, shall be personal property.

§ 29-707.02. Transfer of partner's transferable interest.

(a) A transfer, in whole or in part, of a partner's transferable interest:

(1) Is permissible;

(2) Shall not by itself cause the partner's dissociation or a dissolution and winding up of the limited partnership's activities; and

(3) Shall not, as against the other partners or the limited partnership, entitle the transferee to participate in the management or conduct of the limited partnership's activities, to require access to information concerning the limited partnership's transactions except as otherwise provided in subsection (c) of this section, or to inspect or copy the required

information or the limited partnership's other records.

(b) A transferee shall have a right to receive, in accordance with the transfer:

(1) Distributions to which the transferor would otherwise be entitled; and

(2) Upon the dissolution and winding up of the limited partnership's activities, the net amount otherwise distributable to the transferor.

(c) In a dissolution and winding up, a transferee shall be entitled to an account of the limited partnership's transactions only from the date of dissolution.

(d) Upon transfer, the transferor retain the rights of a partner other than the interest in distributions transferred and shall retain all duties and obligations of a partner.

(e) A limited partnership need not give effect to a transferee's rights under this section until the limited partnership has notice of the transfer.

(f) A transfer of a partner's transferable interest in the limited partnership in violation of a restriction on transfer contained in the partnership agreement shall be ineffective as to a person having notice of the restriction at the time of transfer.

(g) A transferee that becomes a partner with respect to a transferable interest shall be liable for the transferor's obligations under §§ 29-705.02 and 29-705.09. However, the transferee shall not be obligated for liabilities unknown to the transferee at the time the transferee became a partner.

§ 29-707.03. Rights of creditor of partner or transferee.

(a) On application to the Superior Court by any judgment creditor of a partner or transferee, the court may charge the transferable interest of the judgment debtor with payment of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment creditor shall have only the rights of a transferee. The court may appoint a receiver of the share of the distributions due or to become due to the judgment debtor in respect of the partnership and make all other orders, directions, accounts, and inquiries the judgment debtor might have made or which the circumstances of the case may require to give effect to the charging order.

(b) A charging order shall constitute a lien on the judgment debtor's transferable interest. The court may order a foreclosure upon the interest subject to the charging order at any time. The purchaser at the foreclosure sale shall have the rights of a transferee.

(c) At any time before foreclosure, an interest charged may be redeemed:

(1) By the judgment debtor;

(2) With property other than limited partnership property, by one or more of the other partners; or

(3) With limited partnership property, by the limited partnership with the consent of all partners whose interests are not so charged.

(d) This chapter shall not deprive any partner or transferee of the benefit of any exemption laws applicable to the partner's or transferee's transferable interest.

(e) This section provides the exclusive remedy by which a judgment creditor of a partner

or transferee may satisfy a judgment out of the judgment debtor's transferable interest.

§ 29-707.04. Power of estate of deceased partner.

If a partner dies, the deceased partner's personal representative or other legal representative may exercise the rights of a transferee as provided in § 29-707.02 and, for the purposes of settling the estate, may exercise the rights of a current limited partner under § 29-703.04.

Subchapter VIII. Dissolution.

§ 29-708.01. Nonjudicial dissolution.

Except as otherwise provided in § 29-708.02, a limited partnership is dissolved, and its activities shall be wound up, only upon the occurrence of any of the following:

(1) The happening of an event specified in the partnership agreement;

(2) The consent of all general partners and of limited partners owning a majority of the rights to receive distributions as limited partners at the time the consent is to be effective;

(3) After the dissociation of a person as a general partner:

(A) If the limited partnership has at least one remaining general partner, the consent to dissolve the limited partnership given within 90 days after the dissociation by partners owning a majority of the rights to receive distributions as partners at the time the consent is to be effective; or

(B) If the limited partnership does not have a remaining general partner, the passage of 90 days after the dissociation, unless before the end of the period:

(i) Consent to continue the activities of the limited partnership and admit at least one general partner is given by limited partners owning a majority of the rights to receive distributions as limited partners at the time the consent is to be effective; and

(ii) At least one person is admitted as a general partner in accordance with the consent;

(4) The passage of 90 days after the dissociation of the limited partnership's last limited partner, unless before the end of the period the limited partnership admits at least one limited partner; or

(5) The signing and filing of a certificate of dissolution by the Mayor under § 29-106.02.

§ 29-708.02. Judicial dissolution.

On application by a partner the Superior Court may order dissolution of a limited partnership if it is not reasonably practicable to carry on the activities of the limited partnership in conformity with the partnership agreement.

§ 29-708.03. Winding up.

(a) A limited partnership shall continue after dissolution only for the purpose of winding up its activities.

(b) In winding up its activities, the limited partnership:

(1) May amend its certificate of limited partnership to state that the limited partnership is dissolved, preserve the limited partnership business or property as a going concern for a reasonable time, prosecute and defend actions and proceedings, whether civil, criminal, or administrative, transfer the limited partnership's property, settle disputes by mediation or arbitration, file a statement of termination as provided in § 29-702.03, and perform other necessary acts; and

(2) Shall discharge the limited partnership's liabilities, settle and close the limited partnership's activities, and marshal and distribute the assets of the partnership.

(c) If a dissolved limited partnership does not have a general partner, a person to wind up the dissolved limited partnership's activities may be appointed by the consent of limited partners owning a majority of the rights to receive distributions as limited partners at the time the consent is to be effective. A person appointed under this subsection shall:

(1) Have the powers of a general partner under § 29-708.04; and

(2) Promptly amend the certificate of limited partnership to state:

(A) That the limited partnership does not have a general partner;

(B) The name of the person that has been appointed to wind up the limited partnership; and

(C) The street and mailing address of the person.

(d) On the application of any partner, the Superior Court may order judicial supervision of the winding up, including the appointment of a person to wind up the dissolved limited partnership's activities, if:

(1) A limited partnership does not have a general partner and within a reasonable time following the dissolution no person has been appointed pursuant to subsection (c) of this section; or

(2) The applicant establishes other good cause.

§ 29-708.04. Power of general partner and person dissociated as general partner to bind partnership after dissolution.

(a) A limited partnership shall be bound by a general partner's act after dissolution which:

(1) Is appropriate for winding up the limited partnership's activities; or

(2) Would have bound the limited partnership under § 29-704.02 before dissolution, if, at the time the other party enters into the transaction, the other party does not have notice of the dissolution.

(b) A person dissociated as a general partner shall bind a limited partnership through an act occurring after dissolution if:

(1) At the time the other party enters into the transaction:

(A) Less than 2 years has passed since the dissociation; and

(B) The other party does not have notice of the dissociation and reasonably believes that the person is a general partner; and

(2) The act:

(A) Is appropriate for winding up the limited partnership's activities; or

(B) Would have bound the limited partnership under § 29-704.02 before dissolution and at the time the other party enters into the transaction the other party does not have notice of the dissolution.

§ 29-708.05. Liability after dissolution of general partner and person dissociated as general partner to limited partnership, other general partners, and persons dissociated as general partner.

(a) If a general partner having knowledge of the dissolution causes a limited partnership to incur an obligation under § 29-708.04(a) by an act that is not appropriate for winding up the partnership's activities, the general partner shall be liable:

(1) To the limited partnership for any damage caused to the limited partnership arising from the obligation; and

(2) If another general partner or a person dissociated as a general partner is liable for the obligation, to that other general partner or person for any damage caused to that other general partner or person arising from the liability.

(b) If a person dissociated as a general partner causes a limited partnership to incur an obligation under § 29-708.04(b), the person shall be liable:

(1) To the limited partnership for any damage caused to the limited partnership arising from the obligation; and

(2) If a general partner or another person dissociated as a general partner is liable for the obligation, to the general partner or other person for any damage caused to the general partner or other person arising from the liability.

§ 29-708.06. Known claims against dissolved limited partnership.

(a) A dissolved limited partnership may dispose of the known claims against it by following the procedure described in subsection (b) of this section.

(b) A dissolved limited partnership may notify its known claimants of the dissolution in a record. The notice shall:

(1) Specify the information required to be included in a claim;

(2) Provide a mailing address to which the claim is to be sent;

(3) State the deadline for receipt of the claim, which may not be less than 120 days after the date the notice is received by the claimant;

(4) State that the claim will be barred if not received by the deadline; and

(5) Unless the limited partnership has been throughout its existence a limited liability limited partnership, state that the barring of a claim against the limited partnership will also bar any corresponding claim against any general partner or person dissociated as a general partner which is based on § 29-704.04.

(c) A claim against a dissolved limited partnership shall be barred if the requirements of subsection (b) of this section are met and:

(1) The claim is not received by the specified deadline; or

(2) In the case of a claim that is timely received but rejected by the dissolved limited partnership, the claimant does not commence an action to enforce the claim against the limited partnership within 90 days after the receipt of the notice of the rejection.

(d) This section shall not apply to a claim based on an event occurring after the effective date of dissolution or a liability that is contingent on that date.

§ 29-708.07. Other claims against dissolved limited partnership.

(a) A dissolved limited partnership may publish notice of its dissolution and request persons having claims against the limited partnership to present them in accordance with the notice.

(b) The notice shall:

(1) Be published at least once in a newspaper of general circulation in the District;

(2) Describe the information required to be contained in a claim and provide a mailing address to which the claim is to be sent;

(3) State that a claim against the limited partnership is barred unless an action to enforce the claim is commenced within 3 years after publication of the notice; and

(4) Unless the limited partnership has been throughout its existence a limited liability limited partnership, state that the barring of a claim against the limited partnership will also bar any corresponding claim against any general partner or person dissociated as a general partner which is based on § 29-704.04.

(c) If a dissolved limited partnership publishes a notice in accordance with subsection (b) of this section, the claim of each of the following claimants shall be barred unless the claimant commences an action to enforce the claim against the dissolved limited partnership within 3 years after the publication date of the notice:

(1) A claimant that did not receive notice in a record under § 29-708.06;

(2) A claimant whose claim was timely sent to the dissolved limited partnership but not acted on; and

(3) A claimant whose claim is contingent or based on an event occurring after the effective date of dissolution.

(d) A claim not barred under this section may be enforced:

(1) Against the dissolved limited partnership, to the extent of its undistributed assets;

(2) If the assets have been distributed in liquidation, against a partner or transferee to the extent of that person's proportionate share of the claim or the limited partnership's assets distributed to the partner or transferee in liquidation, whichever is less, but a person's total liability for all claims under this paragraph shall not exceed the total amount of assets distributed to the person as part of the winding up of the dissolved limited partnership; or

(3) Against any person liable on the claim under § 29-704.04.

§ 29-708.08. Liability of general partner and person dissociated as general partner when claim against limited partnership barred.

If a claim against a dissolved limited partnership is barred under § 29-708.06 or § 29-708.07, any corresponding claim under § 29-704.04 shall also be barred.

§ 29-708.09. Disposition of assets; when contributions required.

(a) In winding up a limited partnership's activities, the assets of the limited partnership, including the contributions required by this section, shall be applied to satisfy the limited partnership's obligations to creditors, including, to the extent permitted by law, partners that are creditors.

(b) Any surplus remaining after the limited partnership complies with subsection (a) of this section shall be paid in cash as a distribution.

(c) If a limited partnership's assets are insufficient to satisfy all of its obligations under subsection (a) of this section, with respect to each unsatisfied obligation incurred when the limited partnership was not a limited liability limited partnership, the following rules apply:

(1) Each person that was a general partner when the obligation was incurred and that has not been released from the obligation under § 29-706.07 shall contribute to the limited partnership for the purpose of enabling the limited partnership to satisfy the obligation. The contribution due from each of those persons shall be in proportion to the right to receive distributions in the capacity of general partner in effect for each of those persons when the obligation was incurred.

(2) If a person does not contribute the full amount required under paragraph (1) of this subsection with respect to an unsatisfied obligation of the limited partnership, the other persons required to contribute by paragraph (1) of this subsection on account of the obligation shall contribute the additional amount necessary to discharge the obligation. The additional contribution due from each of those other persons shall be in proportion to the right to receive distributions in the capacity of general partner in effect for each of those other persons when the obligation was incurred.

(3) If a person does not make the additional contribution required by paragraph (2), further additional contributions shall be determined and due in the same manner as provided in that paragraph.

(d) A person that makes an additional contribution under subsection (c)(2) or (3) of this

section may recover from any person whose failure to contribute under subsection (c)(1) or (2) of this section necessitated the additional contribution. A person shall not recover under this subsection more than the amount additionally contributed. A person's liability under this subsection shall not exceed the amount the person failed to contribute.

(e) The estate of a deceased individual shall be liable for the person's obligations under this section.

(f) An assignee for the benefit of creditors of a limited partnership or a partner, or a person appointed by a court to represent creditors of a limited partnership or a partner, may enforce a person's obligation to contribute under subsection (c) of this section.

Subchapter IX. Actions by Partners.

§ 29-709.01. Direct action by partner.

(a) Subject to subsection (b) of this section, a partner may maintain a direct action in the Superior Court against the limited partnership or another partner for legal or equitable relief, with or without an accounting as to the partnership's activities, to enforce the rights and otherwise protect the interests of the partner, including rights and interests under the partnership agreement or this chapter or arising independently of the partnership relationship.

(b) A partner commencing a direct action under this section shall be required to plead and prove an actual or threatened injury that is not solely the result of an injury suffered or threatened to be suffered by the limited partnership.

(c) The accrual of, and any time limitation on, a right of action for a remedy under this section shall be governed by other law. A right to an accounting upon a dissolution and winding up shall not revive a claim barred by law.

§ 29-709.02. Derivative action.

A partner may maintain a derivative action in the Superior Court to enforce a right of a limited partnership if:

(1) The partner first makes a demand on the general partners, requesting that they cause the limited partnership to bring an action to enforce the right, and the general partners do not bring the action within a reasonable time; or

(2) A demand would be futile.

§ 29-709.03. Proper plaintiff.

A derivative action shall be maintained only by a person that is a partner at the time the action is commenced and:

(1) That was a partner when the conduct giving rise to the action occurred; or

(2) Whose status as a partner devolved upon the person by operation of law or pursuant to the terms of the partnership agreement from a person that was a partner at the time of the conduct.

§ 29-709.04. Pleading.

In a derivative action, the complaint shall state with particularity:

(1) The date and content of plaintiff's demand and the general partners' response to the demand; or

(2) Why demand should be excused as futile.

§ 29-709.05. Proceeds and expenses.

(a) Except as otherwise provided in subsection (b) of this section:

(1) Any proceeds or other benefits of a derivative action, whether by judgment, compromise, or settlement, shall belong to the limited partnership and not to the derivative plaintiff;

(2) If the derivative plaintiff receives any proceeds, the derivative plaintiff shall immediately remit them to the limited partnership.

(b) If a derivative action is successful in whole or in part, the Superior Court may award the plaintiff reasonable expenses, including reasonable attorneys' fees, from the recovery of the limited partnership.

Subchapter X. Merger.

§ 29-710.01. Definitions.

For the purposes of this subchapter, the term:

(1) "Constituent limited partnership" means a domestic or foreign limited partnership that is a party to a merger.

(2) "Governing statute" of a domestic or foreign limited partnership means the statute that governs the partnership's internal affairs.

(3) "Personal liability" means personal liability for a debt, liability, or other obligation of a limited partnership which is imposed on a person that co-owns, has an interest in, or is a member of the limited partnership by the limited partnership's:

(A) Governing statute solely by reason of the person co-owning, having an interest in, or being a member of the limited partnership; or

(B) Certificate of limited partnership and partnership agreement under a provision of the limited partnership's governing statute authorizing those documents to make one or more specified persons liable for all or specified debts, liabilities, and other obligations of the limited partnership solely by reason of the person or persons co-owning, having an interest in, or being a member of the limited partnership.

(4) "Surviving limited partnership" means a domestic or foreign limited partnership into which one or more other domestic or foreign limited partnerships are merged. A surviving limited partnership may preexist the merger or be created by the merger.

§ 29-710.02. Merger.

(a) A limited partnership may merge with one or more other domestic or foreign limited partnerships and 2 or more foreign limited partnerships may merge into a domestic limited partnership pursuant to this section, §§ 29-710.03 through 29-710.05, and a plan of merger, if:

(1) The governing statute of each of the other constituent limited partnerships authorizes the merger; and

(2) Each of the other constituent limited partnerships complies with its governing statute in effecting the merger.

(b) A plan of merger shall be in a record and shall include:

(1) The name of each constituent limited partnership;

(2) The name of the surviving limited partnership and, if the surviving limited partnership is to be created by the merger, a statement to that effect;

(3) The terms and conditions of the merger, including the manner and basis for converting the interests in each constituent limited partnership into any combination of money, interests in the surviving limited partnership, interests in any other organization, and other consideration;

(4) If the surviving limited partnership is to be created by the merger, the certificate of limited partnership and partnership agreement of the surviving limited partnership; and

(5) If the surviving limited partnership is not to be created by the merger, any amendments to be made by the merger to the certificate of limited partnership and partnership agreement of the surviving limited partnership.

(c) A merger in which a limited partnership and another form of entity are parties shall be governed by Chapter 2 of this title.

§ 29-710.03. Action on plan of merger by constituent limited partnership.

(a) Subject to § 29-710.06, a plan of merger shall be consented to by all the partners of a constituent limited partnership.

(b) Subject to § 29-710.06 and any contractual rights, after a merger is approved, and at any time before a filing is made under § 29-710.04, a constituent limited partnership may amend the plan or abandon the planned merger:

(1) As provided in the plan; and

(2) Except as prohibited by the plan, with the same consent as was required to approve the plan.

§ 29-710.04. Filings required for merger; effective date.

(a) After each constituent limited partnership has approved a merger, articles of merger shall be signed on behalf of each preexisting:

(1) Domestic limited partnership, by each general partner listed in the certificate

of limited partnership; and

(2) Foreign limited partnership, by an authorized representative.

(b) The articles of merger shall include:

(1) The name of each constituent limited partnership and the jurisdiction of its governing statute;

(2) The name of the surviving limited partnership, the jurisdiction of its governing statute, and, if the surviving limited partnership is created by the merger, a statement to that effect;

(3) The date the merger is effective under the governing statute of the surviving limited partnership;

(4) If the surviving limited partnership is to be created by the merger, its certificate of limited partnership;

(5) If the surviving limited partnership preexists the merger, any amendments provided for in the plan of merger to its certificate of limited partnership;

(6) A statement as to each constituent limited partnership that the merger was approved as required by the limited partnership's governing statute;

(7) If the surviving limited partnership is a foreign limited partnership not authorized to do business in the District, the street and mailing address of an office which the Mayor may use for the purposes of § 29-710.05(b); and

(8) Any additional information required by the governing statute of any constituent limited partnership.

(c) Each constituent limited partnership shall deliver the articles of merger for filing with the Mayor.

(d) A merger shall be effective under this subchapter upon the later of:

(1) Compliance with subsection (c) of this section; or

(2) Subject to subchapter II of Chapter 2 of this title, as specified in the articles of merger.

§ 29-710.05. Effect of merger.

(a) When a merger becomes effective:

(1) The surviving limited partnership shall continue or come into existence;

(2) Each constituent limited partnership that merges into the surviving limited partnership shall cease to exist as a separate entity;

(3) All property owned by each constituent limited partnership that ceases to exist shall vest in the surviving limited partnership;

(4) All debts, liabilities, and other obligations of each constituent limited partnership that ceases to exist shall be the obligations of the surviving limited partnership;

(5) An action or proceeding pending by or against any constituent limited partnership that ceases to exist may be continued as if the merger had not occurred;

(6) Except as prohibited by other law, all of the rights, privileges, immunities, powers, and purposes of each constituent limited partnership that ceases to exist shall vest in the surviving limited partnership;

(7) Except as otherwise provided in the plan of merger, the terms and conditions of the plan of merger shall take effect;

(8) Except as otherwise agreed, if a constituent limited partnership ceases to exist, the merger shall not dissolve the limited partnership for the purposes of subchapter VIII of this chapter;

(9) If the surviving limited partnership is created by the merger, its certificate of limited partnership shall become effective; and

(10) If the surviving limited partnership preexists the merger, any amendments provided for in the articles of merger to its certificate of limited partnership and partnership agreement shall become effective.

(b) A surviving limited partnership that is a foreign limited partnership consents to the jurisdiction of the Superior Court to enforce any obligation owed by a constituent limited partnership, if before the conversion the constituent limited partnership was subject to suit in the District on that obligation. A surviving limited partnership that is a foreign limited partnership and not authorized to do business in the District may be served with process at the address required in the articles of merger under § 29-710.04(b)(7).

§ 29-710.06. Restrictions on approval of mergers and on relinquishing limited liability limited partnership status.

(a) If a partner of a constituent limited partnership will have personal liability with respect to any organization as a result of a merger, approval and amendment of a plan of merger shall be ineffective without the consent of that partner, unless:

(1) The limited partnership's partnership agreement provides for the approval of the merger with the consent of less than all the partners; and

(2) The partner has consented to the provision of the partnership agreement.

(b) An amendment to a certificate of limited partnership which deletes a statement that the limited partnership is a limited liability limited partnership shall be ineffective without the consent of each general partner unless:

(1) The limited partnership's partnership agreement provides for the amendment with the consent of less than all the general partners; and

(2) Each general partner that does not consent to the amendment has consented to the provision of the partnership agreement.

(c) A partner shall not give the consent required by subsection (a) or (b) of this section merely by consenting to a provision of the partnership agreement which permits the partnership agreement to be amended with the consent of fewer than all the partners.

§ 29-710.07. Liability of general partner after merger.

(a) A merger under this article shall not discharge any liability under §§ 29-704.04 and 29-706.07 of a person that was a general partner in or dissociated as a general partner from a constituent limited partnership, but:

(1) The provisions of this chapter pertaining to the collection or discharge of that liability shall continue to apply to that liability;

(2) For the purposes of applying those provisions, the surviving limited partnership shall be deemed to be the constituent limited partnership; and

(3) If a person is required to pay any amount under this subsection:

(A) The person shall have a right of contribution from each other person that was liable as a general partner under § 29-704.04 when the obligation was incurred and has not been released from the obligation under § 29-706.07; and

(B) The contribution due from each of those persons shall be in proportion to the right to receive distributions in the capacity of general partner in effect for each of those persons when the obligation was incurred.

(b) In addition to any other liability provided by law:

(1) A person that immediately before a merger became effective was a general partner in a constituent limited partnership that was not a limited liability limited partnership shall be personally liable for each obligation of the surviving limited partnership arising from a transaction with a third party after the merger becomes effective if, at the time the third party enters into the transaction, the third party:

(A) Does not have notice of the merger; and

(B) Reasonably believes that:

(i) The surviving business is the constituent limited partnership;

(ii) The constituent limited partnership is not a limited liability limited partnership; and

(iii) The person is a general partner in the constituent limited partnership; and

(2) A person that was dissociated as a general partner from a constituent limited partnership before the merger became effective shall be personally liable for each obligation of the surviving limited partnership arising from a transaction with a third party after the merger becomes effective if:

(A) Immediately before the merger became effective, the surviving limited partnership was not a limited liability limited partnership; and

(B) At the time the third party enters into the transaction, less than 2 years have passed since the person dissociated as a general partner and the third party:

(i) Does not have notice of the dissociation;

(ii) Does not have notice of the merger; and

(iii) Reasonably believes that the surviving limited partnership is

the constituent limited partnership, the constituent limited partnership is not a limited liability limited partnership, and the person is a general partner in the constituent limited partnership.

§ 29-710.08. Power of general partners and persons dissociated as general partners to bind limited partnership after merger.

(a) An act of a person that immediately before a merger became effective was a general partner in a constituent limited partnership shall bind the surviving limited partnership after the merger becomes effective if:

(1) Before the merger became effective, the act would have bound the constituent limited partnership under § 29-704.02; and

(2) At the time the third party enters into the transaction, the third party:

(A) Does not have notice of the merger; and

(B) Reasonably believes that the surviving business is the constituent limited partnership and that the person is a general partner in the constituent limited partnership.

(b) An act of a person that before a merger became effective was dissociated as a general partner from a constituent limited partnership shall bind the surviving limited partnership after the merger becomes effective if:

(1) Before the merger became effective, the act would have bound the constituent limited partnership under § 29-704.02 if the person had been a general partner; and

(2) At the time the third party enters into the transaction, less than 2 years have passed since the person dissociated as a general partner and the third party:

(A) Does not have notice of the dissociation;

(B) Does not have notice of the merger; and

(C) Reasonably believes that the surviving limited partnership is the constituent limited partnership and that the person is a general partner in the constituent limited partnership.

(c) If a person having knowledge of the merger causes a surviving limited partnership to incur an obligation under subsection (a) or (b) of this section, the person shall be liable:

(1) To the surviving limited partnership for any damage caused to the surviving limited partnership arising from the obligation; and

(2) If another person is liable for the obligation, to that other person for any damage caused to that other person arising from that liability.

Subchapter XI. Transition Provisions.

§ 29-711.01. Application to existing relationships.

(a) Before one year after the applicability date of this chapter, this chapter shall govern only:

(1) A limited partnership formed on or after the applicability date of this chapter; and

(2) Except as otherwise provided in subsections (c) and (d) of this section, a limited partnership formed before the applicability date of this chapter which elects, in the manner provided in its partnership agreement or by law for amending the partnership agreement, to be subject to this chapter.

(b) Except as otherwise provided in subsection (c) of this section, on and after one year after applicability date of this chapter, this chapter shall govern all limited partnerships.

(c) With respect to a limited partnership formed before the applicability date of this chapter, the following rules apply except as the partners otherwise elect in the manner provided in the partnership agreement or by law for amending the partnership agreement:

(1) Section 29-701.04(c) shall not apply and the limited partnership has whatever duration it had under the law applicable immediately before the applicability date of this chapter.

(2) The limited partnership shall not be required to amend its certificate of limited partnership to comply with § 29-702.01(a)(4).

(3) Sections 29-706.01 and 29-706.02 shall not apply and a limited partner has the same right and power to dissociate from the limited partnership, with the same consequences, as existed immediately before the applicability date of this chapter.

(4) Section 29-706.03(4) shall not apply.

(5) Section 29-706.03(5) shall not apply and a court shall have the same power to expel a general partner as the court had immediately before the applicability date of this chapter.

(6) Section 29-708.01(3) shall not apply and the connection between a person's dissociation as a general partner and the dissolution of the limited partnership shall be the same as existed immediately before the applicability date of this chapter.

(d) With respect to a limited partnership that elects pursuant to subsection (a)(2) of this section to be subject to this chapter, after the election takes effect, the provisions of this chapter relating to the liability of the limited partnership's general partners to third parties shall apply:

(1) Before one year after the applicability date of this chapter, to:

(A) A third party that had not done business with the limited partnership in the year before the election took effect; and

(B) A third party that had done business with the limited partnership in the year before the election took effect only if the third party knows or has received a notification of the election; and

(2) On and after one year after applicability date of this chapter, to all third parties, but those provisions shall remain inapplicable to any obligation incurred while those provisions were inapplicable under paragraph (1)(B) of this subsection.

CHAPTER 8. LIMITED LIABILITY COMPANIES.

Section

Subchapter I. General Provisions.

29-801.01. Short title.
29-801.02. Definitions.
29-801.03. Knowledge; notice.
29-801.04. Nature, purpose, and duration of limited liability company.
29-801.05. Powers.
29-801.06. Governing law.
29-801.07. Operating agreement; scope, function, and limitations.
29-801.08. Operating agreement; effect on limited liability company and persons becoming members; preformation agreement.
29-801.09. Operating agreement; effect on third parties and relationship to records effective on behalf of limited liability company.

Subchapter II. Formation; Certificate of Organization, and Other Filings.

29-802.01. Formation of limited liability company; certificate of organization.
29-802.02. Amendment or restatement of certificate of organization.
29-802.03. Signing of records to be delivered for filing to Mayor.
29-802.04. Signing and filing pursuant to judicial order.
29-802.05. Liability for inaccurate information in filed record.
29-802.06. Series of members, managers, or interests of limited liability company.

Subchapter III. Relations of Members and Managers to Persons Dealing with Limited Liability Company.

29-803.01. No agency power of member as member.
29-803.02. Statement of authority.
29-803.03. Statement of denial.
29-803.04. Liability of members and managers.

Subchapter IV. Relations of Members to Each Other and to Limited Liability Company.

29-804.01. Becoming member.
29-804.02. Form of contribution.
29-804.03. Liability for contributions.
29-804.04. Sharing of and right to distributions before dissolution.
29-804.05. Limitations on distribution.
29-804.06. Liability for improper distributions.
29-804.07. Management of limited liability company.
29-804.08. Indemnification and insurance.
29-804.09. Standards of conduct for members and managers.
29-804.10. Right of members, managers, and dissociated members to information.

Subchapter V. Transferable Interests and Rights of Transferees and Creditors.
29-805.01. Nature of transferable interest.
29-805.02. Transfer of transferable interest.
29-805.03. Charging order.
29-805.04. Power of personal representative of deceased member.
Subchapter VI. Member's Dissociation.
29-806.01. Member's power to dissociate; wrongful dissociation.
29-806.02. Events causing dissociation.
29-806.03. Effect of person's dissociation as member.
Subchapter VII. Dissolution and Winding up.
29-807.01. Events causing dissolution.
29-807.02. Winding up.
29-807.03. Known claims against dissolved limited liability company.
29-807.04. Other claims against dissolved limited liability company.
29-807.05. Distribution of assets in winding up limited liability company's activities.
Subchapter VIII. Actions by Members.
29-808.01. Direct action by member.
29-808.02. Derivative action.
29-808.03. Proper plaintiff.
29-808.04. Pleading.
29-808.05. Special litigation committee.
29-808.06. Proceeds and expenses.
Subchapter IX. Merger and Domestication.
29-809.01. Definitions.
29-809.02. Merger.
29-809.03. Action on plan of merger by constituent limited liability company.
29-809.04. Filings required for merger; effective date.
29-809.05. Effect of merger.
29-809.06. Domestication.
29-809.07. Action on plan of domestication by domesticating limited liability company.
29-809.08. Filings required for domestication; effective date.
29-809.09. Effect of domestication.
29-809.10. Restrictions on approval of mergers and domestications.
29-809.11. Subchapter not exclusive.
Subchapter X. Transition Provisions.
29-810.01. Application to existing relationships.

CHAPTER 8. LIMITED LIABILITY COMPANIES.

Subchapter I. General Provisions.

§ 29-801.01. Short title.

This chapter may be cited as the "Uniform Limited Liability Company Act of 2010".

§ 29-801.02. Definitions.

For the purposes of this chapter, the term:

(1) "Certificate of organization" means the certificate required by § 29-802.01. The term "certificate of organization" shall include the certificate as amended or restated.

(2) "Contribution" means any benefit provided by a person to a limited liability company:

(A) To become a member upon formation of the company and in accordance with an agreement between or among the persons that have agreed to become the initial members of the company;

(B) To become a member after formation of the company and in accordance with an agreement between the person and the company; or

(C) In the person's capacity as a member and in accordance with the operating agreement or an agreement between the member and the company.

(3) "Distribution", except as otherwise provided in § 29-804.05(g), means a transfer of money or other property from a limited liability company to another person on account of a transferable interest.

(4) "Effective", with respect to a record required or permitted to be delivered to the Mayor for filing under this chapter, means effective under § 29-102.03.

(5) "Foreign limited liability company" means an unincorporated entity formed under the law of a jurisdiction other than the District and denominated by that law as a limited liability company.

(6) "Manager" means a person that under the operating agreement of a manager-managed limited liability company is responsible, alone or in concert with others, for performing the management functions stated in § 29-804.07(c).

(7) "Manager-managed limited liability company" means a limited liability company that qualifies under § 29-804.07(a).

(8) "Member" means a person that has become a member of a limited liability company under § 29-804.01 and has not dissociated under § 29-806.02.

(9) "Member-managed limited liability company" means a limited liability company that is not a manager-managed limited liability company.

(10) "Operating agreement" means the agreement, whether or not referred to as an operating agreement and whether oral, in a record, implied, or in any combination thereof, of all the members of a limited liability company, including a sole member, concerning the matters described in § 29-801.07. The term includes the agreement as amended or restated.

(11) "Organizer" means a person that acts under § 29-802.01 to form a limited liability company.

(12) "Transferee" means a person to which all or part of a transferable interest has been transferred, whether or not the transferor is a member.

§ 29-801.03. Knowledge; notice.

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

(1) Has actual knowledge of it; or

(2) Is deemed to know it under subsection (d)(1) of this section or law other than this chapter.

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

(1) Has reason to know the fact from all of the facts known to the person at the time in question; or

(2) Is deemed to have notice of the fact under subsection (d)(2) of this section;

(c) A person notifies another of a fact by taking steps reasonably required to inform the other person in ordinary course, whether or not the other person knows the fact.

(d) A person that is not a member shall be deemed to:

(1) Know of a limitation on authority to transfer real property as provided in § 29-803.02(g); and

(2) Have notice of a limited liability company's:

(A) Dissolution, 90 days after a statement of dissolution under § 29-807.02(b)(2)(A) becomes effective;

(B) Termination, 90 days after a statement of termination § 29-807.02(b)(2)(F) becomes effective; and

(C) Merger or domestication, 90 days after articles of merger or domestication under subchapter IX of this chapter becomes effective.

§ 29-801.04. Nature, purpose, and duration of limited liability company.

(a) A limited liability company is an entity distinct from its members.

(b) A limited liability company may have any lawful purpose, regardless of whether for profit.

(c) A limited liability company shall have perpetual duration.

§ 29-801.05. Powers.

A limited liability company shall have the capacity to sue and be sued in its own name and the power to do all things necessary or convenient to carry on its activities.

§ 29-801.06. Governing law.

The law of the District shall govern:

(1) The internal affairs of a limited liability company; and

(2) The liability of a member as member and a manager as manager for the debts, obligations, or other liabilities of a limited liability company.

§ 29-801.07. Operating agreement; scope, function, and limitations.

(a) Except as otherwise provided in subsections (b) and (c) of this section, the operating agreement shall govern:

(1) Relations among the members as members and between the members and the limited liability company;

(2) The rights and duties under this chapter of a person in the capacity of manager;

(3) The activities of the company and the conduct of those activities; and

(4) The means and conditions for amending the operating agreement.

(b) To the extent the operating agreement does not otherwise provide for a matter described in subsection (a) of this section, this chapter shall govern the matter.

(c) An operating agreement shall not:

(1) Vary a limited liability company's capacity under § 29-801.05 to sue and be sued in its own name;

(2) Vary the law applicable under § 29-801.06;

(3) Vary the power of the court under § 29-802.04;

(4) Subject to subsections (d) through (g) of this section, eliminate the duty of loyalty, the duty of care, or any other fiduciary duty;

(5) Subject to subsections (d) through (g) of this section, eliminate the contractual obligation of good faith and fair dealing under § 29-804.09(d);

(6) Unreasonably restrict the duties and rights stated in § 29-804.10;

(7) Vary the power of a court to decree dissolution in the circumstances specified in § 29-807.01(a)(4) and (5);

(8) Vary the requirement to wind up a limited liability company's business as specified in § 29-807.02(a) and (b)(1);

(9) Unreasonably restrict the right of a member to maintain an action under Subchapter 8 of this chapter;

(10) Restrict the right to approve a merger or domestication under § 29-809.10 or Chapter 2 of this title of a member that will have personal liability with respect to a surviving, converted, or domesticated organization; or

(11) Except as otherwise provided in § 29-801.09(b), restrict the rights under this chapter of a person other than a member or manager.

(d) If not manifestly unreasonable, the operating agreement may:

(1) Restrict or eliminate the duty:

(A) As required in § 29-804.09(b)(1) and (g), to account to the limited liability company and to hold as trustee for it any property, profit, or benefit derived by the member in the conduct or winding up of the company's business, from a use by the member of the company's property, or from the appropriation of a limited liability company opportunity;

(B) As required in § 29-804.09(b)(2) and (g), to refrain from dealing with the company in the conduct or winding up of the company's business as or on behalf of a party having an interest adverse to the company; and

(C) As required by § 29-804.09(b)(3) and (g), to refrain from competing with the company in the conduct of the company's business before the dissolution of the company;

(2) Identify specific types or categories of activities that do not violate the duty of loyalty;

(3) Alter the duty of care, except to authorize intentional misconduct or knowing violation of law;

(4) Alter any other fiduciary duty, including eliminating particular aspects of that duty; and

(5) Prescribe the standards by which to measure the performance of the contractual obligation of good faith and fair dealing under § 29-804.09(d).

(e) The operating agreement may specify the method by which a specific act or transaction that would otherwise violate the duty of loyalty may be authorized or ratified by one or more disinterested and independent persons after full disclosure of all material facts.

(f) To the extent the operating agreement of a member-managed limited liability company expressly relieves a member of a responsibility that the member would otherwise have under this chapter and imposes the responsibility on one or more other members, the operating agreement may, to the benefit of the member that the operating agreement relieves of the responsibility, also eliminate or limit any fiduciary duty that would have pertained to the responsibility.

(g) The operating agreement may alter or eliminate the indemnification for a member or manager provided by § 29-804.08(a) and may eliminate or limit a member or manager's liability to the limited liability company and members for money damages, except for:

(1) Breach of the duty of loyalty;

(2) A financial benefit received by the member or manager to which the member or manager is not entitled;

(3) A breach of a duty under § 29-804.06;

(4) Intentional infliction of harm on the company or a member; or

(5) An intentional violation of criminal law.

(h) The Superior Court shall decide any claim under subsection (d) of this section that a term of an operating agreement is manifestly unreasonable. The court:

(1) Shall make its determination as of the time the challenged term became part of the operating agreement and by considering only circumstances existing at that time; and

(2) May invalidate the term only if, in light of the purposes and activities of the limited liability company, it is readily apparent that:

(A) The objective of the term is unreasonable; or

(B) The term is an unreasonable means to achieve the provision's objective.

§ 29-801.08. Operating agreement; effect on limited liability company and persons becoming members; preformation agreement.

(a) A limited liability company shall be bound by, and may enforce, the operating agreement, whether or not the company has itself manifested assent to the operating agreement.

(b) A person that becomes a member of a limited liability company shall be deemed to assent to the operating agreement.

(c) Two or more persons intending to become the initial members of a limited liability company may make an agreement providing that upon the formation of the company the agreement will become the operating agreement. One person intending to become the initial member of a limited liability company may assent to terms providing that, upon the formation of the company, the terms will become the operating agreement.

§ 29-801.09. Operating agreement; effect on third parties and relationship to records effective on behalf of limited liability company.

(a) An operating agreement may specify that its amendment requires the approval of a person that is not a party to the operating agreement or the satisfaction of a condition. An amendment shall be ineffective if its adoption does not include the required approval or satisfy the specified condition.

(b) The obligations of a limited liability company and its members to a person in the person's capacity as a transferee or dissociated member shall be governed by the operating agreement. Subject only to any court order issued under § 29-805.03(b)(2) to effectuate a charging order, an amendment to the operating agreement made after a person becomes a transferee or dissociated member shall be effective with regard to any debt, obligation, or other liability of the limited liability company or its members to the person in the person's capacity as a transferee or dissociated member.

(c) If a record that has been delivered by a limited liability company to the Mayor for filing and has become effective under this chapter contains a provision that would be ineffective under § 29-801.07(c) if contained in the operating agreement, the provision shall likewise be ineffective in the record.

(d) Subject to subsection (c) of this section, if a record that has been delivered by a limited liability company to the Mayor for filing and has become effective under this chapter conflicts with a provision of the operating agreement:

(1) The operating agreement shall prevail as to members, dissociated members,

transferees, and managers; and

(2) The record shall prevail as to other persons to the extent they reasonably rely on the record.

Subchapter II. Formation; Certificate of Organization, and Other Filings.

§ 29-802.01. Formation of limited liability company; certificate of organization.

(a) One or more persons may act as organizers to form a limited liability company by signing and delivering to the Mayor for filing a certificate of organization.

(b) A certificate of organization shall state:

(1) The name of the limited liability company, which shall comply with §§ 29-103.01 and 29-103.02(f);

(2) The street and mailing addresses of the initial principal office and the name and street and information required by § 29-104.04; and

(3) If the company will have one or more series that is treated as a separate entity which limits the debts, obligations, and other liabilities to the assets of a particular series as provided in the operating agreement as authorized by § 29-802.06, a statement to that effect.

(c) Subject to § 29-801.09(c), a certificate of organization may also contain statements as to matters other than those required by subsection (b) of this subsection. However, a statement in a certificate of organization shall not be effective as a statement of authority.

(d) Unless the filed certificate of organization contains the statement as provided in subsection (b)(3) of this subsection, the following rules shall apply:

(1) A limited liability company shall be formed when the Mayor has filed the certificate of organization and the company has at least one member, unless the certificate states a delayed effective date pursuant to § 29-102.03.

(2) If the certificate states a delayed effective date, a limited liability company shall not be formed if, before the certificate takes effect, a statement of cancellation is signed and delivered to the Mayor for filing and the Mayor files the certificate.

(3) Subject to any delayed effective date and except in a proceeding by the District to dissolve a limited liability company, the filing of the certificate of organization by the Mayor shall be conclusive proof that the organizer satisfied all conditions to the formation of a limited liability company.

(e) If a filed certificate of organization contains a statement as provided in subsection (b)(3) of this section, the following rules shall apply:

(1) The certificate shall lapse and be void unless, within 90 days from the date the Mayor files the certificate, an organizer signs and delivers to the Mayor for filing a notice stating:

(A) That the limited liability company has at least one member; and

(B) The date on which a person or persons became the company's initial member or members.

(2) If an organizer complies with paragraph (1) of this subsection, a limited

liability company shall be deemed formed as of the date of initial membership stated in the notice delivered pursuant to paragraph (1) of this subsection.

(3) Except in a proceeding by the District to dissolve a limited liability company, the filing of the notice described in paragraph (1) of this subsection by the Mayor shall be conclusive proof that the organizer satisfied all conditions to the formation of a limited liability company.

§ 29-802.02. Amendment or restatement of certificate of organization.

(a) A certificate of organization may be amended or restated at any time.

(b) To amend its certificate of organization, a limited liability company shall deliver to the Mayor for filing an amendment stating:

(1) The name of the company;

(2) The date of filing of its certificate of organization; and

(3) The changes the amendment makes to the certificate as most recently amended or restated.

(c) To restate its certificate of organization, a limited liability company shall deliver to the Mayor for filing a restatement, designated as such in its heading, stating:

(1) In the heading or an introductory paragraph, the company's present name and the date of the filing of the company's initial certificate of organization;

(2) If the company's name has been changed at any time since the company's formation, each of the company's former names; and

(3) The changes the restatement makes to the certificate as most recently amended or restated.

(d) Subject to §§ 29-801.09(c) and 29-802.05(c), an amendment to or restatement of a certificate of organization shall be effective when filed by the Mayor.

(e) If a member of a member-managed limited liability company, or a manager of a manager-managed limited liability company, knows that any information in a filed certificate of organization was inaccurate when the certificate was filed or has become inaccurate owing to changed circumstances, the member or manager shall promptly:

(1) Cause the certificate to be amended; or

(2) If appropriate, deliver to the Mayor for filing a statement of change under §§ 29-104.07 through 29-104.10 or a statement of correction under § 29-102.05.

(f) A limited liability company may amend its certificate of organization to delete the information required by § 29-802.01(b)(2) at any time after it has filed its first biennial report under § 29-102.11.

§ 29-802.03. Signing of records to be delivered for filing to Mayor.

(a) A record delivered to the Mayor for filing pursuant to this chapter must be signed as follows:

(1) Except as otherwise provided in paragraphs (2) through (4) of this subsection, a record signed on behalf of a limited liability company shall be signed by a person authorized by the company.

(2) A limited liability company's initial certificate of organization shall be signed by at least one person acting as an organizer.

(3) A notice under § 29-802.01(e)(1) shall be signed by an organizer.

(4) A record filed on behalf of a dissolved limited liability company that has no members shall be signed by the person winding up the company's activities under § 29-807.02(c) or a person appointed under § 29-807.02(d) to wind up those activities.

(5) A statement of cancellation under § 29-802.01(d)(2) shall be signed by each organizer that signed the initial certificate of organization, but a personal representative of a deceased or incompetent organizer may sign in the place of the decedent or incompetent.

(6) A statement of denial by a person under § 29-803.03 shall be signed by that person.

(7) Any other record shall be signed by the person on whose behalf the record is delivered to the Mayor.

(b) Any record filed under this chapter may be signed by an agent.

§ 29-802.04. Signing and filing pursuant to judicial order.

(a) If a person required by this chapter to sign a record or deliver a record to the Mayor for filing under this chapter does not do so, any other person that is aggrieved may petition the Superior Court to order:

(1) The person to sign the record;

(2) The person to deliver the record to the Mayor for filing; or

(3) The Mayor to file the record unsigned.

(b) If a petitioner under subsection (a) of this section is not the limited liability company or foreign limited liability company to which the record pertains, the petitioner shall make the company a party to the action.

§ 29-802.05. Liability for inaccurate information in filed record.

(a) If a record delivered to the Mayor for filing under this chapter and filed by the Mayor contains inaccurate information, a person that suffers a loss by reliance on the information may recover damages for the loss from:

(1) A person that signed the record, or caused another to sign it on the person's behalf, and knew the information to be inaccurate at the time the record was signed; and

(2) Subject to subsection (b) of this section, a member of a member-managed

limited liability company or the manager of a manager-managed limited liability company, if:

(A) The record was delivered for filing on behalf of the company; and

(B) The member or manager had notice of the inaccuracy for a reasonably sufficient time before the information was relied upon so that, before the reliance, the member or manager reasonably could have:

(i) Effected an amendment under § 29-802.02;

(ii) Filed a petition under § 29-802.04; or

(iii) Delivered to the Mayor for filing a statement of change under §§ 29-104.07 through 29-104.10 or a statement of correction under § 29-102.05.

(b) To the extent that the operating agreement of a member-managed limited liability company expressly relieves a member of responsibility for maintaining the accuracy of information contained in records delivered on behalf of the company to the Mayor for filing under this chapter and imposes that responsibility on one or more other members, the liability stated in subsection (a)(2) of this section shall apply to those other members and not to the member that the operating agreement relieves of the responsibility.

(c) An individual who signs a record authorized or required to be filed under this chapter affirms under penalty of perjury that the information stated in the record is accurate.

§ 29-802.06. Series of members, managers, or interests of limited liability company.

(a) The operating agreement may establish one or more designated series of members, managers, or interests of a limited liability company, in which the members, managers, or interest holders have separate rights, powers, or duties with respect to specified property or obligations of the limited liability company.

(b) The debts, obligations, and other liabilities of a series of a limited liability company, whether arising in contract, tort, or otherwise, shall be solely the debts, obligations, and liabilities of the series and not of the limited liability company generally or any other series thereof; provided, that:

(1) Separate and distinct records are maintained for the limited liability company and each series;

(2) Assets associated with the limited liability company and each series are held, directly or indirectly, including through a nominee or otherwise, and accounted for separately in the separate and distinct records;

(3) The certificate of organization states that the debts, obligations, and other liabilities of the series are limited as provided in this subsection; and

(4) The limited liability company has filed with the Mayor, and paid the requisite fee for, a certificate of series designation as provided in subsection (e) of this section for each series so designated whose debts, obligations, and other liabilities are limited under this subsection.

(c) A statement in the certificate or organization in compliance with subsection (b)(3) of

this section shall be notice of the limitation on liabilities of a series of a limited liability company and shall be sufficient for all purposes of subsection (b) of this section regardless of whether the limited liability company has established any series when such notice is included in the certificate or whether a series has any members.

(d) A certificate of series designation of a series of a limited liability company shall state:

(1) A different name for each series that contains the entire name of the limited liability company but otherwise complies with §§ 29-103.01 and 29-103.02(f); and

(2) A street and mailing address of the principal office and name and mailing address of a registered agent, if either is different from that specified for the limited liability company.

(e) A series of a limited liability company shall be formed when the Mayor files the certificate of series designation, unless the certificate states a delayed effective date, in which case it is formed as provided in § 29-802.01(d). The filing of the certificate by the Mayor is conclusive proof that a series has been formed.

(f) Upon the filing by the limited liability company of the report required by § 29-102.11, the Mayor shall furnish a certificate of good standing for a series of a limited liability company or a certificate of registration for a series of a foreign limited liability company.

(g) A series of a limited liability company shall be in good standing as long as the limited liability company is in good standing.

(h) The articles of organization may provide that a series be treated as a separate entity distinct from the limited liability company, other series of the limited liability company, or the members of the limited liability company.

(i) A series of a limited liability company may have any lawful purpose, regardless of whether for profit, or whether the purpose is different from that of the limited liability company or another series thereof.

(j) A series of a limited liability company shall have the capacity to sue and be sued in its own name and the power to do all things necessary or convenient to carry on its activities.

(k) The law of the District shall govern:

(1) The internal affairs of a series of a limited liability company; and

(2) The liability of a member or manager of a series as a member or manager of that series.

(l) Subject to § 29-804.07, the management of a series of a limited liability company shall be vested in the members collectively.

(m) The events causing dissociation of a member specified in § 29-806.02 shall be applied separately to a person that is a member in more than one series of a limited liability company or a member in the series and the limited liability company.

(n) Except as otherwise provided in § 29-807.01, a series of a limited liability company may be dissolved and wound up without causing the dissolution of the limited liability company or any other series thereof.

(o) A series of a limited liability company shall not engage in a transaction under subchapter IX of this chapter or Chapter 2 of this title independently of the limited liability company.

(p) The registered agent for the limited liability company shall be the registered agent for each series of the company.

(q) The management of a series of a limited liability company shall be governed by § 29-804.07.

(r) In all matters not otherwise specifically addressed in this section, this chapter shall govern a series as if the series of the limited liability company were a separate limited liability company formed under this chapter.

Subchapter III. Relations of Members and Managers to Persons Dealing with Limited Liability Company.

§ 29-803.01. No agency power of member as member.

(a) A member shall not be an agent of a limited liability company solely by reason of being a member.

(b) A person's status as a member shall not prevent or restrict law other than this chapter from imposing liability on a limited liability company because of the person's conduct.

§ 29-803.02. Statement of authority.

(a) A limited liability company may deliver to the Mayor for filing a statement of authority. The statement:

(1) Shall include the name of the company and the street and mailing addresses of its principal office;

(2) With respect to any position that exists in or with respect to the company, may state the authority, or limitations on the authority, of all persons holding the position to:

(A) Execute an instrument transferring real property held in the name of the company; or

(B) Enter into other transactions on behalf of, or otherwise act for or bind, the company; and

(3) May state the authority, or limitations on the authority, of a specific person to:

(A) Execute an instrument transferring real property held in the name of the company; or

(B) Enter into other transactions on behalf of, or otherwise act for or bind, the company.

(b) To amend or cancel a statement of authority filed by the Mayor under § 29-802.05(a), a limited liability company shall deliver to the Mayor for filing an amendment or cancellation stating:

(1) The name of the company;

(2) The street and mailing addresses of the company's principal office;

(3) The caption of the statement being amended or canceled and the date the statement being affected became effective; and

(4) The contents of the amendment or a declaration that the statement being affected is canceled.

(c) A statement of authority shall affect only the power of a person to bind a limited liability company to persons that are not members.

(d) Subject to subsection (c) of this section and § 29-801.03(d) and except as otherwise provided in subsections (f), (g), and (h) of this section, a limitation on the authority of a person or a position contained in an effective statement of authority shall not by itself evidence of knowledge or notice of the limitation by any person.

(e) Subject to subsection (c), a grant of authority not pertaining to transfers of real property and contained in an effective statement of authority shall be conclusive in favor of a person that gives value in reliance on the grant, except to the extent that when the person gives value:

(1) The person has knowledge to the contrary;

(2) The statement has been canceled or restrictively amended under subsection (b) of this section; or

(3) A limitation on the grant is contained in another statement of authority that became effective after the statement containing the grant became effective.

(f) Subject to subsection (c) of this section, an effective statement of authority that grants authority to transfer real property held in the name of the limited liability company and that is recorded by certified copy in the office for recording transfers of the real property shall be conclusive in favor of a person that gives value in reliance on the grant without knowledge to the contrary, except to the extent that when the person gives value:

(1) The statement has been canceled or restrictively amended under subsection (b) of this section and a certified copy of the cancellation or restrictive amendment has been recorded in the office for recording transfers of the real property; or

(2) A limitation on the grant is contained in another statement of authority that became effective after the statement containing the grant became effective and a certified copy of the later-effective statement is recorded in the office for recording transfers of the real property.

(g) Subject to subsection (c) of this section, if a certified copy of an effective statement containing a limitation on the authority to transfer real property held in the name of a limited liability company is recorded in the office for recording transfers of that real property, all persons shall be deemed to know of the limitation.

(h) Subject to subsection (i) of this section, an effective statement of dissolution or termination shall be a cancellation of any filed statement of authority for the purposes of subsection (f) of this section and shall be a limitation on authority for the purposes of subsection (g) of this section.

(i) After a statement of dissolution becomes effective, a limited liability company may deliver to the Mayor for filing and, if appropriate, may record a statement of authority that is designated as a post-dissolution statement of authority. The statement shall operate as provided in subsections (f) and (g) of this section.

(j) Unless earlier canceled, an effective statement of authority shall be canceled by operation of law 5 years after the date on which the statement, or its most recent amendment, becomes effective. This cancellation shall operate without need for any recording under subsection (f) or (g) of this section.

(k) An effective statement of denial shall operate as a restrictive amendment under this section and may be recorded by certified copy for the purposes of subsection (f)(1) of this section.

§ 29-803.03. Statement of denial.

A person named in a filed statement of authority granting that person authority may deliver to the Mayor for filing a statement of denial that:

(1) Provides the name of the limited liability company and the caption of the statement of authority to which the statement of denial pertains; and

(2) Denies the grant of authority.

§ 29-803.04. Liability of members and managers.

(a) The debts, obligations, or other liabilities of a limited liability company, whether arising in contract, tort, or otherwise shall:

(1) Be solely the debts, obligations, or other liabilities of the company; and

(2) Not become the debts, obligations, or other liabilities of a member or manager solely by reason of the member acting as a member or manager acting as a manager.

(b) The failure of a limited liability company to observe any particular formalities relating to the exercise of its powers or management of its activities shall not be a ground for imposing liability on the members or managers for the debts, obligations, or other liabilities of the company.

(c) With respect to members of professional limited liability companies, a member shall be personally liable and accountable only for any negligent or wrongful acts or misconduct committed by the member, or by any individual under the member's supervision and control in the rendering of professional service on behalf of a professional limited liability company organized under this chapter. A member of a professional limited liability company shall not be personally liable and accountable merely because of the member's membership interest in the professional limited liability company.

Subchapter IV. Relations of Members to Each Other and to Limited Liability Company.

§ 29-804.01. Becoming member.

(a) If a limited liability company is to have only one member upon formation, the person shall become a member as agreed by that person and the organizer of the company. That person and the organizer may be, but need not be, different persons. If different, the organizer shall act on behalf of the initial member.

(b) If a limited liability company is to have more than one member upon formation, those persons shall become members as agreed by the persons before the formation of the company. The organizer act on behalf of the persons in forming the company and may be, but need not be, one of the persons.

(c) After formation of a limited liability company, a person becomes a member:

(1) As provided in the operating agreement;

(2) As the result of a transaction effective under subchapter IX of this chapter or Chapter 2 of this title;

(3) With the consent of all the members; or

(4) If, within 90 consecutive days after the company ceases to have any members:

(A) The last person to have been a member, or the legal representative of that person, designates a person to become a member; and

(B) The designated person consents to become a member.

(d) A person may become a member without acquiring a transferable interest and without making or being obligated to make a contribution to the limited liability company.

§ 29-804.02. Form of contribution.

A contribution may consist of tangible or intangible property or other benefit to a limited liability company, including money, services performed, promissory notes, other agreements to contribute money or property, and contracts for services to be performed.

§ 29-804.03. Liability for contributions.

(a) A person's obligation to make a contribution to a limited liability company shall not be excused by the person's death, disability, or other inability to perform personally. If a person does not make a required contribution, the person or the person's estate shall be obligated to contribute money equal to the value of the part of the contribution which has not been made, at the option of the company.

(b) A creditor of a limited liability company which extends credit or otherwise acts in reliance on an obligation described in subsection (a) of this section may enforce the obligation.

§ 29-804.04. Sharing of and right to distributions before dissolution.

(a) Any distributions made by a limited liability company before its dissolution and winding up shall be in equal shares among members and dissociated members, except to the

extent necessary to comply with any transfer effective under § 29-805.02 and any charging order in effect under § 29-805.03.

(b) A person shall have a right to a distribution before the dissolution and winding up of a limited liability company only if the company decides to make an interim distribution. A person's dissociation shall not entitle the person to a distribution.

(c) A person shall not have a right to demand or receive a distribution from a limited liability company in any form other than money. Except as otherwise provided in § 29-807.05(c), a limited liability company may distribute an asset in kind if each part of the asset is fungible with each other part and each person receives a percentage of the asset equal in value to the person's share of distributions.

(d) If a member or transferee becomes entitled to receive a distribution, the member or transferee shall have the status of, and shall be entitled to all remedies available to, a creditor of the limited liability company with respect to the distribution.

§ 29-804.05. Limitations on distribution.

(a) A limited liability company shall not make a distribution if after the distribution:

(1) The company would not be able to pay its debts as they become due in the ordinary course of the company's activities; or

(2) The company's total assets would be less than the sum of its total liabilities plus the amount that would be needed, if the company were to be dissolved, wound up, and terminated at the time of the distribution, to satisfy the preferential rights upon dissolution, winding up, and termination of members whose preferential rights are superior to those of persons receiving the distribution.

(b) A limited liability company may base a determination that a distribution is not prohibited under subsection (a) of this section on financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances or on a fair valuation or other method that is reasonable under the circumstances.

(c) Except as otherwise provided in subsection (f) of this section, the effect of a distribution under subsection (a) of this section shall be measured:

(1) In the case of a distribution by purchase, redemption, or other acquisition of a transferable interest in the company, as of the date money or other property is transferred or debt incurred by the company; and

(2) In all other cases, as of the date:

(A) The distribution is authorized, if the payment occurs within 120 days after that date; or

(B) The payment is made, if the payment occurs more than 120 days after the distribution is authorized.

(d) A limited liability company's indebtedness to a member incurred by reason of a distribution made in accordance with this section shall be at parity with the company's

indebtedness to its general, unsecured creditors.

(e) A limited liability company's indebtedness, including indebtedness issued in connection with or as part of a distribution, shall not be a liability for purposes of subsection (a) of this section if the terms of the indebtedness provide that payment of principal and interest are made only to the extent that a distribution could be made to members under this section.

(f) If indebtedness is issued as a distribution, each payment of principal or interest on the indebtedness shall be treated as a distribution, the effect of which is measured on the date the payment is made.

(g) For the purposes of subsection (a) of this section, the term "distribution" shall not include amounts constituting reasonable compensation for present or past services or reasonable payments made in the ordinary course of business under a bona fide retirement plan or other benefits program.

§ 29-804.06. Liability for improper distributions.

(a) Except as otherwise provided in subsection (b) of this section, if a member of a member-managed limited liability company or manager of a manager-managed limited liability company consents to a distribution made in violation of § 29-804.05 and, in consenting to the distribution, fails to comply with § 29-804.09, the member or manager shall be personally liable to the company for the amount of the distribution that exceeds the amount that could have been distributed without the violation of § 29-804.05.

(b) To the extent the operating agreement of a member-managed limited liability company expressly relieves a member of the authority and responsibility to consent to distributions and imposes that authority and responsibility on one or more other members, the liability stated in subsection (a) of this section shall apply to the other members and not the member that the operating agreement relieves of authority and responsibility.

(c) A person that receives a distribution knowing that the distribution to that person was made in violation of § 29-804.05 shall be personally liable to the limited liability company but only to the extent that the distribution received by the person exceeded the amount that could have been properly paid under § 29-804.05.

(d) A person against which an action is commenced because the person is liable under subsection (a) of this section may implead any:

(1) Other person that is subject to liability under subsection (a) of this section and seek to compel contribution from the person; and

(2) Person that received a distribution in violation of subsection (c) of this section and seek to compel contribution from the person in the amount the person received in violation of subsection (c) of this section.

(e) An action under this section shall be barred if not commenced within 2 years after the distribution.

§ 29-804.07. Management of limited liability company.

(a) A limited liability company shall be a member-managed limited liability company unless the operating agreement:

(1) Expressly provides that:

(A) The company is or will be "manager-managed";

(B) The company is or will be "managed by managers"; or

(C) Management of the company is or will be "vested in managers"; or

(2) Includes words of similar import.

(b) In a member-managed limited liability company, the following rules shall apply:

(1) The management and conduct of the company shall be vested in the members.

(2) Each member shall have equal rights in the management and conduct of the company's activities.

(3) A difference arising among members as to a matter in the ordinary course of the activities of the company may be decided by a majority of the members.

(4) An act outside the ordinary course of the activities of the company shall be undertaken only with the consent of all members.

(5) The operating agreement shall be amended only with the consent of all members.

(c) In a manager-managed limited liability company, the following rules apply:

(1) Except as otherwise expressly provided in this chapter, any matter relating to the activities of the company shall be decided exclusively by the managers.

(2) Each manager shall have equal rights in the management and conduct of the activities of the company.

(3) A difference arising among managers as to a matter in the ordinary course of the activities of the company may be decided by a majority of the managers.

(4) The consent of all members shall be required to:

(A) Sell, lease, exchange, or otherwise dispose of all, or substantially all, of the company's property, with or without the good will, outside the ordinary course of the company's activities;

(B) Approve a merger or domestication under subchapter IX of this chapter or transaction under Chapter 2 of this title;

(C) Undertake any other act outside the ordinary course of the company's activities; and

(D) Amend the operating agreement.

(5) A manager may be chosen at any time by the consent of a majority of the members and shall remain a manager until a successor has been chosen, unless the manager at an earlier time resigns, is removed, or dies, or, in the case of a manager that is not an individual, terminates. A manager may be removed at any time by the consent of a majority of the members without notice or cause.

(6) A person need not be a member to be a manager, but the dissociation of a member that is also a manager shall remove the person as a manager. If a person that is both a manager and a member ceases to be a manager, that cessation shall not by itself dissociate the person as a member.

(7) A person's ceasing to be a manager shall not discharge any debt, obligation, or other liability to the limited liability company or members which the person incurred while a manager.

(d) An action requiring the consent of members under this chapter may be taken without a meeting, and a member may appoint a proxy or other agent to consent or otherwise act for the member by signing an appointing record, personally or by the member's agent.

(e) The dissolution of a limited liability company shall not affect the applicability of this section. However, a person that wrongfully causes dissolution of the company loses the right to participate in management as a member and a manager.

(f) This chapter shall not entitle a member to remuneration for services performed for a member-managed limited liability company, except for reasonable compensation for services rendered in winding up the activities of the company.

§ 29-804.08. Indemnification and insurance.

(a) A limited liability company shall reimburse for any payment made, and indemnify for any debt, obligation, or other liability incurred, by a member of a member-managed company or the manager of a manager-managed company in the course of the member's or manager's activities on behalf of the company, if, in making the payment or incurring the debt, obligation, or other liability, the member or manager complied with the duties stated in §§ 29-804.05 and 29-804.09.

(b) A limited liability company may purchase insurance on behalf of a member or manager of the company against liability asserted against or incurred by the member or manager in that capacity or arising from that status even if, under § 29-801.07(g), the operating agreement could not eliminate or limit the person's liability to the company for the conduct giving rise to the liability.

§ 29-804.09. Standards of conduct for members and managers.

(a) A member of a member-managed limited liability company owes to the company and, subject to § 29-808.01(b), the other members the fiduciary duties of loyalty and care stated in subsections (b) and (c) of this section.

(b) The duty of loyalty of a member in a member-managed limited liability company shall include the duties to:

(1) Account to the company and to hold as trustee for it any property, profit, or benefit derived by the member:

(A) In the conduct or winding up of the company's activities;

(B) From a use by the member of the company's property; or

(C) From the appropriation of a limited liability company opportunity;

(2) Refrain from dealing with the company in the conduct or winding up of the company's activities as or on behalf of a person having an interest adverse to the company; and

(3) Refrain from competing with the company in the conduct of the company's activities before the dissolution of the company.

(c) Subject to the business judgment rule, the duty of care of a member of a member-managed limited liability company in the conduct and winding up of the company's activities shall be to act with the care that a person in a like position would reasonably exercise under similar circumstances and in a manner the member reasonably believes to be in the best interests of the company. In discharging this duty, a member may rely in good faith upon opinions, reports, statements, or other information provided by another person that the member reasonably believes is a competent and reliable source for the information.

(d) A member in a member-managed limited liability company or a manager-managed limited liability company shall discharge the duties under this chapter or under the operating agreement and exercise any rights consistently with the contractual obligation of good faith and fair dealing.

(e) It shall be a defense to a claim under subsection (b)(2) of this section and any comparable claim in equity or at common law that the transaction was fair to the limited liability company.

(f) All of the members of a member-managed limited liability company or a manager-managed limited liability company may authorize or ratify, after full disclosure of all material facts, a specific act or transaction that otherwise would violate the duty of loyalty.

(g) In a manager-managed limited liability company, the following rules apply:

(1) Subsections (a), (b), (c), and (e) of this section shall apply to the managers and not the members.

(2) The duty stated under subsection (b)(3) of this section shall continue until winding up is completed.

(3) Subsection (d) of this section shall apply to the members and managers.

(4) Subsection (f) of this section shall apply only to the members.

(5) A member shall not have any fiduciary duty to the company or to any other member solely by reason of being a member.

§ 29-804.10. Right of members, managers, and dissociated members to information.

(a) In a member-managed limited liability company, the following rules shall apply:

(1) On reasonable notice, a member may inspect and copy during regular business hours, at a reasonable location specified by the company, any record maintained by the company regarding the company's activities, financial condition, and other circumstances, to the extent the information is material to the member's rights and duties under the operating agreement or this

chapter.

(2) The company shall furnish to each member:

(A) Without demand, any information concerning the company's activities, financial condition, and other circumstances which the company knows and is material to the proper exercise of the member's rights and duties under the operating agreement or this chapter, except to the extent the company can establish that it reasonably believes the member already knows the information; and

(B) On demand, any other information concerning the company's activities, financial condition, and other circumstances, except to the extent the demand or information demanded is unreasonable or otherwise improper under the circumstances.

(3) The duty to furnish information under paragraph (2) of this subsection shall also apply to each member to the extent the member knows any of the information described in paragraph (2) of this subsection.

(b) In a manager-managed limited liability company, the following rules shall apply:

(1) The informational rights stated in subsection (a) of this section and the duty stated in subsection (a)(3) of this section apply to the managers and not the members.

(2) During regular business hours and at a reasonable location specified by the company, a member may obtain from the company, and inspect and copy, full information regarding the activities, financial condition, and other circumstances of the company as is just and reasonable if:

(A) The member seeks the information for a purpose material to the member's interest as a member;

(B) The member makes a demand in a record received by the company, describing with reasonable particularity the information sought and the purpose for seeking the information; and

(C) The information sought is directly connected to the member's purpose.

(3) Within 10 days after receiving a demand pursuant to paragraph (2)(B) of this subsection, the company shall in a record inform the member that made the demand:

(A) Of the information that the company will provide in response to the demand and when and where the company will provide the information; and

(B) If the company declines to provide any demanded information, the company's reasons for declining.

(4) Whenever this chapter or an operating agreement provides for a member to give or withhold consent to a matter, before the consent is given or withheld, the company shall, without demand, provide the member with all information that is known to the company and is material to the member's decision.

(c) On 10 days' demand made in a record received by a limited liability company, a dissociated member shall have access to information to which the person was entitled while a member if the information pertains to the period during which the person was a member, the

person seeks the information in good faith, and the person satisfies the requirements imposed on a member by subsection (b)(2) of this section. The company shall respond to a demand made pursuant to this subsection in the manner provided in subsection (b)(3) of this section.

(d) A limited liability company may charge a person that makes a demand under this section the reasonable costs of copying, limited to the costs of labor and material.

(e) A member or dissociated member may exercise rights under this section through an agent or, in the case of an individual under legal disability, a legal representative. Any restriction or condition imposed by the operating agreement or under subsection (g) of this section shall apply both to the agent or legal representative and the member or dissociated member.

(f) The rights under this section shall not extend to a person as transferee.

(g) In addition to any restriction or condition stated in its operating agreement, a limited liability company, as a matter within the ordinary course of its activities, may impose reasonable restrictions and conditions on access to and use of information to be furnished under this section, including designating information confidential and imposing nondisclosure and safeguarding obligations on the recipient. In a dispute concerning the reasonableness of a restriction under this subsection, the company shall have the burden of proving reasonableness.

Subchapter V. Transferable Interests and Rights of Transferees and Creditors.

§ 29-805.01. Nature of transferable interest.

A transferable interest shall be personal property.

§ 29-805.02. Transfer of transferable interest.

(a) A transfer, in whole or in part, of a transferable interest:

(1) Is permissible;

(2) Shall not by itself cause a member's dissociation or a dissolution and winding up of the limited liability company's activities; and

(3) Subject to § 29-805.04, shall not entitle the transferee to:

(A) Participate in the management or conduct of the company's activities; or

(B) Except as otherwise provided in subsection (c) of this section, have access to records or other information concerning the company's activities.

(b) A transferee shall have the right to receive, in accordance with the transfer, distributions to which the transferor would otherwise be entitled.

(c) In a dissolution and winding up of a limited liability company, a transferee shall be entitled to an account of the company's transactions only from the date of dissolution.

(d) A transferable interest may be evidenced by a certificate of the interest issued by the limited liability company in a record, and, subject to this section, the interest represented by the certificate may be transferred by a transfer of the certificate.

(e) A limited liability company need not give effect to a transferee's rights under this

section until the company has notice of the transfer.

(f) A transfer of a transferable interest in violation of a restriction on transfer contained in the operating agreement shall be ineffective as to a person having notice of the restriction at the time of transfer.

(g) Except as otherwise provided in § 29-806.02(4)(B), when a member transfers a transferable interest, the transferor shall retain the rights of a member other than the interest in distributions transferred and shall retain all duties and obligations of a member.

(h) When a member transfers a transferable interest to a person that becomes a member with respect to the transferred interest, the transferee shall be liable for the member's obligations under §§ 29-804.03 and 29-804.06(c) known to the transferee when the transferee becomes a member.

§ 29-805.03. Charging order.

(a) On application by a judgment creditor of a member or transferee, the Superior Court may enter a charging order against the transferable interest of the judgment debtor for the unsatisfied amount of the judgment. A charging order shall constitute a lien on a judgment debtor's transferable interest and requires the limited liability company to pay over to the person to which the charging order was issued any distribution that would otherwise be paid to the judgment debtor.

(b) To the extent necessary to effectuate the collection of distributions pursuant to a charging order in effect under subsection (a) of this section, the Superior Court may:

(1) Appoint a receiver of the distributions subject to the charging order, with the power to make all inquiries the judgment debtor might have made; and

(2) Make all other orders necessary to give effect to the charging order.

(c) Upon a showing that distributions under a charging order will not pay the judgment debt within a reasonable time, the Superior Court may foreclose the lien and order the sale of the transferable interest. The purchaser at the foreclosure sale shall obtain the transferable interest, shall not thereby become a member, and shall be subject to § 29-805.02.

(d) At any time before foreclosure under subsection (c) of this section, the member or transferee whose transferable interest is subject to a charging order under subsection (a) of this section may extinguish the charging order by satisfying the judgment and filing a certified copy of the satisfaction with the Superior Court.

(e) At any time before foreclosure under subsection (c) of this section, a limited liability company or one or more members whose transferable interests are not subject to the charging order may pay to the judgment creditor the full amount due under the judgment and thereby succeed to the rights of the judgment creditor, including the charging order.

(f) This chapter shall not deprive any member or transferee of the benefit of any exemption laws applicable to the member's or transferee's transferable interest.

(g) This section provides the exclusive remedy by which a person seeking to enforce a

judgment against a member or transferee may, in the capacity of judgment creditor, satisfy the judgment from the judgment debtor's transferable interest.

§ 29-805.04. Power of personal representative of deceased member.

If a member dies, the deceased member's personal representative or other legal representative may exercise the rights of a transferee provided in § 29-805.02(c) and, for the purposes of settling the estate, the rights of a current member under § 29-804.10.

Subchapter VI. Member's Dissociation.

§ 29-806.01. Member's power to dissociate; wrongful dissociation.

(a) A person may dissociate as a member at any time, rightfully or wrongfully, by withdrawing as a member by express will under § 29-806.02(1).

(b) A person's dissociation from a limited liability company shall be wrongful only if the dissociation:

(1) Is in breach of an express provision of the operating agreement; or

(2) Occurs before the termination of the company and:

(A) The person withdraws as a member by express will;

(B) The person is expelled as a member by judicial order under § 29-80.602(5);

(C) The person is dissociated under § 29-806.02(7)(A) by becoming a debtor in bankruptcy; or

(D) In the case of a person that is not a trust (other than a business trust), an estate, or an individual, the person is expelled or otherwise dissociated as a member because it willfully dissolved or terminated.

(c) A person that wrongfully dissociates as a member shall be liable to the limited liability company and, subject to § 29-808.01, to the other members for damages caused by the dissociation. The liability shall be in addition to any other debt, obligation, or other liability of the member to the company or the other members.

§ 29-806.02. Events causing dissociation.

A person shall be dissociated as a member from a limited liability company when:

(1) The company has notice of the person's express will to withdraw as a member, but, if the person specified a withdrawal date later than the date the company had notice, on that later date;

(2) An event stated in the operating agreement as causing the person's dissociation occurs;

(3) The person is expelled as a member pursuant to the operating agreement;

(4) The person is expelled as a member by the unanimous consent of the other members if:

(A) It is unlawful to carry on the company's activities with the person as a member;

(B) There has been a transfer of all of the person's transferable interest in the company, other than:

(i) A transfer for security purposes; or

(ii) A charging order in effect under § 29-805.03 which has not been foreclosed;

(C) The person is a corporation and, within 90 days after the company notifies the person that it will be expelled as a member because the person has filed a certificate of dissolution or the equivalent, its charter has been revoked, or its right to conduct business has been suspended by the jurisdiction of its incorporation, the certificate of dissolution has not been revoked or its charter or right to conduct business has not been reinstated; or

(D) The person is a limited liability company or partnership that has been dissolved and whose business is being wound up;

(5) On application by the company, the person is expelled as a member by judicial order because the person has:

(A) Engaged, or is engaging, in wrongful conduct that has adversely and materially affected, or will adversely and materially affect, the company's activities;

(B) Willfully or persistently committed, or is willfully and persistently committing, a material breach of the operating agreement or the person's duties or obligations under § 29-804.09; or

(C) Engaged in, or is engaging, in conduct relating to the company's activities which makes it not reasonably practicable to carry on the activities with the person as a member;

(6) In the case of a person who is an individual:

(A) The person dies; or

(B) In a member-managed limited liability company:

(i) A guardian or general conservator for the person is appointed; or

(ii) There is a judicial order that the person has otherwise become incapable of performing the person's duties as a member under this chapter or the operating agreement;

(7) In a member-managed limited liability company, the person:

(A) Becomes a debtor in bankruptcy;

(B) Executes an assignment for the benefit of creditors; or

(C) Seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the person or of all or substantially all of the person's property;

(8) In the case of a person that is a trust or is acting as a member by virtue of being a trustee of a trust, the trust's entire transferable interest in the company is distributed;

(9) In the case of a person that is an estate or is acting as a member by virtue of being a personal representative of an estate, the estate's entire transferable interest in the company is distributed;

(10) In the case of a member that is not an individual, partnership, limited liability company, corporation, trust, or estate, the termination of the member;

(11) The company participates in a merger under subchapter IX of this chapter or transaction under Chapter 2 of this title, if:

(A) The company is not the surviving entity; or,

(B) Otherwise as a result of the merger, the person ceases to be a member;

(12) The company participates in a domestication under subchapter IX of this chapter, if, as a result of the domestication, the person ceases to be a member; or

(13) The company terminates.

§ 29-806.03. Effect of person's dissociation as member.

(a) When a person is dissociated as a member of a limited liability company:

(1) The person's right to participate as a member in the management and conduct of the company's activities shall terminate;

(2) If the company is member-managed, the person's fiduciary duties as a member shall end with regard to matters arising and events occurring after the person's dissociation; and

(3) Subject to § 29-805.04, subchapter IX of this chapter, and Chapter 2 of this title, any transferable interest owned by the person immediately before dissociation in the person's capacity as a member is owned by the person solely as a transferee.

(b) A person's dissociation as a member of a limited liability company shall not of itself discharge the person from any debt, obligation, or other liability to the company or the other members which the person incurred while a member.

Subchapter VII. Dissolution and Winding up.

§ 29-807.01. Events causing dissolution.

(a) A limited liability company is dissolved, and its activities shall be wound up, upon the occurrence of any of the following:

(1) An event or circumstance that the operating agreement states causes dissolution;

(2) The consent of all the members;

(3) The passage of 90 consecutive days during which the company has no members;

(4) On application by a member, the entry by Superior Court of an order dissolving the company on the grounds that:

(A) The conduct of all or substantially all of the company's activities is unlawful; or

(B) It is not reasonably practicable to carry on the company's activities in conformity with the certificate of organization and the operating agreement; or

(5) On application by a member, the entry by Superior Court of an order dissolving the company on the grounds that the managers or those members in control of the company:

(A) Have acted, are acting, or will act in a manner that is illegal or fraudulent; or

(B) Have acted or are acting in a manner that is oppressive and was, is, or will be directly harmful to the applicant.

(b) In a proceeding brought under subsection (a)(5) of this section, the Superior Court may order a remedy other than dissolution.

§ 29-807.02. Winding up.

(a) A dissolved limited liability company shall wind up its activities, and the company shall continue after dissolution only for the purpose of winding up.

(b) In winding up its activities, a limited liability company:

(1) Shall:

(A) Discharge the company's debts, obligations, or other liabilities, settle and close the company's activities, and marshal and distribute the assets of the company; and

(B) Deliver to the Mayor for filing a statement of dissolution stating the name of the company and that the company is dissolved; and

(2) May:

(A) Preserve the company activities and property as a going concern for a reasonable time;

(B) Prosecute and defend actions and proceedings, whether civil, criminal, or administrative;

(C) Transfer the company's property;

(D) Settle disputes by mediation or arbitration;

(E) Deliver to the Mayor for filing a statement of termination stating the name of the company and that the company is terminated; and

(F) Perform other acts necessary or appropriate to the winding up.

(c) If a dissolved limited liability company has no members, the legal representative of the last person to have been a member may wind up the activities of the company. If the person does so, the person shall have the powers of a sole manager under § 29-804.07(c) and shall be deemed to be a manager for the purposes of § 29-803.04(a)(2).

(d) If the legal representative under subsection (c) of this section declines or fails to wind up the company's activities, a person may be appointed to do so by the consent of transferees owning a majority of the rights to receive distributions as transferees at the time the consent is to be effective. A person appointed under this subsection:

(1) Has the powers of a sole manager under § 29-804.07(c) and shall be deemed to be a manager for the purposes of § 29-803.04(a)(2); and

(2) Shall promptly deliver to the Mayor for filing an amendment to the company's certificate of organization to:

(A) State that the company has no members;

(B) State that the person has been appointed pursuant to this subsection to wind up the company; and

(C) Provide the street and mailing addresses of the person.

(e) The Superior Court may order judicial supervision of the winding up of a dissolved limited liability company, including the appointment of a person to wind up the company's activities:

(1) On application of a member, if the applicant establishes good cause;

(2) On the application of a transferee, if:

(A) The company does not have any members;

(B) The legal representative of the last person to have been a member declines or fails to wind up the company's activities; and

(C) Within a reasonable time following the dissolution a person has not been appointed pursuant to subsection (d) of this section; or

(3) In connection with a proceeding under § 29-807.01(a)(4) or (5).

§ 29-807.03. Known claims against dissolved limited liability company.

(a) Except as otherwise provided in subsection (d) of this section, a dissolved limited liability company may give notice of a known claim under subsection (b) of this section, which shall have the effect as provided in subsection (c) of this section.

(b) A dissolved limited liability company may in a record notify its known claimants of the dissolution. The notice shall:

(1) Specify the information required to be included in a claim;

(2) Provide a mailing address to which the claim is to be sent;

(3) State the deadline for receipt of the claim, which shall not be less than 120 days after the date the notice is received by the claimant; and

(4) State that the claim will be barred if not received by the deadline.

(c) A claim against a dissolved limited liability company shall be barred if the requirements of subsection (b) of this section are met and:

(1) The claim is not received by the specified deadline; or

(2) If the claim is timely received but rejected by the company:

(A) The company causes the claimant to receive a notice in a record stating that the claim is rejected and will be barred unless the claimant commences an action against the company to enforce the claim within 90 days after the claimant receives the notice; and

(B) The claimant does not commence the required action within the 90 days.

(d) This section shall not apply to a claim based on an event occurring after the effective date of dissolution or a liability that on that date is contingent.

§ 29-807.04. Other claims against dissolved limited liability company.

(a) A dissolved limited liability company may publish notice of its dissolution and request persons having claims against the company to present them in accordance with the notice.

(b) The notice authorized by subsection (a) of this section shall:

(1) Be published at least once in a newspaper of general circulation in the District;

(2) Describe the information required to be contained in a claim and provide a mailing address to which the claim is to be sent; and

(3) State that a claim against the company is barred unless an action to enforce the claim is commenced within 3 years after publication of the notice.

(c) If a dissolved limited liability company publishes a notice in accordance with subsection (b) of this section, unless the claimant commences an action to enforce the claim against the company within 3 years after the publication date of the notice, the claim of each of the following claimants shall be barred:

(1) A claimant that did not receive notice in a record under § 29-807.03;

(2) A claimant whose claim was timely sent to the company but not acted on; and

(3) A claimant whose claim is contingent at, or based on an event occurring after, the effective date of dissolution.

(d) A claim not barred under this section may be enforced:

(1) Against a dissolved limited liability company, to the extent of its undistributed assets; and

(2) If assets of the company have been distributed after dissolution, against a member or transferee to the extent of that person's proportionate share of the claim or of the assets distributed to the member or transferee after dissolution, whichever is less, but a person's total liability for all claims under this paragraph shall not exceed the total amount of assets distributed to the person after dissolution.

§ 29-807.05. Distribution of assets in winding up limited liability company's activities.

(a) In winding up its activities, a limited liability company shall apply its assets to discharge its obligations to creditors, including members that are creditors.

(b) After a limited liability company complies with subsection (a) of this section, any surplus shall be distributed in the following order, subject to any charging order in effect under § 29-805.03:

(1) To each person owning a transferable interest that reflects contributions made by a member and not previously returned, an amount equal to the value of the unreturned

contributions; and

(2) In equal shares among members and dissociated members, except to the extent necessary to comply with any transfer effective under § 29-805.02.

(c) If a limited liability company does not have sufficient surplus to comply with subsection (b)(1) of this section, any surplus must be distributed among the owners of transferable interests in proportion to the value of their respective unreturned contributions.

(d) All distributions made under subsections (b) and (c) of this section must be paid in money.

Subchapter VIII. Actions by Members.

§ 29-808.01. Direct action by member.

(a) Subject to subsection (b) of this section, a member may maintain a direct action in the Superior Court against another member, a manager, or the limited liability company to enforce the member's rights and otherwise protect the member's interests, including rights and interests under the operating agreement or this chapter or arising independently of the membership relationship.

(b) A member maintaining a direct action under this section shall plead and prove an actual or threatened injury that is not solely the result of an injury suffered or threatened to be suffered by the limited liability company.

§ 29-808.02. Derivative action.

A member may maintain a derivative action in the Superior Court to enforce a right of a limited liability company if:

(1) The member first makes a demand on the other members in a member-managed limited liability company, or the managers of a manager-managed limited liability company, requesting that they cause the company to bring an action to enforce the right, and the managers or other members do not bring the action within a reasonable time; or

(2) A demand under paragraph (1) of this section would be futile.

§ 29-808.03. Proper plaintiff.

(a) Except as otherwise provided in subsection (b) of this section, a derivative action under § 29-808.02 shall be maintained only by a person that is a member at the time the action is commenced and remains a member while the action continues.

(b) If the sole plaintiff in a derivative action dies while the action is pending, the Superior Court may permit another member of the limited liability company to be substituted as plaintiff.

§ 29-808.04. Pleading.

In a derivative action under § 29-808.02, the complaint shall state with particularity:

(1) The date and content of plaintiff's demand and the response to the demand by

the managers or other members; or

(2) If a demand has not been made, the reasons a demand under § 29-808.02(1) would be futile.

§ 29-808.05. Special litigation committee.

(a) If a limited liability company is named as or made a party in a derivative proceeding, the company may appoint a special litigation committee to investigate the claims asserted in the proceeding and determine whether pursuing the action is in the best interests of the company. If the company appoints a special litigation committee, on motion by the committee made in the name of the company, except for good cause shown, the Superior Court shall stay discovery for the time reasonably necessary to permit the committee to make its investigation. This subsection shall not prevent the court from enforcing a person's right to information under § 29-804.10 or, for good cause shown, granting extraordinary relief in the form of a temporary restraining order or preliminary injunction.

(b) A special litigation committee may be composed of one or more disinterested and independent individuals, who may be members.

(c) A special litigation committee may be appointed:

(1) In a member-managed limited liability company:

(A) By the consent of a majority of the members not named as defendants or plaintiffs in the proceeding; and

(B) If all members are named as defendants or plaintiffs in the proceeding, by a majority of the members named as defendants; or

(2) In a manager-managed limited liability company:

(A) By a majority of the managers not named as defendants or plaintiffs in the proceeding; and

(B) If all managers are named as defendants or plaintiffs in the proceeding, by a majority of the managers named as defendants.

(d) After appropriate investigation, a special litigation committee may determine that it is in the best interests of the limited liability company that the proceeding:

(1) Continue under the control of the plaintiff;

(2) Continue under the control of the committee;

(3) Be settled on terms approved by the committee; or

(4) Be dismissed.

(e) After making a determination under subsection (d) of this section, a special litigation committee shall file with the Superior Court a statement of its determination and its report supporting its determination, giving notice to the plaintiff. The court shall determine whether the members of the committee were disinterested and independent and whether the committee conducted its investigation and made its recommendation in good faith, independently, and with reasonable care, with the committee having the burden of proof. If the court finds that the

members of the committee were disinterested and independent and that the committee acted in good faith, independently, and with reasonable care, the court shall enforce the determination of the committee. Otherwise, the court shall dissolve the stay of discovery entered under subsection (a) of this section and allow the action to proceed under the direction of the plaintiff.

§ 29-808.06. Proceeds and expenses.

(a) Except as otherwise provided in subsection (b) of this section:

(1) Any proceeds or other benefits of a derivative action under § 29-808.02, whether by judgment, compromise, or settlement, belong to the limited liability company and not to the plaintiff; and

(2) If the plaintiff receives any proceeds, the plaintiff shall remit them immediately to the company.

(b) If a derivative action under § 29-808.02 is successful in whole or in part, the Superior Court may award the plaintiff reasonable expenses, including reasonable attorney's fees and costs, from the recovery of the limited liability company.

Subchapter IX. Merger and Domestication.

§ 29-809.01. Definitions.

For the purposes of this subchapter, the term:

(1) "Constituent company" means a limited liability company that is a party to a merger.

(2) "Domesticated company" means the company that exists after a domesticating foreign limited liability company or limited liability company effects a domestication pursuant to §§ 29-809.06 through 29-809.09.

(3) "Domesticating company" means the company that effects a domestication pursuant to §§ 29-809.06 through 29-809.09.

(4) "Governing statute" means the statute that governs the internal affairs of a foreign limited liability company or limited liability company.

(5) "Personal liability" means liability for a debt, obligation, or other liability of a foreign limited liability company or limited liability company which is imposed on a person that co-owns, has an interest in, or is a member of the company by the:

(A) Governing statute solely by reason of the person co-owning, having an interest in, or being a member of the company; or

(B) Company's certificate or articles of organization and operating agreement, or comparable records as provided in its governing statute, under a provision of the governing statute authorizing those documents to make one or more specified persons liable for all or specified debts, obligations, or other liabilities of the company solely by reason of the person or persons co-owning, having an interest in, or being a member of the company.

(6) "Surviving company" means a foreign limited liability company or limited

liability company into which one or more other foreign limited liability companies or limited liability companies are merged whether the company preexisted the merger or was created by the merger.

§ 29-809.02. Merger.

(a) A limited liability company may merge with one or more other constituent companies pursuant to this section, §§ 29-809.03 through 29-809.05, and a plan of merger, if:

(1) The governing statute of each of the other companies authorizes the merger;

(2) The merger is not prohibited by the law of a jurisdiction that enacted any of the governing statutes; and

(3) Each of the other companies complies with its governing statute in effecting the merger.

(b) A plan of merger shall be in a record and shall include:

(1) The name and form of each constituent company;

(2) The name and form of the surviving company and, if the surviving company is to be created by the merger, a statement to that effect;

(3) The terms and conditions of the merger, including the manner and basis for converting the interests in each constituent company into any combination of money, interests in the surviving company, and other consideration;

(4) If the surviving company is to be created by the merger, the surviving company's organizational documents that are proposed to be in a record; and

(5) If the surviving company is not to be created by the merger, any amendments to be made by the merger to the surviving company's certificate of organization and any amendments to its operating agreement that are, or are proposed to be, in a record.

(c) A merger in which a limited liability company and another form of entity are parties shall be governed by Chapter 2 of this title.

§ 29-809.03. Action on plan of merger by constituent company.

(a) A plan of merger shall be consented to by all the members of a constituent company.

(b) Subject to any contractual rights, after a merger is approved, and at any time before articles of merger are delivered to the Mayor for filing under § 29-809.04, a constituent company may amend the plan or abandon the merger:

(1) As provided in the plan; or

(2) Except as otherwise prohibited in the plan, with the same consent as was required to approve the plan.

§ 29-809.04. Filings required for merger; effective date.

(a) After each constituent company has approved a merger, articles of merger shall be signed on behalf of each constituent company, as provided in § 29-802.03(a).

(b) Articles of merger under this section shall include:

(1) The name of each constituent company and the jurisdiction of its governing statute;

(2) The name of the surviving company, the jurisdiction of its governing statute, and, if the surviving company is created by the merger, a statement to that effect;

(3) The date the merger is effective under the governing statute of the surviving company;

(4) If the surviving company is to be created by the merger, the company's certificate of organization;

(5) If the surviving company preexists the merger, any amendments provided for in the plan of merger for its certificate of organization;

(6) A statement as to each constituent company that the merger was approved as required by the company's governing statute;

(7) If the surviving company is a foreign limited liability company not authorized to do business in the District, the street and mailing addresses of an office that the Mayor may use for the purposes of § 29-809.05(b); and

(8) Any additional information required by the governing statute of any constituent company.

(c) Each constituent company shall deliver the articles of merger for filing with the Mayor.

(d) A merger shall be effective under this chapter upon the later of:

(1) Compliance with subsection (c) of this section; or

(2) Subject to § 29-802.05(c) and subchapter II of Chapter 2 of this title, as specified in the articles of merger.

§ 29-809.05. Effect of merger.

(a) When a merger becomes effective:

(1) The surviving company shall continue or come into existence;

(2) Each constituent company that merges into the surviving company shall cease to exist as a separate entity;

(3) All property owned by each constituent company that ceases to exist shall vest in the surviving company;

(4) All debts, obligations, or other liabilities of each constituent company that ceases to exist shall continue as debts, obligations, or other liabilities of the surviving company;

(5) An action or proceeding pending by or against any constituent company that ceases to exist may be continued as if the merger had not occurred;

(6) Except as prohibited by other law, all of the rights, privileges, immunities, powers, and purposes of each constituent company that ceases to exist shall vest in the surviving company;

(7) Except as otherwise provided in the plan of merger, the terms and conditions of the plan of merger take effect; and

(8) Except as otherwise agreed, if a constituent company ceases to exist, the merger shall not dissolve the limited liability company for the purposes of subchapter VII of this chapter;

(9) If the surviving company is created by the merger, the certificate of organization shall become effective; and

(10) If the surviving company preexisted the merger, any amendments provided for in the articles of merger for its certificate or organization shall become effective.

(b) A surviving company that is a foreign limited liability company consents to the jurisdiction of the Superior Court to enforce any debt, obligation, or other liability owed by a constituent company, if before the merger the constituent company was subject to suit in the District on the debt, obligation, or other liability. A surviving company that is a foreign limited liability company and not authorized to do business in the District may be served with process for the purposes of enforcing a debt, obligation, or other liability under this subsection in the same manner and with the same consequences as in § 29-104.12.

§ 29-809.06. Domestication.

(a) A foreign limited liability company may become a limited liability company pursuant to this section, §§ 29-809.07 through 29-809.09, and a plan of domestication, if:

(1) The foreign limited liability company's governing statute authorizes the domestication;

(2) The domestication is not prohibited by the law of the jurisdiction that enacted the governing statute; and

(3) The foreign limited liability company complies with its governing statute in effecting the domestication.

(b) A limited liability company may become a foreign limited liability company pursuant to this section, §§ 29-809.07 through 29-809.09, and a plan of domestication, if:

(1) The foreign limited liability company's governing statute authorizes the domestication;

(2) The domestication is not prohibited by the law of the jurisdiction that enacted the governing statute; and

(3) The foreign limited liability company complies with its governing statute in effecting the domestication.

(c) A plan of domestication shall be in a record and shall include:

(1) The name of the domesticating company before domestication and the jurisdiction of its governing statute;

(2) The name of the domesticated company after domestication and the jurisdiction of its governing statute;

(3) The terms and conditions of the domestication, including the manner and basis for converting interests in the domesticating company into any combination of money, interests in the domesticated company, and other consideration; and

(4) The organizational documents of the domesticated company that are, or are proposed to be, in a record.

§ 29-809.07. Action on plan of domestication by domesticating limited liability company.

(a) A plan of domestication shall be consented to:

(1) By all the members if the domesticating company is a limited liability company; and

(2) As provided in the domesticating company's governing statute, if the company is a foreign limited liability company.

(b) Subject to any contractual rights, after a domestication is approved, and at any time before articles of domestication are delivered to the Mayor for filing under § 29-809.08, a domesticating limited liability company may amend the plan or abandon the domestication:

(1) As provided in the plan; or

(2) Except as otherwise prohibited in the plan, by the same consent as was required to approve the plan.

§ 29-809.08. Filings required for domestication; effective date.

(a) After a plan of domestication is approved, a domesticating company shall deliver to the Mayor for filing articles of domestication, which shall include:

(1) A statement, as the case may be, that the company has been domesticated from or into another jurisdiction;

(2) The name of the domesticating company and the jurisdiction of its governing statute;

(3) The name of the domesticated company and the jurisdiction of its governing statute;

(4) The date the domestication is effective under the governing statute of the domesticated company;

(5) If the domesticating company was a limited liability company, a statement that the domestication was approved as required by this chapter;

(6) If the domesticating company was a foreign limited liability company, a statement that the domestication was approved as required by the governing statute of the other jurisdiction; and

(7) If the domesticated company was a foreign limited liability company not authorized to do business in the District, the street and mailing addresses of an office that the Mayor may use for the purposes of § 29-809.09(b).

(b) A domestication shall be effective:

(1) When the certificate of organization takes effect, if the domesticated company is a limited liability company; and

(2) According to the governing statute of the domesticated company, if the domesticated organization is a foreign limited liability company.

§ 29-809.09. Effect of domestication.

(a) When a domestication takes effect:

(1) The domesticated company shall be for all purposes the company that existed before the domestication;

(2) All property owned by the domesticating company shall remain vested in the domesticated company;

(3) All debts, obligations, or other liabilities of the domesticating company shall continue as debts, obligations, or other liabilities of the domesticated company;

(4) An action or proceeding pending by or against a domesticating company may be continued as if the domestication had not occurred;

(5) Except as prohibited by other law, all of the rights, privileges, immunities, powers, and purposes of the domesticating company shall remain vested in the domesticated company;

(6) Except as otherwise provided in the plan of domestication, the terms and conditions of the plan of domestication shall take effect; and

(7) Except as otherwise agreed, the domestication shall not dissolve a domesticating limited liability company for the purposes of subchapter VII of this chapter.

(b) A domesticated company that is a foreign limited liability company consents to the jurisdiction of the Superior Court to enforce any debt, obligation, or other liability owed by the domesticating company, if, before the domestication, the domesticating company was subject to suit in the District on the debt, obligation, or other liability. A domesticated company that is a foreign limited liability company and not authorized to do business in the District may be served with process as provided in § 29-404.12 for purposes of enforcing a debt, obligation, or other liability under this subsection. Service on the Mayor under this subsection shall be made in the same manner and has the same consequences as in § 29-104.12.

(c) If a limited liability company has adopted and approved a plan of domestication under § 29-809.06 providing for the company to be domesticated in a foreign jurisdiction, a statement surrendering the company's certificate of organization shall be delivered to the Mayor for filing setting forth:

(1) The name of the company;

(2) A statement that the certificate of organization is being surrendered in connection with the domestication of the company in a foreign jurisdiction;

(3) A statement the domestication was approved as required by this chapter; and

(4) The jurisdiction of formation of the domesticated foreign limited liability company.

§ 29-809.10. Restrictions on approval of mergers and domestications.

(a) If a member of a constituent or domesticating limited liability company will have personal liability with respect to a surviving or domesticated organization, approval or amendment of a plan of merger or domestication shall be ineffective without the consent of the member, unless the:

(1) Company's operating agreement provides for approval of a merger or domestication with the consent of fewer than all the members; and

(2) Member has consented to the provision of the operating agreement.

(b) A member does not give the consent required by subsection (a) of this section merely by consenting to a provision of the operating agreement that permits the operating agreement to be amended with the consent of fewer than all the members.

§ 29-809.11. Subchapter not exclusive.

This subchapter shall not preclude a limited liability company from being merged under law other than this chapter.

Subchapter X. Transition Provisions.

§ 29-810.01. Application to existing relationships.

(a) This chapter shall apply to a limited liability company formed after the applicability date of this chapter and to a limited liability company that elects, as provided by subsection (c) of this section, to be governed by this chapter.

(b) Subject to subsection (d) of this section, on and after one year after the applicability date of this chapter, this chapter shall govern all limited liability companies, whenever formed.

(c) Subject to subsection (d) of this section, after the applicability date of this chapter, a limited liability company voluntarily may elect, in the manner provided in its operating agreement or by law for amending the operating agreement, to be subject to this chapter.

(d) For the purposes applying this chapter to a limited liability company formed before the applicability date of this chapter:

(1) The company's articles of organization shall be deemed to be the company's certificate of organization; and

(2) For the purposes of applying § 29-801.02(10) and subject to § 29-801.09(d), language in the company's articles of organization designating the company's management structure operates as if that language were in the operating agreement.

CHAPTER 9. GENERAL COOPERATIVE ASSOCIATIONS

Section
29-901. Short title.
29-902. Definitions.
29-903. Incorporators.
29-904. Purposes for incorporation.
29-905. Powers of association.
29-906. Articles of incorporation -- Contents.
29-907. Articles of incorporation -- Amendments; vote required for proposal and approval of amendments.
29-908. Bylaws; adoption, amendment, or repeal.
29-909. Bylaws -- Contents.
29-910. Meetings; regular and special.
29-911. Meetings; regular and special -- Notice.
29-912. Meetings; regular and special -- Units of membership.
29-913. Voting -- Number permitted by each member.
29-914. Voting -- Proxy prohibited.
29-915. Voting -- By mail.
29-916. Voting provisions -- Application to voting by mail.
29-917. Voting provisions -- Application to voting by delegates.
29-918. Directors.
29-919. Officers.
29-920. Removal of directors and officers; vote required for approval; vacancies.
29-921. Referendum on acts of directors.
29-922. Limitations upon the return on capital.
29-923. Eligibility and admission to membership.
29-924. Subscribers.
29-925. Share and membership certificates; issuance and contents.
29-926. Transfer of shares and memberships; withdrawal.
29-927. Share and membership certificates -- Recall.
29-928. Share and membership certificates -- Exemption for attachment, execution and garnishment.
29-929. Liability of members.
29-930. Expulsion of members; procedure; purchase of holdings.
29-931. Allocation and distribution of net savings.
29-932. Bonding of officers and employees.
29-933. Audit.
29-934. Dissolution; methods; vote required for approval; distribution of assets.
29-935. Existing cooperative groups; acceptance of act; filing and recordation of amended articles and bylaws.

29-936. Foreign corporations and associations; admission to do business.
29-937. Compliance with chapter; not in restraint of trade.
29-938. Chapter 3 of this title applicable to associations.
29-939. Taxation; annual license fee.

CHAPTER 9. GENERAL COOPERATIVE ASSOCIATIONS

§ 29-901. Short title.

This chapter may be cited as the "General Cooperative Association Act of 2010".

§ 29-902. Definitions.

For the purposes of this chapter, the term:

(1) "Articles" means the articles of incorporation referred to in § 29-906.

(2) "Association" means a group enterprise incorporated under this chapter. An association shall be treated as a nonprofit corporation for purposes of taxation or securities regulation under the law of the District.

(3) "Cooperative basis" as applied to any incorporated or unincorporated group referred to in §§ 29-905(7), 29-913, 29-923, 29-935, and 29-936 means that:

(A) Each member has one vote only, except as may be altered in the articles or bylaws by provision for:

(i) Voting by member organizations; or

(ii) Allocation of votes in a cooperative housing association proportionate to the share of ownership in the association or on the basis of one vote for each unit;

(B) The maximum rate at which any return is paid on share or membership capital is limited to not more than 8% per annum; and

(C) The net savings after payment, if any, of this limited return on capital and after making provision for such separate funds as may be required or specifically permitted by statute, articles, or bylaws, or allocated or distributed to member patrons, or to all patrons, in proportion to their patronage, be retained by the enterprise, for the actual or potential expansion of its services or the reduction of its charges to the patrons or for other purposes not inconsistent with its nonprofit character.

(4) "Member" means a member in a nonshare association or share association.

(5) "Net savings" means the total income of an association minus the costs of operation.

(6) "Savings returns" means the amount returned to the patrons in proportion to their patronage or otherwise in accordance with § 29-931.

§ 29-903. Incorporators.

Any 5 or more natural persons or 2 or more associations may incorporate in the District under this chapter.

§ 29-904. Purposes for incorporation.

An association may be incorporated under this chapter to engage in any one or more lawful mode or modes of acquiring, producing, building, operating, manufacturing, furnishing, exchanging, or distributing any type or types of property, commodities, goods, or services for the primary and mutual benefit of the patrons of the association, or their patrons, if any, as ultimate consumers.

§ 29-905. Powers of association.

An association shall have the capacity to act possessed by individuals and the authority to do anything required or permitted by this chapter. In addition, an association has the power to:

(1) Continue as a corporation for the time specified in its articles;

(2) Have a corporate seal and to alter the same at pleasure;

(3) Sue and be sued in its corporate name;

(4) Make bylaws for the government and regulation of its affairs;

(5) Acquire, own, hold, sell, lease, pledge, mortgage, or otherwise dispose of any property incident to its purposes and activities;

(6)(A) Own and hold:

(i) Membership in, and share capital, of other associations and any other corporations;

(ii) Any types of bonds or other obligations; and

(B) While the owner of the items set forth in subparagraph (A) of this paragraph, to exercise all the rights of ownership;

(7) Borrow money, contract debts, and make contracts, including agreements of mutual aid or federation with other associations, other groups organized on a cooperative basis, and other nonprofit groups;

(8) Conduct its affairs within or without the District;

(9) Exercise, in addition, any power granted to ordinary business corporations, except those powers inconsistent with this chapter; and

(10) Exercise all powers not inconsistent with this chapter which may be necessary, convenient, or expedient for the accomplishment of its purposes.

§ 29-906. Articles of incorporation -- Contents.

(a) Articles of incorporation shall be signed by each of the incorporators and acknowledged by at least 3 of them if individuals, and by the presidents and secretaries, if associations, before an officer authorized to take acknowledgments.

(b) Within the limitations of this chapter, the articles shall contain:

(1) A statement as to the purpose or purposes for which the association is formed;

(2) The name of the association;

(3) The term of existence of the association, which may be perpetual;

(4) The location and address of the principal office of the association;

(5) The information required by § 29-104.04;

(6) The names and addresses of the incorporators of the association;

(7) The names and addresses of the directors who will manage the affairs of the association for the first year, unless sooner changed by the members;

(8) A statement of whether the association is organized with or without shares, and the number of shares or memberships subscribed for;

(9) If organized with shares, a statement of the amount of authorized capital, the number and types of shares and the par value thereof (which may be placed at any figure), and the rights, preferences, and restrictions of each type of share;

(10)(A) The minimum number or value of shares which must be owned to qualify for membership; and

(B) If organized without shares, a statement of whether the property rights of members must be equal or unequal, and if unequal, the rule by which their rights shall be determined;

(11) The maximum amount or percentage of capital which may be owned or controlled by any member, including a statement of whether or not each member is limited to a single share, and whether such single shares are of various par values; and

(12) The method by which any surplus, upon dissolution of the association, is distributed, in conformity with the requirements of § 29-934 for division of the surplus.

(c) The articles may also contain any other provisions, not inconsistent with law or with this chapter, for the conduct of the association's affairs.

§ 29-907. Articles of incorporation -- Amendments; vote required for proposal and approval of amendments.

(a) Amendments to the articles may be proposed by a ⅔ vote of the board of directors or by petition of 10% of the association's members. The secretary shall send notice of the meeting to consider an amendment at least 30 days in advance to each member at the member's last known address, accompanied by the full text of the proposal and by that part of the articles to be amended. Two-thirds of the members voting may adopt the amendment and when verified by the president and secretary, it shall be filed and recorded with the Mayor within 30 days of its adoption, and a fee established by the Mayor by rule shall be paid.

(b) If the amendment is to alter the preferences of outstanding shares of any type, or to authorize the issuance of shares having preferences superior to outstanding shares of any type, the vote of ⅔ of the members owning such outstanding shares affected by the change shall also

be required for the adoption of the amendment. If the amendment is to alter the rule by which members' property rights in a nonshare association are determined, a vote of ⅔ of the entire membership shall be required.

(c) The amount of capital and the number and par value of shares may be diminished or increased by amendment of the articles, but the capital shall not be diminished below the amount of paid-up capital existing at the time of amendment.

§ 29-908. Bylaws; adoption, amendment, or repeal.

Bylaws shall be adopted, amended, or repealed by at least a majority vote of the members voting.

§ 29-909. Bylaws -- Contents.

The bylaws may, within the limitations of this chapter, provide for the:

(1) Method and terms of admission to membership and the disposal of members' interests on cessation of membership for any reason;

(2) Time, place, and manner of calling and conducting meetings;

(3) Number or percentage of the members constituting a quorum;

(4)(A) Number, qualifications, powers, duties, term of office, and manner, time, and vote for election, of directors and officers; and

(B) Division or classification, if any, of directors to provide for rotating or overlapping terms;

(5) Compensation, if any, of the directors, and the number of directors necessary to constitute a quorum;

(6) Method of distributing the net savings; or

(7) Various discretionary provisions of this chapter as well as other provisions incident to the purposes and activities of the association.

§ 29-910. Meetings; regular and special.

Regular meetings of members shall be held as prescribed in the bylaws, but shall be held at least once a year. Special meetings may be demanded by a majority vote of the directors or by written petition of at least 10% of the membership, in which case it shall be the duty of the secretary to call such meeting to take place within 30 days after the demand. Regular or special meetings, including meetings by units as hereinafter provided, may be held inside or outside the District as the articles may prescribe.

§ 29-911. Meetings; regular and special -- Notice.

The secretary shall give notice of the time and place of meetings by sending a notice thereof to each member at the member's last known address not less than the number of days in advance of the meeting specified in the bylaws. In case of a special meeting, the notice shall

specify the purpose for which the meeting is called.

§ 29-912. Meetings; regular and special -- Units of membership.

The articles or bylaws may provide for the holding of meetings by units of the membership and may provide for a method of transmitting the votes there cast to the central meeting, or for a method of representation by the election of delegates to the central meeting, or for a combination of both of these methods.

§ 29-913. Voting -- Number permitted by each member.

(a) Each member of an association shall have only one vote, except as may be altered in the articles or bylaws for:

(1) Voting by member organizations; or

(2) Allocation of votes in a cooperative housing association proportionate to the share of ownership in the association or on the basis of one vote for each unit.

(b) A voting agreement or other device to evade the requirements of this section shall not be enforceable.

§ 29-914. Voting -- Proxy prohibited.

A member shall not vote by proxy.

§ 29-915. Voting -- By mail.

(a) The articles or bylaws may provide for either or both of the following types of voting by mail:

(1) That the secretary shall send to the members a copy of any proposal scheduled to be offered at a meeting, together with the notice of the meeting, and that the mail votes cast by the members shall be counted together with those cast at the meeting if the mail votes are returned to the association within a specified number of days; and

(2) That the secretary shall send to any member absent from a meeting an exact copy of the proposal acted upon at the meeting, and that the mail vote of the member upon such proposal, if returned within a specified number of days, shall be counted together with the votes cast at the meeting.

(b) The articles or bylaws may also determine whether and to what extent mail votes shall be counted in computing a quorum.

§ 29-916. Voting provisions -- Application to voting by mail.

If an association has provided for voting by mail, any provision of this chapter referring to votes cast by the members shall be construed to include the votes cast by mail.

§ 29-917. Voting provisions -- Application to voting by delegates.

If an association has provided for voting by delegates, any provision of this chapter referring to votes cast by the members shall apply to votes cast by delegates, but this shall not permit delegates to vote by mail.

§ 29-918. Directors.

(a) An association shall be managed by a board of not less than 5 directors, who are elected for a term fixed in the bylaws, not to exceed 3 years, by and from the members of the association and hold office until their successors are elected or until removed. The bylaws of an association that provides multi-family cooperative housing for low and moderate income individuals who are receiving assistance through one or more of the federal programs described in § 47-1002(20) may provide that one or more of the directors, but not a majority of the directors, may be appointed by a nonprofit sponsoring organization which helped create the association so as to maintain a continuing and stabilizing interest in its well-being; provided, that the sponsoring organization shall not appoint any directors after the association has been established for 10 years. The director or directors appointed by the sponsoring organization need not be members of the association. Vacancies in the board of directors, otherwise than by removal or expiration of term, shall be filled in such manner as the bylaws may provide.

(b) The bylaws may provide for a method of apportioning the number of directors among the units into which the association may be divided and for the election of directors by the respective units to which they are apportioned.

(c) An executive committee of the board of directors may be elected in such manner and with such powers and duties as the articles or bylaws may prescribe.

(d) Meetings of directors and of the executive committee may be held inside or outside the District.

§ 29-919. Officers.

The officers of an association include a president, one or more vice-presidents, a secretary and a treasurer, or a secretary-treasurer. The officers shall be elected annually by the directors unless the bylaws otherwise provide. The president and at least one vice-president shall be directors, but no other officer need be a director.

§ 29-920. Removal of directors and officers; vote required for approval; vacancies.

A director or officer may be removed, with or without cause, by a vote of ⅔ of the members voting at a regular or special meeting. The director or officer involved shall have an opportunity to be heard at the meeting. A vacancy caused by any such removal shall be filled by the vote provided in the bylaws for election of directors.

§ 29-921. Referendum on acts of directors.

The articles or bylaws may provide that, within a specified period of time, any action taken by the directors shall be referred to the members for approval or disapproval if demanded by petition of at least 10% of all the members or by vote of at least a majority of the directors; provided, that the rights of third parties which have vested between the time of such action and such referendum shall not be impaired thereby.

§ 29-922. Limitations upon the return on capital.

(a) The return upon capital shall not exceed 6% per annum upon the paid-up capital and shall be noncumulative.

(b) Total return upon capital distributed for any single period shall not exceed 50% of the net savings for that period.

§ 29-923. Eligibility and admission to membership.

Any individual, association, corporation, incorporated or unincorporated group organized on a cooperative basis, any nonprofit group, or other entity shall be eligible for membership in an association if it has met the qualifications for eligibility, if any, stated in the articles or bylaws and shall be deemed a member upon payment in full for the par value of the minimum amount of share or membership capital stated in the articles as necessary to qualify for membership.

§ 29-924. Subscribers.

Any individual or group eligible for membership and legally obligated to purchase a share or shares of, or membership in, an association shall be deemed a subscriber. The articles or bylaws may determine whether, and the conditions under which, any voting rights or other rights of membership are granted to subscribers.

§ 29-925. Share and membership certificates; issuance and contents.

No certificate for share or membership capital shall be issued until the par value thereof has been paid for in full. A full or condensed statement of the requirements of §§ 29-913, 29-914, 29-915, and 29-927 shall be printed upon each certificate issued by an association.

§ 29-926. Transfer of shares and memberships; withdrawal.

(a) If a member desires to withdraw from the association or dispose of any or all of the member's holdings therein, the directors may purchase the holdings by paying the member the par value of any or all the holdings offered. The directors shall then reissue or cancel the holdings. A vote of the majority of the members voting at a regular or special meeting may order the directors to exercise this power to purchase.

(b) If the association fails, within 60 days of the original offer, to purchase all or any part of the holdings offered, the member may dispose of the unpurchased interest elsewhere, subject

to the approval of the transferee by a majority vote of the directors. Any purported transferee not approved by the directors may appeal to the members at their first regular or special meeting thereafter and the action of the meeting shall be final. If the transferee is not approved, the directors shall exercise their power to purchase, if and when the purchase can be made without jeopardizing the solvency of the association.

§ 29-927. Share and membership certificates -- Recall.

The bylaws may give the directors the power to use the reserve funds to recall, at par value, the holdings of any member in excess of the amount requisite for membership. The bylaws may also provide that if any member has failed to patronize the association during a period of time specified in the bylaws, the directors may use the reserve funds to recall all the member's holdings and thereupon the member shall cease to be a member of the association. When so recalled, the certificates of share or membership capital shall be either reissued or canceled.

§ 29-928. Share and membership certificates -- Exemption for attachment, execution and garnishment.

The holdings of any member of an association, to the extent of the minimum amount necessary for membership, but not to exceed $500, shall be exempt from attachment, execution, or garnishment for the debts of the owner. If any holdings in excess of this amount are subjected to such liability, the directors of the association may either admit the purchaser thereof to membership or may purchase from the purchaser the holdings at par value.

§ 29-929. Liability of members.

Members shall not be jointly or severally liable for any debts of the association. A subscriber shall not be liable for any debts of the association, except to the extent of the unpaid amount on the shares or membership certificate subscribed by the subscriber. No subscriber is released from liability by reason of any assignment of his interest in the shares or membership certificate, but shall remain jointly and severally liable with the assignee until the shares or certificates are fully paid up.

§ 29-930. Expulsion of members; procedure; purchase of holdings.

A member may be expelled by the vote of a majority of the members voting at a regular or special meeting. The member against whom the charges are to be preferred shall be informed thereof in writing at least 10 days in advance of the meeting and shall have an opportunity to be heard in person or by counsel at the meeting. On the decision of the association to expel a member, the board of directors shall purchase the member's holdings at par value, if and when there are sufficient reserve funds.

§ 29-931. Allocation and distribution of net savings.

At least once a year the members or the directors, or both, as the articles or bylaws may provide, shall apportion the net savings of the association in the following order:

(1) Not less than 10% shall be placed in a reserve fund until such time as the fund equals at least 50% of the paid-up capital. The fund may be used in the general conduct of the business. The amounts apportioned to the reserve fund shall be allocated on the books of the association on a patronage basis or, in lieu thereof, the books and records of the association shall afford a means for doing so, in order that upon dissolution or earlier, if deemed advisable, the reserves may be returned to the patrons who have contributed the same, subject to the limitations of § 29-934.

(2) A return upon capital, within the limitations of § 29-922, may be paid upon share capital, or, if the bylaws so provide, upon the membership capital certificates of a nonshare association, but the return upon capital may be paid only out of the surplus of the aggregate of the assets over the aggregate of the liabilities, including in the latter the amount of the capital stock, after deducting from the aggregate of the assets the amount by which such aggregate was increased by unrealized appreciation in value or revaluation of fixed assets.

(3) A portion of the remainder, as determined by the articles or bylaws, shall be allocated to an educational fund to be used in teaching cooperation, and a portion may also be allocated to funds for the general welfare of the members of the association.

(4) The remainder shall be allocated at the same uniform rate to all patrons of the association in proportion to their individual patronage in accordance with the following rules:

(A) In the case of a member patron, the member's proportionate amount of savings returns shall be distributed to the member unless the member agrees that the association should credit the amount to the member's account toward the purchase of an additional share or shares or additional membership capital.

(B) In the case of a subscriber patron, the patron's proportionate amount of savings returns may, as the articles or bylaws provide, be distributed to the patron or credited to the patron's account until the amount of capital subscribed for has been fully paid.

(C) In the case of a nonmember patron, the patron's proportionate amount of savings returns shall be set aside in a general fund for such patrons and shall be allocated to individual nonmember patrons only upon request and presentation of evidence of the amount of their patronage. Any savings return so allocated shall be credited to such patron toward payment of the minimum amount of share or membership capital necessary for membership. When a sum equal to this amount has accumulated at any time within a period of time specified in the bylaws, the patron shall be deemed to be, and becomes, a member of the association if the patron so agrees or requests and complies with any provisions in the bylaws for admission to membership. The certificates of shares or membership to which the patron is entitled shall then be issued to the patron.

(D)(i) Sub-subparagraph (ii) of this subparagraph shall apply if within any

periods of time specified in the articles or bylaws:

(I) Any subscriber has not accumulated and paid in the amount of capital subscribed for;

(II) Any nonmember patron has not accumulated in the patron's individual account the sum necessary for membership; or

(III) Any nonmember patron has accumulated the sum necessary for membership, but the patron does not request or agree to become a member, or fails to comply with the provisions of the bylaws, if any, for admission to membership.

(ii) If any of the conditions set forth in sub-subparagraph (i) of this subparagraph occur, the amounts so accumulated or paid in and any part of the general fund for nonmember patrons which has not been allocated to individual nonmember patrons shall go to the educational fund and, thereafter, no member or other patron shall have any rights in this paid-in capital or accumulated savings returns as such; provided, that nothing in this section prevents an association:

(I) Under this chapter which is engaged in rendering services from disposing of the net savings from the rendering of such services in such manner as to lower the fees charged for services or otherwise to further the common benefit of the members; or

(II) From adopting a system whereby the payment of savings returns which would otherwise be distributed, shall be deferred for a fixed period of months or years, or from adopting a system whereby the savings returns distributed shall be partly in cash, partly in shares, the shares to be retired at a fixed future date, in the order of their serial number or date of issue.

§ 29-932. Bonding of officers and employees.

Every individual acting as officer or employee of an association and handling funds or securities amounting to $1,000 or more, in any one year, shall be covered by an adequate bond, as determined by the board of directors and at the expense of the association. The bylaws may also provide for the bonding of other employees or officers.

§ 29-933. Audit.

To record its business operation, every association shall keep a set of books, which shall be audited at the end of each fiscal year by an experienced bookkeeper or accountant, who shall not be an officer or director. If the annual business amounts to less than $10,000, the audit may be performed by an auditing committee of 3, who shall not be directors, officers, or employees. A written report of the audit, including a statement of the amount of business transacted with members and the amount transacted with nonmembers, the balance sheet, and the income and expenses, shall be submitted to the annual meeting of the association.

§ 29-934. Dissolution; methods; vote required for approval; distribution of assets.

An association may, at any regular or special meeting legally called, be directed to dissolve by a vote of ⅔ of the entire membership. By a vote of a majority of the members voting, 3 members shall be designated as trustees, who shall, on behalf of the association and within a time fixed in their designation or within any extension thereof, liquidate its assets, and shall distribute them in the manner set forth in this section. The association shall file a statement of dissolution with the Mayor. An action in the Superior Court for judicial dissolution of an association organized under this chapter may be instituted for the causes and prosecuted in the manner set forth in part B of subchapter XII of Chapter 3 of this title; provided, that any distribution of assets shall be in the manner set forth in this section. In case of any dissolution of an association, its assets shall be distributed in the following manner and order:

(1) Payment of its debts and expenses;

(2) Returning to members the par value of their shares or of their membership certificates, return to the subscribers the amounts paid on their subscriptions, and returning to the patrons the amount of savings returns credited to their accounts toward the purchase of shares or membership certificates; and

(3) Distribution of any surplus in either or both of the following ways as the articles may provide:

(A) Among those patrons who have been members or subscribers at any time during the past 6 years, on the basis of their patronage during that period; or

(B) As a gift to any consumers' cooperative association or other nonprofit enterprise which may be designated in the articles.

§ 29-935. Existing cooperative groups; acceptance of act; filing and recordation of amended articles and bylaws.

Any group incorporated under another law of the District and operating on a cooperative basis or any unincorporated group operating on such a basis in the District may elect by a vote of ⅔ of the members voting to secure the benefits of and be bound by this chapter, and shall thereupon amend the parts of its articles and bylaws as are not in conformity with this chapter. A certified copy of the amended articles shall be filed with the Mayor.

§ 29-936. Foreign corporations and associations; admission to do business.

A foreign corporation or association operating on a cooperative basis and complying with the applicable laws of the state wherein it is organized shall be entitled to do business in the District as a foreign cooperative corporation or association and shall govern itself in accordance with its bylaws and the laws of the state wherein it is organized. A foreign corporation or association shall file a foreign registration statement as provided in § 29-105.03.

§ 29-937. Compliance with chapter; not in restraint of trade.

The fact that economic activity of a limited cooperative association, a subsidiary, or a related entity, is organized under this chapter shall not in itself cause the activity to be considered a conspiracy, a combination in restraint of trade, an illegal monopoly, or an attempt to lessen competition or fix prices arbitrarily.

§ 29-938. Chapter 3 of this title applicable to associations.

Chapter 3 of this title shall apply to associations formed under this chapter, except to the extent that it is in conflict with this chapter.

§ 29-939. Taxation; annual license fee.

Associations formed under this chapter, and foreign corporations and associations admitted under § 29-936 to do business in the District, shall pay an annual license fee established by the Mayor by rule.

CHAPTER 10. LIMITED COOPERATIVE ASSOCIATIONS.

Section

Subchapter I. General Provisions.

29-1001.01. Short title.
29-1001.02. Definitions.
29-1001.03. Nature of limited cooperative association.
29-1001.04. Purpose and duration of limited cooperative association.
29-1001.05. Powers.
29-1001.06. Governing law.
29-1001.07. Requirements of other laws.
29-1001.08. Relation to restraint of trade and antitrust laws.
29-1001.09. Effect of organic rules.
29-1001.10. Required information.
29-1001.11. Business transactions of member with limited cooperative association.
29-1001.12. Dual capacity.

Subchapter II. Filing.

29-1002.01. Signing of records delivered for filing to Mayor.
29-1002.02. Signing and filing of records pursuant to judicial order.
29-1002.03. Liability for inaccurate information in filed record.
Subchapter III. Formation and Initial Articles of Organization of Limited Cooperative Association.
29-1003.01. Organizers.
29-1003.02. Formation of limited cooperative association; articles of organization.
29-1003.03. Organization of limited cooperative association.
29-1003.04. Bylaws.

Subchapter IV. Amendment of Organic Rules of Limited Cooperative Association.
29-1004.01. Authority to amend organic rules.
29-1004.02. Notice and action on amendment of organic rules.
29-1004.03. Method of voting on amendment of organic rules.
29-1004.04. Voting by district, class, or voting group.
29-1004.05. Approval of amendment.
29-1004.06. Restated articles of organization.
29-1004.07. Amendment or restatement of articles of organization; filing.
Subchapter V. Members.
29-1005.01. Members.
29-1005.02. Becoming member.
29-1005.03. No power as member to bind association.
29-1005.04. No liability as member for association's obligations.
29-1005.05. Right of member and former member to information.
29-1005.06. Annual meeting of members.
29-1005.07. Special meeting of members.
29-1005.08. Notice of members meeting.
29-1005.09. Waiver of members meeting notice.
29-1005.10. Quorum of members.
29-1005.11. Voting by patron members.
29-1005.12. Determination of voting power of patron member.
29-1005.13. Voting by investor members.
29-1005.14. Voting requirements for members.
29-1005.15. Manner of voting.
29-1005.16. Action without a meeting.
29-1005.17. Districts and delegates; classes of members.
Subchapter VI. Member's Interest in Limited Cooperative Association.
29-1006.01. Member's interest.
29-1006.02. Patron and investor members' interests.
29-1006.03. Transferability of member's interest.
29-1006.04. Security interest and set-off.
29-1006.05. Charging orders for judgment creditor of member or transferee.
Subchapter VII. Marketing Contracts.
29-1007.01. Authority.
29-1007.02. Marketing contracts.
29-1007.03. Duration of marketing contract.
29-1007.04. Remedies for breach of contract.
Subchapter VIII. Directors and Officers.
29-1008.01. Board of directors.

29-1008.02. No liability as director for limited cooperative association's obligations.
29-1008.03. Qualifications of directors.
29-1008.04. Election of directors and composition of board.
29-1008.05. Term of director.
29-1008.06. Resignation of director.
29-1008.07. Removal of director.
29-1008.08. Suspension of director by board.
29-1008.09. Vacancy on board.
29-1008.10. Remuneration of directors.
29-1008.11. Meetings.
29-1008.12. Action without meeting.
29-1008.13. Meetings and notice.
29-1008.14. Waiver of notice of meeting.
29-1008.15. Quorum.
29-1008.16. Voting.
29-1008.17. Committees.
29-1008.18. Standards of conduct and liability.
29-1008.19. Conflict of interest.
29-1008.20. Other considerations of directors.
29-1008.21. Right of director or committee member to information.
29-1008.22. Appointment and authority of officers.
29-1008.23. Resignation and removal of officers.

Subchapter IX. Indemnification.

29-1009.01. Indemnification.

Subchapter X. Contributions, Allocations, and Distributions.

29-1010.01. Members' contributions.
29-1010.02. Contribution and valuation.
29-1010.03. Contribution agreements.
29-1010.04. Allocations of profits and losses.
29-1010.05. Distributions.
29-1010.06. Redemption or repurchase.
29-1010.07. Limitations on distributions.
29-1010.08. Liability for improper distributions; limitation of action.

Subchapter XI. Dissociation.

29-1011.01. Member's dissociation.
29-1011.02. Effect of dissociation as member.
29-1011.03. Power of estate of member.

Subchapter XII. Dissolution.

29-1012.01. Dissolution and winding up.

29-1012.02. Nonjudicial dissolution.
29-1012.03. Judicial dissolution.
29-1012.04. Voluntary dissolution before commencement of activity.
29-1012.05. Voluntary dissolution by the board and members.
29-1012.06. Winding up.
29-1012.07. Distribution of assets in winding up limited cooperative association.
29-1012.08. Known claims against dissolved limited cooperative association.
29-1012.09. Other claims against dissolved limited cooperative association.
29-1012.10. Judicial proceeding.
29-1012.11. Statement of dissolution.
29-1012.12. Statement of termination.

Subchapter XIII. Action by Member.

29-1013.01. Derivative action.
29-1013.02. Proper plaintiff.
29-1013.03. Pleading.
29-1013.04. Approval for discontinuance or settlement.
29-1013.05. Proceeds and expenses.

Subchapter XIV. Disposition of Assets.

29-1014.01. Disposition of assets not requiring member approval.
29-1014.02. Member approval of other disposition of assets.
29-1014.03. Notice and action on disposition of assets.
29-1014.04. Disposition of assets.

Subchapter XV. Merger.

29-1015.01. Definitions.
29-1015.02. Merger.
29-1015.03. Notice and action on plan of merger.
29-1015.04. Approval or abandonment of merger by members.
29-1015.05. Filings required for merger; effective date.
29-1015.06. Effect of merger.
29-1015.07. Consolidation.
29-1015.08. Subchapter not exclusive.

CHAPTER 10. LIMITED COOPERATIVE ASSOCIATIONS.

Subchapter I. General Provisions.

§ 29-1001.01. Short title.

This chapter may be cited as the "Uniform Limited Cooperative Association Act of 2010".

§ 29-1001.02. Definitions.

For the purposes of this chapter, the term:

(1) "Board of directors" means the board of directors of a limited cooperative association.

(2) "Bylaws" means the bylaws of a limited cooperative association. The term "bylaws" shall include the bylaws as amended or restated.

(3) "Contribution", except as used in § 29-1010.08(c), means a benefit that a person provides to a limited cooperative association to become or remain a member or in the person's capacity as a member.

(4) "Cooperative" means a limited cooperative association or an entity organized under any cooperative law of any jurisdiction.

(5) "Director" means a director of a limited cooperative association.

(6) "Distribution", except as used in § 29-1010.07(e), means a transfer of money or other property from a limited cooperative association to a member because of the member's financial rights or to a transferee of a member's financial rights.

(7) "Financial rights" means the right to participate in allocations and distributions as provided in subchapters X and XII of this chapter, but shall not include rights or obligations under a marketing contract governed by subchapter VII of this chapter.

(8) "Foreign cooperative" means an entity organized in a jurisdiction other than the District under a law similar to this chapter.

(9) "Investor member" means a member that has made a contribution to a limited cooperative association and is not:

(A) Required by the organic rules to conduct patronage with the association in the member's capacity as an investor member to receive the member's interest; or

(B) Permitted by the organic rules to conduct patronage with the association in the member's capacity as an investor member in order to receive the member's interest.

(10) "Limited cooperative association", "domestic limited cooperative association", "association", or "domestic association" means an association organized under this chapter.

(11) "Member" means a person that is admitted as a patron member or investor member, or both, in a limited cooperative association. The term "member" shall not include a person that has dissociated as a member.

(12) "Member's interest" means the interest of a patron member or investor member under § 29-1006.01.

(13) "Members meeting" means an annual members meeting or special meeting of members.

(14) "Organizer" means an individual who signs the initial articles of organization.

(15) "Patron member" means a member that has made a contribution to a limited cooperative association and is:

(A) Required by the organic rules to conduct patronage with the association in the member's capacity as a patron member to receive the member's interest; or

(B) Permitted by the organic rules to conduct patronage with the association in the member's capacity as a patron member to receive the member's interest.

(16) "Patronage" means business transactions between a limited cooperative association and a person which entitle the person to receive financial rights based on the value or quantity of business done between the association and the person.

(17) "Required information" means the information a limited cooperative association is required to maintain under § 29-1001.10.

(18) "Voting group" means any combination of one or more voting members in one or more districts or classes that under the organic rules or this chapter are entitled to vote and can be counted together collectively on a matter at a members meeting.

(19) "Voting member" means a member that, under the organic law or organic rules, has a right to vote on matters subject to vote by members under the organic law or organic rules.

(20) "Voting power" means the total current power of members to vote on a particular matter for which a vote may or is to be taken.

§ 29-1001.03. Nature of limited cooperative association.

(a) A limited cooperative association organized under this chapter shall be an autonomous, unincorporated association of persons united to meet their mutual interests through a jointly owned enterprise primarily controlled by those persons, which permits combining:

(1) Ownership, financing, and receipt of benefits by the members for whose interests the association is formed; and

(2) Separate investments in the association by members who may receive returns on their investments and a share of control.

(b) The fact that a limited cooperative association does not have one or more of the characteristics described in subsection (a) of this section shall not alone prevent the association from being formed under, and governed by, this chapter and shall not alone provide a basis for an action against the association.

§ 29-1001.04. Purpose and duration of limited cooperative association.

(a) A limited cooperative association shall be an entity distinct from its members.

(b) A limited cooperative association may be organized for any lawful purpose, whether or not for profit.

(c) Unless the articles of organization state a term for a limited cooperative association's existence, the association shall have perpetual duration.

§ 29-1001.05. Powers.

A limited cooperative association may sue and be sued in its own name and do all things necessary or convenient to carry on its activities. An association may maintain an action against a member for harm caused to the association by the member's violation of a duty to the association or of the organic law or organic rules.

§ 29-1001.06. Governing law.

The law of the District shall govern the:

(1) Internal affairs of a limited cooperative association; and

(2) Liability of a member as member and a director as director for the debts, obligations, or other liabilities of a limited cooperative association.

§ 29-1001.07. Requirements of other laws.

(a) This chapter shall not alter or amend any law that governs the licensing and regulation of an individual or entity in carrying on a specific business or profession even if that law permits the business or profession to be conducted by a limited cooperative association, a foreign cooperative, or its members.

(b) A limited cooperative association shall not conduct an activity that, under law of the District other than this chapter, shall be conducted only by an entity that meets specific requirements for the internal affairs of that entity unless the organic rules of the association conform to those requirements.

§ 29-1001.08. Relation to restraint of trade and antitrust laws.

To the extent a limited cooperative association or activities conducted by the association in the District meet the material requirements for other cooperatives entitled to an exemption from or immunity under § 29-937, the association and its activities shall be entitled to the exemption or immunity. This section shall not create any new exemption or immunity for an association or affect any exemption or immunity provided to a cooperative organized under any other law.

§ 29-1001.09. Effect of organic rules.

(a) The relations between a limited cooperative association and its members shall be consensual. Unless required, limited, or prohibited by this chapter, the organic rules may provide for any matter concerning the relations among the members of the association and between the members and the association, the activities of the association, and the conduct of its activities.

(b) The matters referred to in paragraphs (1) through (11) of this subsection shall be varied only in the articles of organization. The articles may:

(1) State a term of existence for the association under § 29-1001.04(c);

(2) Limit or eliminate the acceptance of new or additional members by the initial

board of directors under § 29-1003.03(b);

(3) Vary the limitations on the obligations and liability of members for association obligations under § 29-1005.04;

(4) Require a notice of an annual members meeting to state a purpose of the meeting under § 29-1005.08(b);

(5) Vary the board of directors meeting quorum under § 29-1008.15(a);

(6) Vary the matters the board of directors may consider in making a decision under § 29-1008.20;

(7) Specify causes of dissolution under § 29-1012.02(1);

(8) Delegate amendment of the bylaws to the board of directors pursuant to § 29-1004.05(f);

(9) Provide for member approval of asset dispositions under § 29-1014.01;

(10) Subject to § 29-1008.20, provide for the elimination or limitation of liability of a director to the association or its members for money damages pursuant to § 29-1008.18;

(11) Provide for permitting or making obligatory indemnification under § 29-1009.01(a); and

(12) Provide for any matters that may be contained in the organic rules, including those under subsection (c) of this section.

(c) The matters referred to in this subsection shall be varied only in the organic rules. The organic rules may:

(1) Require more information to be maintained under § 29-1001.10 or provided to members under § 29-1005.05(k);

(2) Provide restrictions on transactions between a member and an association under § 29-1001.11;

(3) Provide for the percentage and manner of voting on amendments to the organic rules by district, class, or voting group under § 29-1004.04(a);

(4) Provide for the percentage vote required to amend the bylaws concerning the admission of new members under § 29-1004.05(e)(5);

(5) Provide for terms and conditions to become a member under § 29-1005.02;

(6) Restrict the manner of conducting members meetings under §§ 29-1005.06(c) and 29-1005.07(e);

(7) Designate the presiding officer of members meetings under §§ 29-1005.06(e) and 29-1005.07(g);

(8) Require a statement of purposes in the annual meeting notice under § 29-1005.08(b);

(9) Increase quorum requirements for members meetings under § 29-1005.10 and board of directors meetings under § 29-1008.15;

(10) Allocate voting power among members, including patron members and investor members, and provide for the manner of member voting and action as permitted by

§§ 29-1005.11 through 29-1005.17;

(11) Authorize investor members and expand or restrict the transferability of members' interests to the extent provided in §§ 29-1006.02 through 29-1006.04;

(12) Provide for enforcement of a marketing contract under § 29-1007.04(a);

(13) Provide for qualification, election, terms, removal, filling vacancies, and member approval for compensation of directors in accordance with §§ 29-1008.03 through 29-1008.05, 29-1008.07, 29-1008.09, and 29-1008.10;

(14) Restrict the manner of conducting board meetings and taking action without a meeting under §§ 29-1008.11 and 29-1008.12;

(15) Provide for frequency, location, notice, and waivers of notice for board meetings under §§ 29-1008.13 and 29-1008.14;

(16) Increase the percentage of votes necessary for board action under § 29-1008.16(b);

(17) Provide for the creation of committees of the board of directors and matters related to the committees in accordance with § 29-1008.17;

(18) Provide for officers and their appointment, designation, and authority under § 29-1008.22;

(19) Provide for forms and values of contributions under § 29-1010.02;

(20) Provide for remedies for failure to make a contribution under § 29-1010.03(b);

(21) Provide for the allocation of profits and losses of the association, distributions, and the redemption or repurchase of distributed property other than money in accordance with §§ 29-1010.04 through 29-1010.07;

(22) Specify when a member's dissociation is wrongful and the liability incurred by the dissociating member for damage to the association under § 29-1011.01(b) and (c);

(23) Provide the personal representative, or other legal representative, of a deceased member or a member adjudged incompetent with additional rights under § 29-1011.03;

(24) Increase the percentage of votes required for board of director approval of:

(A) A resolution to dissolve under § 29-1012.05(a)(1);

(B) A proposed amendment to the organic rules under § 29-1004.02(a)(1);

(C) A transaction under Chapter 2 of this title;

(D) A plan of merger under § 29-1015.03(a); and

(E) A proposed disposition of assets under § 29-1014.03(1); and

(25) Vary the percentage of votes required for members approval of:

(A) A resolution to dissolve under § 29-1012.05;

(B) An amendment to the organic rules under § 29-1004.05;

(C) A plan of conversion under § 29-204.02;

(D) A plan of merger under § 29-1015.04; and

(E) A disposition of assets under § 29-1014.04.

(d) The organic rules shall address members' contributions pursuant to § 29-1010.01.

§ 29-1001.10. Required information.

(a) Subject to subsection (b) of this section, a limited cooperative association shall maintain in a record available at its principal office:

(1) A list containing the name, last known street address and, if different, mailing address, and term of office of each director and officer;

(2) The initial articles of organization and all amendments to and restatements of the articles, together with a signed copy of any power of attorney under which any article, amendment, or restatement has been signed;

(3) The initial bylaws and all amendments to and restatements of the bylaws;

(4) All filed articles of merger and statements filed under Chapter 2 of this title;

(5) All financial statements of the association for the 6 most recent years;

(6) The 6 most recent biennial reports delivered by the association to the Mayor;

(7) The minutes of members meetings for the 6 most recent years;

(8) Evidence of all actions taken by members without a meeting for the 6 most recent years;

(9) A list containing:

(A) The name, in alphabetical order, and last known street address and, if different, mailing address of each patron member and each investor member; and

(B) If the association has districts or classes of members, information from which each current member in a district or class may be identified;

(10) The federal income tax returns, any state and local income tax returns, and any tax reports of the association for the 6 most recent years;

(11) Accounting records maintained by the association in the ordinary course of its operations for the 6 most recent years;

(12) The minutes of directors meetings for the 6 most recent years;

(13) Evidence of all actions taken by directors without a meeting for the 6 most recent years;

(14) The amount of money contributed and agreed to be contributed by each member;

(15) A description and statement of the agreed value of contributions other than money made and agreed to be made by each member;

(16) The times at which, or events on the happening of which, any additional contribution is to be made by each member;

(17) For each member, a description and statement of the member's interest or information from which the description and statement can be derived; and

(18) All communications concerning the association made in a record to all members, or to all members in a district or class, for the 6 most recent years.

(b) If a limited cooperative association has existed for less than the period for which records must be maintained under subsection (a) of this section, the period for which records must be kept shall be the period of the association's existence.

(c) The organic rules may require that more information be maintained.

§ 29-1001.11. Business transactions of member with limited cooperative association.

Subject to §§ 29-1008.18 and 29-1008.19 and except as otherwise provided in the organic rules or a specific contract relating to a transaction, a member may lend money to and do other business with a limited cooperative association in the same manner as a person that is not a member.

§ 29-1001.12. Dual capacity.

A person may have a patron member's interest and an investor member's interest. When such person acts as a patron member, the person shall be subject to this chapter and the organic rules governing patron members. When such person acts as an investor member, the person shall be subject to this chapter and the organic rules governing investor members.

Subchapter II. Filing.

§ 29-1002.01. Signing of records delivered for filing to Mayor.

(a) A record delivered to the Mayor for filing pursuant to this chapter shall be signed as follows:

(1) The initial articles of organization shall be signed by at least one organizer.

(2) A statement of cancellation under § 29-1003.02(d) shall be signed by at least one organizer.

(3) Except as otherwise provided in paragraph (4) of this subsection, a record signed on behalf of an existing limited cooperative association shall be signed by an officer.

(4) A record filed on behalf of a dissolved association shall be signed by a person winding up activities under § 29-1012.06 or a person appointed under § 29-1012.06 to wind up those activities.

(5) Any other record shall be signed by the person on whose behalf the record is delivered to the Mayor.

(b) Any record to be signed under this chapter may be signed by an authorized agent.

§ 29-1002.02. Signing and filing of records pursuant to judicial order.

(a) If a person required by this chapter to sign or deliver a record to the Mayor for filing does not do so, the Superior Court, upon petition of an aggrieved person, may order:

(1) The person to sign the record and deliver it to the Mayor for filing; or

(2) Delivery of the unsigned record to the Mayor for filing.

(b) An aggrieved person under subsection (a) of this section, other than the limited

cooperative association or foreign cooperative to which the record pertains, shall make the association or foreign cooperative a party to the action brought to obtain the order.

(c) An unsigned record filed pursuant to this section shall be effective.

§ 29-1002.03. Liability for inaccurate information in filed record.

If a record delivered to the Mayor for filing under this chapter and filed by the Mayor contains inaccurate information, a person that suffers a loss by reliance on the information may recover damages for the loss from a person that signed the record or caused another to sign it on the person's behalf and knew at the time the record was signed that the information was inaccurate.

Subchapter III. Formation and Initial Articles of Organization of Limited Cooperative Association.

§ 29-1003.01. Organizers.

A limited cooperative association shall be organized by one or more organizers.

§ 29-1003.02. Formation of limited cooperative association; articles of organization.

(a) To form a limited cooperative association, an organizer of the association must deliver articles of organization to the Mayor for filing. The articles shall state:

(1) The name of the association, which shall comply with §§ 29-103.01 and 29-103.02(h);

(2) The purposes for which the association is formed;

(3) The street address and, if different, mailing address of the association's initial principal office and the information required by § 29-104.04;

(4) The name and street address and, if different, mailing address of each organizer; and

(5) The term for which the association is to exist if other than perpetual.

(b) Subject to § 29-1001.09(a), articles of organization may contain any other provisions in addition to those required by subsection (a) of this section.

(c) A limited cooperative association shall be formed after articles of organization that substantially comply with subsection (a) of this section are delivered to the Mayor, are filed, and become effective under § 29-102.03.

(d) If articles of organization filed by the Mayor state a delayed effective date, a limited cooperative association shall not be formed if, before the articles take effect, an organizer signs and delivers to the Mayor for filing a statement of cancellation.

§ 29-1003.03. Organization of limited cooperative association.

(a) After a limited cooperative association is formed:

(1) If initial directors are named in the articles of organization, the initial directors

shall hold an organizational meeting to adopt initial bylaws and carry on any other business necessary or proper to complete the organization of the association; or

(2) If initial directors are not named in the articles of organization, the organizers shall designate the initial directors and call a meeting of the initial directors to adopt initial bylaws and carry on any other business necessary or proper to complete the organization of the association.

(b) Unless the articles of organization otherwise provide, the initial directors may cause the limited cooperative association to accept members, including those necessary for the association to begin business.

(c) Initial directors need not be members.

(d) An initial director shall serve until a successor is elected and qualified at a members meeting or the director is removed, resigns, is adjudged incompetent, or dies.

§ 29-1003.04. Bylaws.

(a) Bylaws shall be in a record and, if not stated in the articles of organization, shall include:

(1) A statement of the capital structure of the limited cooperative association, including:

(A) The classes or other types of members' interests and relative rights, preferences, and restrictions granted to or imposed upon each class or other type of member's interest; and

(B) The rights to share in profits or distributions of the association;

(2) A statement of the method for admission of members;

(3) A statement designating voting and other governance interests, including which members have voting power and any restriction on voting power;

(4) A statement that a member's interest is transferable if it is to be transferable and a statement of the conditions upon which it may be transferred;

(5) A statement concerning the manner in which profits and losses are allocated, and distributions are made, among patron members and, if investor members are authorized, the manner in which profits and losses are allocated, and how distributions are made, among investor members and between patron members and investor members;

(6) A statement concerning:

(A) Whether persons that are not members but conduct business with the association may be permitted to share in allocations of profits and losses and receive distributions; and

(B) The manner in which profits and losses are allocated and distributions are made with respect to those persons; and

(7) A statement of the number and terms of directors or the method by which the number and terms are determined.

(b) Subject to § 29-1001.09(c) and the articles of organization, bylaws may contain any other provision for managing and regulating the affairs of the association.

(c) In addition to amendments permitted under subchapter IV of this chapter, the initial board of directors may amend the bylaws by a majority vote of the directors at any time before the admission of members.

Subchapter IV. Amendment of Organic Rules of Limited Cooperative Association.

§ 29-1004.01. Authority to amend organic rules.

(a) A limited cooperative association may amend its organic rules under this subchapter for any lawful purpose. In addition, the initial board of directors may amend the bylaws of an association under § 29-1003.04.

(b) Unless the organic rules otherwise provide, a member shall not have a vested property right resulting from any provision in the organic rules, including a provision relating to the management, control, capital structure, distribution, entitlement, purpose, or duration of the limited cooperative association.

§ 29-1004.02. Notice and action on amendment of organic rules.

(a) Except as otherwise provided in §§ 29-1004.01(a) and 29-1004.05(f), the organic rules of a limited cooperative association shall be amended only at a members meeting. An amendment may be proposed by either:

(1) A majority of the board of directors, or a greater percentage if required by the organic rules; or

(2) One or more petitions signed by at least 10% of the patron members or at least 10% of the investor members.

(b) The board of directors shall call a members meeting to consider an amendment proposed pursuant to subsection (a) of this section. The meeting shall be held not later than 90 days following the proposal of the amendment by the board or receipt of a petition. The board shall mail or otherwise transmit or deliver in a record to each member:

(1) The proposed amendment, or a summary of the proposed amendment and a statement of the manner in which a copy of the amendment in a record may be reasonably obtained by a member;

(2) A recommendation that the members approve the amendment or, if the board determines that because of conflict of interest or other special circumstances, it should not make a favorable recommendation, the basis for that determination;

(3) A statement of any condition of the board's submission of the amendment to the members; and

(4) Notice of the meeting at which the proposed amendment will be considered, which shall be given in the same manner as notice for a special meeting of members.

§ 29-1004.03. Method of voting on amendment of organic rules.

(a) A substantive change to a proposed amendment of the organic rules shall not be made at the members meeting at which a vote on the amendment occurs.

(b) A nonsubstantive change to a proposed amendment of the organic rules may be made at the members meeting at which the vote on the amendment occurs and need not be separately voted upon by the board of directors.

(c) A vote to adopt a nonsubstantive change to a proposed amendment to the organic rules shall be by the same percentage of votes required to pass a proposed amendment.

§ 29-1004.04. Voting by district, class, or voting group.

(a) This section shall apply if the organic rules provide for voting by district or class or if there is one or more identifiable voting groups that a proposed amendment to the organic rules would affect differently from other members with respect to matters identified in § 29-1004.05(e)(1) through (5). Approval of the amendment shall require the same percentage of votes of the members of that district, class, or voting group required in §§ 29-1004.05 and 29-1005.14.

(b) If a proposed amendment to the organic rules would affect members in 2 or more districts or classes entitled to vote separately under subsection (a) of this section in the same or a substantially similar way, the districts or classes affected shall vote as a single voting group unless the organic rules otherwise provide for separate voting.

§ 29-1004.05. Approval of amendment.

(a) Subject to § 29-1004.04 and subsections (c) and (d) of this section, an amendment to the articles of organization shall be approved by:

(1) At least ⅔ of the voting power of members present at a members meeting called under § 29-1004.02; and

(2) If the limited cooperative association has investor members, at least a majority of the votes cast by patron members, unless the organic rules require a greater percentage vote by patron members.

(b) Subject to § 29-1004.04 and subsections (c), (d), (e) and (f) of this section, an amendment to the bylaws shall be approved by:

(1) At least a majority vote of the voting power of all members present at a members meeting called under § 29-1004.02, unless the organic rules require a greater percentage; and

(2) If a limited cooperative association has investor members, a majority of the votes cast by patron members, unless the organic rules require a larger affirmative vote by patron members.

(c) The organic rules may require that the percentage of votes under subsection (a)(1) or (b)(1) of this section be:

(1) A different percentage that is not less than a majority of members voting at the meeting;

(2) Measured against the voting power of all members; or

(3) A combination of paragraphs (1) and (2) of this subsection.

(d) Consent in a record by a member shall be delivered to a limited cooperative association before delivery of an amendment to the articles of organization or restated articles of organization for filing pursuant to § 29-1004.07 if, as a result of the amendment, the member will have:

(1) Personal liability for an obligation of the association; or

(2) An obligation or liability for an additional contribution.

(e) The vote required to amend bylaws shall satisfy the requirements of subsection (a) of this section if the proposed amendment modifies:

(1) The equity capital structure of the limited cooperative association, including the rights of the association's members to share in profits or distributions, or the relative rights, preferences, and restrictions granted to or imposed upon one or more districts, classes, or voting groups of similarly situated members;

(2) The transferability of a member's interest;

(3) The manner or method of allocation of profits or losses among members;

(4) The quorum for a meeting and the rights of voting and governance; or

(5) Unless otherwise provided in the organic rules, the terms for admission of new members.

(f) Except for the matters described in subsection (e) of this section, the articles of organization may delegate amendment of all or a part of the bylaws to the board of directors without requiring member approval.

(g) If the articles of organization delegate amendment of bylaws to the board of directors, the board shall provide a description of any amendment of the bylaws made by the board to the members in a record not later than 30 days after the amendment, but the description may be provided at the next annual members meeting if the meeting is held within the 30-day period.

§ 29-1004.06. Restated articles of organization.

A limited cooperative association, by the affirmative vote of a majority of the board of directors taken at a meeting for which the purpose is stated in the notice of the meeting, may adopt restated articles of organization that contain the original articles as previously amended. Restated articles may contain amendments if the restated articles are adopted in the same manner and with the same vote as required for amendments to the articles under § 29-1004.05(a). Upon filing, restated articles shall supersede the existing articles and all amendments.

§ 29-1004.07. Amendment or restatement of articles of organization; filing.

(a) To amend its articles of organization, a limited cooperative association shall deliver to the Mayor for filing an amendment of the articles, restated articles of organization, or articles of merger pursuant to subchapter XV of this chapter, which contain one or more amendments of the articles of organization, stating:

(1) The name of the association;

(2) The date of filing of the association's initial articles; and

(3) The changes the amendment makes to the articles as most recently amended or restated.

(b) Before the beginning of the initial meeting of the board of directors, an organizer who knows that information in the filed articles of organization was inaccurate when the articles were filed or has become inaccurate due to changed circumstances shall promptly:

(1) Cause the articles to be amended; or

(2) If appropriate, deliver an amendment to the Mayor for filing pursuant to § 29-102.01.

(c) If restated articles of organization are adopted, the restated articles may be delivered to the Mayor for filing in the same manner as an amendment.

(d) Upon filing, an amendment of the articles of organization or other record containing an amendment of the articles which has been properly adopted by the members is effective as provided in § 29-102.03.

Subchapter V. Members.

§ 29-1005.01. Members.

To begin business, a limited cooperative association shall have at least 2 patron members unless the sole member is a cooperative.

§ 29-1005.02. Becoming member.

A person shall become a member:

(1) As provided in the organic rules;

(2) As the result of a merger under subchapter XV of this chapter or a transaction under Chapter 2 of this title; or

(3) With the consent of all the members.

§ 29-1005.03. No power as member to bind association.

A member, solely by reason of being a member, shall not act for or bind the limited cooperative association.

§ 29-1005.04. No liability as member for association's obligations.

Unless the articles of organization otherwise provide, a debt, obligation, or other liability of a limited cooperative association shall be solely that of the association and shall not be the debt, obligation, or liability of a member solely by reason of being a member.

§ 29-1005.05. Right of member and former member to information.

(a) Not later than 10 business days after receipt of a demand made in a record, a limited cooperative association shall permit a member to obtain, inspect, and copy in the association's principal office required information listed in § 29-1001.10(a)(1) through (8) during regular business hours. A member need not have any particular purpose for seeking the information. The association shall not be required to provide the same information listed in § 29-1001.10(a)(2) through (8) to the same member more than once during a 6-month period.

(b) On demand made in a record received by the limited cooperative association, a member may obtain, inspect, and copy in the association's principal office required information listed in § 29-1001.10(a)(9), (10), (12), (13), (16), and (18) during regular business hours, if:

(1) The member seeks the information in good faith and for a proper purpose reasonably related to the member's interest;

(2) The demand includes a description with reasonable particularity of the information sought and the purpose for seeking the information;

(3) The information sought is directly connected to the member's purpose; and

(4) The demand is reasonable.

(c) Not later than 10 business days after receipt of a demand pursuant to subsection (b) of this section, a limited cooperative association shall provide, in a record, the following information to the member that made the demand:

(1) If the association agrees to provide the demanded information:

(A) What information the association will provide in response to the demand; and

(B) A reasonable time and place at which the association will provide the information; or

(2) If the association declines to provide some or all of the demanded information, the association's reasons for declining.

(d) A person dissociated as a member may obtain, inspect, and copy information available to a member under subsection (a) or (b) of this section by delivering a demand in a record to the limited cooperative association in the same manner and subject to the same conditions applicable to a member under subsection (b) of this section if:

(1) The information pertains to the period during which the person was a member in the association; and

(2) The person seeks the information in good faith.

(e) A limited cooperative association shall respond to a demand made pursuant to

subsection (d) of this section in the manner provided in subsection (c) of this section.

(f) Not later than 10 business days after receipt by a limited cooperative association of a demand made by a member in a record, but not more often than once in a 6-month period, the association shall deliver to the member a record stating the information with respect to the member required by § 29-1001.10(a)(17).

(g) A limited cooperative association may impose reasonable restrictions, including nondisclosure restrictions, on the use of information obtained under this section. In a dispute concerning the reasonableness of a restriction under this subsection, the association shall have the burden of proving reasonableness.

(h) A limited cooperative association may charge a person that makes a demand under this section reasonable costs of copying, limited to the costs of labor and material.

(i) A person that may obtain information under this section may obtain the information through an attorney or other agent. A restriction imposed on the person under subsection (g) of this section or by the organic rules shall apply to the attorney or other agent.

(j) The rights stated in this section shall not extend to a person as transferee.

(k) The organic rules may require a limited cooperative association to provide more information than required by this section and may establish conditions and procedures for providing the information.

§ 29-1005.06. Annual meeting of members.

(a) Members shall meet annually at a time provided in the organic rules or set by the board of directors not inconsistent with the organic rules.

(b) An annual members meeting may be held inside or outside the District at the place stated in the organic rules or selected by the board of directors not inconsistent with the organic rules.

(c) Unless the organic rules otherwise provide, members may attend or conduct an annual members meeting through any means of communication if all members attending the meeting can communicate with each other during the meeting.

(d) The board of directors shall report, or cause to be reported, at the association's annual members meeting the association's business and financial condition as of the close of the most recent fiscal year.

(e) Unless the organic rules otherwise provide, the board of directors shall designate the presiding officer of the association's annual members meeting.

(f) Failure to hold an annual members meeting shall not affect the validity of any action by the limited cooperative association.

§ 29-1005.07. Special meeting of members.

(a) A special meeting of members shall be called only:

(1) As provided in the organic rules;

(2) By a majority vote of the board of directors on a proposal stating the purpose of the meeting;

(3) By demand in a record signed by members holding at least 20% of the voting power of the persons in any district or class entitled to vote on the matter that is the purpose of the meeting stated in the demand; or

(4) By demand in a record signed by members holding at least 10% of the total voting power of all the persons entitled to vote on the matter that is the purpose of the meeting stated in the demand.

(b) A demand under subsection (a)(3) or (4) of this section shall be submitted to the officer of the limited cooperative association charged with keeping its records.

(c) Any voting member may withdraw its demand under subsection (a)(3) or (4) of this section before receipt by the limited cooperative association of demands sufficient to require a special meeting of members.

(d) A special meeting of members may be held inside or outside the District at the place stated in the organic rules or selected by the board of directors not inconsistent with the organic rules.

(e) Unless the organic rules otherwise provide, members may attend or conduct a special meeting of members through the use of any means of communication if all members attending the meeting can communicate with each other during the meeting.

(f) Only business within the purpose or purposes stated in the notice of a special meeting of members shall be conducted at the meeting.

(g) Unless the organic rules otherwise provide, the presiding officer of a special meeting of members shall be designated by the board of directors.

§ 29-1005.08. Notice of members meeting.

(a) A limited cooperative association shall notify each member of the time, date, and place of a members meeting at least 15, and not more than 60, days before the meeting.

(b) Unless the articles of organization otherwise provide, notice of an annual members meeting need not include any purpose of the meeting.

(c) Notice of a special meeting of members shall include each purpose of the meeting as contained in the demand under § 29-1005.07(a)(3) or (4) or as voted upon by the board of directors under § 29-1005.07(a)(2).

(d) Notice of a members meeting shall be given in a record unless oral notice is reasonable under the circumstances.

§ 29-1005.09. Waiver of members meeting notice.

(a) A member may waive notice of a members meeting before, during, or after the meeting.

(b) A member's participation in a members meeting shall be a waiver of notice of that

meeting unless the member objects to the meeting at the beginning of the meeting or promptly upon the member's arrival at the meeting and does not thereafter vote for or assent to action taken at the meeting.

§ 29-1005.10. Quorum of members.

Unless the organic rules otherwise require a greater number of members or percentage of the voting power, the voting member or members present at a members meeting shall constitute a quorum.

§ 29-1005.11. Voting by patron members.

Except as otherwise provided by § 29-1005.12(a), each patron member shall have one vote. The organic rules may allocate voting power among patron members as provided in § 29-1005.12(a).

§ 29-1005.12. Determination of voting power of patron member.

(a) The organic rules may allocate voting power among patron members on the basis of one or a combination of the following:

(1) One member, one vote;

(2) Use or patronage;

(3) Equity; or

(4) If a patron member is a cooperative, the number of its patron members.

(b) The organic rules may provide for the allocation of patron member voting power by districts or class, or any combination thereof.

§ 29-1005.13. Voting by investor members.

If the organic rules provide for investor members, each investor member shall have one vote, unless the organic rules otherwise provide. The organic rules may provide for the allocation of investor member voting power by class, classes, or any combination of classes.

§ 29-1005.14. Voting requirements for members.

If a limited cooperative association has both patron and investor members, the following rules shall apply:

(1) The total voting power of all patron members shall not be less than a majority of the entire voting power entitled to vote.

(2) Action on any matter shall be approved only upon the affirmative vote of at least a majority of:

(A) All members voting at the meeting unless more than a majority is required by subchapters IV, XII, XIV, or XV of this chapter or the organic rules; and

(B) Votes cast by patron members unless the organic rules require a larger

affirmative vote by patron members.

(3) The organic rules may provide for the percentage of the affirmative votes that must be cast by investor members to approve the matter.

§ 29-1005.15. Manner of voting.

(a) Unless the organic rules otherwise provide, voting by a proxy at a members meeting shall be prohibited. This subsection shall not prohibit delegate voting based on district or class.

(b) If voting by a proxy is permitted, a patron member shall appoint only another patron member as a proxy and, if investor members are permitted, an investor member shall appoint only another investor member as a proxy.

(c) The organic rules may provide for the manner of, and provisions governing, the appointment of a proxy.

(d) The organic rules may provide for voting on any question by ballot delivered by mail or voting by other means on questions that are subject to vote by members.

§ 29-1005.16. Action without a meeting.

(a) Unless the organic rules require that action be taken only at a members meeting, any action that may be taken by the members may be taken without a meeting if each member entitled to vote on the action consents in a record to the action.

(b) Consent under subsection (a) of this section may be withdrawn by a member in a record at any time before the limited cooperative association receives a consent from each member entitled to vote.

(c) Consent to any action may specify the effective date or time of the action.

§ 29-1005.17. Districts and delegates; classes of members.

(a) The organic rules may provide for the formation of geographic districts of patron members and:

(1) For the conduct of patron member meetings by districts and the election of directors at the meetings; or

(2) That districts may elect district delegates to represent and vote for the district at members meetings.

(b) A delegate elected under subsection (a)(2) of this section shall have one vote unless voting power is otherwise allocated by the organic rules.

(c) The organic rules may provide for the establishment of classes of members, for the preferences, rights, and limitations of the classes, and:

(1) For the conduct of members meetings by classes and the election of directors at the meetings; or

(2) That classes may elect class delegates to represent and vote for the class in members meetings.

(d) A delegate elected under subsection (c)(2) of this section shall have one vote unless voting power is otherwise allocated by the organic rules.

Subchapter VI. Member's Interest in Limited Cooperative Association.

§ 29-1006.01. Member's interest.

A member's interest shall:

(1) Be personal property;

(2) Consist of:

(A) Governance interests;

(B) Financial rights; and

(C) The right or obligation, if any, to do business with the limited cooperative association; and

(3) May be in certificated or uncertificated form.

§ 29-1006.02. Patron and investor members' interests.

(a) Unless the organic rules establish investor members' interests, a member's interest shall be a patron member's interest.

(b) Unless the organic rules otherwise provide, if a limited cooperative association has investor members, while a person is a member of the association, the person, if admitted as:

(1) A patron member, shall remain a patron member;

(2) An investor member, shall remain an investor member; and

(3) A patron member and investor member, shall remain a patron and investor member if not dissociated in one of the capacities.

§ 29-1006.03. Transferability of member's interest.

(a) The provisions of this chapter relating to the transferability of a member's interest shall be subject to Subtitle I of Title 28.

(b) Unless the organic rules otherwise provide, a member's interest other than financial rights shall not be transferable.

(c) Unless a transfer is restricted or prohibited by the organic rules, a member may transfer its financial rights in the limited cooperative association.

(d) The terms of any restriction on transferability of financial rights shall be:

(1) Set forth in the organic rules and the member records of the association; and

(2) Conspicuously noted on any certificates evidencing a member's interest.

(e) A transferee of a member's financial rights, to the extent the rights are transferred, shall have the right to share in the allocation of profits or losses and to receive the distributions to the member transferring the interest to the same extent as the transferring member.

(f) A transferee of a member's financial rights shall not become a member upon transfer of the rights unless the transferee is admitted as a member by the limited cooperative association.

(g) A limited cooperative association need not give effect to a transfer under this section until the association has notice of the transfer.

(h) A transfer of a member's financial rights in violation of a restriction on transfer contained in the organic rules shall be ineffective as to a person having notice of the restriction at the time of transfer.

§ 29-1006.04. Security interest and set-off.

(a) A member or transferee may create an enforceable security interest in its financial rights in a limited cooperative association.

(b) Unless the organic rules otherwise provide, a member shall not create an enforceable security interest in the member's governance interests in a limited cooperative association.

(c) The organic rules may provide that a limited cooperative association has a security interest in the financial rights of a member to secure payment of any indebtedness or other obligation of the member to the association. A security interest provided for in the organic rules shall be enforceable under, and governed by, Article 9 of Subtitle I of Title 28.

(d) Unless the organic rules otherwise provide, a member shall not compel the limited cooperative association to offset financial rights against any indebtedness or obligation owed to the association.

§ 29-1006.05. Charging orders for judgment creditor of member or transferee.

(a) On application by a judgment creditor of a member or transferee, a court may enter a charging order against the financial rights of the judgment debtor for the unsatisfied amount of the judgment. A charging order issued under this subsection shall constitute a lien on the judgment debtor's financial rights and require the limited cooperative association to pay over to the creditor or receiver, to the extent necessary to satisfy the judgment, any distribution that would otherwise be paid to the judgment debtor.

(b) To the extent necessary to effectuate the collection of distributions pursuant to a charging order under subsection (a) of this section, the court may:

(1) Appoint a receiver of the share of the distributions due, or to become due, to the judgment debtor under the judgment debtor's financial rights, with the power to make all inquiries the judgment debtor might have made; and

(2) Make all other orders that the circumstances of the case may require to give effect to the charging order.

(c) Upon a showing that distributions under a charging order will not pay the judgment debt within a reasonable time, the court may foreclose the lien and order the sale of the financial rights. The purchaser at the foreclosure sale shall obtain only the financial rights that are subject to the charging order, shall not thereby become a member, and shall be subject to § 29-1006.03.

(d) At any time before a sale pursuant to a foreclosure, a member or transferee whose financial rights are subject to a charging order under subsection (a) of this subsection may

extinguish the charging order by satisfying the judgment and filing a certified copy of the satisfaction with the court that issued the charging order.

(e) At any time before sale pursuant to a foreclosure, the limited cooperative association or one or more members whose financial rights are not subject to the charging order may pay to the judgment creditor the full amount due under the judgment and succeed to the rights of the judgment creditor, including the charging order. Unless the organic rules otherwise provide, the association shall act under this subsection only with the consent of all members whose financial rights are not subject to the charging order.

(f) This chapter shall not deprive any member or transferee of the benefit of any exemption laws applicable to the member's or transferee's financial rights.

(g) This section provides the exclusive remedy by which a judgment creditor of a member or transferee may satisfy the judgment from the member's or transferee's financial rights.

Subchapter VII. Marketing Contracts.

§ 29-1007.01. Authority.

For the purposes of this subchapter, the term "marketing contract" means a contract between a limited cooperative association and another person, that need not be a patron member:

(1) Requiring the other person to sell, or deliver for sale or marketing on the person's behalf, a specified part of the person's products, commodities, or goods exclusively to or through the association or any facilities furnished by the association; or

(2) Authorizing the association to act for the person in any manner with respect to the products, commodities, or goods.

§ 29-1007.02. Marketing contracts.

(a) If a marketing contract provides for the sale of products, commodities, or goods to a limited cooperative association, the sale shall transfer title to the association upon delivery or at any other specific time expressly provided by the contract.

(b) A marketing contract may:

(1) Authorize a limited cooperative association to create an enforceable security interest in the products, commodities, or goods delivered; and

(2) Allow the association to sell the products, commodities, or goods delivered, and pay the sales price, on a pooled or other basis after deducting selling costs, processing costs, overhead, expenses, and other charges.

(c) Some or all of the provisions of a marketing contract between a patron member and a limited cooperative association may be contained in the organic rules.

§ 29-1007.03. Duration of marketing contract.

The initial duration of a marketing contract shall not exceed 10 years, but the contract may be self-renewing for additional periods not exceeding 5 years each. Unless the contract

provides for another manner or time for termination, either party may terminate the contract by giving notice in a record at least 90 days before the end of the current term.

§ 29-1007.04. Remedies for breach of contract.

(a) Damages to be paid to a limited cooperative association for breach or anticipatory repudiation of a marketing contract may be liquidated, but only at an amount or under a formula that is reasonable in light of the actual or anticipated harm caused by the breach or repudiation. A provision that so provides shall not be a penalty.

(b) Upon a breach of a marketing contract, whether by anticipatory repudiation or otherwise, a limited cooperative association may seek:

(1) An injunction to prevent further breach; and

(2) Specific performance.

(c) The remedies in this section are in addition to any other remedies available to an association under law other than this chapter.

Subchapter VIII. Directors and Officers.

§ 29-1008.01. Board of directors.

(a) A limited cooperative association shall have a board of directors of at least 3 individuals, unless the association has fewer than 3 members. If the association has fewer than 3 members, the number of directors shall not be fewer than the number of members.

(b) The affairs of a limited cooperative association shall be managed by, or under the direction of, the board of directors. The board may adopt policies and procedures that do not conflict with the organic rules or this chapter.

(c) An individual shall not be an agent for a limited cooperative association solely by being a director.

§ 29-1008.02. No liability as director for limited cooperative association's obligations.

A debt, obligation, or other liability of a limited cooperative association shall be solely that of the association and shall not be a debt, obligation, or liability of a director solely by reason of being a director. An individual shall not be personally liable, directly or indirectly, for an obligation of an association solely by reason of being a director.

§ 29-1008.03. Qualifications of directors.

(a) Unless the organic rules otherwise provide, and subject to subsection (c) of this section, each director of a limited cooperative association shall be an individual who is a member of the association or an individual who is designated by a member that is not an individual for purposes of qualifying and serving as a director. Initial directors need not be members.

(b) Unless the organic rules otherwise provide, a director may be an officer or employee of the limited cooperative association.

(c) If the organic rules provide for nonmember directors, the number of nonmember directors shall not exceed:

(1) One, if there are 2 through 4 directors;

(2) Two, if there are 5 through 8 directors; or

(3) One-third of the total number of directors if there are at least 9 directors.

(d) The organic rules may provide qualifications for directors in addition to those in this section.

§ 29-1008.04. Election of directors and composition of board.

(a) Unless the organic rules require a greater number:

(1) The number of directors that shall be patron members may not be fewer than:

(A) One, if there are 2 or 3 directors;

(B) Two, if there are 4 or 5 directors;

(C) Three if there are 6 through 8 directors; or

(D) One-third of the directors if there are at least 9 directors; and

(2) A majority of the board of directors shall be elected exclusively by patron members.

(b) Unless the organic rules otherwise provide, if a limited cooperative association has investor members, the directors who are not elected exclusively by patron members shall be elected by the investor members.

(c) Subject to subsection (a) of this section, the organic rules may provide for the election of all or a specified number of directors by one or more districts or classes of members.

(d) Subject to subsection (a) of this section, the organic rules may provide for the nomination or election of directors by districts or classes, directly or by district delegates.

(e) If a class of members consists of a single member, the organic rules may provide for the member to appoint a director or directors.

(f) Unless the organic rules otherwise provide, cumulative voting for directors shall be prohibited.

(g) Except as otherwise provided in the organic rules, subsection (e) of this section, or §§ 29-1003.03, 29-1005.16, 29-1005.17, and 29-1008.09, member directors shall be elected at an annual members meeting.

§ 29-1008.05. Term of director.

(a) Unless the organic rules otherwise provide, and subject to subsections (c) and (d) and § 29-1003.03(c), the term of a director shall expire at the annual members meeting following the director's election or appointment. The term of a director shall not exceed 3 years.

(b) Unless the organic rules otherwise provide, a director may be reelected.

(c) Except as otherwise provided in subsection (d) of this section, a director shall continue to serve until a successor director is elected or appointed and qualifies or the director is

removed, resigns, is adjudged incompetent, or dies.

(d) Unless the organic rules otherwise provide, a director shall not serve the remainder of the director's term if the director ceases to qualify to be a director.

§ 29-1008.06. Resignation of director.

A director may resign at any time by giving notice in a record to the limited cooperative association. Unless the notice states a later effective date, a resignation shall be effective when the notice is received by the association.

§ 29-1008.07. Removal of director.

Unless the organic rules otherwise provide, the following rules shall apply:

(1) Members may remove a director with or without cause.

(2) A member or members holding at least 10% of the total voting power entitled to be voted in the election of a director may demand removal of the director by one or more signed petitions submitted to the officer of the limited cooperative association charged with keeping its records.

(3) Upon receipt of a petition for removal of a director, an officer of the association or the board of directors shall:

(A) Call a special meeting of members to be held not later than 90 days after receipt of the petition by the association; and

(B) Mail or otherwise transmit or deliver in a record to the members entitled to vote on the removal, and to the director to be removed, notice of the meeting which complies with § 29-1005.08.

(4) A director shall be removed if the votes in favor of removal are equal to or greater than the votes required to elect the director.

§ 29-1008.08. Suspension of director by board.

(a) A board of directors may suspend a director if, considering the director's course of conduct and the inadequacy of other available remedies, immediate suspension is necessary for the best interests of the association and the director is engaging, or has engaged, in:

(1) Fraudulent conduct with respect to the association or its members;

(2) Gross abuse of the position of director;

(3) Intentional or reckless infliction of harm on the association; or

(4) Any other behavior, act, or omission as provided by the organic rules.

(b) A suspension under subsection (a) of this section shall be effective for 30 days unless the board of directors calls, and gives notice of, a special meeting of members for removal of the director before the end of the 30-day period, in which case the suspension shall be effective until adjournment of the meeting or the director is removed.

§ 29-1008.09. Vacancy on board.

(a) Unless the organic rules otherwise provide, a vacancy on the board of directors shall be filled:

(1) Within a reasonable time by majority vote of the remaining directors until the next annual members meeting or a special meeting of members called to fill the vacancy; and

(2) For the unexpired term by members at the next annual members meeting or a special meeting of members called to fill the vacancy.

(b) Unless the organic rules otherwise provide, if a vacating director was elected or appointed by a class of members or a district:

(1) The new director shall be of that class or district; and

(2) The selection of the director for the unexpired term shall be conducted in the same manner as would the selection for that position without a vacancy.

(c) If a member appointed a vacating director, the organic rules may provide for that member to appoint a director to fill the vacancy.

§ 29-1008.10. Remuneration of directors.

Unless the organic rules otherwise provide, the board of directors may set the remuneration of directors and of nondirector committee members appointed under § 29-1008.17(a).

§ 29-1008.11. Meetings.

(a) A board of directors shall meet at least annually and may hold meetings inside or outside the District.

(b) Unless the organic rules otherwise provide, a board of directors may permit directors to attend or conduct board meetings through the use of any means of communication if all directors attending the meeting can communicate with each other during the meeting.

§ 29-1008.12. Action without meeting.

(a) Unless prohibited by the organic rules, any action that may be taken by a board of directors may be taken without a meeting if each director consents in a record to the action.

(b) Consent under subsection (a) of this section may be withdrawn by a director in a record at any time before the limited cooperative association receives consent from all directors.

(c) A record of consent for any action under subsection (a) of this section may specify the effective date or time of the action.

§ 29-1008.13. Meetings and notice.

(a) Unless the organic rules otherwise provide, a board of directors may establish a time, date, and place for regular board meetings, and notice of the time, date, place, or purpose of those meetings shall not be required.

(b) Unless the organic rules otherwise provide, notice of the time, date, and place of a special meeting of a board of directors shall be given to all directors at least 3 days before the meeting, the notice shall contain a statement of the purpose of the meeting, and the meeting shall be limited to the matters contained in the statement.

§ 29-1008.14. Waiver of notice of meeting.

(a) Unless the organic rules otherwise provide, a director may waive any required notice of a meeting of the board of directors in a record before, during, or after the meeting.

(b) Unless the organic rules otherwise provide, a director's participation in a meeting shall be a waiver of notice of that meeting unless the director:

(1) Objects to the meeting at the beginning of the meeting or promptly upon the director's arrival at the meeting and does not thereafter vote in favor of or otherwise assent to the action taken at the meeting; or

(2) Promptly objects upon the introduction of any matter for which notice under § 29-1008.13 has not been given and does not thereafter vote in favor of or otherwise assent to the action taken on the matter.

§ 29-1008.15. Quorum.

(a) Unless the articles of organization provide for a greater number, a majority of the total number of directors specified by the organic rules shall constitute a quorum for a meeting of the directors.

(b) If a quorum of the board of directors is present at the beginning of a meeting, any action taken by the directors present shall be valid even if withdrawal of directors originally present results in the number of directors being fewer than the number required for a quorum.

(c) A director present at a meeting but objecting to notice under § 29-1008.14(b)(1) or (2) shall not count toward a quorum.

§ 29-1008.16. Voting.

(a) Each director shall have one vote for purposes of decisions made by the board of directors.

(b) Unless the organic rules otherwise provide, the affirmative vote of a majority of directors present at a meeting shall be required for action by the board of directors.

§ 29-1008.17. Committees.

(a) Unless the organic rules otherwise provide, a board of directors may create one or more committees and appoint one or more individuals to serve on a committee.

(b) Unless the organic rules otherwise provide, an individual appointed to serve on a committee of a limited cooperative association need not be a director or member.

(c) An individual who is not a director and is serving on a committee shall have the same

rights, duties, and obligations as a director serving on the committee.

(d) Unless the organic rules otherwise provide each committee of a limited cooperative association may exercise the powers delegated to it by the board of directors, but a committee shall not:

(1) Approve allocations or distributions except according to a formula or method prescribed by the board of directors;

(2) Approve or propose to members action requiring approval of members; or

(3) Fill vacancies on the board of directors or any of its committees.

§ 29-1008.18. Standards of conduct and liability.

Except as otherwise provided in § 29-1008.20:

(1) The discharge of the duties of a director or member of a committee of the board of directors shall be governed by the law applicable to directors of entities organized under Chapter 3 of this title; and

(2) The liability of a director or member of a committee of the board of directors shall be governed by the law applicable to directors of entities organized under Chapter 3 of this title.

§ 29-1008.19. Conflict of interest.

(a) The law applicable to conflicts of interest between a director of an entity organized under Chapter 3 of this title shall govern conflicts of interest between a limited cooperative association and a director or member of a committee of the board of directors.

(b) A director shall not have a conflict of interest under this chapter or the organic rules solely because the director's conduct relating to the duties of the director may further the director's own interest.

§ 29-1008.20. Other considerations of directors.

Unless the articles of organization otherwise provide, in considering the best interests of a limited cooperative association, a director of the association in discharging the duties of director, in conjunction with considering the long and short term interest of the association and its patron members, may consider:

(1) The interest of employees, customers, and suppliers of the association;

(2) The interest of the community in which the association operates; and

(3) Other cooperative principles and values that may be applied in the context of the decision.

§ 29-1008.21. Right of director or committee member to information.

A director or a member of a committee appointed under § 29-1008.17 may obtain, inspect, and copy all information regarding the state of activities and financial condition of the

limited cooperative association and other information regarding the activities of the association if the information is reasonably related to the performance of the director's duties as director or the committee member's duties as a member of the committee. Information obtained in accordance with this section shall not be used in any manner that would violate any duty of or to the association.

§ 29-1008.22. Appointment and authority of officers.

(a) A limited cooperative association shall have the officers:

(1) Provided in the organic rules; or

(2) Established by the board of directors in a manner not inconsistent with the organic rules.

(b) The organic rules may designate or, if the rules do not designate, the board of directors shall designate, one of the association's officers for preparing all records required by § 29-1001.10 and for the authentication of records.

(c) Unless the organic rules otherwise provide, the board of directors shall appoint the officers of the limited cooperative association.

(d) Officers of a limited cooperative association shall perform the duties the organic rules prescribe or as authorized by the board of directors not in a manner inconsistent with the organic rules.

(e) The election or appointment of an officer of a limited cooperative association shall not of itself create a contract between the association and the officer.

(f) Unless the organic rules otherwise provide, an individual may simultaneously hold more than one office in a limited cooperative association.

§ 29-1008.23. Resignation and removal of officers.

(a) The board of directors may remove an officer at any time with or without cause.

(b) An officer of a limited cooperative association may resign at any time by giving notice in a record to the association. Unless the notice specifies a later time, the resignation shall be effective when the notice is given.

Subchapter IX. Indemnification.

§ 29-1009.01. Indemnification.

(a) Indemnification of an individual who has incurred liability or is a party, or is threatened to be made a party, to litigation because of the performance of a duty to, or activity on behalf of, a limited cooperative association shall be governed by Chapter 3 of this title.

(b) A limited cooperative association may purchase insurance on behalf of any individual against liability asserted against or incurred by the individual to the same extent, and subject to the same conditions, as provided by Chapter 3 of this title.

Subchapter X. Contributions, Allocations, and Distributions.

§ 29-1010.01. Members' contributions.

The organic rules shall establish the amount, manner, or method of determining any contribution requirements for members or shall authorize the board of directors to establish the amount, manner, or other method of determining any contribution requirements for members.

§ 29-1010.02. Contribution and valuation.

(a) Unless the organic rules otherwise provide, the contributions of a member to a limited cooperative association may consist of tangible or intangible property or other benefit to the association, including money, labor or other services performed or to be performed, promissory notes, other agreements to contribute money or property, and contracts to be performed.

(b) The receipt and acceptance of contributions and the valuation of contributions shall be reflected in a limited cooperative association's records.

(c) Unless the organic rules otherwise provide, the board of directors shall determine the value of a member's contributions received or to be received and the determination by the board of directors of valuation shall be conclusive for purposes of determining whether the member's contribution obligation has been met.

§ 29-1010.03. Contribution agreements.

(a) Except as otherwise provided in the agreement, the following rules shall apply to an agreement made by a person before formation of a limited cooperative association to make a contribution to the association:

(1) The agreement shall be irrevocable for 6 months after the agreement is signed by the person unless all parties to the agreement consent to the revocation.

(2) If a person does not make a required contribution:

(A) The person shall be obligated, at the option of the association, once formed, to contribute money equal to the value of that part of the contribution that has not been made, and the obligation may be enforced as a debt to the association; or

(B) The association, once formed, may rescind the agreement if the debt remains unpaid more than 20 days after the association demands payment from the person, and, upon rescission, the person shall have no further rights or obligations with respect to the association.

(b) Unless the organic rules or an agreement to make a contribution to a limited cooperative association otherwise provide, if a person does not make a required contribution to an association, the person or the person's estate shall be obligated, at the option of the association, to contribute money equal to the value of the part of the contribution which has not been made.

§ 29-1010.04. Allocations of profits and losses.

(a) The organic rules may provide for allocating profits of a limited cooperative association among members, among persons that are not members but conduct business with the association, to an unallocated account, or to any combination thereof. Unless the organic rules otherwise provide, losses of the association shall be allocated in the same proportion as profits.

(b) Unless the organic rules otherwise provide, all profits and losses of a limited cooperative association shall be allocated to patron members.

(c) If a limited cooperative association has investor members, the organic rules shall not reduce the allocation to patron members to less than 50% of profits. For purposes of this subsection, the following rules shall apply:

(1) Amounts paid or due on contracts for the delivery to the association by patron members of products, goods, or services shall not be considered amounts allocated to patron members.

(2) Amounts paid, due, or allocated to investor members as a stated fixed return on equity shall not be considered amounts allocated to investor members.

(d) Unless prohibited by the organic rules, in determining the profits for allocation under subsections (a), (b), and (c) of this section, the board of directors may first deduct and set aside a part of the profits to create or accumulate:

(1) An unallocated capital reserve; and

(2) Reasonable unallocated reserves for specific purposes, including:

(A) Expansion and replacement of capital assets;

(B) Education, training, and cooperative development;

(C) Creation and distribution of information concerning principles of cooperation; and

(D) Community responsibility.

(e) Subject to subsections (b) and (f) of this section and the organic rules, the board of directors shall allocate the amount remaining after any deduction or setting aside of profits for unallocated reserves under subsection (d) of this section to:

(1) Patron members in the ratio of each member's patronage to the total patronage of all patron members during the period for which allocations are to be made; and

(2) Investor members, if any, in the ratio of each investor member's contributions to the total contributions of all investor members.

(f) For purposes of allocation of profits and losses or specific items of profits or losses of a limited cooperative association to members, the organic rules may establish allocation units or methods based on separate classes of members or, for patron members, on class, function, division, district, department, allocation units, pooling arrangements, members' contributions, or other equitable methods.

§ 29-1010.05. Distributions.

(a) Unless the organic rules otherwise provide and subject to § 29-1010.07, the board of directors may authorize, and the limited cooperative association may make, distributions to members.

(b) Unless the organic rules otherwise provide, distributions to members may be made in any form, including money, capital credits, allocated patronage equities, revolving fund certificates, and the limited cooperative association's own or other securities.

§ 29-1010.06. Redemption or repurchase.

Property distributed to a member by a limited cooperative association, other than money, maybe redeemed or repurchased as provided in the organic rules, but a redemption or repurchase shall not be made without authorization by the board of directors. The board may withhold authorization for any reason in its sole discretion. A redemption or repurchase shall be treated as a distribution for purposes of § 29-1010.07.

§ 29-1010.07. Limitations on distributions.

(a) A limited cooperative association shall not make a distribution if, after the distribution:

(1) The association would not be able to pay its debts as they become due in the ordinary course of the association's activities; or

(2) The association's assets would be less than the sum of its total liabilities.

(b) A limited cooperative association may base a determination that a distribution is not prohibited under subsection (a) of this section on financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances or on a fair valuation or other method that is reasonable in the circumstances.

(c) Except as otherwise provided in subsection (d) of this section, the effect of a distribution allowed under subsection (b) of this section shall be measured:

(1) In the case of distribution by purchase, redemption, or other acquisition of financial rights in the limited cooperative association, as of the date money or other property is transferred or debt is incurred by the association; and

(2) In all other cases, as of the date:

(A) The distribution is authorized, if the payment occurs not later than 120 days after that date; or

(B) The payment is made, if payment occurs more than 120 days after the distribution is authorized.

(d) If indebtedness is issued as a distribution, each payment of principal or interest on the indebtedness shall treated as a distribution, the effect of which is measured on the date the payment is made.

(e) For purposes of this section, the term "distribution" shall not include reasonable

amounts paid to a member in the ordinary course of business as payment or compensation for commodities, goods, past or present services, or reasonable payments made in the ordinary course of business under a bona fide retirement or other benefits program.

§ 29-1010.08. Liability for improper distributions; limitation of action.

(a) A director who consents to a distribution that violates § 29-1010.07 shall be personally liable to the limited cooperative association for the amount of the distribution which exceeds the amount that could have been distributed without the violation if it is established that, in consenting to the distribution, the director failed to comply with § 29-1008.18 or § 29-1008.19.

(b) A member or transferee of financial rights which received a distribution knowing that the distribution was made in violation of § 29-1010.07 shall be personally liable to the limited cooperative association to the extent the distribution exceeded the amount that could have been properly paid.

(c) A director against whom an action is commenced under subsection (a) of this section may implead in the action any:

(1) Other director who is liable under subsection (a) of this section and implead in the action any compel contribution from the person; and

(2) Person that is liable under subsection (b) of this section and compel contribution from the person in the amount the person received as described in subsection (b) of this section.

(d) An action under this section shall be barred if it is commenced later than 2 years after the distribution.

Subchapter XI. Dissociation.

§ 29-1011.01. Member's dissociation.

(a) A person shall have the power to dissociate as a member at any time, rightfully or wrongfully, by express will.

(b) Unless the organic rules otherwise provide, a member's dissociation from a limited cooperative association shall be wrongful only if the dissociation:

(1) Breaches an express provision of the organic rules; or

(2) Occurs before the termination of the limited cooperative association and:

(A) The person is expelled as a member under subsection (d)(3) or (4) of this subsection; or

(B) In the case of a person that is not an individual, trust other than a business trust, or estate, the person is expelled or otherwise dissociated as a member because it dissolved or terminated in bad faith.

(c) Unless the organic rules otherwise provide, a person that wrongfully dissociates as a member shall be liable to the limited cooperative association for damages caused by the

dissociation. The liability shall be in addition to any other debt, obligation, or liability of the person to the association.

(d) A member shall be dissociated from the limited cooperative association as a member when:

(1) The association receives notice in a record of the member's express will to dissociate as a member or, if the member specifies in the notice an effective date later than the date the association received notice, on that later date;

(2) An event stated in the organic rules as causing the member's dissociation as a member occurs;

(3) The member is expelled as a member under the organic rules;

(4) The member is expelled as a member by the board of directors because:

(A) It is unlawful to carry on the association's activities with the member as a member;

(B) There has been a transfer of all the member's financial rights in the association, other than:

(i) A creation or perfection of a security interest; or

(ii) A charging order in effect under § 29-1006.05 which has not been foreclosed;

(C) The member is a limited liability company, association, or partnership which has been dissolved and its business is being wound up; or

(D) The member is a corporation or cooperative and:

(i) The member filed a certificate of dissolution, or the equivalent, or the jurisdiction of formation revoked the association's charter or right to conduct business;

(ii) The association sends a notice to the member that it will be expelled as a member for a reason described in sub-subparagraph (i) of this subparagraph; and

(iii) Not later than 90 days after the notice was sent under sub-subparagraph (ii), the member did not revoke its certificate of dissolution, or the equivalent, or the jurisdiction of formation did not reinstate the association's charter or right to conduct business; or

(E) The member is an individual and is adjudged incompetent;

(5) In the case of a member who is an individual, the individual dies;

(6) In the case of a member that is a trust or is acting as a member by virtue of being a trustee of a trust, all the trust's financial rights in the association are distributed;

(7) In the case of a member that is an estate, the estate's entire financial interest in the association is distributed;

(8) In the case of a member that is not an individual, partnership, limited liability company, cooperative, corporation, trust, or estate, the member is terminated;

(9) The association participates in a merger if, under the plan of merger as approved under subchapter XV of this chapter, the member ceases to be a member; or

(10) The association participates in a transaction under Chapter 2 of this title if, under the terms of the transaction, the association ceases to exist in the form of a limited cooperative association or the member ceases to be a member.

§ 29-1011.02. Effect of dissociation as member.

(a) Upon a member's dissociation:

(1) Subject to § 29-1011.03, the person shall have no further rights as a member; and

(2) Subject to § 29-1011.03, subchapter XV of this chapter, and Chapter 2 of this title, any financial rights owned by the person in the person's capacity as a member immediately before dissociation shall be owned by the person as a transferee.

(b) A person's dissociation as a member shall not of itself discharge the person from any debt, obligation, or liability to the limited cooperative association which the person incurred under the organic rules, by contract, or by other means while a member.

§ 29-1011.03. Power of estate of member.

Unless the organic rules provide for greater rights, if a member is dissociated because of death, dies or is expelled by reason of being adjudged incompetent, the member's personal representative or other legal representative may exercise the rights of a transferee of the member's financial rights and, for purposes of settling the estate of a deceased member, may exercise the informational rights of a current member to obtain information under § 29-1005.05.

Subchapter XII. Dissolution.

§ 29-1012.01. Dissolution and winding up.

A limited cooperative association shall be dissolved only as provided in this subchapter and, upon dissolution, wind up in accordance with this subchapter.

§ 29-1012.02. Nonjudicial dissolution.

Except as otherwise provided in §§ 29-1012.03 and 29-106.02, a limited cooperative association is dissolved and its activities shall be wound up:

(1) Upon the occurrence of an event or at a time specified in the articles of organization;

(2) Upon the action of the association's organizers, board of directors, or members under § 29-1012.04 or § 29-1012.05; or

(3) Ninety days after the dissociation of a member, which results in the association having one patron member and no other members, unless the association:

(A) Has a sole member that is a cooperative; or

(B) Not later than the end of the 90-day period, admits at least one member in accordance with the organic rules and has at least 2 members, at least one of which is a patron

member.

§ 29-1012.03. Judicial dissolution.

The Superior Court may dissolve a limited cooperative association or order any action that under the circumstances is appropriate and equitable in a proceeding initiated by:

(1) The Attorney General for the District of Columbia, if the association:

(A) Obtained its articles of organization through fraud; or

(B) Has continued to exceed or abuse the authority conferred upon it by law; or

(2) A member, if:

(A) The directors are deadlocked in the management of the association's affairs, the members are unable to break the deadlock, and irreparable injury to the association is occurring or is threatened because of the deadlock;

(B) The directors or those in control of the association have acted, are acting, or will act in a manner that is illegal, oppressive, or fraudulent;

(C) The members are deadlocked in voting power and have failed to elect successors to directors whose terms have expired for 2 consecutive periods during which annual members meetings were held or were to be held; or

(D) The assets of the association are being misapplied or wasted.

§ 29-1012.04. Voluntary dissolution before commencement of activity.

A majority of the organizers or initial directors of a limited cooperative association that has not yet begun business activity or the conduct of its affairs may dissolve the association.

§ 29-1012.05. Voluntary dissolution by the board and members.

(a) Except as otherwise provided in § 29-1012.04, for a limited cooperative association to voluntarily dissolve:

(1) A resolution to dissolve shall be approved by a majority vote of the board of directors unless a greater percentage is required by the organic rules;

(2) The board of directors shall call a members meeting to consider the resolution, to be held not later than 90 days after adoption of the resolution; and

(3) The board of directors shall mail or otherwise transmit or deliver to each member in a record that complies with § 29-1005.08:

(A) The resolution required by paragraph (1) of this subsection;

(B) A recommendation that the members vote in favor of the resolution or, if the board determines that because of conflict of interest or other special circumstances, it should not make a favorable recommendation, the basis of that determination; and

(C) Notice of the members meeting, which shall be given in the same manner as notice of a special meeting of members.

(b) Subject to subsection (c) of this section, a resolution to dissolve shall be approved by:

(1) At least ⅔ of the voting power of members present at a members meeting called under subsection (a)(2) of this section; and

(2) If the limited cooperative association has investor members, at least a majority of the votes cast by patron members, unless the organic rules require a greater percentage.

(c) The organic rules may require that the percentage of votes under subsection (b)(1) of this section shall be:

(1) A different percentage that is not less than a majority of members voting at the meeting; or

(2) Measured against the voting power of all members; or

(3) A combination of paragraphs (1) and (2) of this subsection.

§ 29-1012.06. Winding up.

(a) A limited cooperative association shall continue after dissolution only for purposes of winding up its activities.

(b) In winding up a limited cooperative association's activities, the board of directors shall cause the association to:

(1) Discharge its liabilities, settle and close its activities, and marshal and distribute its assets;

(2) Preserve the association or its property as a going concern for no more than a reasonable time;

(3) Prosecute and defend actions and proceedings;

(4) Transfer association property; and

(5) Perform other necessary acts.

(c) After dissolution and upon application of a limited cooperative association, a member, or a holder of financial rights, the Superior Court may order judicial supervision of the winding up of the association, including the appointment of a person to wind up the association's activities, if:

(1) After a reasonable time, the association has not wound up its activities; or

(2) The applicant establishes other good cause.

(d) If a person is appointed pursuant to subsection (c) of this section to wind up the activities of a limited cooperative association, the association shall promptly deliver to the Mayor for filing an amendment to the articles of organization to reflect the appointment.

§ 29-1012.07. Distribution of assets in winding up limited cooperative association.

(a) In winding up a limited cooperative association's business, the association shall apply its assets to discharge its obligations to creditors, including members that are creditors. The association shall apply any remaining assets to pay, in money, the net amount distributable to members in accordance with their right to distributions under subsection (b) of this section.

(b)(1) Unless the organic rules otherwise provide, for the purposes of this subsection, the term "financial interests" means the amounts recorded in the names of members in the records of a limited cooperative association at the time a distribution is made, including amounts paid to become a member, amounts allocated but not distributed to members, and amounts of distributions authorized but not yet paid to members.

(2) Unless the organic rules otherwise provide, each member shall be entitled to a distribution from the association of any remaining assets in the proportion of the member's financial interests to the total financial interests of the members after all other obligations are satisfied.

§ 29-1012.08. Known claims against dissolved limited cooperative association.

(a) Subject to subsection (d) of this section, a dissolved limited cooperative association may dispose of the known claims against it by following the procedure in subsections (b) and (c) of this section.

(b) A dissolved limited cooperative association may notify its known claimants of the dissolution in a record. The notice shall:

(1) Specify that a claim be in a record;

(2) Specify the information required to be included in the claim;

(3) Provide an address to which the claim must be sent;

(4) State the deadline for receipt of the claim, which shall not be less than 120 days after the date the notice is received by the claimant; and

(5) State that the claim will be barred if not received by the deadline.

(c) A claim against a dissolved limited cooperative association shall be barred if the requirements of subsection (b) of this section are met and:

(1) The association is not notified of the claimant's claim, in a record, by the deadline specified in the notice under subsection (b)(4) of this section;

(2) In the case of a claim that is timely received but rejected by the association, the claimant does not commence an action to enforce the claim against the association within 90 days after receipt of the notice of the rejection; or

(3) If a claim is timely received but is not accepted or rejected by the association within 120 days after the deadline for receipt of claims, the claimant does not commence an action to enforce the claim against the association within 90 days after the 120-day period.

(d) This section shall not apply to a claim based on an event occurring after the date of dissolution or a liability that is contingent on that date.

§ 29-1012.09. Other claims against dissolved limited cooperative association.

(a) A dissolved limited cooperative association may publish notice of its dissolution and request persons having claims against the association to present them in accordance with the notice.

(b) A notice under subsection (a) of this section shall:

(1) Be published at least once in a newspaper of general circulation in the District or, if the association does not have a principal office in the District, in the state and county in which the association's principal office is or was last located;

(2) Describe the information required to be contained in a claim and provide an address to which the claim is to be sent; and

(3) State that a claim against the association is barred unless an action to enforce the claim is commenced not later than 3 years after publication of the notice.

(c) If a dissolved limited cooperative association publishes a notice in accordance with subsection (b) of this section, the claim of each of the following claimants shall be barred unless the claimant commences an action to enforce the claim not later than 3 years after the first publication date of the notice:

(1) A claimant that is entitled to, but did not receive, notice in a record under § 29-1012.08; and

(2) A claimant whose claim is contingent or based on an event occurring after the effective date of dissolution.

(d) A claim not barred under this section may be enforced:

(1) Against a dissolved limited cooperative association, to the extent of its undistributed assets; or

(2)(A) If the association's assets have been distributed in connection with winding up the association's activities against a member or holder of financial rights to the extent of that person's proportionate share of the claim or the association's assets distributed to the person in connection with the winding up, whichever is less.

(B) The person's total liability for all claims under this paragraph shall not exceed the total amount of assets distributed to the person as part of the winding up of the association.

§ 29-1012.10. Judicial proceeding.

(a) Upon application by a dissolved limited cooperative association that has published a notice under § 29-1012.09, the Superior Court may determine the amount and form of security to be provided for payment of claims against the association that are contingent, have not been made known to the association, or are based on an event occurring after the effective date of dissolution, but that, based on the facts known to the association, are reasonably anticipated to arise after the effective date of dissolution.

(b) Not later than 10 days after filing an application under subsection (a) of this section, a dissolved limited cooperative association shall give notice of the proceeding to each known claimant holding a contingent claim.

(c) The Superior Court may appoint a representative in a proceeding brought under this section to represent all claimants whose identities are unknown. The dissolved limited

cooperative association shall pay reasonable fees and expenses of the representative, including all reasonable attorneys' and expert witness fees.

(d) Provision by the dissolved limited cooperative association for security in the amount and the form ordered by the Superior Court shall satisfy the association's obligations with respect to claims that are contingent, have not been made known to the association, or are based on an event occurring after the effective date of dissolution, and the claims shall not be enforced against a member that received a distribution.

§ 29-1012.11. Statement of dissolution.

(a) A limited cooperative association that has dissolved or is about to dissolve may deliver to the Mayor for filing a statement of dissolution that states:

(1) The name of the association;

(2) The date the association dissolved or will dissolve; and

(3) Any other information the association considers relevant.

(b) A person shall have notice of a limited cooperative association's dissolution on the later of:

(1) Ninety days after a statement of dissolution is filed; or

(2) The effective date stated in the statement of dissolution.

§ 29-1012.12. Statement of termination.

(a) A dissolved limited cooperative association that has completed winding up may deliver to the Mayor for filing a statement of termination that states:

(1) The name of the association;

(2) The date of filing of its initial articles of organization; and

(3) That the association is terminated.

(b) The filing of a statement of termination shall not itself terminate the limited cooperative association.

Subchapter XIII. Action by Member.

§ 29-1013.01. Derivative action.

A member may maintain a derivative action in the Superior Court to enforce a right of a limited cooperative association if:

(1) The member demands that the association bring an action to enforce the right; and

(2) Any of the following occur:

(A) The association does not, within 90 days after the member makes the demand, agree to bring the action;

(B) The association notifies the member that it has rejected the demand;

(C) Irreparable harm to the association would result by waiting 90 days

after the member makes the demand; or

(D) The association agrees to bring an action demanded and fails to bring the action within a reasonable time.

§ 29-1013.02. Proper plaintiff.

(a) A derivative action to enforce a right of a limited cooperative association shall be maintained only by a person that:

(1) Is a member or a dissociated member at the time the action is commenced and:

(A) Was a member when the conduct giving rise to the action occurred; or

(B) Whose status as a member devolved upon the person by operation of law or the organic rules from a person that was a member at the time of the conduct; and

(2) Adequately represents the interests of the association.

(b) If the sole plaintiff in a derivative action dies while the action is pending, the Superior Court may permit another member who meets the requirements of subsection (a) of this section to be substituted as plaintiff.

§ 29-1013.03. Pleading.

In a derivative action to enforce a right of a limited cooperative association, the complaint shall state:

(1) The date and content of the plaintiff's demand under § 29-1013.01(1) and the association's response;

(2) If 90 days have not expired since the demand, how irreparable harm to the association would result by waiting for the expiration of 90 days; and

(3) If the association agreed to bring an action demanded, that the action has not been brought within a reasonable time.

§ 29-1013.04. Approval for discontinuance or settlement.

A derivative action to enforce a right of a limited cooperative association shall not be discontinued or settled without the Superior Court's approval.

§ 29-1013.05. Proceeds and expenses.

(a) Except as otherwise provided in subsection (b) of this section:

(1) Any proceeds or other benefits of a derivative action to enforce a right of a limited cooperative association, whether by judgment, compromise, or settlement, belong to the association and not to the plaintiff; and

(2) If the plaintiff in the derivative action receives any proceeds, the plaintiff shall immediately remit them to the association.

(b) If a derivative action to enforce a right of a limited cooperative association is successful in whole or in part, the Superior Court may award the plaintiff reasonable expenses,

including reasonable attorneys' fees and costs, from the recovery of the association.

Subchapter XIV. Disposition of Assets.

§ 29-1014.01. Disposition of assets not requiring member approval.

Unless the articles of organization otherwise provide, member approval under § 29-1014.02 shall not be required for a limited cooperative association to:

(1) Sell, lease, exchange, license, or otherwise dispose of all or any part of the assets of the association in the usual and regular course of business; or

(2) Mortgage, pledge, dedicate to the repayment of indebtedness, or encumber in any way all or any part of the assets of the association whether or not in the usual and regular course of business.

§ 29-1014.02. Member approval of other disposition of assets.

A sale, lease, exchange, license, or other disposition of assets of a limited cooperative association, other than a disposition described in § 29-1014.01, shall require approval of the association's members under §§ 29-1014.03 and 29-1014.04 if the disposition leaves the association without significant continuing business activity.

§ 29-1014.03. Notice and action on disposition of assets.

For a limited cooperative association to dispose of assets under § 29-1014.02:

(1) A majority of the board of directors, or a greater percentage if required by the organic rules, shall approve the proposed disposition; and

(2) The board of directors shall call a members meeting to consider the proposed disposition, hold the meeting not later than 90 days after approval of the proposed disposition by the board, and mail or otherwise transmit or deliver in a record to each member:

(A) The terms of the proposed disposition;

(B) A recommendation that the members approve the disposition or, if the board determines that because of conflict of interest or other special circumstances, it should not make a favorable recommendation, the basis for that determination;

(C) A statement of any condition of the board's submission of the proposed disposition to the members; and

(D) Notice of the meeting at which the proposed disposition will be considered, which shall be given in the same manner as notice of a special meeting of members.

§ 29-1014.04. Disposition of assets.

(a) Subject to subsection (b) of this section, a disposition of assets under § 29-1014.02 shall be approved by:

(1) At least ⅔ of the voting power of members present at a members meeting called under § 29-1014.03(2); and

(2) If the limited cooperative association has investor members, at least a majority of the votes cast by patron members, unless the organic rules require a greater percentage vote by patron members.

(b) The organic rules may require that the percentage of votes under subsection (a)(1) of this section shall be:

(1) A different percentage that is not less than a majority of members voting at the meeting;

(2) Measured against the voting power of all members; or

(3) A combination of paragraphs (1) and (2) of this subsection.

(c) Subject to any contractual obligations, after a disposition of assets is approved and at any time before the consummation of the disposition, a limited cooperative association may approve an amendment to the contract for disposition or the resolution authorizing the disposition or approve abandonment of the disposition:

(1) As provided in the contract or the resolution; and

(2) Except as prohibited by the resolution, with the same affirmative vote of the board of directors and of the members as was required to approve the disposition.

(d) The voting requirements for districts, classes, or voting groups under § 29-1004.04 apply to approval of a disposition of assets under this subchapter.

Subchapter XV. Merger.

§ 29-1015.01. Definitions.

For the purposes of this subchapter, the term:

(1) "Constituent limited cooperative association" or "constituent association" means a limited cooperative association or foreign limited cooperative association that is a party to a merger.

(2) "Surviving limited cooperative association" or "surviving association" means a limited cooperative association or foreign limited cooperative association into which one or more other domestic associations or foreign cooperatives associations are merged, whether the domestic or foreign association existed before the merger or is created by the merger.

§ 29-1015.02. Merger.

(a) One or more constituent limited cooperative associations may merge with one or more other constituent associations pursuant to this subchapter and a plan of merger. If any of the constituent associations is a foreign cooperative association, the law of the jurisdiction in which it was formed shall authorize the merger.

(b) A plan of merger shall be in a record and shall include:

(1) The name and jurisdiction of organization of each constituent limited cooperative association;

(2) The name and jurisdiction of organization of the surviving limited cooperative

association;

(3) The terms and conditions of the merger, including the manner and basis for converting the interests in each constituent association into any combination of money, interests in any entity, and other consideration;

(4) If the surviving association is to be created by the merger, the surviving association's organic rules; and

(5) If the surviving association is not to be created by the merger, any amendments to be made by the merger to the surviving association's organic rules.

§ 29-1015.03. Notice and action on plan of merger.

(a) For a limited cooperative association to merge with another constituent limited cooperative association, a plan of merger shall be approved by a majority vote of the board of directors or a greater percentage if required by the association's organic rules.

(b) The board of directors shall call a members meeting to consider a plan of merger approved by the board, hold the meeting not later than 90 days after approval of the plan by the board, and mail or otherwise transmit or deliver in a record to each member:

(1) The plan of merger, or a summary of the plan and a statement of the manner in which a copy of the plan in a record may be reasonably obtained by a member;

(2) A recommendation that the members approve the plan of merger or, if the board determines that because of conflict of interest or other special circumstances, it should not make a favorable recommendation, the basis for that determination;

(3) A statement of any condition of the board's submission of the plan of merger to the members; and

(4) Notice of the meeting at which the plan of merger will be considered, which shall be given in the same manner as notice of a special meeting of members.

§ 29-1015.04. Approval or abandonment of merger by members.

(a) Subject to subsections (b) and (c) of this section, a plan of merger shall be approved by:

(1) At least ⅔ of the voting power of members present at a members meeting called under § 29-1015.03(b); and

(2) If the limited cooperative association has investor members, at least a majority of the votes cast by patron members, unless the organic rules require a greater percentage vote by patron members.

(b) The organic rules may provide that the percentage of votes under subsection (a)(1) of this section shall be:

(1) A different percentage that is not less than a majority of members voting at the meeting;

(2) Measured against the voting power of all members; or

(3) A combination of paragraphs (1) and (2) of this subsection.

(c) The vote required to approve a plan of merger shall not be less than the vote required for the members of the limited cooperative association to amend the articles of organization.

(d) Consent in a record to a plan of merger by a member shall be delivered to the limited cooperative association before delivery of articles of merger for filing pursuant to § 29-1015.05 if as a result of the merger the member will have an obligation or liability for an additional contribution.

(e) Subject to subsection (d) of this section and any contractual rights, after a merger is approved, and at any time before the effective date of the merger, a limited cooperative association that is a party to the merger may approve an amendment to the plan of merger or approve abandonment of the planned merger:

(1) As provided in the plan; and

(2) Except as prohibited by the plan, with the same affirmative vote of the board of directors and of the members as was required to approve the plan.

(f) The voting requirements for districts, classes, or voting groups under § 29-1004.04 shall apply to approval of a merger under this subchapter.

§ 29-1015.05. Filings required for merger; effective date.

(a) After each constituent limited cooperative association has approved a merger, articles of merger shall be signed on behalf of each constituent association by an authorized representative.

(b) The articles of merger shall include:

(1) The name of each constituent limited cooperative association and the jurisdiction under the laws of which it is organized;

(2) The name of the surviving limited cooperative association, the jurisdiction under the laws of which it is organized, and, if the surviving association is created by the merger, a statement to that effect;

(3) The date the merger is to be effective;

(4) If the surviving association is to be created by the merger and will be a domestic limited cooperative association, the limited cooperative association's articles of organization;

(5) If the surviving association is not created by the merger and is a domestic limited cooperative association, any amendments provided for in the plan of merger to its articles of organization;

(6) A statement as to each constituent association that the merger was approved as required by its organic law;

(7) If the surviving association is a foreign cooperative not authorized to do business in the District, the street address and, if different, mailing address of an office which the Mayor may use for the purposes of § 29-104.12; and

(8) Any additional information required by the organic law of any constituent association.

(c) Each limited cooperative association that is a party to a merger shall deliver the articles of merger to the Mayor for filing.

(d) A merger shall be effective under this subchapter upon the later of:

(1) Compliance with subsection (c) of this section; or

(2) Subject to § 29-102.03, as specified in the articles of merger.

§ 29-1015.06. Effect of merger.

(a) When a merger becomes effective:

(1) The surviving limited cooperative association shall continue or come into existence;

(2) Each constituent limited cooperative association that merges into the surviving association shall cease to exist as a separate entity;

(3) All property owned by each constituent association that ceases to exist shall vest in the surviving association;

(4) All debts, liabilities, and other obligations of each constituent association that ceases to exist shall continue as obligations of the surviving association;

(5) An action or proceeding pending by or against any constituent association that ceases to exist may be continued as if the merger had not occurred;

(6) Except as prohibited by law other than this chapter, all rights, privileges, immunities, powers, and purposes of each constituent association that ceases to exist shall vest in the surviving association;

(7) Except as otherwise provided in the plan of merger, the terms and conditions of the plan shall take effect;

(8) Except as otherwise provided in the plan of merger, if a merging limited cooperative association ceases to exist, the merger shall not dissolve the association for purposes of subchapter XII of this chapter;

(9) If the surviving association is created by the merger, the articles of organization shall become effective; and

(10) If the surviving association is not created by the merger, any amendments made by the articles of merger for the articles of organization of the surviving association shall become effective.

(b) A surviving limited cooperative association that is organized under the laws of a jurisdiction other than the District consents to the jurisdiction of the Superior Court to enforce any obligation owed by a constituent limited cooperative association if, before the merger, the constituent association was subject to suit in the District on the obligation. A surviving association that is organized under the laws of a jurisdiction other than the District and not authorized to do business in the District may be served with process in the same manner and with

the same consequences as in § 29-104.12.

(c) A merger in which a limited cooperative and another form of entity are parties shall be governed by Chapter 2 of this title.

§ 29-1015.07. Consolidation.

(a) Constituent limited cooperative associations may agree to call a merger a consolidation under this subchapter.

(b) All provisions governing mergers or using the term merger in this chapter shall apply equally to mergers that the constituent associations choose to call consolidations under subsection (a) of his section.

§ 29-1015.08. Subchapter not exclusive.

This subchapter shall not prohibit a limited cooperative association from being merged under law other than this chapter.

CHAPTER 11. UNINCORPORATED NONPROFIT ASSOCIATIONS.

Section

29-1101. Short title.
29-1102. Definitions.
29-1103. Relation to other law.
29-1104. Governing law.
29-1105. Legal entity; duration; powers.
29-1106. Ownership and transfer of property.
29-1107. Statement of authority as to real property.
29-1108. Liability.
29-1109. Assertion and defense of claims.
29-1110. Effect of judgment or order.
29-1111. Member not agent.
29-1112. Approval by members.
29-1113. Meeting of members; voting and notice.
29-1114. Duties of member.
29-1115. Admission, suspension, dismissal, or expulsion of member.
29-1116. Member's resignation.
29-1117. Membership interest not transferable.
29-1118. Selection of managers; management rights of managers.
29-1119. Duties of manager.
29-1120. Notice and quorum requirements for meetings of managers.
29-1121. Right of member or manager to information.
29-1122. Distributions prohibited; compensation and other permitted payments.

29-1123. Reimbursement; indemnification; advancement of expenses.
29-1124. Dissolution.
29-1125. Winding up and termination.
29-1126. Mergers.
29-1127. Transition concerning real and personal property.

CHAPTER 11. UNINCORPORATED NONPROFIT ASSOCIATIONS.

§ 29-1101. Short title.

This chapter may be cited as the "Uniform Unincorporated Nonprofit Association Act of 2010".

§ 29-1102. Definitions.

For the purposes of this chapter, the term:

(1) "Established practices" means the practices used by an unincorporated nonprofit association without material change during the most recent 5 years of its existence or, if it has existed for less than 5 years, during its entire existence.

(2) "Governing principles" means the agreements, whether oral, in a record, or implied from its established practices, that govern the purpose or operation of an unincorporated nonprofit association and the rights and obligations of its members and managers. The term "governing principles" shall include any amendment or restatement of the agreements constituting the governing principles.

(3) "Manager" means a person that is responsible, alone or in concert with others, for the management of an unincorporated nonprofit association.

(4) "Member" means a person that, under the governing principles, may participate in the selection of persons authorized to manage the affairs of the unincorporated nonprofit association or in the development of the policies and activities of the association.

(5) "Unincorporated nonprofit association" means an unincorporated organization, consisting of 2 or more members joined under an agreement that is oral, in a record, or implied from conduct, for one or more common, nonprofit purposes. The term "unincorporated nonprofit association" shall not include:

(A) A trust;

(B) A marriage, domestic partnership, common law domestic relationship, civil union, or other domestic living arrangement;

(C) An organization formed under any other statute that governs the organization and operation of unincorporated associations;

(D) A joint tenancy, tenancy in common, or tenancy by the entireties even if the co-owners share use of the property for a nonprofit purpose; or

(E) A relationship under an agreement in a record that expressly provides that the relationship between the parties does not create an unincorporated nonprofit association.

§ 29-1103. Relation to other law.

A statute governing a specific type of unincorporated nonprofit association shall prevail over an inconsistent provision in this chapter, to the extent of the inconsistency.

§ 29-1104. Governing law.

(a) Except as otherwise provided in subsection (b) of this section, the law of the District shall govern the operation in the District of all unincorporated nonprofit associations formed or operating in the District.

(b) Unless the governing principles specify a different jurisdiction, the law of the jurisdiction in which an unincorporated nonprofit association has its main place of activities shall govern the internal affairs of the association.

§ 29-1105. Legal entity; duration; powers.

(a) An unincorporated nonprofit association shall be a legal entity distinct from its members and managers.

(b) An unincorporated nonprofit association shall have perpetual duration unless the governing principles specify otherwise.

(c) An unincorporated nonprofit association shall have the same powers as an individual to do all things necessary or convenient to carry on its purposes.

(d) An unincorporated nonprofit association may engage in profit-making activities, but profits from any activities shall be used or set aside for the association's nonprofit purposes.

§ 29-1106. Ownership and transfer of property.

(a) An unincorporated nonprofit association may acquire, hold, encumber, or transfer in its name an interest in real or personal property.

(b) An unincorporated nonprofit association may be a beneficiary of a trust or contract, a legatee, or a devisee.

§ 29-1107. Statement of authority as to real property.

(a) For the purposes of this section, the term "statement of authority" means a statement authorizing a person to transfer an interest in real property held in the name of an unincorporated nonprofit association.

(b) An interest in real property held in the name of an unincorporated nonprofit association may be transferred by a person authorized to do so in a statement of authority filed by the association with the Mayor.

(c) A statement of authority shall set forth:

(1) The name of the unincorporated nonprofit association;

(2) The address in the District, including the street address, if any, of the association, or, if the association does not have an address in the District, its out-of-state address;

(3) That the association is an unincorporated nonprofit association; and

(4) The name, title, or position of a person authorized to transfer an interest in real property held in the name of the association.

(d) A statement of authority shall be executed in the same manner as a deed by a person other than the person authorized in the statement to transfer the interest.

(e) A document effecting an amendment, revocation, or cancellation of a statement of authority, or stating that the statement is unauthorized or erroneous, shall meet the requirements for execution and filing of an original statement.

(f) Unless canceled earlier, a filed statement of authority and its most recent amendment shall expire 5 years after the date of the most recent filing.

(g) If the record title to real property is in the name of an unincorporated nonprofit association and the statement of authority is filed with the Mayor, the authority of the person named in the statement to transfer shall be conclusive in favor of a person that gives value without notice that the person lacks authority.

§ 29-1108. Liability.

(a) A debt, obligation, or other liability of an unincorporated nonprofit association, whether arising in contract, tort, or otherwise shall:

(1) Be solely the debt, obligation, or other liability of the association; and

(2) Not become the debt, obligation, or other liability of a member or manager solely by reason of the member acting as a member or the manager acting as a manager.

(b) A person's status as a member or manager of shall not prevent or restrict law other than this chapter from imposing liability on the person or the association because of the person's conduct.

§ 29-1109. Assertion and defense of claims.

(a) An unincorporated nonprofit association shall have the capacity to sue and be sued in its own name.

(b) A member or a manager may assert a claim the member or manager has against an unincorporated nonprofit association. An association may assert a claim it has against a member or a manager.

§ 29-1110. Effect of judgment or order.

A judgment or order against an unincorporated nonprofit association shall not by itself a judgment or order against a member or manager.

§ 29-1111. Member has no agency power.

A member of an unincorporated nonprofit association shall not be an agent of the association solely by reason of being a member.

§ 29-1112. Approval by members.

(a) Except as otherwise provided in the governing principles, an unincorporated nonprofit association shall have the approval of its members to:

(1) Admit, suspend, dismiss, or expel a member;

(2) Select and dismiss a manager;

(3) Adopt, amend, or repeal the governing principles;

(4) Sell, lease, exchange, or otherwise dispose of all, or substantially all, of the association's property, with or without the association's goodwill, outside the ordinary course of its activities;

(5) Dissolve under § 29-1124 or merge under § 29-1126;

(6) Undertake any other act outside the ordinary course of the association's activities; or

(7) Determine the policy and purposes of the association.

(b) An unincorporated nonprofit association shall have the approval of the members to do any other act or exercise a right that the governing principles require to be approved by members.

§ 29-1113. Member meeting, voting and notice requirements.

(a) Unless an unincorporated nonprofit association's governing principles provide otherwise:

(1) Approval of a matter by members shall require an affirmative majority of the votes cast at a meeting of members; and

(2) Each member shall be entitled to one vote on each matter that is submitted for approval by members.

(b) Notice and quorum requirements for member meetings and the conduct of meetings of members shall be determined by the governing principles.

§ 29-1114. Duties of member.

(a) A member shall not have a fiduciary duty to an unincorporated nonprofit association or to another member solely by being a member.

(b) A member shall discharge the duties to the unincorporated nonprofit association and the other members and exercise any rights under this chapter consistent with the governing principles and the obligation of good faith and fair dealing.

§ 29-1115. Admission, suspension, dismissal, or expulsion of member.

(a) A person shall become a member and may be suspended, dismissed, or expelled in accordance with the association's governing principles. If there are no applicable governing principles, a person shall become a member or be suspended, dismissed, or expelled from an association only by a vote of its members. A person shall not be admitted as a member without the person's consent.

(b) Unless the governing principles provide otherwise, the suspension, dismissal, or expulsion of a member shall not relieve the member from any unpaid capital contribution, dues, assessments, fees, or other obligation incurred, or commitment made, by the member before the suspension, dismissal, or expulsion.

§ 29-1116. Member's resignation.

(a) A member may resign as a member in accordance with the governing principles. In the absence of applicable governing principles, a member may resign at any time.

(b) Unless the governing principles provide otherwise, resignation of a member shall not relieve the member from any unpaid capital contribution, dues, assessments, fees, or other obligation incurred or commitment made by the member before resignation.

§ 29-1117. Membership interest not transferable.

Except as otherwise provided in the governing principles, a member's interest or any right under the governing principles shall not be transferable.

§ 29-1118. Selection of managers; management rights of managers.

Except as otherwise provided in this chapter or the governing principles:

(1) Only the members shall select a manager or managers;

(2) A manager may be a member or a nonmember;

(3) If a manager is not selected, all members shall be managers;

(4) Each manager has equal rights in the management and conduct of the association's activities;

(5) All matters relating to the activities shall be decided by its managers, except for matters reserved for approval by members in § 29-1112; and

(6) A difference among managers shall be decided by a majority of the managers.

§ 29-1119. Duties of manager.

(a) A manager shall owe to the unincorporated nonprofit association and to its members the fiduciary duties of loyalty and care.

(b) A manager shall manage the unincorporated nonprofit association in good faith, in a manner the manager reasonably believes to be in the best interests of the association, and with such care, including reasonable inquiry, as a prudent person would reasonably exercise in a

similar position and under similar circumstances. A manager may rely in good faith upon any opinion, report, statement, or other information provided by another person that the manager reasonably believes is a competent and reliable source for the information.

(c) After full disclosure of all material facts, a specific act or transaction that would otherwise violate the duty of loyalty by a manager may be authorized or ratified by a majority of the members that are not interested directly or indirectly in the act or transaction.

(d) A manager that makes a business judgment in good faith satisfies the duties specified in subsection (a) of this section if the manager:

(1) Is not interested, directly or indirectly, in the subject of the business judgment and is otherwise able to exercise independent judgment;

(2) Is informed with respect to the subject of the business judgment to the extent the manager reasonably believes to be appropriate under the circumstances; and

(3) Believes that the business judgment is in the best interests of the unincorporated nonprofit association and in accordance with its purposes.

(e) The governing principles in a record may limit or eliminate the liability of a manager to the unincorporated nonprofit association or its members for damages for any action taken, or for failure to take any action, as a manager, except liability for:

(1) The amount of financial benefit improperly received by a manager;

(2) An intentional infliction of harm on the association or one or more of its members;

(3) An intentional violation of criminal law;

(4) Breach of the duty of loyalty; or

(5) Improper distributions.

§ 29-1120. Manager meeting, and notice requirements.

Notice and quorum requirements for meetings of managers and the conduct of meetings of managers shall be determined by the governing principles.

§ 29-1121. Right of members and managers to information.

(a) On reasonable notice, a member or manager of an unincorporated nonprofit association may inspect and copy during the unincorporated nonprofit association's regular operating hours, at a reasonable location specified by the association, any record maintained by the association regarding its activities, financial condition, and other circumstances, to the extent the information is material to the member's or manager's rights and duties under the governing principles.

(b) An unincorporated nonprofit association may impose reasonable restrictions on access to, and use of, information to be furnished under this section, including designating the information confidential and imposing the obligations of nondisclosure and safeguarding on the recipient.

(c) An unincorporated nonprofit association may charge a person that makes a demand under this section reasonable copying costs, limited to the costs of labor and materials.

(d) A former member or manager shall be entitled to information to which the member or manager was entitled while a member or manager if the information pertains to the period during which the person was a member or manager, the former member or manager seeks the information in good faith, and the former member or manager satisfies subsections (a) through (c) of this section.

§ 29-1122. Distributions prohibited; compensation and other permitted payments.

(a) Except as otherwise provided in subsection (b) of this section , an unincorporated nonprofit association shall not pay dividends or make distributions to a member or manager.

(b) An unincorporated nonprofit association may:

(1) Pay reasonable compensation or reimburse reasonable expenses to a member or manager for services rendered;

(2) Confer benefits on a member or manager in conformity with its nonprofit purposes;

(3) Repurchase a membership and repay a capital contributions made by a member to the extent authorized by its governing principles; or

(4) Make distributions of property to members upon winding up and termination to the extent permitted by § 29-1125.

§ 29-1123. Reimbursement; indemnification; advancement of expenses.

(a) Except as otherwise provided in the governing principles, an unincorporated nonprofit association shall reimburse a member or manager for authorized expenses reasonably incurred in the course of the member's or manager's activities on behalf of the association;

(b) An unincorporated nonprofit association may indemnify a member or manager for any debt, obligation, or other liability incurred in the course of the member's or manager's activities on behalf of the association if the person seeking indemnification has complied with § 29-1114 or § 29-1119. Governing principles in a record may broaden or limit indemnification.

(c) If a person is made, or threatened to be made, a party in an action based on that person's activities on behalf of an unincorporated nonprofit association and the person makes a request in a record to the association, a majority of the disinterested managers may approve in a record advance payment, or reimbursement, by the association, of all or a part of the reasonable expenses, including attorneys' fees and costs, incurred by the person before the final disposition of the proceeding. To be entitled to an advance payment or reimbursement, the person shall state in a record that the person has a good faith belief that the criteria for indemnification in subsection (b) of this section have been satisfied and that the person will repay the amounts advanced or reimbursed if the criteria for payment have not been satisfied. The governing principles in a record may broaden or limit the advance payments or reimbursements.

(d) An unincorporated nonprofit association may purchase insurance on behalf of a member or manager for liability asserted against or incurred by the member or manager in the capacity of a member or manager, whether or not the association has authority under this chapter to reimburse, indemnify, or advance expenses to the member or manager against liability.

(e) The rights of reimbursement, indemnification, and advancement of expenses under this section shall apply to a former member or manager for an activity undertaken on behalf of the unincorporated nonprofit association while a member or manager.

§ 29-1124. Dissolution.

(a) An unincorporated nonprofit association may be dissolved as follows:

(1) If the governing principles provide a time or method for dissolution, at that time or by that method;

(2) If the governing principles do not provide a time or method for dissolution, upon approval by the members;

(3) If no member can be located and the association's operations have been discontinued for at least 3 years, by the managers or, if the association has no current manager, by its last manager;

(4) By court order; or

(5) Under law other than this chapter.

(b) After dissolution, an unincorporated nonprofit association continues in existence until its activities have been wound up and it is terminated pursuant to § 29-1125.

§ 29-1125. Winding up and termination.

Winding up and termination of an unincorporated nonprofit association shall proceed in accordance with the following rules:

(1) All known debts and liabilities shall be paid or adequately provided for.

(2) Any property subject to a condition requiring return to the person designated by the donor shall be transferred to that person.

(3) Any property subject to a trust shall be distributed in accordance with the trust agreement.

(4) Any remaining property shall be distributed as follows:

(A) As required by law other than this chapter that requires assets of an association to be distributed to another person with similar nonprofit purposes;

(B) In accordance with the association's governing principles or, in the absence of applicable governing principles, to the members of the association per capita or as the members direct; or

(C) If subparagraph (A) or (B) of this paragraph does not apply, in accordance with the law of unclaimed property in the District.

§ 29-1126. Mergers.

(a) For the purposes of this section, the term:

(1) "Constituent association organization" means an unincorporated nonprofit association that is merged with one or more other unincorporated nonprofit associations, including the surviving association.

(2) "Disappearing association" means a constituent association that is not the surviving association.

(3) "Surviving association" means an unincorporated nonprofit association into which one or more other associations are merged.

(b) A merger involving an unincorporated nonprofit association shall be subject to the following requirements:

(1) Each of the constituent merging associations shall comply with its governing law.

(2) Each party to the merger shall approve a plan of merger. The plan, which must be in a record, shall include the following provisions:

(A) The name and form of each association that is a party to the merger;

(B) The name and form of the surviving association and, if the surviving association is to be created by the merger, a statement to that effect;

(C) The terms and conditions of the merger, including the manner and basis for converting the interests in each constituent association into any combination of money, interests in the surviving association, and other consideration;

(D) If the surviving association is to be created by the merger, the surviving association's organizational documents that are proposed to be in a record; and

(E) If the surviving association is not to be created by the merger, any amendments to be made by the merger to the surviving association's organizational documents that are, or are proposed to be, in a record.

(3) The plan of merger shall be approved by the members of each unincorporated nonprofit association that is a constituent association in the merger. If a member of an association that is a party to a merger will have personal liability with respect to an obligation of a constituent or a surviving association, the consent in a record of that member to the plan of merger shall also be obtained.

(4) Subject to the contractual rights of third parties, after a plan of merger is approved and at any time before the merger is effective, a constituent association may amend the plan or abandon the merger as provided in the plan, or except as otherwise prohibited in the plan, with the same consent as was required to approve the plan.

(5) Following approval of the plan, a merger under this section shall be effective, if a constituent association is required to give notice to or obtain the approval of a governmental agency or officer to be a party to a merger, when the notice has been given and the approval has been obtained.

(d) When a merger becomes effective, the following occur

(1) The surviving association shall continue or come into existence.

(2) Each constituent association that merges into the surviving association shall cease to exist as a separate entity.

(3) All property owned by each constituent association that ceases to exist shall vest in the surviving association.

(4) All debts, obligations, or other liabilities of each constituent association that ceases to exist shall continue as debts, obligations, or other liabilities of the surviving association.

(5) An action or proceeding pending by or against any constituent association that ceases to exist may be continued as if the merger had not occurred.

(6) Except as prohibited by other law, all of the rights, privileges, immunities, powers, and purposes of each constituent association that ceases to exist shall vest in the surviving association.

(7) Except as otherwise provided in the plan of merger, the terms and conditions of the plan of merger shall take effect.

(8) The merger shall not affect the personal liability, if any, of a member or manager of a constituent association for a debt, obligation, or other liability of the association incurred before the merger is effective.

(9) A surviving association that is a foreign unincorporated nonprofit association consents to the jurisdiction of the Superior Court to enforce any debt, obligation, or other liability owed by a constituent association if, before the merger, the constituent association was subject to suit in the District on the debt, obligation, or other liability. A surviving association that is a foreign unincorporated nonprofit association and not authorized to do business in the District may be served with process as provided in § 29-104.12 for the purposes of enforcing a debt, obligation, or other liability under this subsection.

(e) Property held for a charitable purpose under the law of the District by a domestic or foreign unincorporated nonprofit association immediately before a merger under this section becomes effective shall not, as a result of the merger, be diverted from the objects for which it was donated, granted, or devised, unless, to the extent required by or pursuant to the law of the District concerning cy pres or other law dealing with nondiversion of charitable assets, the organization obtains an appropriate order of the Superior Court specifying the disposition of the property.

(f) A bequest, devise, gift, grant, or promise contained in a will or other instrument of donation, subscription, or conveyance that is made to a disappearing association and that takes effect or remains payable after the merger shall inure to the benefit of the surviving association. A trust obligation that would govern property if transferred to the disappearing association shall apply to property that is instead transferred to the surviving association under this section.

§ 29-1127. Transition concerning real and personal property.

(a) If, before the applicability date of this chapter, an interest in property was by terms of a transfer purportedly transferred to an unincorporated nonprofit association but under the law of the District the interest did not vest in the association, or in one or more persons on behalf of the association under subsection (b) of this section, on the effective date of this chapter, the interest shall vest in the association, unless the parties to the transfer have treated the transfer as ineffective.

(b) If, before the applicability date of this chapter, an interest in property was by terms of a transfer purportedly transferred to an unincorporated nonprofit association but the interest was vested in one or more persons to hold the estate or interest for members of the association, on or after the effective date of this chapter, the persons, or their successors in interest, may transfer the interest to the association in its name or the association may require that the interest be transferred to it in its name.

CHAPTER 12. STATUTORY TRUSTS.

Section

Subchapter I. General Provisions.

29-1201.01. Short title.
29-1201.02. Definitions.
29-1201.03. Governing instrument.
29-1201.04. Mandatory rules.
29-1201.05. Applicability of trust law.
29-1201.06. Rule of construction.

Subchapter II. Formation; Certificate of Trust and Other Filings; Process.

29-1202.01. Certificate of trust.
29-1202.02. Amendment or restatement of certificate of trust.
29-1202.03. Signing of records.

Subchapter III. Governing Law; Authorization; Duration; Powers.

29-1203.01. Governing law.
29-1203.02. Statutory trust as entity.
29-1203.03. Permissible purposes.
29-1203.04. Statutory trust solely liable for debt, obligation, or other liability of statutory trust.
29-1203.05. No creditor rights in trust property.
29-1203.06. Duration.
29-1203.07. Power to hold property; title to trust property.
29-1203.08. Power to sue and be sued.

Subchapter IV. Series Trusts.

29-1204.01. Statutory trust having series.
29-1204.02. Liability of series trust.

29-1204.03. Duties of trustee in series trust.
29-1204.04. Dissolution of series.
Subchapter V. Trustees and Trust Management.
29-1205.01. Management of statutory trust.
29-1205.02. Trustee powers.
29-1205.03. Action by trustees.
29-1205.04. Protection of person dealing with trustee.
29-1205.05. Standards of conduct for trustees.
29-1205.06. Good-faith reliance.
29-1205.07. Interested transactions.
29-1205.08. Trustee's right to information.
29-1205.09. Indemnification, advancement, and exoneration.
29-1205.10. Direction of trustees.
29-1205.11. Delegation by trustee.
29-1205.12. Independent trustee in registered investment company.
Subchapter VI. Beneficiaries and Beneficial Rights.
29-1206.01. Beneficial interest.
29-1206.02. Voting or consent by beneficial owners.
29-1206.03. Contribution by beneficial owner.
29-1206.04. Distribution to beneficial owner.
29-1206.05. Redemption of beneficial interest.
29-1206.06. Charging order.
29-1206.07. Transaction with beneficial owner
29-1206.08. Beneficial owner's right to information.
29-1206.09. Action by beneficial owner.
Subchapter VII. Merger.
29-1207.01. Definitions.
29-1207.02. Merger.
29-1207.03. Action on plan of merger by constituent statutory trust.
29-1207.04. Filings required for merger; effective date.
29-1207.05. Effect of merger.
29-1207.06. Chapter not exclusive.
Subchapter VIII. Dissolution and Winding up.
29-1208.01. Events causing dissolution.
29-1208.02. Articles of dissolution.
29-1208.03. Winding up.
29-1208.04. Notice to claimant.
29-1208.05. Publication of notice.

Subchapter IX. Transition Provisions.

29-1209.01. Application to existing relationships.

CHAPTER 12. STATUTORY TRUSTS.

Subchapter I. General Provisions.

§ 29-1201.01. Short title.

This chapter may be cited as the "Uniform Statutory Trust Entity Act of 2010".

§ 29-1201.02. Definitions.

For the purposes of the chapter, the term:

(1) "Beneficial owner" means the owner of a beneficial interest in a statutory trust or foreign statutory trust.

(2) "Certificate of trust" means the record filed by the Mayor under § 29-1202.01. The term "certificate of trust" shall include the record as amended or restated.

(3) "Common-law trust" means a fiduciary relationship with respect to property arising from a manifestation of intent to create that relationship and subjecting the person that holds title to the property to duties to deal with the property for the benefit of charity or for one or more persons, at least one of which is not the sole trustee, whether the purpose of the trust is donative or commercial. The term "common-law trust" shall include the type of trust known at common law as a "business trust", "Massachusetts trust", or "Massachusetts business trust".

(4) "Foreign statutory trust" means a trust that is formed under the laws of a jurisdiction other than the District which would be a statutory trust if formed under the laws of the District.

(5) "Governing instrument" means the trust instrument and certificate of trust.

(6) "Person" means an individual, corporation, statutory trust, estate, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity. The term "person" shall not include a common-law trust.

(7) "Qualified foreign statutory trust" means a foreign statutory trust that is registered to do business in the District pursuant to a registration statement filed with the Mayor.

(8) "Related party", with respect to a person that is a trustee, officer, employee, manager, or beneficial owner, means:

(A) The spouse of the party;

(B) A child, parent, sibling, grandchild, or grandparent of the party, or the spouse of one of them;

(C) An individual having the same residence as the party;

(D) A trust or estate of which a related party described in subparagraph (A), (B), or (C) of this paragraph is a substantial beneficiary;

(E) A trust, estate, legally incapacitated individual, conservatee, or minor

for which the party is a fiduciary; or

(F) A person that directly or indirectly controls, is controlled by, or is under common control with, the party.

(9) "Series trust" means a statutory trust that has one or more series created under § 29-1204.01.

(10) "Statutory trust", except in the phrase "foreign statutory trust", means an entity formed under this chapter.

(11) "Trust" includes a common-law trust, statutory trust, and foreign statutory trust.

(12) "Trust instrument" means a record other than the certificate of trust which provides for the governance of the affairs of a statutory trust and the conduct of its business. The term "trust instrument" includes a trust agreement, a declaration of trust, and bylaws.

(13) "Trustee" means a person designated, appointed, or elected as a trustee of a statutory trust or foreign statutory trust in accordance with the governing instrument or applicable law.

§ 29-1201.03. Governing instrument: scope, limitations, and amendment.

(a) Except as otherwise provided in subsection (b) of this section or § 29-1201.04, the governing instrument shall govern the:

(1) Management, affairs, and conduct of the business of a statutory trust; and

(2) Rights, interests, duties, obligations, and powers of, and the relations among, the trustees, the beneficial owners, the statutory trust, and other persons.

(b) To the extent the governing instrument does not otherwise provide for a matter described in subsection (a) of this section, this chapter shall govern the matter.

(c) The governing instrument may include one or more instruments, agreements, declarations, bylaws, or other records and refer to or incorporate any record.

(d) The governing instrument may be amended with the approval of all the beneficial owners.

(e) Subject to § 29-1201.04, without limiting the terms that may be included in a governing instrument, the governing instrument may:

(1) Provide the means by which beneficial ownership is determined and evidenced;

(2) Limit a beneficial owner's right to transfer its beneficial interest;

(3) Provide for one or more series under subchapter IV of this chapter;

(4) To the extent that voting rights are granted under the governing instrument, include terms relating to:

(A) Notice of the date, time, place, or purpose of any meeting at which any matter is to be voted on;

(B) Waiver of notice;

(C) Action by consent without a meeting;

(D) Establishment of record dates;

(E) Quorum requirements;

(F) Voting:

(i) In person;

(ii) By proxy;

(iii) By any form of communication that creates a record, telephone, or video conference; or

(iv) In any other manner; or

(G) Any other matter with respect to the exercise of the right to vote;

(5) Provide for the creation of one or more classes of trustees, beneficial owners, or beneficial interests having separate rights, powers, or duties;

(6) Provide for any action to be taken without the vote or approval of any particular trustee or beneficial owner, or classes of trustees, beneficial owners, or beneficial interests, including:

(A) Amendment of the governing instrument;

(B) Merger, conversion, or reorganization;

(C) Appointment of trustees;

(D) Sale, lease, exchange, transfer, pledge, or other disposition of all or any part of the property of the statutory trust or the property of any series thereof; and

(E) Dissolution of the statutory trust;

(7) Provide for the creation of a statutory trust, including the creation of a statutory trust to which all or any part of the property, liabilities, profits, or losses of a statutory trust may be transferred or exchanged, and for the conversion of beneficial interests in a statutory trust, or series thereof, into beneficial interests in the new statutory trust or series thereof;

(8) Provide for the appointment, election, or engagement of agents or independent contractors of the statutory trust or delegates of the trustees, or agents, officers, employees, managers, committees, or other persons that may manage the business and affairs of the statutory trust, designate their titles, and specify their rights, powers, and duties;

(9) Provide rights to any person, including a person that is not a party to the governing instrument;

(10) Subject to paragraph (11) of this subsection, specify the manner in which the governing instrument may be amended, including, unless waived by all persons for whose benefit the condition or requirement was intended, a:

(A) Condition that a person that is not a party to the instrument shall approve the amendment for it to be effective; and

(B) Requirement that the governing instrument may be amended only as provided in the governing instrument or as otherwise permitted by law.

(11) Provide that a person may comply with paragraph (10) of this subsection by

a representative authorized by the person orally, in a record, or by conduct;

(12) Provide that a person becomes a beneficial owner, acquires a beneficial interest, and is bound by the governing instrument if the person complies with the conditions for becoming a beneficial owner set forth in the governing instrument, such as payment to the statutory trust or to a previous beneficial owner;

(13) Provide that the statutory trust or the trustees, acting for the statutory trust, hold beneficial ownership of any income earned on securities held by the statutory trust that are issued by any business entity formed, organized, or existing under the laws of any jurisdiction;

(14) Provide for the establishment of record dates;

(15) Grant to, or withhold from, a trustee or beneficial owner, or class of trustees or beneficial owners, the right to vote, separately or with any or all other trustees or beneficial owners, or class of trustees or beneficial owners, on any matter; and

(16) Limit the duration of the statutory trust.

§ 29-1201.04. Mandatory rules.

The governing instrument shall not:

(1) Vary the requirements of subchapter II of this chapter;

(2) Vary the choice of governing law under § 29-1203.01;

(3) Negate the exclusion of a predominantly donative purpose under § 29-1203.03;

(4) Vary the provisions pertaining to series trusts in §§ 29-1204.01, 29-1204.02(b), 29-1204.03, and 29-1204.04(c);

(5) Vary the standards of conduct for trustees under § 29-1205.05, but the governing instrument may prescribe the standards by which good faith, best interests of the statutory trust, and care that a person in a similar position would reasonably believe appropriate under similar circumstances are determined, if the standards are not manifestly unreasonable;

(6) Vary the obligation under § 29-1205.06 to act in good faith if a trustee or other person is not to be liable for relying on the terms of the governing instrument, the records of the statutory trust, or the opinions, reports, or statements of an expert, but the governing instrument may prescribe the standards for assessing whether the reliance was in good faith, if the standards are not manifestly unreasonable;

(7) Restrict the right of a trustee to information under § 29-1205.08, but the governing instrument may prescribe the standards for assessing whether information is reasonably related to the trustee's discharge of the trustee's duties as trustee, if the standards are not manifestly unreasonable;

(8) Vary the prohibition under § 29-1205.09 of indemnification, advancement of expenses, or exoneration for conduct involving bad faith, willful misconduct, or reckless indifference;

(9) Vary the obligation of a trustee under § 29-1205.10(c) not to follow a

direction that is manifestly contrary to the terms of the governing instrument or would constitute a serious breach of fiduciary duty by the trustee;

(10) Restrict the right of a judgment creditor of a beneficial owner to seek a charging order under § 29-1206.06;

(11) Restrict the right of a beneficial owner to information under § 29-1206.08, but the governing instrument may prescribe the standards for assessing whether information is reasonably related to the beneficial owner's interest, if the standards are not manifestly unreasonable;

(12) Restrict the right of a beneficial owner to bring an action under § 29-1206.09, but the governing instrument may subject the right to additional standards and restrictions, including a requirement that beneficial owners owning a specified amount or type of beneficial interest, including in a series trust an interest in the series, join in bringing the action, if the additional standards and restrictions are not manifestly unreasonable;

(13) Vary the provisions pertaining to merger in §§ 29-1207.01, 29-1207.04, and 29-1207.05;

(14) Vary the provisions pertaining to dissolution in §§ 29-1208.01 and 29-1208.02 through 29-1208.05;

(15) Vary the provisions relating to foreign statutory trusts in subchapter V of Chapter 1 of this title; or

(16) Vary the miscellaneous provisions in subchapter VII of Chapter 1 of this title.

§ 29-1201.05. Applicability of trust law.

The law of the District pertaining to common-law trusts shall supplement this chapter. However, a governing instrument may supersede or modify application to the statutory trust of any law of the District pertaining to common-law trusts.

§ 29-1201.06. Rule of construction.

(a) This chapter shall be liberally construed to give maximum effect to the principle of freedom of contract and to the enforceability of governing instruments.

(b) The presumption that a civil statute in derogation of the common law is construed strictly shall not apply to this chapter.

Subchapter II. Formation; Certificate of Trust and Other Filings; Process.

§ 29-1202.01. Certificate of trust.

(a) To form a statutory trust, a person shall deliver a certificate of trust to the Mayor for filing.

(b) A certificate of trust shall state:

(1) The name of the statutory trust, which must comply with §§ 29-103.01 and

29-103.02(i);

(2) The street and mailing address of the principal office of the trust;

(3) The name and street and mailing address of the initial registered agent of the trust; and

(4) If the trust may have one or more series, a statement to that effect.

(c) A certificate of trust may contain any term in addition to those required by subsection (b) of this section.

(d) Subject to § 29-102.03, a statutory trust shall be formed when a certificate of trust that complies with subsection (b) of this section is filed by the Mayor.

(e) A filed certificate of trust, a filed statement of cancellation or change, or filed articles of conversion or merger shall prevail over inconsistent terms of a trust instrument.

§ 29-1202.02. Amendment or restatement of certificate of trust; statement of correction.

(a) To amend its certificate of trust, a statutory trust shall deliver to the Mayor for filing an amendment, articles of conversion, or articles of merger stating the:

(1) Name of the trust;

(2) Date of filing of its initial certificate; and

(3) Changes to the certificate.

(b) A trustee that knows or has reason to know that any information in a filed certificate of trust was incorrect when the certificate was filed or has become incorrect shall promptly:

(1) Cause the certificate to be amended; or

(2) Deliver to the Mayor for filing a statement of correction.

(c) A restated certificate of trust shall be delivered to the Mayor for filing in the same manner as an amendment.

§ 29-1202.03. Signing of records.

(a) A record delivered by the statutory trust to the Mayor for filing pursuant to this chapter shall be signed by at least one of the trustees.

(b) Any person may sign by an attorney in fact any record filed pursuant to this chapter.

Subchapter III. Governing Law; Authorization; Duration; Powers.

§ 29-1203.01. Governing law.

The law of the District shall govern the:

(1) Internal affairs of a statutory trust;

(2) Liability of a beneficial owner as beneficial owner and a trustee as trustee for a debt, obligation, or other liability of a statutory trust or a series thereof; and

(3) Enforceability of a debt, obligation, or other liability of the statutory trust or a series thereof against the property of the trust or any series thereof.

§ 29-1203.02. Statutory trust as entity.

A statutory trust shall be an entity separate from its trustees and beneficial owners.

§ 29-1203.03. Permissible purposes.

(a) Except as otherwise provided in subsection (b) of this section, a statutory trust may be formed for and may have any lawful purpose.

(b) A statutory trust shall not have a predominantly donative purpose.

§ 29-1203.04. Statutory trust solely liable for debt, obligation, or other liability of statutory trust.

(a) A debt, obligation, or other liability of a statutory trust or series thereof shall be solely a debt, obligation, or other liability of the trust or series thereof. A beneficial owner, trustee, agent of the trust, or agent of the trustee shall not personally be liable, directly or indirectly, by way of contribution or otherwise, for a debt, obligation, or other liability of the trust or series thereof solely by reason of being or acting as a trustee, beneficial owner, agent of the trust, or agent of the trustee.

(b) Except as otherwise provided in subchapter IV of this chapter, property of a statutory trust held in the name of the trust or by the trustee in the trustee's capacity as trustee shall be is subject to attachment and execution to satisfy a debt, obligation, or other liability of the trust.

§ 29-1203.05. No creditor rights in trust property.

A creditor of a beneficial owner or trustee shall not obtain possession of, or otherwise exercise legal or equitable remedies with respect to, the property of a statutory trust or any series thereof.

§ 29-1203.06. Duration.

(a) A statutory trust shall have perpetual duration.

(b) A statutory trust, or any series thereof, shall not be terminated or revoked except in accordance with this chapter or the terms of the governing instrument.

(c) The death, incapacity, dissolution, termination, or bankruptcy of a beneficial owner or trustee shall not result in the termination or dissolution of a statutory trust or any series thereof.

(d) A statutory trust or any series thereof shall not terminate because the same person is the sole trustee and sole beneficial owner.

§ 29-1203.07. Power to hold property; title to trust property.

A statutory trust may hold or take title to property in its own name or in the name of a trustee in the trustee's capacity as trustee, whether in an active, passive, or custodial capacity.

§ 29-1203.08. Power to sue and be sued.

A statutory trust may sue and be sued in its own name.

Subchapter IV. Series Trusts.

§ 29-1204.01. Statutory trust having series.

(a) The governing instrument may provide for the creation by the statutory trust of one or more series with respect to specified property of the statutory trust if:

(1) Records are maintained for the series which reasonably identify the property of the series, including by specific listing, category, type, quantity, or computational or allocational formula or procedure, such as a percentage or share of any property, or by any other method by which the identity of the property of the series is objectively determinable; and

(2) Notice that the trust may have one or more series is set forth in the certificate of trust as required by § 29-1202.01(b)(4).

(b) A series of a statutory trust shall not be an entity separate from the statutory trust.

(c) A series of a statutory trust may have a separate purpose from the trust or any other series thereof if the purpose of the series is lawful and not a predominantly donative purpose.

§ 29-1204.02. Liability of series trust.

(a) In a series trust, a debt, obligation, or other liability incurred or otherwise existing respect to the:

(1) Property of a particular series shall be enforceable against the property of the series only, and not against the property of the trust generally or any other series thereof; and

(2) Trust generally or the property of any other series thereof shall not be enforceable against the property of the series.

(b) The association, disassociation, or reassociation of property of a statutory trust or a series thereof to or with the trust or a series thereof, including by conversion or merger under subchapter VII of this chapter shall be deemed to be a transfer between separate persons under Chapter 31 of Title 28.

§ 29-1204.03. Duties of trustee in series trust.

If there is at least one trustee of a series trust that, in discharging its duties, is obligated to consider the interests of the trust and all series thereof, the governing instrument may provide that one or more other trustees, in discharging their duties, may consider only the interests of the trust or one or more series thereof.

§ 29-1204.04. Dissolution of series.

(a) A series of a series trust may be dissolved or its property distributed without causing the dissolution of the trust or any other series thereof.

(b) A series of a series trust is dissolved, and its activities shall be wound up, on the

occurrence of an event or circumstance that the governing instrument states causes dissolution of the series or upon the dissolution of the trust.

(c) On dissolution of a series of a series trust, the persons that under the governing instrument are responsible for winding up the affairs of the series may cause the trust to take all actions permitted under § 29-1208.03, and shall take actions with respect to the claims and obligations of the series as provided in §§ 29-1208.03 through § 29-1208.05.

(d) Any person, including a trustee, that under the governing instrument is responsible for winding up the affairs of a series of a series trust shall not be liable to the creditors of the dissolved series by reason of the person's actions in winding up the series.

Subchapter V. Trustees and Trust Management.

§ 29-1205.01. Management of statutory trust.

The business and affairs of a statutory trust shall be managed by or under the authority of its trustees.

§ 29-1205.02. Trustee powers.

A trustee may exercise:

(1) Powers conferred by the governing instrument;

(2) Except as limited by the governing instrument, any other powers necessary or convenient to carry out the business and affairs of the statutory trust; and

(3) Other powers conferred by this chapter.

§ 29-1205.03. Action by trustees.

On any matter that is to be acted on by trustees, the following rules apply:

(1) The trustees shall act by majority of the trustees.

(2) The trustees may act without a meeting, without previous notice, and without a vote, if the minimum number of trustees necessary to authorize or take the action at a meeting at which all trustees entitled to vote thereon were present and voted consent in a signed record. However, prompt notice of the action shall be given to those trustees that did not consent.

(3) A trustee may vote in person or by proxy, but, if by proxy, the proxy shall be in a signed record.

§ 29-1205.04. Protection of person dealing with trustee.

(a) A person that in good faith assists a trustee, or in good faith and for value deals with a trustee, without knowledge that the trustee is exceeding or improperly exercising the trustee's power, shall be protected from liability as if the trustee properly exercised the power.

(b) A person that in good faith deals with a trustee need not inquire into the extent of a trustee's power or the propriety of the exercise of the power.

(c) A person that in good faith delivers property to a trustee need not ensure its proper

use.

(d) A person that in good faith and without knowledge that the trusteeship has terminated assists a former trustee as if the former trustee were still a trustee, or in good faith and for value deals with a former trustee as if the former trustee were still a trustee shall be protected from liability as if the former trustee were still a trustee.

§ 29-1205.05. Standards of conduct for trustees.

(a) Subject to § 29-1204.03, in exercising the powers of trusteeship, a trustee shall act in good faith and in a manner the trustee reasonably believes to be in the best interests of the statutory trust.

(b) A trustee shall discharge its duties with the care that a person in a similar position would reasonably believe appropriate under similar circumstances.

§ 29-1205.06. Good-faith reliance.

A trustee, officer, employee, manager, or committee of a statutory trust, or other person designated pursuant to § 29-1201.03(e)(8), shall not be liable to the trust or to a beneficial owner for breach of any duty, including a fiduciary duty, to the extent the breach results from good-faith reliance on:

(1) A term of the governing instrument;

(2) A record of the statutory trust; or

(3) An opinion, report, or statement of another person that the trustee reasonably believes is within the other person's professional or expert competence and is made or delivered to the trustee, officer, employee, manager, or committee of a statutory trust or other person designated pursuant to § 29-1201.03(e)(8).

§ 29-1205.07. Interested transactions.

(a) For the purposes of this section, the term "covered party" means a trustee, officer, employee, or manager of a statutory trust, or a related party of a trustee, officer, employee, manager, or other person designated pursuant to § 29-1201.03(e)(8).

(b) Subject to subsection (c) of this section, a covered party may lend money to, borrow money from, act as a surety, guarantor, or endorser for, guarantee or assume an obligation of, provide collateral for, or do other business with the statutory trust and, subject to law other than this title, has the same rights and obligations with respect to those matters as a person that is not a covered party.

(c) A transaction described in subsection (b) of this section shall be voidable by the statutory trust unless the covered party shows that the transaction is fair to the trust.

§ 29-1205.08. Trustee's right to information.

A trustee shall have the right to receive from a statutory trust or another trustee information relating to the affairs of the trust which is reasonably related to the trustee's discharge of the trustee's duties as trustee. The trustee may enforce this right by summary proceeding in the Superior Court.

§ 29-1205.09. Indemnification, advancement, and exoneration.

(a) A statutory trust may indemnify and hold harmless a trustee, beneficial owner, or other person with respect to any claim or demand against the person by reason of the person's relationship with the trust if the claim or demand does not arise from the person's bad faith, willful misconduct, or reckless indifference.

(b) Expenses, including reasonable attorneys' fees and costs, incurred by a trustee, beneficial owner, or other person in connection with a claim or demand against the person by reason of the person's relationship to a statutory trust may be paid by the trust before the final disposition of the claim or demand, upon an undertaking by or on behalf of the person to repay the trust if the person is ultimately determined not to be entitled to be indemnified under subsection (a) of this section.

(c) A term in the governing instrument relieving or exonerating a trustee from liability is unenforceable to the extent it relieves or exonerates the trustee from liability for conduct involving bad faith, willful misconduct, or reckless indifference.

§ 29-1205.10. Direction of trustees.

(a) The governing instrument may authorize any person, including a beneficial owner, to direct a trustee or other person in the management of a statutory trust.

(b) The governing instrument may provide that the power to direct a trustee or other person or the exercise of the power by any person, including a beneficial owner, shall not cause the person to be a trustee or impose on the person duties, including fiduciary duties, or liabilities relating to these duties, to a statutory trust or beneficial owner.

(c) If the governing instrument confers on a person a power to direct actions by a trustee or other person, the trustee or other person shall act in accordance with an exercise of the power, unless the direction is manifestly contrary to the terms of the governing instrument or the trustee knows or has reason to know that following the direction would constitute a serious breach of fiduciary duty by the trustee.

§ 29-1205.11. Delegation by trustee.

(a) A trustee may delegate duties and powers. The trustee shall exercise the care a person in a similar position would reasonably believe appropriate under similar circumstances in:

(1) Selecting an agent;

(2) Establishing the scope and terms of the delegation; and

(3) Periodically reviewing the agent's actions to monitor the agent's performance and compliance with the terms of the delegation.

(b) Subject to subsection (a) of this section, a trustee may delegate duties and powers to a co-trustee.

(c) In performing a delegated function, an agent of a trustee shall owe a duty to the statutory trust to exercise reasonable care to comply with the terms of the delegation.

(d) A trustee that complies with subsection (a) of this section shall not be liable to a beneficial owner or to the statutory trust for an act or omission of the agent of the trustee to which a function was delegated.

(e) An agent of a trustee submits to the jurisdiction of the courts of the District by accepting a delegation of powers or duties from a trustee with respect to a claim related to the agency.

§ 29-1205.12. Independent trustee in registered investment company.

(a) For the purposes of this section, the term "affiliated person" and "interested person" have the meanings as provided in section 2(3) and (19) of the Investment Company Act of 1940, (54 Stat. 790; 15 U.S.C. § 80a-2(3) and (19)), and any regulations issued thereunder.

(b) If a statutory trust is registered as an investment company under the Investment Company Act of 1940, approved August 22, 1940 (54 Stat. 789; 15 U.S.C. § 80a-1 *et seq.*), or any successor statute and any regulations issued thereunder, a trustee shall be an independent trustee for all purposes under this chapter if the trustee shall is not an interested person of the trust. The receipt of compensation both for service as an independent trustee of the trust and for service as an independent trustee of one or more other investment companies managed by a single investment adviser or an affiliated person of an investment adviser, shall not affect the status of the trustee as an independent trustee under this section.

Subchapter VI. Beneficiaries and Beneficial Rights.

§ 29-1206.01. Beneficial interest.

(a) A beneficial interest in a statutory trust shall be freely transferable.

(b) A beneficial interest in a statutory trust shall be personal property regardless of the nature of the property of the trust.

(c) A beneficial interest in a statutory trust shall not be an interest in specific property of the statutory trust.

(d) A beneficial owner shall not have a preemptive right to subscribe to any additional issue of beneficial interests or any other interest of a statutory trust.

§ 29-1206.02. Voting or consent by beneficial owners.

On any matter that is to be acted on by beneficial owners, the following rules apply:

(1) The beneficial owners shall act by majority of the beneficial interests.

(2) The beneficial owners may take the action without a meeting, without notice, and without a vote, if beneficial owners having at least the minimum number of votes necessary to authorize or take the action at a meeting at which all beneficial owners entitled to vote thereon were present and voted consent in a signed record. However, prompt notice of the action shall be given to those beneficial owners that did not consent.

(3) A beneficial owner may vote in person or by proxy, but if by proxy, the proxy shall be contained in a signed record.

§ 29-1206.03. Contribution by beneficial owner.

(a) A contribution of a beneficial owner to a statutory trust may be in cash, property, or services rendered or a promissory note or other obligation to contribute cash or property or to perform services. A person may become a beneficial owner of a statutory trust and may receive a beneficial interest in a statutory trust without making a contribution or being obligated to make a contribution to the trust.

(b) A beneficial owner shall be liable to the statutory trust for failure to perform an obligation to contribute cash or property or to perform services, even if the beneficial owner is unable to perform because of death, disability, or any other reason. If a beneficial owner does not make the required contribution of cash, property, or services, the beneficial owner shall be obligated, at the option of the trust, to contribute cash equal to that part of the value of the contribution that has not been made. This obligation shall be in addition to any other right, including the right to specific performance, that the trust has against the beneficial owner under the governing instrument or applicable law.

(c) The governing instrument may provide that a beneficial owner that fails to make a required contribution, or comply with the terms and conditions of the governing instrument, shall be subject to specified penalties for or consequences of the failure, including:

(1) Reduction or elimination of the defaulting beneficial owner's proportionate interest in the statutory trust or series thereof;

(2) Subordination of the defaulting beneficial owner's beneficial interest to that of nondefaulting beneficial owners;

(3) Forced sale or forfeiture of the defaulting beneficial owner's beneficial interest;

(4) Imposition of an obligation to repay a loan to the statutory trust by another beneficial owner of the amount necessary to meet the defaulting beneficial owner's commitment;

(5) Redemption or sale of the defaulting beneficial owner's beneficial interest at a value fixed by appraisal or by formula; and

(6) Specific performance of an obligation under the governing instrument.

§ 29-1206.04. Distribution to beneficial owner.

(a) When a beneficial owner becomes entitled to receive a distribution, with respect to the distribution, the beneficial owner shall have the status of, and shall be entitled to all remedies available to, a creditor of the statutory trust.

(b) A beneficial owner shall not have a right to demand or to receive a distribution from the trust in any form other than money.

(c) The trust may distribute an asset in kind if each part of the asset is fungible with each other part and each beneficial owner receives a percentage of the asset equal in value to the beneficial owner's share of the distribution.

§ 29-1206.05. Redemption of beneficial interest.

A statutory trust may acquire, by purchase, redemption, or otherwise, any beneficial interest in the trust or series thereof. A beneficial interest acquired under this section shall be canceled.

§ 29-1206.06. Charging order.

(a) If a beneficial interest is not freely transferable by a beneficial owner so that the transferee has all rights of the transferor, a judgment creditor of a beneficial owner may satisfy the judgment against the beneficial owner's beneficial interest only as provided in this section.

(b) On application by a judgment creditor of a beneficial owner, the Superior Court may issue a charging order against the beneficial owner's right to distributions from the trust for the unsatisfied part of the judgment and:

(1) Appoint a receiver of the distributions subject to the charging order, with the power to enforce the beneficial owner's right to a distribution; and

(2) Make other orders necessary to give effect to the charging order.

(c) A charging order issued under subsection (b) of this section shall be a lien on the beneficial owner's right to distributions and requires the statutory trust to pay over to the judgment creditor any distribution that would otherwise be paid to the beneficial owner until the judgment has been satisfied.

(d) A statutory trust or beneficial owner that is not subject to a charging order issued under subsection (b) of this section shall pay to the judgment creditor the full amount due under the judgment lien and thereby succeed to the rights of the judgment creditor, including the charging order.

(e) This chapter shall not deprive a beneficial owner or a transferee of the beneficial interest of any exemption applicable to the beneficial interest.

§ 29-1206.07. Transaction with beneficial owner

Subject to § 29-1205.07, a beneficial owner or related party of a beneficial owner may lend money to, borrow money from, act as a surety, guarantor, or endorser for, guarantee or

assume an obligation of, provide collateral for, or do other business with the statutory trust and, subject to law other than this chapter, shall have the same rights and obligations with respect to a matter as a person that is not a beneficial owner.

§ 29-1206.08. Beneficial owner's right to information.

A beneficial owner shall have the right to receive from the statutory trust or a trustee information relating to the affairs of a statutory trust which is reasonably related to the beneficial owner's interest. The beneficial owner may enforce this right by summary proceeding in the Superior Court.

§ 29-1206.09. Action by beneficial owner.

(a) A beneficial owner may maintain a direct action against a statutory trust to redress an injury sustained by, or to enforce a duty owed to, the beneficial owner if the beneficial owner can prevail without showing an injury or breach of duty to the trust.

(b) A beneficial owner may maintain a derivative action to redress an injury sustained by, or enforce a duty owed to, a statutory trust if:

(1) The beneficial owner first makes a demand on the trustees, requesting that the trustees cause the trust to bring an action to redress the injury or enforce the right, and the trustees do not bring the action within a reasonable time; or

(2) A demand would be futile.

(c) A derivative action on behalf of a statutory trust shall be maintained only by a person that is a beneficial owner at the time the action is commenced and:

(1) Was a beneficial owner when the conduct giving rise to the action occurred; or

(2) Acquired the status as a beneficial owner by operation of law or pursuant to the terms of the governing instrument from a person that was a beneficial owner at the time of the conduct.

(d) In a derivative action on behalf of the statutory trust, the complaint shall state with particularity the:

(1) Date and content of the plaintiff's demand and the trustees' response to the demand; or

(2) Reason the demand should be excused as futile.

(e) Except as otherwise provided in subsection (f) of this section:

(1) Any proceeds or other benefits of a derivative action on behalf of a statutory trust, whether by judgment or settlement, shall be the property of the trust and not of the plaintiff; and

(2) If the plaintiff receives any proceeds or other benefits, the plaintiff shall immediately remit them to the trust.

(f) If a derivative action on behalf of a statutory trust is successful in whole or in part, the

court may award the plaintiff reasonable attorneys' fees, costs, and other expenses from the recovery by the trust.

(g) A derivative action on behalf of a statutory trust shall not be voluntarily dismissed or settled without the court's approval.

Subchapter VII. Merger.

§ 29-1207.01. Definitions.

For the purposes of this subchapter, the term:

(1) "Constituent statutory trust" means a statutory trust that is party to a merger.

(2) "Governing law" means the law that governs the organization's internal affairs.

(3)(A) "Organization" means:

(i) A common-law trust that does not have a predominantly donative purpose;

(ii) General partnership, including a limited liability partnership;

(iii) Limited partnership, including a limited liability limited partnership;

(iv) Limited liability company;

(v) Corporation; or

(vi) Foreign statutory trust.

(B) The term "organization" shall include a domestic or foreign organization whether or not organized for profit.

(4) "Organizational documents" means the records that create an organization and determine its internal governance and the relations among the persons that own it, have an interest in it, or are members of it.

(5) "Surviving organization" means an organization into which one or more other organizations are merged, whether the surviving organization preexisted the merger or was created by the merger.

§ 29-1207.02. Merger.

(a) A statutory trust may merge with one or more other constituent organizations pursuant to this section, §§ 29-1207.03 through 29-1207.05, and a plan of merger if:

(1) The merger is not prohibited by the governing law of any constituent organization; and

(2) Each of the other organizations complies with its governing law in effecting the merger.

(b) A plan of merger shall be in a record and shall include:

(1) The name and form of each constituent organization;

(2) The name and form of the surviving organization and, if the surviving

organization is to be created by the merger, a statement to that effect;

(3) The terms and conditions of the merger, including the manner and basis for converting or exchanging the interests in each constituent organization into any combination of money, interests in the surviving organization, and other consideration;

(4) If the surviving organization is to be created by the merger, the surviving organization's organizational documents; and

(5) If the surviving organization is not to be created by the merger, any amendments to be made by the merger to the surviving organization's organizational documents.

§ 29-1207.03. Action on plan of merger by constituent statutory trust.

(a) A plan of merger shall be consented to by all trustees and all beneficial owners of a constituent statutory trust.

(b) After a merger is approved, and at any time before a filing is made under § 29-1207.04, a constituent statutory trust may amend the plan or abandon the planned merger:

(1) As provided in the plan; and

(2) Except as prohibited by the plan, with the same consent as was required to approve the plan.

§ 29-1207.04. Filings required for merger; effective date.

(a) After each constituent organization has approved a merger, articles of merger shall be signed on behalf of each:

(1) Constituent statutory trust, by one or more trustees or other authorized representative; and

(2) Other constituent organization, by an authorized representative.

(b) Articles of merger under this section shall include:

(1) The name and form of each constituent organization and the jurisdiction of its governing law;

(2) The name and form of the surviving organization, the jurisdiction of its governing law, and, if the surviving organization is created by the merger, a statement to that effect;

(3) If the surviving organization is to be created by the merger:

(A) If it will be a statutory trust, the trust's certificate of trust; or

(B) If it will be an organization other than a statutory trust, the organizational document that creates the organization;

(4) If the surviving organization preexisted the merger, any amendments provided for in the plan of merger for the organizational document that created the organization;

(5) A statement as to each constituent organization that the merger was approved as required by the organization's governing law;

(6) If the surviving organization is a foreign organization not authorized to do

business in the District, the street and mailing address of an office that the Mayor may use for the purposes of § 29-1207.05(b); and

(7) Any additional information required by the governing law of any constituent organization.

(c) The articles of merger shall be delivered to the office of the Mayor for filing.

(d) A merger shall be effective under this chapter:

(1) If the surviving organization is a statutory trust, upon the later of:

(A) Filing of the articles of merger by the Mayor; or

(B) Subject to § 29-102.03, as specified in the articles of merger; or

(2) If the surviving organization is not a statutory trust, as provided by the governing law of the surviving organization

§ 29-1207.05. Effect of merger.

(a) When a merger becomes effective:

(1) The surviving organization shall continue or comes into existence;

(2) Each constituent organization that merges with the surviving organization shall cease to exist as a separate organization;

(3) All property owned by each constituent organization that ceases to exist shall vest in the surviving organization;

(4) All debts, obligations, and other liabilities of each constituent organization that ceases to exist, including those existing with respect to the property of a series thereof, shall continue as debts, obligations, or other liabilities of the surviving organization limited to the property thereof as provided for by the plan of merger and the governing law of the surviving organization;

(5) An action or proceeding pending by or against any constituent organization that ceases to exist shall continue as if the merger had not occurred;

(6) Except as prohibited by law other than this chapter, all rights, privileges, immunities, powers, and purposes of each constituent organization that ceases to exist shall vest in the surviving organization;

(7) Except as otherwise provided in the plan of merger, the terms and conditions of the plan of merger shall take effect;

(8) If the surviving organization is created by the merger and:

(A) If it is a statutory trust, the certificate of trust becomes effective; or

(B) If it is an organization other than a statutory trust, the organizational document that creates the organization shall become effective; and

(9) If the surviving organization preexisted the merger, any amendment provided for in the articles of merger for the organizational document that created the organization shall become effective.

(b) A surviving organization that is a foreign organization consents to the jurisdiction of

the courts of the District to enforce any debt, obligation, or other liability owed by a constituent organization if, before the merger, the constituent organization was subject to suit in the District on the obligation. A surviving organization that is a foreign organization not authorized to do business in the District may be served in accordance with § 29-104.12.

§ 29-1207.06. Chapter not exclusive.

This chapter shall not preclude an organization from being merged under law other than this chapter.

Subchapter VIII. Dissolution and Winding up.

§ 29-1208.01. Events causing dissolution.

A statutory trust shall be dissolved only by:

(1) An administrative dissolution under §§ 29-106.01 and 29-106.02; or

(2) The filing of articles of dissolution under § 29-1208.02:

(A) On the occurrence of an event or circumstance that the governing instrument states causes dissolution; or

(B) With the approval of all the beneficial owners.

§ 29-1208.02. Articles of dissolution.

(a) If dissolution of a statutory trust is authorized under § 29-1208.01, the trust shall deliver to the Mayor for filing articles of dissolution setting forth the:

(1) Name of the trust; and

(2) Date of the dissolution.

(b) Except as otherwise provided in § 29-102.03, a statutory trust is dissolved when articles of dissolution that comply with subsection (a) of this section, are filed by the Mayor.

§ 29-1208.03. Winding up.

(a) A dissolved statutory trust shall wind up its activities and the trust and each series thereof shall continue after dissolution only for the purpose of its winding up.

(b) In winding up its activities, a statutory trust shall:

(1) Discharge the trust's debts, obligations, and other liabilities, settle and close the trust's activities, and marshal and distribute the property of the trust; and

(2) Distribute any surplus property after complying with paragraph (1) of this section to the beneficial owners in proportion to their beneficial interests.

(c) In winding up its activities, a statutory trust may:

(1) Preserve the trust's activities and property as a going concern for a reasonable time;

(2) Institute, maintain, and defend actions and proceedings, whether civil, criminal, or administrative;

(3) Transfer the trust's property;

(4) Settle disputes; and

(5) Perform other acts necessary or appropriate to its winding up.

(d) Trustees of a dissolved statutory trust that has disposed of claims under § 29-1208.04 or § 29-1208.05 shall not be liable for breach of duty with respect to claims against the trust that are barred or satisfied under § 29-1208.04 or § 29-1208.05.

(e) The dissolution of a statutory trust shall not terminate the authority of its registered agent.

(f) On application of any person that shows good cause, the Superior Court may appoint a person to be a receiver for a dissolved statutory trust with the power to undertake any action that might have been done by the trust during its winding up if the action is necessary for final settlement of the trust.

§ 29-1208.04. Notice to claimant.

(a) Except as otherwise provided in subsection (c) of this section, a dissolved statutory trust may dispose of a known claim against it by sending notice to the claimant in a record of the dissolution of the trust. The notice shall:

(1) Specify the information required to be included in the claim;

(2) Provide a mailing address to which the claim is to be sent;

(3) State the deadline for receipt of the claim, which shall not be less than 120 days after the date the notice is sent to the claimant; and

(4) State that the claim will be barred if not received by the deadline.

(b) A claim against a dissolved statutory trust is barred if the requirements of subsection (a) of this section are met and:

(1) The claim is not received by the specified deadline; or

(2) If the claim is timely received but rejected by the trust:

(A) The trust notifies the claimant in a record that the claim is rejected and will be barred unless the claimant commences an action against the trust to enforce the claim not later than the 90th day after the claimant receives the notice; and

(B) The claimant does not commence the required action not later than the 90th day.

(c) This section shall not apply to a claim based on:

(1) An event occurring after the effective date of dissolution; or

(2) A liability that on that date is unmatured or contingent.

§ 29-1208.05. Publication of notice.

(a) A dissolved statutory trust may publish notice of its dissolution and request persons having claims against the trust to present them in accordance with the notice.

(b) A notice under subsection (a) of this section shall:

(1) Be published at least once in a newspaper of general circulation in the District or, if it has no principal office in the District, in the city in which the trust's principal office is or was last located;

(2) Describe the information required for a claim;

(3) Provide a mailing address to which the claim may be sent; and

(4) State that a claim against the trust shall be barred unless an action to enforce the claim is commenced not later than 3 years after publication of the notice.

(c) If a dissolved statutory trust publishes a notice in accordance with subsection (b) of this section, unless the claimant commences an action to enforce a claim against the trust not later than 3 years after the publication date of the notice, the claim of each of the following claimants shall be barred:

(1) A claimant that did not receive notice in a record under § 29-1208.04;

(2) A claimant whose claim was timely sent to the trust but was rejected or not acted on; and

(3) A claimant whose claim is contingent at, or based on an event occurring after, the effective date of dissolution.

(d) A claim not barred under this section may be enforced against undistributed property.

(e) If property of the trust has been distributed after dissolution, a claim not barred under this section may be enforced against a beneficial owner to the extent of that beneficial owner's proportionate share of the property distributed to the beneficial owner after dissolution. However, a beneficial owner's total liability for all claims under this subsection shall not exceed the total amount of property distributed to the beneficial owner after dissolution.

Subchapter IX. Transition Provisions.

§ 29-1209.01. Application to existing relationships.

(a) This chapter shall not limit, prohibit, or invalidate the existence, acts, or obligations of any common-law trust created or doing business in the District before or after the applicability date of this chapter. The laws of the District other than this chapter pertaining to trusts shall apply to common-law trusts.

(b) A common-law trust arising under the law of the District before or after the applicability date of this chapter that does not have a prevailingly donative purpose may elect to be governed by this chapter by filing of a certificate of trust under § 29-1202.01.

(c) A trust created pursuant to a statute of the District that was required by that statute to file a certificate of trust with the Mayor before the applicability date of this chapter may elect to be governed by this chapter by filing an amendment to its certificate of trust under § 29-1202.02.

(d) On and after one year after the applicability date of this chapter, this chapter shall govern the organization and internal affairs of all trusts created pursuant to a statute of the District that was required by that statute to file a certificate of trust with the Mayor before the applicability date of this chapter.".

Sec. 3. Conforming amendments.

(a) Section 2-2523(b)(1) of section 4 of the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981 (D.C. Law 3-172; D.C. Official Code § 3-1323(b)(1)), is amended by striking the phrase "the District of Columbia Nonprofit Corporation Act, approved August 6, 1962 (76 Stat. 265; D.C. Code, sec. 29-501 *et seq.*) or organized in the District of Columbia as a religious or not-for-profit organization" and inserting the phrase "Chapter 4 of Title 29 of the District of Columbia Official Code" in its place.

(b) Section 7 of the Child Abuse and Neglect Prevention Children's Trust Fund Act of 1993, effective October 5, 1993 (D.C. Law 10-56; D.C. Official Code § 4-1341.06), is amended by striking the phrase "the District of Columbia Nonprofit Corporation Act, approved August 6, 1962 (76 Stat. 265; D.C. Code § 29-1001 *et seq.*)" and inserting the phrase "Chapters 1 and 4 of Title 29 of the District of Columbia Official Code" in its place

(c) Section 102(d)(1)(B) of the National Capital Area Transit Act of 1972, approved October 21, 1972 (86 Stat. 1001; D.C. Official Code § 9-1113.01(d)(1)(B)), is amended by striking the phrase "District of Columbia Business Corporation Act" and inserting the phrase "Chapter 3 of Title 29 of the District of Columbia Official Code" in its place.

(d) Section 5(d)(5) of the Establishment of the John A. Wilson Building Foundation Act of 1996, effective April 9, 1997 (D.C. Law 11-180; D.C. Official Code § 10-1334(d)(5)), is amended by striking the phrase "the District of Columbia Nonprofit Corporation Act, approved August 6, 1962 (76 Stat. 265; D.C. Code § 29-501 *et seq.*)" and inserting the phrase "Chapters 1, 2, and 4 of Title 29 of the District of Columbia Official Code" in its place.

(e) Section 404 of the District of Columbia Theft and White Collar Crimes Act of 1982, effective December 1, 1982 (D.C. Law 4-164; D.C. Official Code § 22-2405), is amended as follows:

(1) Subsection (a) is amended by striking the period and inserting the phrase "or if that person makes an affirmation by signing an entity filing or other document under Title 29 of the District of Columbia Official Code, knowing that the facts stated in the filing are not true in any material respect." in its place.

(2) Subsection (b) is amended by adding a new 2nd sentence to read as follows: "A violation of this section shall be prosecuted by the Attorney General for the District of Columbia or one of the Attorney General's assistants.".

(f) D.C. Official Code § 25-101(15) is amended by striking the phrase "Chapter 3 of Title 29" and inserting the phrase "Chapters 1 and 4 of Title 29" in its place.

(g) Section 10c(e) of the District of Columbia Regional Interstate Banking Act of 1985, effective August 17, 1991(D.C. Law 9-42; D.C. Official Code § 26-712), is amended as follows:

(1) Paragraph (2) is amended as follows:

(A) Strike the phrase "sections 91 and 92 of the District of Columbia Business Corporation Act, approved June 8, 1954 (68 Stat. 179; D.C. Code § 29-391 and 29-392)

("Business Corporation Act")" and insert the phrase "part B of subchapter XII of Chapter 3 of Title 29 of the District of Columbia Official Code" in its place.

(B) Strike the phrase "the provisions of sections 91 and 92 of the Business Corporation Act" and insert the phrase "part B of subchapter XII of Chapter 3 of Title 29 of the District of Columbia Official Code" in its place.

(2) Paragraph (4) is amended by striking the phrase "section 89 of the Business Corporation Act if the corporation exceeded or abused the authority conferred upon the corporation by the Business Corporation Act" and inserting the phrase "part B of subchapter XII of Chapter 3 of Title 29 if the corporation exceeded or abused the authority conferred upon the corporation by Chapter 1, 2, or 3 of Title 29 of the District of Columbia Official Code" in its place.

(h) Section 10(c)(1) of An Act To regulate the business of loaning money on security of any kind by persons, firms, and corporations other than national banks, licensed bankers, trust companies, savings banks, building and loan associations, and real estate brokers in the District of Columbia, approved February 4, 1913 (37 Stat. 657; D.C. Official Code § 26-910(c)(1)), is amended by striking the phrase "District of Columbia Nonprofit Corporation Act, approved August 6, 1962 (76 Stat. 265; D.C. Code § 29-501 *et seq.*)" and inserting the phrase "Chapter 4 of Title 29 of the District of Columbia Official Code" in its place.

(i) Chapter 33 of Subtitle II of Title 28 of the District of Columbia Official Code is amended as follows:

(1) The table of contents by adding a new section designation at the end to read as follows: "28-3315. Exemption of institutions of higher learning from usury law.".

(2) Section 28-3301(d)(1)(D) is amended by striking the phrase ", as referred to in sections 29-901 through 29-916" and inserting the phrase ", formed under, or subject to, Chapter 4 of Title 29" in its place.

(3) A new section 28-3315 is added to read as follows:

"§ 28-3315. Exemption of institutions of higher learning from usury law.

"Any institution of higher education located in the District of Columbia and described in the first sentence of section 101(a) of the Higher Education Amendments, approved October 7, 1998 (112 Stat. 1385; 20 U.S.C. § 1001(a)) (other than District of Columbia Teachers' College, Federal City College, Gallaudet College, and Howard University) may borrow money at such rates of interest as the institution may determine, without regard to the restrictions of any usury law applicable in the District of Columbia, and shall not plead any statutes against usury in any action.".

(j) The District of Columbia Business Corporations Act, approved June 8, 1954(68 Stat. 179; D.C. Official Code § 29-101.01 *et seq.*), is repealed.

(k) An Act To establish a code of law for the District of Columbia, approved March 3, 1901, 31 Stat. 1189; codified in scattered sections of the District of Columbia Official Code), is amended as follows:

(1) Sections 605 through 641 (D.C. Official Code §§ 29-201.01 through 29-201.40) are repealed.

(2) Section 687 (D.C. Official Code § 26-201(a)) is amended by striking the phrase "subchapter four of this chapter, aforesaid," and inserting the phrase "Chapters 1 and 3 of Title 29 of the District of Columbia Official Code" in its place.

(3) Sections 768 through 796 (D.C. Official Code §§ 29-221.01 through 29-221.29) are repealed.

(4) Sections 701 through 709 (D.C. Official Code §§ 29-241.01 through 29-241.08) are repealed.

(5) Sections 574 through 586f (D.C. Official Code §§ 29-601 through 29-619) are repealed.

(6) Sections 587 through 598 (D.C. Official Code §§ 29-701 through 29-712) are repealed.

(7) Sections 599 through 604 (D.C. Official Code §§ 29-801 to 29-806) are repealed.

(8) Sections 552, 639a, 766 and 767 (D.C. Official Code §§ 29-1101 through 29-1104) are repealed.

(9) Sections 1494 through 1497 (D.C. Official Code §§ 33-301 through 33-304) are repealed.

(l) The District of Columbia Nonprofit Corporation Act, approved August 6, 1962 (76 Stat. 265; D.C. Official Code § 29-301.01 *et seq.*), is repealed

(m) An Act To facilitate the amendment of the governing instruments of certain charitable trusts and corporations subject to the jurisdiction of the District of Columbia, in order to conform to the requirements of section 508 and section 664 of the Internal Revenue Code of 1954, as added by the Tax Reform Act of 1969, approved December 6, 1971 (85 Stat. 496; D.C. Official Code § 29-321.01), is repealed.

(n) The District of Columbia Professional Corporations Act, approved December 10, 1971 (85 Stat. 576; D.C. Official Code § 29-401 *et seq.*), is repealed.

(o) Section 402 of the District of Columbia Revenue Act of 1970, approved January 5, 1971 (84 Stat. 1936; D.C. Official Code § 29-631), is repealed.

(p) Sections 452 through 456 of the Revised Statutes of the District of Columbia (D.C. Official Code §§ 29-731 through 29-734), are repealed.

(q) The District of Columbia Cooperative Association Act, approved June 19, 1940 (54 Stat. 480; D.C. Official Code § 29-901 *et seq.*), is repealed.

(r) The Uniform Unincorporated Nonprofit Associations Act of 2000, effective April 3, 2001 (D.C. Law 13-231; D.C. Official Code §§ 29-971.01 *et seq.*), is repealed.

(s) The Limited Liability Company Act of 1994, effective July 23, 1994 (D.C. Law 10-138; D.C. Official Code § 29-1001 *et seq.*), is repealed.

(t) An Act to provide for semi-annual statements by foreign corporations doing business in the District of Columbia, approved July 29, 1892 (27 Stat 325; D.C. Official Code § 29-1105), is repealed.

(u) Section 5 of the Reciprocal Insurance Company Conversion Act of 1998, effective May 12, 1998 (D.C. Law 12-112; D.C. Official Code § 31-754), is amended by striking the phrase "the District of Columbia Business Corporation Act, approved June 8, 1954 (68 Stat. 179; D.C. Code § 29-301 *et seq.*) ("Business Corporation Act"), and shall be subject to the provisions of the Business Corporation Act" and inserting the phrase "Chapter 3 of Title 29 and shall be subject to Chapters 1, 2, and 3 of Title 29 of the District of Columbia Official Code" in its place.

(v) Section 102(51) of the Investments of Insurers Act of 2002, effective April 11, 2003 (D.C. Law 14-297; D.C. Official Code § 31-1371.02(51)), is amended by striking the phrase "the Limited Liability Act of 1994, effective July 23, 1994 (D.C. Law 10-138; D.C. Official Code § 29-1001 *et seq.*)" and inserting the phrase "Chapter 8 of Title 29 of the District of Columbia Official Code" in its place.

(w) Section 4(e) of the Captive Insurance Company Act of 2004, effective March 17, 2005 (D.C. Law 15-262; D.C. Official Code § 31-3931.03(e)), is amended as follows:

(1) Strike the phrase "general corporation law set forth in the District of Columbia Business Corporation Act, effective September 10, 1992 (D.C. Law 9-144; D.C. Official Code § 29-101.01 *et seq.*), the District of Columbia Nonprofit Corporation Act, approved August 6, 1962 (76 Stat. 265; D.C. Official Code § 29-301.01 *et seq.*), and the Limited Liability Company Act of 1994, effective July 23, 1994 (D.C. Law 10-138; D.C. Official Code § 29- 1001 *et seq.*), and the applicable provisions contained in this act" and inserting the phrase "Chapters 1, 2, 3, 4, and 8 of Title 29 of the District of Columbia Official Code" in its place; and

(2) Strike the phrase "the acts codified in ".

(x) The Uniform Partnership Act of 1996, effective April 19, 1997 (D.C. Law 7-49; D.C. Official Code § 33-101.01 *et seq.*), is repealed.

(y) The Uniform Limited Partnership Act of 1987, effective December 10, 1987 (D.C. Law 11-234; D.C. Official Code § 33-201.01 *et seq.*), is repealed.

(z) Section 302(a)(1) of the Cable Television Communications Act of 1981, effective October 9, 2002 (D.C. Law 14-193; D.C. Official Code § 34-1253.02(a)(1)), is amended by striking the phrase "the District of Columbia Nonprofit Corporation Act, approved August 6, 1962 (76 Stat. 265; D.C. Official Code § 29-301 *et seq.*)" and inserting the phrase "Chapters 1, 2, and 4 of Title 29 of the District of Columbia Official Code" in its place.

(aa) Section 1 of An Act To permit the merger of street railway corporations operating in the District of Columbia, and for other purposes, approved March 4, 1925 (43 Stat. 1265; D.C. Official Code § 35-271), is amended by striking the phrase "the provisions of Subchapter IV, Chapter XVIII, of the Code of Law of the District of Columbia" and inserting the phrase "Chapters 1, 2, and 4 of Title 29 of the District of Columbia Official Code" in its place.

(bb) Section 208 of the District of Columbia Public Postsecondary Education

Reorganization Act, approved October 26, 1974 (88 Stat. 1428; D.C. Official Code § 38-1202.08), is amended by striking the phrase "Public Law 89-791 (D.C. Code, sec. 29-415)" and inserting the phrase "this act" in its place.

(cc) Section 201(12A) of the Education Licensure Commission Act of 1976, effective April 6, 1977 (D.C. Law 1-104; D.C. Official Code § 38-1302(12A)), is amended by striking the phrase "the District of Columbia Nonprofit Corporation Act, approved August 6, 1962 (76 Stat 265: D.C. Code, sec. 29-501 *et seq.*)" and inserting the phrase "Chapter 4 of Title 29 of the District of Columbia Official Code" in its place.

(dd) The District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 1321; D.C. Official Code § 38-1800.01 *et seq.*), is amended as follows:

(1) Section 2002(24A) (D.C. Official Code § 38-1800.02(24A)), is amended by striking the phrase "the District of Columbia Nonprofit Corporation Act, approved August 6, 1962 (76 Stat. 265; D.C. Official Code § 29-301.01 *et seq.*)" and inserting the phrase "Chapter 4 of Title 29 of the District of Columbia Official Code" in its place.

(2) Section 2004(c)(16) (D.C. Official Code § 38-1802.04(c)(16)) is amended by striking the phrase "District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29-501 *et seq.*)" and by inserting the phrase "Chapter 4 of Title 29 of the District of Columbia Official Code" in its place.

(ee) Section 4 of the Museum of the City of Washington Act of 1980, effective July 26, 1980 (D.C. Law 3-79; D.C. Official Code § 39-303) is amended by striking the phrase "the District of Columbia Nonprofit Corporation Act, approved August 6, 1962 (76 Stat. 265, D.C. Code, sec. 29-1001 *et seq.*)" and inserting the phrase "Chapters 1, 2, and 4 of Title 29" in its place.

(ff) Section 1(c) of An Act To amend the laws relating to the fees charged for services rendered by the Office of the Recorder of Deeds for the District of Columbia and the laws relating to appointment of personnel in such office, and for other purposes, approved August, 3, 1954 (68 Stat. 650; D.C. Official Code § 42-1218(c)), is amended by striking the phrase "District of Columbia Business Corporations Act, approved June 8, 1954" and inserting the phrase "Chapters 1, 2, and 3 of Title 29 of the District of Columbia Official Code" in its place.

(gg) Section 3(11) of the District of Columbia Real Estate Licensure Act of 1982, effective March 10, 1982 (D.C. Law 4-209; D.C. Official Code § 42-1702(11)), is amended by striking the phrase "the District of Columbia Cooperative Association Act, approved June 19, 1940 (54 Stat. 480; D.C. Code, sec. 29-1101 *et seq.*)" and inserting the phrase "Chapter 9 of Title 29 of the District of Columbia Official Code" in its place.

(hh) Section 4 of the Homestead Housing Preservation Act of 1986, effective August 9, 1986 (D.C. Law 6-135; D.C. Official Code § 42-2103), is amended as follows:

(1) Paragraph (1C) is amended by striking the phrase "the District of Columbia Cooperative Association Act, approved June 19, 1940 (54 Stat. 480; D.C. Code § 29-1101 *et seq.*)" and inserting the phrase "Chapter 9 of Title 29 of the District of Columbia Official Code"

in its place.

(2) Paragraph (2) is amended by striking the phrase "the District of Columbia Cooperative Association Act, approved June 19, 1940 (54 Stat. 480; D.C. Code, sec. 29-1101 *et seq.*)" and inserting the phrase "Chapter 9 of Title 29 of the District of Columbia Official Code" in its place.

(ii) Section 2(3) of the Multiple Dwelling Residence Water Lead Level Test Act of 2004, effective April 8, 2005 (D.C. Law 15-303; D.C. Official Code § 42-3251(3)), is amended by striking the phrase "the District of Columbia Cooperation Association Act, approved June 19, 1940 (54 Stat. 480; D.C. Official Code § 29-901 *et seq.*)" and inserting the phrase "Chapter 9 of Title 29 of the District of Columbia Official Code" in its place.

(jj) Title 47 of the District of Columbia Official Code is amended as follows:

(1) Chapter 18 is amended as follows:

(A) The table of contents for subchapter VIII is amended by adding the section designation "47-1808.06a. Taxation of limited liability companies." after the section designation "47-1808.06. Partnerships.".

(B) Section 47-1802.01 is amended as follows:

(i) The existing text is designated as subsection (a).

(ii) A new subsection (b) is added to read as follows:

"(b) The exemption under this section shall be effective on the effective date of the exemption determination letter issued for the organization by the Internal Revenue Service.".

(C) Section 47-1808.01(2) is amended by striking the phrase "Chapter 4" and inserting the phrase "Chapter 5" in its place.

(D) A new section 47-1808.06(a) is added to read as follows:

"§ 47-1806.06a. Taxation of limited liability companies.

"For purposes of District income and franchise taxation, a limited liability company formed under Chapter 8 of Title 29 or a foreign limited liability company registered to do business in the District under Chapter 1 of Title 29 shall be classified as a partnership unless classified otherwise for federal income tax purposes, in which case the limited liability company shall be classified in the same manner as it is classified for federal income tax purposes. For purposes of District income and franchise taxation, a member or an assignee of a member of a limited liability company formed or subject to Title 29 shall be treated as either a resident or nonresident partner unless classified otherwise for federal income tax purposes, in which case the member or assignee of a member shall have the same status as such member or assignee of a member has for federal income tax purposes.".

(2) Section 47-2853.44(b) is amended by striking the phrase "Chapter 4" and inserting the phrase "Chapter 5" in its place.

Sec. 4. Sections in Title 29 recodified.

The Foreign Trade Zones Act of 1995, effective July 14, 1995 (D.C. Law 11-28; D.C. Official Code §§ 29-501 *et seq.*), shall be recodified.

Sec. 5. Applicability date.

This act shall apply as of the later of:

(1) January 1, 2012; or

(2) The inclusion of its fiscal effect in an approved budget and financial plan.

Sec. 6. Fiscal impact statement.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 60-day period of Congressional review as provided in section 602(c)(2) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(2)), and publication in the District of Columbia Register.

Sec. 7. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 60-day period of Congressional review as provided in section 602(c)(2) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(2)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
February 27, 2011