

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

SENATE BILL 874

By: Gumm

AS INTRODUCED

An Act relating to corporations; creating the Uniform Unincorporated Nonprofit Association Act; providing short title; defining terms; stating applicability of supplementary law; stating applicability of act; granting certain property rights to nonprofit associations; establishing requirements to execute certain statement; stating contents of certain statement; authorizing collection of certain fee; stating requirements for certain amendment; limiting liability for certain persons under specified circumstances; authorizing certain claim against certain person or entity; allowing nonprofit association to take certain legal action; stating effect of certain judgment or order; directing disposition of certain property; allowing nonprofit association to file certain statement; stating contents required for certain statement; allowing collection of certain fee; stating requirement for certain amendment; stating effect of change of membership on certain claim; stating venue; directing service of process to certain person; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 870 of Title 18, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Uniform Unincorporated Nonprofit Association Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 871 of Title 18, unless there is created a duplication in numbering, reads as follows:

For purposes of this act:

1. "Member" means a person who, under the rules or practices of a nonprofit association, may participate in the selection of persons

authorized to manage the affairs of the nonprofit association or in the development of policy of the nonprofit association;

2. "Nonprofit association" means an unincorporated organization, other than one created by a trust, consisting of two or more members joined by mutual consent for a common, nonprofit purpose. However, joint tenancy, tenancy in common, or tenancy by the entirety does not by itself establish a nonprofit association, even if the co-owners share use of the property for a nonprofit purpose;

3. "Person" means an individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity; and

4. "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or insular possession subject to the jurisdiction of the United States.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 872 of Title 18, unless there is created a duplication in numbering, reads as follows:

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

B. This act shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this act among states enacting it.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 873 of Title 18, unless there is created a duplication in numbering, reads as follows:

A. Real and personal property in this state may be acquired, held, encumbered, and transferred by a nonprofit association, whether or not the nonprofit association or a member of the nonprofit association has any other relationship to this state.

B. 1. A nonprofit association is a legal entity separate from its members for the purposes of acquiring, holding, encumbering, and transferring real and personal property.

2. A nonprofit association in its name may acquire, hold, encumber, or transfer an estate or interest in real or personal property.

3. A nonprofit association may be a beneficiary of a trust or contract, a legatee, or a devisee.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 874 of Title 18, unless there is created a duplication in numbering, reads as follows:

A. A nonprofit association may execute and file a statement of authority to transfer an estate or interest in real property in the name of the nonprofit association.

B. An estate or interest in real property in the name of a nonprofit association may be transferred by a person so authorized in a statement of authority filed in the office in the county in which a transfer of the property would be filed.

C. A statement of authority shall set forth:

1. The name of the nonprofit association;

2. The federal tax identification number, if any, of the nonprofit association;

3. The address in this state, including the street address, if any, of the nonprofit association, or, if the nonprofit association does not have an address in this state, its address out of state;

4. That it is an unincorporated nonprofit association; and

5. The name and title of a person authorized to transfer an estate or interest in real property held in the name of the nonprofit association.

D. A statement of authority shall be executed in the same manner as an affidavit required by a person who is not the person authorized to transfer the estate or interest.

E. A court clerk of the county in which a statement of authority is filed may collect a fee for filing the statement of authority in the amount authorized for filing recording a transfer of real property.

F. An amendment, including a cancellation, of a statement of authority must meet the requirements for execution and filing of an original statement. Unless canceled earlier, a filed statement of authority or its most recent amendment is canceled by operation of law five (5) years after the date of the most recent filing.

G. If the record title to real property is in the name of a nonprofit association and the statement of authority is filed in the office of the county in which a transfer of real property would be filed, the authority of the person named in a statement of authority to transfer is a rebuttable presumption of a person who gives value without notice that the person lacks authority.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 875 of Title 18, unless there is created a duplication in numbering, reads as follows:

A. A nonprofit association is a legal entity separate from its members for the purposes of determining and enforcing rights, duties, and liabilities in contract and tort.

B. A person is not liable for a breach of a nonprofit association's contract because the person is a member, is authorized to participate in the management of the affairs of the nonprofit association, or is a person considered to be a member by the nonprofit association.

C. A person is not liable for a tortious act or omission for which a nonprofit association is liable because the person is a member, is authorized to participate in the management of the affairs of the nonprofit association, or is a person considered to be a member by the nonprofit association.

D. A tortious act or omission of a member or other person for which a nonprofit association is liable is not imputed to a person because the person is a member of the nonprofit association, is authorized to participate in the management of the affairs of the nonprofit association, or is a person considered to be a member by the nonprofit association.

E. A member of a nonprofit association may assert a claim against the nonprofit association. A nonprofit association may assert a claim against a member or a person considered to be a member by the nonprofit association.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 876 of Title 18, unless there is created a duplication in numbering, reads as follows:

A. A nonprofit association, in its name, may institute, defend, intervene, or participate in a judicial, administrative, or other governmental proceeding or in an arbitration, mediation, or any other form of alternative dispute resolution.

B. A nonprofit association may assert a claim in its name on behalf of its members if one or more members of the nonprofit association have standing to assert a claim in their own right, the interests the nonprofit association seeks to protect are germane to its purposes, and neither the claim asserted nor the relief requested requires the participation of a member.

C. A judgment or order against a nonprofit association is not by itself a judgment or order against a member or a person authorized to participate in the management of the affairs of the nonprofit association.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 877 of Title 18, unless there is created a duplication in numbering, reads as follows:

If a nonprofit association has been inactive for three (3) years, or for another period specified in a document of the

association, a person in possession or control of personal property of the association may transfer custody of the property if:

1. A document of a nonprofit association specifies a person to whom transfer is to be made, under these circumstances, to that person; or

2. No person is so specified, to a nonprofit association or nonprofit corporation pursuing broadly similar purposes, or to a government or governmental subdivision, agency, or instrumentality.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 878 of Title 18, unless there is created a duplication in numbering, reads as follows:

A. A nonprofit association may file in the office of the Secretary of State a statement appointing an agent authorized to receive service of process.

B. A statement appointing an agent shall set forth:

1. The name of the nonprofit association;

2. The federal tax identification number, if any, of the nonprofit association;

3. The address in this state, including the street address, if any, of the nonprofit association, or, if the nonprofit association does not have an address in this state, its address out of state; and

4. The name of the person in this state authorized to receive service of process and the person's address, including the street address, in this state.

C. A statement appointing an agent must be signed and acknowledged by a person authorized to manage the affairs of the nonprofit association. The statement must also be signed and acknowledged by the person appointed agent, who thereby accepts the appointment. The appointed agent may resign by filing a resignation in the office of the Secretary of State and giving notice to the nonprofit association.

D. A filing officer may collect a fee in the amount charged for filing similar documents for filing a statement that appoints an agent to receive service of process, an amendment, a cancellation, or a resignation.

E. An amendment to or cancellation of a statement appointing an agent to receive service of process must meet the requirements for execution of an original statement.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 879 of Title 18, unless there is created a duplication in numbering, reads as follows:

A. A claim against a nonprofit association does not abate because of a change in its members or persons authorized to manage the affairs of the nonprofit association.

B. For purposes of venue, a nonprofit association is a resident of the county in this state in which it has an office.

C. In an action or proceeding against a nonprofit association, a summons and petition shall be made upon an agent authorized by appointment to receive service of process, an officer, managing or general agent, or a person authorized to participate in the management of its affairs; provided, however, if they cannot be found, then service may be made upon a member.

SECTION 11. This act shall become effective November 1, 2005.