

3 **Senate Bill No. 885**
4 **As Amended**

5 SENATE BILL NO. 885 - By: Anderson of the Senate and Sherrer of the
6 House.

7 [corporations - Revised Uniform Unincorporated Nonprofit
8 Association Act - codification - effective date]

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

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

13 This act may be cited as the Revised Uniform Unincorporated
14 Nonprofit Association Act.

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

18 As used in the Revised Uniform Unincorporated Nonprofit
19 Association Act:

20 1. "Established practices" means the practices used by an
21 unincorporated nonprofit association without material change during
22 the most recent five (5) years of its existence, or if it has
23 existed for less than five (5) years, during its entire existence;

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

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

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

15 5. "Person" means an individual, corporation, business trust,
16 statutory entity trust, estate, trust, partnership, limited
17 liability company, cooperative, association, joint venture, public
18 corporation, government or governmental subdivision, agency, or
19 instrumentality, or any other legal or commercial entity;

20 6. "Record" means information that is inscribed on a tangible
21 medium or that is stored in an electronic or other medium and is
22 retrievable in perceivable form;

1 7. "State" means a state of the United States, the District of
2 Columbia, Puerto Rico, United States Virgin Islands, or any
3 territory or insular possession subject to the jurisdiction of the
4 United States; and

5 8. "Unincorporated nonprofit association" means an
6 unincorporated organization consisting of two (2) or more members
7 joined under an agreement that is oral, in a record, or implied from
8 conduct, for one or more common, nonprofit purposes. The term does
9 not include:

- 10 a. a trust,
- 11 b. a marriage, domestic partnership, common law domestic
12 relationship, civil union, or other domestic living
13 arrangement,
- 14 c. an organization formed under any other statute that
15 governs the organization and operation of
16 unincorporated associations,
- 17 d. a joint tenancy, tenancy in common, or tenancy by the
18 entireties even if the co-owners share use of the
19 property for a nonprofit purpose, or
- 20 e. a relationship under an agreement in a record that
21 expressly provides that the relationship between the
22 parties does not create an unincorporated nonprofit
23 association.

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

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

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

10 C. The Revised Uniform Unincorporated Nonprofit Association Act
11 supplements the law of this state that applies to nonprofit
12 associations operating in this state. If a conflict exists, the
13 state law applies.

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

17 A. Except as otherwise provided in subsection B of this
18 Section, the law of this state governs the operation in this state
19 of all unincorporated nonprofit associations formed or operating in
20 this state.

21 B. Unless the governing principles specify a different
22 jurisdiction, the law of the jurisdiction in which an unincorporated

1 nonprofit association has its main place of activities governs the
2 internal affairs of the association.

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

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

8 B. An unincorporated nonprofit association has perpetual
9 duration unless the governing principles specify otherwise.

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

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

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

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

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

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

4 A. In this section, "statement of authority" means a statement
5 authorizing a person to transfer an interest in real property held
6 in the name of an unincorporated nonprofit association.

7 B. An interest in real property held in the name of an
8 unincorporated nonprofit association may be transferred by a person
9 authorized to do so in a statement of authority filed by the
10 association in the office of the county clerk in which a transfer of
11 the property would be filed.

12 C. A statement of authority must set forth:

13 1. The name of the unincorporated nonprofit association;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 B. A member or manager may assert a claim the member or manager
19 has against the unincorporated nonprofit association. An
20 association may assert a claim it has against a member or manager.

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

1 A judgment or order against an unincorporated nonprofit
2 association is not by itself a judgment or order against a member or
3 manager.

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

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

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

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

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

15 3. A statement appointing an agent must be signed and
16 acknowledged by a person authorized to manage the affairs of the
17 unincorporated nonprofit association and by the person appointed as
18 the agent. By signing and acknowledging the statement the person
19 becomes the agent.

20 4. An amendment to or cancellation of a statement appointing an
21 agent to receive service of process must meet the requirements for
22 executing of an original statement. An agent may resign by filing a

1 resignation in the office of the Secretary of State and giving
2 notice to the association.

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

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

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

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

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

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

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

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

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

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

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

- 17 1. Admit, suspend, dismiss, or expel a member;
- 18 2. Select or dismiss a manager;
- 19 3. Adopt, amend, or repeal the governing principles;
- 20 4. Sell, lease, exchange, or otherwise dispose of all, or
21 substantially all, of the property of the association, with or
22 without the goodwill of the association, outside the ordinary course
23 of its activities;

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

3 6. Undertake any other act outside the ordinary course of the
4 activities of the association; or

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

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

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

12 A. Unless the governing principles provide otherwise:

13 1. Approval of a matter by members requires an affirmative
14 majority of the votes cast at a meeting of members; and

15 2. Each member is entitled to one vote on each matter that is
16 submitted for approval by members.

17 B. Notice and quorum requirements for member meetings and the
18 conduct of meetings of members are determined by the governing
19 principles.

20 SECTION 18. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 870.18 of Title 18, unless there
22 is created a duplication in numbering, reads as follows:

1 A. A member does not have a fiduciary duty to an unincorporated
2 nonprofit association or to another member solely by being a member.

3 B. A member shall discharge the duties to the unincorporated
4 nonprofit association and the other members and exercise any rights
5 under the Revised Uniform Unincorporated Nonprofit Association Act
6 consistent with the governing principles and the obligation of good
7 faith and fair dealing.

8 SECTION 19. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 870.19 of Title 18, unless there
10 is created a duplication in numbering, reads as follows:

11 A. A person becomes a member and may be suspended, dismissed,
12 or expelled in accordance with the governing principles of the
13 association. If there are no applicable governing principles, a
14 person may become a member or be suspended, dismissed, or expelled
15 from an association only by a vote of its members. A person may not
16 be admitted as a member without the consent of the person.

17 B. Unless the governing principles provide otherwise, the
18 suspension, dismissal, or expulsion of a member does not relieve the
19 member from any unpaid capital contribution, dues, assessments,
20 fees, or other obligation incurred or commitment made by the member
21 before the suspension, dismissal, or expulsion.

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

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

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

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

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

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

20 Except as otherwise provided in the Revised Uniform
21 Unincorporated Nonprofit Association Act or the governing
22 principles:

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

- 1 2. A manager may be a member or a nonmember;
- 2 3. If a manager is not selected, all members are managers;
- 3 4. Each manager has equal rights in the management and conduct
- 4 of the activities of the association;
- 5 5. All matters relating to the activities of the association
- 6 are decided by its managers except for matters reserved for approval
- 7 by members in Section 16 of this act; and
- 8 6. A difference among managers is decided by a majority of the
- 9 managers.

10 SECTION 23. NEW LAW A new section of law to be codified

11 in the Oklahoma Statutes as Section 870.23 of Title 18, unless there

12 is created a duplication in numbering, reads as follows:

13 A. A manager owes to the unincorporated nonprofit association

14 and to its members the fiduciary duties of loyalty and care.

15 B. A manager shall manage the unincorporated nonprofit

16 association in good faith, in a manner the manager reasonably

17 believes to be in the best interests of the association, and with

18 such care, including reasonable inquiry, as a prudent person would

19 reasonably exercise in a similar position and under similar

20 circumstances. A manager may rely in good faith upon any opinion,

21 report, statement, or other information provided by another person

22 that the manager reasonably believes is a competent and reliable

23 source for the information.

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

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

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

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

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

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

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

- 1 2. An intentional infliction of harm on the association or one
- 2 or more of its members;
- 3 3. An intentional violation of criminal law;
- 4 4. Breach of the duty of loyalty; or
- 5 5. Improper distributions.

6 SECTION 24. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 670.24 of Title 18, unless there
8 is created a duplication in numbering, reads as follows:

9 Notice and quorum requirements for meetings of managers and the
10 conduct of meetings of managers are determined by the governing
11 principles.

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

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

1 B. An unincorporated nonprofit association may impose
2 reasonable restrictions on access to and use of information to be
3 furnished under this section, including designating the information
4 confidential and imposing obligations of nondisclosure and
5 safeguarding on the recipient.

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

9 D. A former member or manager is entitled to information to
10 which the member or manager was entitled while a member or manager
11 if the information pertains to the period during which the person
12 was a member or manager, the former member or manager seeks the
13 information in good faith, and the former member or manager
14 satisfies subsections A through C of this section.

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

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

21 B. An unincorporated nonprofit association may:

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

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

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

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

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

11 A. Except as otherwise provided in the governing principles, an
12 unincorporated nonprofit association shall reimburse a member or
13 manager for authorized expenses reasonably incurred in the course of
14 the activities of the member or manager on behalf of the
15 association.

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

22 C. If a person is made or threatened to be made a party in an
23 action based on the activities of that person on behalf of an

1 unincorporated nonprofit association and the person makes a request
2 in a record to the association, a majority of the disinterested
3 managers may approve in a record advance payment, or reimbursement,
4 by the association, of all or a part of the reasonable expenses,
5 including attorney fees and costs, incurred by the person before the
6 final disposition of the proceeding. To be entitled to an advance
7 payment or reimbursement, the person must state in a record that the
8 person has a good faith belief that the criteria for indemnification
9 in subsection B of this section have been satisfied and that the
10 person will repay the amounts advanced or reimbursed if the criteria
11 for payment have not been satisfied. The governing principles in a
12 record may broaden or limit the advance payments or reimbursements.

13 D. An unincorporated nonprofit association may purchase
14 insurance on behalf of a member or manager for liability asserted
15 against or incurred by the member or manager in the capacity of a
16 member or manager, whether or not the association has authority
17 under the Revised Uniform Unincorporated Nonprofit Association Act
18 to reimburse, indemnify, or advance expenses to the member or
19 manager against the liability.

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

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

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

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

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

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

14 4. By court order; or

15 5. Under law other than the Revised Uniform Unincorporated
16 Nonprofit Association Act.

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

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

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

3 1. All known debts and liabilities must be paid or adequately
4 provided for;

5 2. Any property subject to a condition requiring return to the
6 person designated by the donor must be transferred to that person;

7 3. Any property subject to a trust must be distributed in
8 accordance with the trust agreement; and

9 4. Any remaining property must be distributed as follows:

10 a. as required by law other than the Revised Uniform
11 Unincorporated Nonprofit Association Act that requires
12 assets of an association to be distributed to another
13 person with similar nonprofit purposes,

14 b. in accordance with the governing principles of the
15 association or in the absence of applicable governing
16 principles, to the members of the association per
17 capita or as the members direct, or

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

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

23 A. As used in this section:

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

4 2. "Nonsurviving organization" means a constituent organization
5 that is not the surviving organization;

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

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

15 B. An unincorporated nonprofit association may merge with any
16 organization that is authorized by law to merge with an
17 unincorporated nonprofit association.

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

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

1 2. Each party to the merger shall approve a plan of merger.
2 The plan, which must be in a record, must include the following
3 provisions:
4 a. the name and form of each organization that is a party
5 to the merger,
6 b. the name and form of the surviving organization and,
7 if the surviving organization is to be created by the
8 merger, a statement to that effect,
9 c. if the surviving organization is to be created by the
10 merger, the organizational documents of the surviving
11 organization that are proposed to be in a record,
12 d. if the surviving organization is not to be created by
13 the merger, any amendments to be made by the merger to
14 the organizational documents of the surviving
15 organization that are, or are proposed to be, in a
16 record; and
17 e. the terms and conditions of the merger, including the
18 manner and basis for converting the interests in each
19 constituent organization into any combination of
20 money, interests in the surviving organization, and
21 other consideration except that the plan of merger may
22 not permit members of an unincorporated nonprofit
23 association to receive merger consideration if a

1 distribution of such consideration would not be
2 permitted in the absence of a merger under Sections 26
3 and 29 of this act;

4 3. The plan of merger must be approved by the members of each
5 unincorporated nonprofit association that is a constituent
6 organization in the merger. If a plan of merger would impose
7 personal liability for an obligation of a constituent or surviving
8 organization on a member of an association that is a party to the
9 merger, the plan may not take effect unless it is approved in a
10 record by the member;

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

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

19 a. if a constituent organization is required to give
20 notice to or obtain the approval of a governmental
21 agency or officer in order to be a party to a merger,
22 when the notice has been given and the approval has
23 been obtained, and

1 b. if the surviving organization:
2 (1) is an unincorporated nonprofit association, as
3 specified in the plan of merger and upon
4 compliance by any constituent organization that
5 is not an association with any requirements,
6 including any required filings in the office of
7 the Secretary of State, of the governing statute
8 of the organization, or
9 (2) is not an unincorporated nonprofit association,
10 as provided by the statute governing the
11 surviving organization.

12 D. When a merger becomes effective:

- 13 1. The surviving organization continues or comes into
14 existence;
- 15 2. Each constituent organization that merges into the surviving
16 organization ceases to exist as a separate entity;
- 17 3. All property owned by each constituent organization that
18 ceases to exist vests in the surviving organization;
- 19 4. All debts, obligations, or other liabilities of each
20 nonsurviving organization continue as debts, obligations, or other
21 liabilities of the surviving organization;

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

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

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

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

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

21 E. Property held for a charitable purpose under the law of this
22 state by a constituent organization immediately before a merger
23 under this section becomes effective may not, as a result of the

1 merger, be diverted from the objects for which it was given, unless,
2 to the extent required by or pursuant to the law of this state
3 concerning cy pres or other law dealing with nondiversion of
4 charitable assets, the organization obtains an appropriate order of
5 a district court specifying the disposition of the property.

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

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

17 A. If, before the effective date of the Revised Uniform
18 Unincorporated Nonprofit Association Act, an interest in property
19 was by terms of a transfer purportedly transferred to an
20 unincorporated nonprofit association but under the law of this state
21 the interest did not vest in the association, or in one or more
22 persons on behalf of the association under subsection b of this
23 section, on the effective date of the Revised Uniform Unincorporated

1 Nonprofit Association Act the interest vests in the association,
2 unless the parties to the transfer have treated the transfer as
3 ineffective.

4 B. If, before the effective date of the Revised Uniform
5 Unincorporated Nonprofit Association Act, an interest in property
6 was by terms of a transfer purportedly transferred to an
7 unincorporated nonprofit association, but the interest was vested in
8 one or more persons to hold the interest for members of the
9 association, on or after the effective date of the Revised Uniform
10 Unincorporated Nonprofit Association Act the persons, or their
11 successors in interest, may transfer the interest to the association
12 in its name, or the association may require that the interest be
13 transferred to it in its name.

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

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

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

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

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

11 The Revised Uniform Unincorporated Nonprofit Association Act
12 does not affect an action or proceeding commenced or right accrued
13 before the Revised Uniform Unincorporated Nonprofit Association Act
14 takes effect.

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

16 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 2-17-09 - DO
17 PASS, As Amended and Coauthored.