

ESB 885

THE HOUSE OF REPRESENTATIVES
Wednesday, April 8, 2009

ENGROSSED
Senate Bill No. 885
As Amended

ENGROSSED SENATE BILL NO. 885 - By: ANDERSON AND GUMM of the Senate and SHERRER of the House.

(corporations - Revised Uniform Unincorporated Nonprofit Association Act -
codification -
effective date)

1 SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma
2 Statutes as Section 870.1 of Title 18, unless there is created a duplication in numbering,
3 reads as follows:

4 This act may be cited as the Revised Uniform Unincorporated Nonprofit Association
5 Act.

6 SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma
7 Statutes as Section 870.2 of Title 18, unless there is created a duplication in numbering,
8 reads as follows:

9 As used in the Revised Uniform Unincorporated Nonprofit Association Act:

10 1. “Established practices” means the practices used by an unincorporated nonprofit
11 association without material change during the most recent five (5) years of its existence,
12 or if it has existed for less than five (5) years, during its entire existence;

1 2. “Governing principles” means the agreements, whether oral, in a record, or
2 implied from its established practices, that govern the purpose or operation of an
3 unincorporated nonprofit association and the rights and obligations of its members and
4 managers. The term includes any amendment or restatement of the agreements
5 constituting the governing principles;

6 3. “Manager” means a person that is responsible, alone or in concert with others,
7 for the management of an unincorporated nonprofit association;

8 4. “Member” means a person that, under the governing principles, may participate
9 in the selection of persons authorized to manage the affairs of the unincorporated
10 nonprofit association or in the development of the policies and activities of the
11 association;

12 5. “Person” means an individual, corporation, business trust, statutory entity trust,
13 estate, trust, partnership, limited liability company, cooperative, association, joint
14 venture, public corporation, government or governmental subdivision, agency, or
15 instrumentality, or any other legal or commercial entity;

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

18 7. “State” means a state of the United States, the District of Columbia, Puerto Rico,
19 United States Virgin Islands, or any territory or insular possession subject to the
20 jurisdiction of the United States; and

21 8. “Unincorporated nonprofit association” means an unincorporated organization
22 consisting of two (2) or more members joined under an agreement that is oral, in a

1 record, or implied from conduct, for one or more common, nonprofit purposes. The term
2 does not include:

- 3 a. a trust,
- 4 b. a marriage, domestic partnership, common law domestic relationship,
5 civil union, or other domestic living arrangement,
- 6 c. an organization formed under any other statute that governs the
7 organization and operation of unincorporated associations,
- 8 d. a joint tenancy, tenancy in common, or tenancy by the entireties even
9 if the co-owners share use of the property for a nonprofit purpose, or
10 e. a relationship under an agreement in a record that expressly provides
11 that the relationship between the parties does not create an
12 unincorporated nonprofit association.

13 SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma
14 Statutes as Section 870.3 of Title 18, unless there is created a duplication in numbering,
15 reads as follows:

16 A. Principles of law and equity supplement the Revised Uniform Unincorporated
17 Nonprofit Association Act unless displaced by a particular provision of it.

18 B. A statute governing a specific type of unincorporated nonprofit association
19 prevails over an inconsistent provision in the Revised Uniform Unincorporated Nonprofit
20 Association Act.

1 C. The Revised Uniform Unincorporated Nonprofit Association Act supplements
2 the law of this state that applies to nonprofit associations operating in this state. If a
3 conflict exists, the state law applies.

4 SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma
5 Statutes as Section 870.4 of Title 18, unless there is created a duplication in numbering,
6 reads as follows:

7 A. Except as otherwise provided in subsection B of this section, the law of this state
8 governs the operation in this state of all unincorporated nonprofit associations formed or
9 operating in this state.

10 B. Unless the governing principles specify a different jurisdiction, the law of the
11 jurisdiction in which an unincorporated nonprofit association has its main place of
12 activities governs the internal affairs of the association.

13 SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma
14 Statutes as Section 870.5 of Title 18, unless there is created a duplication in numbering,
15 reads as follows:

16 A. An unincorporated nonprofit association is a legal entity distinct from its
17 members and managers.

18 B. An unincorporated nonprofit association has perpetual duration unless the
19 governing principles specify otherwise.

20 C. An unincorporated nonprofit association has the same powers as an individual
21 to do all things necessary or convenient to carry on its purposes.

1 D. An unincorporated nonprofit association may engage in profit-making activities
2 but profits from any such activities must be used or set aside for the nonprofit purposes
3 of the association.

4 SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma
5 Statutes as Section 870.6 of Title 18, unless there is created a duplication in numbering,
6 reads as follows:

7 A. An unincorporated nonprofit association may acquire, hold, encumber, or
8 transfer in its name an interest in real or personal property.

9 B. An unincorporated nonprofit association may be a beneficiary of a trust or
10 contract, a legatee or a devisee.

11 SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma
12 Statutes as Section 870.7 of Title 18, unless there is created a duplication in numbering,
13 reads as follows:

14 A. In this section, “statement of authority” means a statement authorizing a person
15 to transfer an interest in real property held in the name of an unincorporated nonprofit
16 association.

17 B. An interest in real property held in the name of an unincorporated nonprofit
18 association may be transferred by a person authorized to do so in a statement of
19 authority filed by the association in the office of the county clerk in which a transfer of
20 the property would be filed.

21 C. A statement of authority must set forth:

22 1. The name of the unincorporated nonprofit association;

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

3 3. That the association is an unincorporated nonprofit association; and

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

6 D. A statement of authority must be executed in the same manner as a deed by a
7 person other than the person authorized in the statement to transfer the interest.

8 E. A filing officer may collect a fee for filing a statement of authority in the amount
9 authorized for filing a transfer of real property.

10 F. A document amending, revoking, or canceling a statement of authority or stating
11 that the statement is unauthorized or erroneous must meet the requirements for
12 executing and filing an original statement.

13 G. Unless canceled earlier, a filed statement of authority and its most recent
14 amendment expire five (5) years after the date of the most recent filing.

15 H. If the record title to real property is in the name of an unincorporated nonprofit
16 association and the statement of authority is filed in the office of the county clerk in
17 which a transfer of the property would be filed, the authority of the person named in the
18 statement to transfer is conclusive in favor of a person that gives value without notice
19 that the person lacks authority.

20 SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma
21 Statutes as Section 870.8 of Title 18, unless there is created a duplication in numbering,
22 reads as follows:

1 A. A debt, obligation, or other liability of an unincorporated nonprofit association,
2 whether arising in contract, tort, or otherwise:

3 1. Is solely the debt, obligation, or other liability of the association; and

4 2. Does not become a debt, obligation, or other liability of a member or manager
5 solely because the member acts as a member or the manager acts as a manager.

6 B. The status of a person as a member or manager does not prevent or restrict law
7 other than the Revised Uniform Unincorporated Nonprofit Association Act from imposing
8 liability on the person or the association because of the conduct of the person.

9 SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma
10 Statutes as Section 870.9 of Title 18, unless there is created a duplication in numbering,
11 reads as follows:

12 A. An unincorporated nonprofit association may sue or be sued in its own name.

13 B. A member or manager may assert a claim the member or manager has against
14 the unincorporated nonprofit association. An association may assert a claim it has
15 against a member or manager.

16 SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma
17 Statutes as Section 870.10 of Title 18, unless there is created a duplication in numbering,
18 reads as follows:

19 A judgment or order against an unincorporated nonprofit association is not by itself
20 a judgment or order against a member or manager.

1 SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma
2 Statutes as Section 870.11 of Title 18, unless there is created a duplication in numbering,
3 reads as follows:

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

6 B. A statement appointing an agent must set forth:

7 1. The name of the unincorporated nonprofit association; and

8 2. The name of the person in this state authorized to receive service of process and
9 the address, including the street address, of the person in this state.

10 3. A statement appointing an agent must be signed and acknowledged by a person
11 authorized to manage the affairs of the unincorporated nonprofit association and by the
12 person appointed as the agent. By signing and acknowledging the statement the person
13 becomes the agent.

14 4. An amendment to or cancellation of a statement appointing an agent to receive
15 service of process must meet the requirements for executing of an original statement. An
16 agent may resign by filing a resignation in the office of the Secretary of State and giving
17 notice to the association.

18 5. The Secretary of State may collect a fee for filing a statement appointing an
19 agent to receive service of process, an amendment, a cancellation, or a resignation in the
20 amount charged for filing similar documents.

1 SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma
2 Statutes as Section 870.12 of Title 18, unless there is created a duplication in numbering,
3 reads as follows:

4 In any action or proceeding against an unincorporated nonprofit association, process
5 may be served on an agent authorized by appointment to receive service of process, on a
6 manager of the association, or in any other manner authorized by the law of this state.

7 SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma
8 Statutes as Section 870.13 of Title 18, unless there is created a duplication in numbering,
9 reads as follows:

10 An action or proceeding against an unincorporated nonprofit association does not
11 abate merely because of a change in its members or managers.

12 SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma
13 Statutes as Section 870.14 of Title 18, unless there is created a duplication in numbering,
14 reads as follows:

15 Unless otherwise provided by law other than the Revised Uniform Unincorporated
16 Nonprofit Association Act, venue of an action against an unincorporated nonprofit
17 association brought in this state is determined under the statutes applicable to an action
18 brought in this state against a corporation.

19 SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma
20 Statutes as Section 870.15 of Title 18, unless there is created a duplication in numbering,
21 reads as follows:

22 A member is not an agent of the association solely by reason of being a member.

1 SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma
2 Statutes as Section 870.16 of Title 18, unless there is created a duplication in numbering,
3 reads as follows:

4 A. Except as otherwise provided in the governing principles, an unincorporated
5 nonprofit association must have the approval of its members to:

6 1. Admit, suspend, dismiss, or expel a member;

7 2. Select or dismiss a manager;

8 3. Adopt, amend, or repeal the governing principles;

9 4. Sell, lease, exchange, or otherwise dispose of all, or substantially all, of the
10 property of the association, with or without the goodwill of the association, outside the
11 ordinary course of its activities;

12 5. Dissolve under paragraph 2 of subsection A of Section 28 of this act or merge
13 under Section 30 of this act;

14 6. Undertake any other act outside the ordinary course of the activities of the
15 association; or

16 7. Determine the policy and purposes of the association.

17 B. An unincorporated nonprofit association must have the approval of the members
18 to do any other act or exercise a right that the governing principles require to be
19 approved by members.

20 SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma
21 Statutes as Section 870.17 of Title 18, unless there is created a duplication in numbering,
22 reads as follows:

- 1 A. Unless the governing principles provide otherwise:
- 2 1. Approval of a matter by members requires an affirmative majority of the votes
- 3 cast at a meeting of members; and
- 4 2. Each member is entitled to one vote on each matter that is submitted for
- 5 approval by members.

6 B. Notice and quorum requirements for member meetings and the conduct of

7 meetings of members are determined by the governing principles.

8 SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma

9 Statutes as Section 870.18 of Title 18, unless there is created a duplication in numbering,

10 reads as follows:

11 A. A member does not have a fiduciary duty to an unincorporated nonprofit

12 association or to another member solely by being a member.

13 B. A member shall discharge the duties to the unincorporated nonprofit association

14 and the other members and exercise any rights under the Revised Uniform

15 Unincorporated Nonprofit Association Act consistent with the governing principles and

16 the obligation of good faith and fair dealing.

17 SECTION 19. NEW LAW A new section of law to be codified in the Oklahoma

18 Statutes as Section 870.19 of Title 18, unless there is created a duplication in numbering,

19 reads as follows:

20 A. A person becomes a member and may be suspended, dismissed, or expelled in

21 accordance with the governing principles of the association. If there are no applicable

22 governing principles, a person may become a member or be suspended, dismissed, or

1 expelled from an association only by a vote of its members. A person may not be
2 admitted as a member without the consent of the person.

3 B. Unless the governing principles provide otherwise, the suspension, dismissal, or
4 expulsion of a member does not relieve the member from any unpaid capital contribution,
5 dues, assessments, fees, or other obligation incurred or commitment made by the
6 member before the suspension, dismissal, or expulsion.

7 SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma
8 Statutes as Section 870.20 of Title 18, unless there is created a duplication in numbering,
9 reads as follows:

10 A. A member may resign as a member in accordance with the governing principles.
11 In the absence of applicable governing principles, a member may resign at any time.

12 B. Unless the governing principles provide otherwise, resignation of a member does
13 not relieve the member from any unpaid capital contribution, dues, assessments, fees, or
14 other obligation incurred or commitment made by the member before resignation.

15 SECTION 21. NEW LAW A new section of law to be codified in the Oklahoma
16 Statutes as Section 870.21 of Title 18, unless there is created a duplication in numbering,
17 reads as follows:

18 Except as otherwise provided in the governing principles, the interest of a member
19 or any right under the governing principles is not transferable.

20 SECTION 22. NEW LAW A new section of law to be codified in the Oklahoma
21 Statutes as Section 870.22 of Title 18, unless there is created a duplication in numbering,
22 reads as follows:

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 Except as otherwise provided in the Revised Uniform Unincorporated Nonprofit
2 Association Act or the governing principles:

3 1. Only the members may select a manager or managers;

4 2. A manager may be a member or a nonmember;

5 3. If a manager is not selected, all members are managers;

6 4. Each manager has equal rights in the management and conduct of the activities
7 of the association;

8 5. All matters relating to the activities of the association are decided by its
9 managers except for matters reserved for approval by members in Section 16 of this act;
10 and

11 6. A difference among managers is decided by a majority of the managers.

12 SECTION 23. NEW LAW A new section of law to be codified in the Oklahoma
13 Statutes as Section 870.23 of Title 18, unless there is created a duplication in numbering,
14 reads as follows:

15 A. A manager owes to the unincorporated nonprofit association and to its members
16 the fiduciary duties of loyalty and care.

17 B. A manager shall manage the unincorporated nonprofit association in good faith,
18 in a manner the manager reasonably believes to be in the best interests of the
19 association, and with such care, including reasonable inquiry, as a prudent person would
20 reasonably exercise in a similar position and under similar circumstances. A manager
21 may rely in good faith upon any opinion, report, statement, or other information provided

1 by another person that the manager reasonably believes is a competent and reliable
2 source for the information.

3 C. After full disclosure of all material facts, a specific act or transaction that would
4 otherwise violate the duty of loyalty by a manager may be authorized or ratified by a
5 majority of the members that are not interested directly or indirectly in the act or
6 transaction.

7 D. A manager that makes a business judgment in good faith satisfies the duties
8 specified in subsection A of this section if the manager:

9 1. Is not interested, directly or indirectly, in the subject of the business judgment
10 and is otherwise able to exercise independent judgment;

11 2. Is informed with respect to the subject of the business judgment to the extent the
12 manager reasonably believes to be appropriate under the circumstances; and

13 3. Believes that the business judgment is in the best interests of the
14 unincorporated nonprofit association and in accordance with its purposes.

15 E. The governing principles in a record may limit or eliminate the liability of a
16 manager to the unincorporated nonprofit association or its members for damages for any
17 action taken, or for failure to take any action, as a manager, except liability for:

18 1. The amount of financial benefit improperly received by a manager;

19 2. An intentional infliction of harm on the association or one or more of its
20 members;

21 3. An intentional violation of criminal law;

22 4. Breach of the duty of loyalty; or

1 5. Improper distributions.

2 SECTION 24. NEW LAW A new section of law to be codified in the Oklahoma
3 Statutes as Section 870.24 of Title 18, unless there is created a duplication in numbering,
4 reads as follows:

5 Notice and quorum requirements for meetings of managers and the conduct of
6 meetings of managers are determined by the governing principles.

7 SECTION 25. NEW LAW A new section of law to be codified in the Oklahoma
8 Statutes as Section 870.25 of Title 18, unless there is created a duplication in numbering,
9 reads as follows:

10 A. On reasonable notice, a member or manager of an unincorporated nonprofit
11 association may inspect and copy during the regular operating hours of the
12 unincorporated nonprofit association, at a reasonable location specified by the
13 association, any record maintained by the association regarding its activities, financial
14 condition, and other circumstances, to the extent the information is material to the rights
15 and duties of the member or manager under the governing principles.

16 B. An unincorporated nonprofit association may impose reasonable restrictions on
17 access to and use of information to be furnished under this section, including designating
18 the information confidential and imposing obligations of nondisclosure and safeguarding
19 on the recipient.

20 C. An unincorporated nonprofit association may charge a person that makes a
21 demand under this section reasonable copying costs, limited to the costs of labor and
22 materials.

1 D. A former member or manager is entitled to information to which the member or
2 manager was entitled while a member or manager if the information pertains to the
3 period during which the person was a member or manager, the former member or
4 manager seeks the information in good faith, and the former member or manager
5 satisfies subsections A through C of this section.

6 SECTION 26. NEW LAW A new section of law to be codified in the Oklahoma
7 Statutes as Section 870.26 of Title 18, unless there is created a duplication in numbering,
8 reads as follows:

9 A. Except as otherwise provided in subsection B of this section, an unincorporated
10 nonprofit association may not pay dividends or make distributions to a member or
11 manager.

12 B. An unincorporated nonprofit association may:

13 1. Pay reasonable compensation or reimburse reasonable expenses to a member or
14 manager for services rendered;

15 2. Confer benefits on a member or manager in conformity with its nonprofit
16 purposes;

17 3. Repurchase a membership and repay a capital contribution made by a member
18 to the extent authorized by its governing principles; or

19 4. Make distributions of property to members upon winding up and termination to
20 the extent permitted by Section 29 of this act.

1 SECTION 27. NEW LAW A new section of law to be codified in the Oklahoma
2 Statutes as Section 870.27 of Title 18, unless there is created a duplication in numbering,
3 reads as follows:

4 A. Except as otherwise provided in the governing principles, an unincorporated
5 nonprofit association shall reimburse a member or manager for authorized expenses
6 reasonably incurred in the course of the activities of the member or manager on behalf of
7 the association.

8 B. An unincorporated nonprofit association may indemnify a member or manager
9 for any debt, obligation, or other liability incurred in the course of the activities of the
10 member or manager on behalf of the association if the person seeking indemnification
11 has complied with Sections 18 and 23 of this act. Governing principles in a record may
12 broaden or limit indemnification.

13 C. If a person is made or threatened to be made a party in an action based on the
14 activities of that person on behalf of an unincorporated nonprofit association and the
15 person makes a request in a record to the association, a majority of the disinterested
16 managers may approve in a record advance payment, or reimbursement, by the
17 association, of all or a part of the reasonable expenses, including attorney fees and costs,
18 incurred by the person before the final disposition of the proceeding. To be entitled to an
19 advance payment or reimbursement, the person must state in a record that the person
20 has a good faith belief that the criteria for indemnification in subsection B of this section
21 have been satisfied and that the person will repay the amounts advanced or reimbursed

1 if the criteria for payment have not been satisfied. The governing principles in a record
2 may broaden or limit the advance payments or reimbursements.

3 D. An unincorporated nonprofit association may purchase insurance on behalf of a
4 member or manager for liability asserted against or incurred by the member or manager
5 in the capacity of a member or manager, whether or not the association has authority
6 under the Revised Uniform Unincorporated Nonprofit Association Act to reimburse,
7 indemnify, or advance expenses to the member or manager against the liability.

8 E. The rights of reimbursement, indemnification, and advancement of expenses
9 under this section apply to a former member or manager for an activity undertaken on
10 behalf of the unincorporated nonprofit association while a member or manager.

11 SECTION 28. NEW LAW A new section of law to be codified in the Oklahoma
12 Statutes as Section 870.28 of Title 18, unless there is created a duplication in numbering,
13 reads as follows:

14 A. An unincorporated nonprofit association may be dissolved as follows:

15 1. If the governing principles provide a time or method for dissolution, at that time
16 or by that method;

17 2. If the governing principles do not provide a time or method for dissolution, upon
18 approval by the members;

19 3. If no member can be located and the operations of the association have been
20 discontinued for at least three (3) years, by the managers or, if the association has no
21 current manager, by its last manager;

22 4. By court order; or

1 5. Under law other than the Revised Uniform Unincorporated Nonprofit
2 Association Act.

3 B. After dissolution, an unincorporated nonprofit association continues in existence
4 until its activities have been wound up and it is terminated pursuant to Section 29 of this
5 act.

6 SECTION 29. NEW LAW A new section of law to be codified in the Oklahoma
7 Statutes as Section 870.29 of Title 18, unless there is created a duplication in numbering,
8 reads as follows:

9 Winding up and termination of an unincorporated nonprofit association must
10 proceed in accordance with the following rules:

- 11 1. All known debts and liabilities must be paid or adequately provided for;
- 12 2. Any property subject to a condition requiring return to the person designated by
13 the donor must be transferred to that person;
- 14 3. Any property subject to a trust must be distributed in accordance with the trust
15 agreement; and
- 16 4. Any remaining property must be distributed as follows:

- 17 a. as required by law other than the Revised Uniform Unincorporated
18 Nonprofit Association Act that requires assets of an association to be
19 distributed to another person with similar nonprofit purposes,
- 20 b. in accordance with the governing principles of the association or in the
21 absence of applicable governing principles, to the members of the
22 association per capita or as the members direct, or

1 c. if neither subparagraph a nor b of this paragraph applies, under the
2 Uniform Unclaimed Property Act.

3 SECTION 30. NEW LAW A new section of law to be codified in the Oklahoma
4 Statutes as Section 870.30 of Title 18, unless there is created a duplication in numbering,
5 reads as follows:

6 A. As used in this section:

7 1. "Constituent organization" means an organization that is merged with one or
8 more other organizations including the surviving organization;

9 2. "Nonsurviving organization" means a constituent organization that is not the
10 surviving organization;

11 3. "Organization" means an unincorporated nonprofit association, a general
12 partnership, including a limited liability partnership, limited partnership, including a
13 limited liability limited partnership, limited liability company, business or statutory
14 trust, corporation, or any other legal or commercial entity having a statute governing its
15 formation and operation. The term includes a for-profit or nonprofit organization; and

16 4. "Surviving organization" means an organization into which one or more other
17 organizations are merged.

18 B. An unincorporated nonprofit association may merge with any organization that
19 is authorized by law to merge with an unincorporated nonprofit association.

20 C. A merger involving an unincorporated nonprofit association is subject to the
21 following rules:

22 1. Each constituent organization shall comply with its governing law;

1 2. Each party to the merger shall approve a plan of merger. The plan, which must
2 be in a record, must include the following provisions:

- 3 a. the name and form of each organization that is a party to the merger,
- 4 b. the name and form of the surviving organization and, if the surviving
5 organization is to be created by the merger, a statement to that effect,
- 6 c. if the surviving organization is to be created by the merger, the
7 organizational documents of the surviving organization that are
8 proposed to be in a record,
- 9 d. if the surviving organization is not to be created by the merger, any
10 amendments to be made by the merger to the organizational
11 documents of the surviving organization that are, or are proposed to
12 be, in a record; and
- 13 e. the terms and conditions of the merger, including the manner and
14 basis for converting the interests in each constituent organization into
15 any combination of money, interests in the surviving organization, and
16 other consideration except that the plan of merger may not permit
17 members of an unincorporated nonprofit association to receive merger
18 consideration if a distribution of such consideration would not be
19 permitted in the absence of a merger under Sections 26 and 29 of this
20 act;

21 3. The plan of merger must be approved by the members of each unincorporated
22 nonprofit association that is a constituent organization in the merger. If a plan of merger

1 would impose personal liability for an obligation of a constituent or surviving
2 organization on a member of an association that is a party to the merger, the plan may
3 not take effect unless it is approved in a record by the member;

4 4. Subject to the contractual rights of third parties, after a plan of merger is
5 approved and at any time before the merger is effective, a constituent organization may
6 amend the plan or abandon the merger as provided in the plan, or except as otherwise
7 prohibited in the plan, with the same consent as was required to approve the plan; and

8 5. Following approval of the plan, a merger under this section is effective:

9 a. if a constituent organization is required to give notice to or obtain the
10 approval of a governmental agency or officer in order to be a party to a
11 merger, when the notice has been given and the approval has been
12 obtained, and

13 b. if the surviving organization:

14 (1) is an unincorporated nonprofit association, as specified in the
15 plan of merger and upon compliance by any constituent
16 organization that is not an association with any requirements,
17 including any required filings in the office of the Secretary of
18 State, of the governing statute of the organization, or

19 (2) is not an unincorporated nonprofit association, as provided by
20 the statute governing the surviving organization.

21 D. When a merger becomes effective:

22 1. The surviving organization continues or comes into existence;

1 2. Each constituent organization that merges into the surviving organization ceases
2 to exist as a separate entity;

3 3. All property owned by each constituent organization that ceases to exist vests in
4 the surviving organization;

5 4. All debts, obligations, or other liabilities of each nonsurviving organization
6 continue as debts, obligations, or other liabilities of the surviving organization;

7 5. An action or proceeding pending by or against any nonsurviving organization
8 may be continued as if the merger had not occurred;

9 6. Except as prohibited by law other than the Revised Uniform Unincorporated
10 Nonprofit Association Act, all of the rights, privileges, immunities, powers, and purposes
11 of each constituent organization that ceases to exist vest in the surviving organization;

12 7. Except as otherwise provided in the plan of merger, the terms and conditions of
13 the plan of merger take effect;

14 8. The merger does not affect the personal liability, if any, of a member or manager
15 of a constituent organization for a debt, obligation, or other liability incurred before the
16 merger is effective; and

17 9. A surviving organization that is not organized in this state is subject to the
18 jurisdiction of the courts of this state to enforce any debt, obligation, or other liability
19 owed by a constituent organization, if before the merger the constituent organization was
20 subject to suit in this state for the debt, obligation, or other liability.

21 E. Property held for a charitable purpose under the law of this state by a
22 constituent organization immediately before a merger under this section becomes

1 effective may not, as a result of the merger, be diverted from the objects for which it was
2 given, unless, to the extent required by or pursuant to the law of this state concerning cy
3 pres or other law dealing with nondiversion of charitable assets, the organization obtains
4 an appropriate order of a district court specifying the disposition of the property.

5 F. A bequest, devise, gift, grant, or promise contained in a will or other instrument
6 of donation, subscription, or conveyance that is made to a nonsurviving organization and
7 that takes effect or remains payable after the merger inures to the surviving
8 organization. A trust obligation that would govern property if transferred to the
9 nonsurviving organization applies to property that is transferred to the surviving
10 organization under this section.

11 SECTION 31. NEW LAW A new section of law to be codified in the Oklahoma
12 Statutes as Section 870.31 of Title 18, unless there is created a duplication in numbering,
13 reads as follows:

14 A. If, before the effective date of the Revised Uniform Unincorporated Nonprofit
15 Association Act, an interest in property was by terms of a transfer purportedly
16 transferred to an unincorporated nonprofit association but under the law of this state the
17 interest did not vest in the association, or in one or more persons on behalf of the
18 association under subsection B of this section, on the effective date of the Revised
19 Uniform Unincorporated Nonprofit Association Act the interest vests in the association,
20 unless the parties to the transfer have treated the transfer as ineffective.

21 B. If, before the effective date of the Revised Uniform Unincorporated Nonprofit
22 Association Act, an interest in property was by terms of a transfer purportedly

1 transferred to an unincorporated nonprofit association, but the interest was vested in one
2 or more persons to hold the interest for members of the association, on or after the
3 effective date of the Revised Uniform Unincorporated Nonprofit Association Act the
4 persons, or their successors in interest, may transfer the interest to the association in its
5 name, or the association may require that the interest be transferred to it in its name.

6 SECTION 32. NEW LAW A new section of law to be codified in the Oklahoma
7 Statutes as Section 870.32 of Title 18, unless there is created a duplication in numbering,
8 reads as follows:

9 In applying and construing the Revised Uniform Unincorporated Nonprofit
10 Association Act, consideration must be given to the need to promote uniformity of the law
11 with respect to its subject matter among states that enact it.

12 SECTION 33. NEW LAW A new section of law to be codified in the Oklahoma
13 Statutes as Section 870.33 of Title 18, unless there is created a duplication in numbering,
14 reads as follows:

15 The Revised Uniform Unincorporated Nonprofit Association Act modifies, limits,
16 and supersedes the federal Electronic Signatures in Global and National Commerce Act,
17 15 U.S.C. section 7001, et seq., but does not modify, limit, or supersede section 101(c) of
18 that act, 15 U.S.C. section 7001(c), or authorize electronic delivery of any of the notices
19 described in section 103(b) of that act, 15 U.S.C. section 7003(b).

20 SECTION 34. NEW LAW A new section of law to be codified in the Oklahoma
21 Statutes as Section 870.34 of Title 18, unless there is created a duplication in numbering,
22 reads as follows:

1 The Revised Uniform Unincorporated Nonprofit Association Act does not affect an
2 action or proceeding commenced or right accrued before the Revised Uniform
3 Unincorporated Nonprofit Association Act takes effect.

4 SECTION 35. This act shall become effective November 1, 2009.

5 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 04-07-09 - DO PASS,
6 As Amended.