

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

S

3

SENATE BILL 842
Judiciary I Committee Substitute Adopted 5/24/01
Third Edition Engrossed 6/27/01

Short Title: Business Entity Changes.

(Public)

Sponsors:

Referred to:

April 4, 2001

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE VARIOUS CHANGES TO THE NORTH CAROLINA
3 BUSINESS CORPORATION ACT, THE NORTH CAROLINA NONPROFIT
4 CORPORATION ACT, THE NORTH CAROLINA LIMITED LIABILITY
5 COMPANY ACT, AND THE LAWS GOVERNING PARTNERSHIPS.

6 The General Assembly of North Carolina enacts:

7 **PART I. AMENDMENTS TO THE NORTH CAROLINA BUSINESS**
8 **CORPORATION ACT.**

9 SECTION 1. G.S. 55-1-20(f) reads as rewritten:

10 "(f) A document submitted by a domestic or foreign corporation or nonprofit
11 corporation must be executed:

- 12 (1) By the chairman of the board of directors, by its president, or by
13 another of its officers;
- 14 (2) If directors have not been selected or the corporation has not been
15 formed, by an incorporator; or
- 16 (3) If the corporation is in the hands of a receiver, trustee, or other
17 court-appointed fiduciary, by that fiduciary.

18 A document submitted by an unincorporated entity must be executed by a person
19 authorized to execute documents (i) pursuant to G.S. 57C-1-20(f) if the unincorporated
20 entity is a domestic or foreign limited liability company, (ii) pursuant to G.S. 59-204 if
21 the unincorporated entity is a domestic or foreign limited partnership, or (iii) pursuant to
22 G.S. ~~59-73.7(a)(4)~~ 59-35.1(a)(4) if the unincorporated entity is any other partnership as
23 defined in G.S. 59-36 whether or not formed under the laws of this State."

24 SECTION 2. G.S. 55-1-22(a) is amended by adding the following new
25 subdivision to read:

26 "(12a) Articles of conversion (other than articles of
27 conversion included as part of another document)

50.00".

1 **SECTION 3.** G.S. 55-1-40 is amended by adding the following new
2 subdivisions, to be placed by the Revisor of Statutes in the appropriate order, to read:

3 **"§ 55-1-40. Chapter definitions.**

4 In this Chapter unless otherwise specifically provided:

5 ...

6 (2a) 'Business entity,' as used in G.S. 55-11-10 and Article 11A of this
7 Chapter, means a domestic corporation (including a professional
8 corporation as defined in G.S. 55B-2), a foreign corporation, a
9 domestic or foreign nonprofit corporation, a domestic or foreign
10 limited liability company, a domestic or foreign limited partnership as
11 defined in G.S. 59-102, a registered limited liability partnership or
12 foreign limited liability partnership as defined in G.S. 59-32, or any
13 other partnership as defined in G.S. 59-36 whether or not formed under
14 the laws of this State.

15 ...

16 (6b) 'Domestic limited liability company' has the same meaning as in G.S.
17 57C-1-03.

18 (6c) 'Domestic limited partnership' has the same meaning as in G.S. 59-
19 102.

20 (6d) 'Domestic nonprofit corporation' means a corporation as defined in
21 G.S. 55A-1-40.

22 (6e) 'Electronic' has the same meaning as in G.S. 66-312.

23 (6f) 'Electronic record' has the same meaning as in G.S. 66-312.

24 (6g) 'Electronic signature' has the same meaning as in G.S. 66-312.

25 ...

26 (10a) 'Foreign limited liability company' has the same meaning as in G.S.
27 57C-1-02.

28 (10b) 'Foreign limited partnership' has the same meaning as in G.S. 59-102.

29 (10c) 'Foreign nonprofit corporation' means a foreign corporation as defined
30 in G.S. 55A-1-40 that is a nonprofit corporation as defined in G.S.
31 55A-1-40.

32 "

33 **SECTION 4.** G.S. 55-1-40(17) reads as rewritten:

34 "(17) 'Principal office' means the office (in or out of this State) ~~so designated~~
35 ~~in the annual report~~ where the principal executive offices of a domestic
36 or foreign corporation are ~~located~~ located, as designated in its most
37 recent annual report filed with the Secretary of State or, in the case of a
38 domestic or foreign corporation that has not yet filed an annual report,
39 in its articles of incorporation or application for a certificate of
40 authority, respectively."

41 **SECTION 5.** G.S. 55-1-40(24a) reads as rewritten:

1 "(24a) 'Unincorporated entity' means a domestic or foreign limited liability
2 ~~company company, as defined in G.S. 57C-1-03,~~ a domestic or foreign
3 ~~limited partnership partnership, as defined in G.S. 59-102,~~ a registered
4 limited liability partnership or foreign limited liability partnership as
5 defined in G.S. 59-32, or any other partnership as defined in G.S.
6 59-36, whether or not formed under the laws of this State, ~~including a~~
7 ~~registered limited liability partnership as defined in G.S. 59-32 and any~~
8 ~~other limited liability partnership formed under a law other than the~~
9 ~~laws of this State."~~

10 **SECTION 6.** G.S. 55-1-41 reads as rewritten:

11 "**§ 55-1-41. Notice.**

12 (a) Notice under this Chapter shall be in writing unless oral notice is authorized
13 in the corporation's articles of incorporation or bylaws and written notice is not
14 specifically required by this Chapter.

15 (b) Notice may be communicated in person; by ~~telephone, telegraph, teletype, or~~
16 ~~other form of wire or wireless communication, or by facsimile transmission;~~ electronic
17 means; or by mail or private carrier. If these forms of personal notice are impracticable
18 as to one or more persons, notice may be communicated to such persons by publishing
19 notice in a newspaper in the county wherein the corporation has its principal place of
20 business in the State, or if it has no principal place of business in the State, the county
21 wherein it has its registered office; or by radio, television, or other form of public
22 broadcast communication.

23 (c) Written notice by a domestic or foreign corporation to its shareholder is
24 effective when deposited in the United States mail with postage thereon prepaid and
25 correctly addressed to the shareholder's address shown in the corporation's current
26 record of shareholders. To the extent the corporation pursuant to G.S. 55-1-50 and the
27 shareholder have agreed, notice by a domestic corporation to its shareholder in the form
28 of an electronic record sent by electronic means is effective when it is sent as provided
29 in G.S. 66-325. A shareholder may terminate any such agreement at any time on a
30 prospective basis effective upon written notice of termination to the corporation or upon
31 such later date as may be specified in the notice.

32 (d) Written notice to a domestic or foreign corporation (authorized to transact
33 business in this State) may be addressed to its registered agent at its registered office or
34 to the corporation or its secretary at its principal office shown in its most recent annual
35 report on file in the office of the Secretary of State or, in the case of a domestic or
36 foreign corporation that has not yet delivered filed an annual report, in its articles of
37 incorporation or application for a certificate of authority, authority, respectively.

38 (e) Except as provided in subsection (c), written notice is effective at the earliest
39 of the following:

40 (1) When received;

- 1 (2) Five days after its deposit in the United States mail, as evidenced by
2 the postmark or otherwise, if mailed with at least first-class postage
3 thereon prepaid and correctly addressed;
- 4 (3) On the date shown on the return receipt, if sent by registered or
5 certified mail, return receipt requested, and the receipt is signed by or
6 on behalf of the addressee.

7 In the case of notice in the form of an electronic record sent by electronic means, the
8 time of receipt shall be determined as provided in G.S. 66-325.

9 (f) Oral notice is effective when actually communicated to the person entitled
10 thereto.

11 (g) If this Chapter prescribes notice requirements for particular circumstances,
12 those requirements govern. If articles of incorporation or bylaws prescribe notice
13 requirements not inconsistent with this section or other provisions of this Chapter, those
14 requirements govern."

15 **SECTION 7.** Article 1 of Chapter 55 of the General Statutes is amended by
16 adding a new Part to read:

17 "Part 5. Miscellaneous.

18 "**§ 55-1-50. Electronic transactions.**

19 For purposes of applying Article 40 of Chapter 66 of the General Statutes to
20 transactions under this Chapter, a corporation may agree to conduct a transaction by
21 electronic means through provision in its articles of incorporation or bylaws or by action
22 of its board of directors."

23 **SECTION 8.** G.S. 55-2-02(a) reads as rewritten:

24 "(a) The articles of incorporation must set forth:

- 25 (1) A corporate name for the corporation that satisfies the requirements of
26 G.S. 55-4-01;
- 27 (2) The number of shares the corporation is authorized to issue and any
28 other information required by G.S. 55-6-01;
- 29 (3) The street address, and the mailing address if different from the street
30 address, of the corporation's initial registered office, the county in
31 which the initial registered office is located, and the name of the
32 corporation's initial registered agent at that address; ~~and~~
- 33 (3a) The street address, and the mailing address if different from the street
34 address, of the corporation's principal office, if any, and the county in
35 which the principal office, if any, is located; and
- 36 (4) The name and address of each incorporator."

37 **SECTION 9.** G.S. 55-2-02 is amended by adding the following new
38 subsection to read:

39 "(d) Articles of incorporation filed to effect the conversion of another business
40 entity pursuant to Article 11A of this Chapter shall also include the statements required
41 by G.S. 55-11A-03(a)."

42 **SECTION 10.** G.S. 55-2-03(a) reads as rewritten:

1 "(a) ~~Unless a delayed effective date is specified, the corporate~~ Corporate existence
2 begins when the articles of incorporation ~~are filed.~~ become effective."

3 **SECTION 11.** G.S. 55-7-04 reads as rewritten:

4 "**§ 55-7-04. Action without meeting.**

5 (a) Action required or permitted by this Chapter to be taken at a shareholders'
6 meeting may be taken without a ~~meeting~~ meeting and without prior notice except as
7 required by subsection (d) of this section, if the action is taken by all the shareholders
8 entitled to vote on the ~~action~~ action or, subject to subsection (a1) of this section, if so
9 provided in the articles of incorporation of a corporation that is not a public corporation
10 at the time the action is taken, by shareholders having not less than the minimum
11 number of votes that would be necessary to take the action at a meeting at which all
12 shareholders entitled to vote were present and voted. The action must be evidenced by
13 one or more written consents bearing the date of signature and signed by all the number
14 of shareholders sufficient to take the action without a meeting, before or after such
15 action, describing the action taken and delivered to the corporation for inclusion in the
16 minutes or ~~filing~~ filing with the corporate records. To the extent the corporation has
17 agreed pursuant to G.S. 55-1-50, a shareholder's consent to action taken without
18 meeting may be in electronic form and delivered by electronic means.

19 (a1) Notwithstanding subsection (a) of this section, the following actions may be
20 taken without a meeting only by all the shareholders entitled to vote on the action:

- 21 (1) If cumulative voting is not authorized, the election of directors at the
22 annual meeting; or
23 (2) If cumulative voting is authorized, the election of directors and the
24 removal of a director unless the entire board of directors is to be
25 removed, and if G.S. 55-7-28(e) applies to the corporation, an
26 amendment to deny or limit the right of shareholders to vote
27 cumulatively and an amendment to the articles of incorporation or
28 bylaws to decrease the number of directors.

29 The action must be evidenced by one or more written consents bearing the date of
30 signature and signed by the number of shareholders sufficient to take the action without
31 a meeting, before or after such action, describing the action taken and delivered to the
32 corporation for inclusion in the minutes or filing with the corporate records. To the
33 extent the corporation has agreed pursuant to G.S. 55-1-50, a shareholder's consent to
34 action taken without meeting may be in electronic form and delivered by electronic
35 means.

36 (b) If not otherwise fixed under G.S. 55-7-03 or G.S. 55-7-07, the record date for
37 determining shareholders entitled to take action without a meeting is the date the first
38 shareholder signs the consent under subsection (a). No written consent shall be effective
39 to evidence the action referred to therein unless, within 60 days after the earliest date
40 appearing on a written consent delivered to the corporation in the manner required by
41 this section, the corporation receives written consents signed by shareholders sufficient
42 to take the action without a meeting.

1 (c) A consent signed under this section has the effect of a meeting vote and may
2 be described as such in any document.

3 (d) ~~If this Chapter requires that notice of proposed action be given to nonvoting~~
4 ~~shareholders and the action is to be taken by unanimous consent of the voting~~
5 ~~shareholders, the corporation must give its nonvoting shareholders written notice of the~~
6 ~~proposed action at least 10 days before the action is taken. Unless the articles of~~
7 ~~incorporation otherwise provide, if shareholder approval is required by this Chapter for~~
8 ~~(i) an amendment to the articles of incorporation pursuant to Article 10 of this Chapter,~~
9 ~~(ii) a plan of merger, conversion, or share exchange pursuant to Article 11 of this~~
10 ~~Chapter, (iii) the sale, lease, exchange, or other disposition of all, or substantially all, of~~
11 ~~the corporation's property pursuant to Article 12 of this Chapter, or (iv) a proposal for~~
12 ~~dissolution pursuant to Article 14 of this Chapter, and the approval is to be obtained~~
13 ~~through action without meeting, the corporation must give its shareholders, other than~~
14 ~~shareholders who consent to the action, written notice of the proposed action at least 10~~
15 ~~days before the action is taken. The notice must shall contain or be accompanied by the~~
16 ~~same material that, under this Chapter, would have been required to be sent to~~
17 ~~nonvoting shareholders not entitled to vote on the action in a notice of meeting at which~~
18 ~~the proposed action would have been submitted to the shareholders for action.~~

19 (e) If action is taken without a meeting by less than all shareholders entitled to
20 vote on the action, the corporation shall give written notice to all shareholders who have
21 not consented to the action and who, if the action had been taken at a meeting, would
22 have been entitled to notice of the meeting with the same record date as the action taken
23 without a meeting, within 10 days after the action is taken. The notice shall describe the
24 proposed action and indicate that the action has been taken without a meeting of
25 shareholders. Failure to comply with the requirements of this subsection shall not
26 invalidate any action taken that otherwise complies with this section."

27 **SECTION 12.** Article 7 of Chapter 55 of the General Statutes is amended by
28 adding a new section to read:

29 "**§ 55-7-08. Attendance.**

30 To the extent authorized by a corporation's board of directors, a shareholder or the
31 shareholder's proxy not physically present at a meeting of shareholders may attend the
32 meeting by electronic or other means of remote communication that allow the
33 shareholder or proxy (i) to read or to hear the meeting proceedings substantially
34 concurrently as the proceedings occur, (ii) to be read or to be heard substantially
35 concurrently as the shareholder or proxy communicates, and (iii) to vote on matters to
36 which the shareholder or proxy is entitled to vote."

37 **SECTION 13.** G.S. 55-7-20(c) reads as rewritten:

38 "(c) The corporation shall make the shareholders' list available at the meeting, and
39 any shareholder, personally or by or with his representative, is entitled to inspect the list
40 at any time during the meeting or any adjournment. The corporation is not required to
41 make the list available through electronic or other means of remote communication to a

1 shareholder or proxy attending the meeting by remote communication pursuant to G.S.
2 55-7-08."

3 **SECTION 14.** G.S. 55-7-22(b) reads as rewritten:

4 "(b) A shareholder may appoint one or more proxies to vote or otherwise act for
5 ~~him~~ the shareholder by signing an appointment form, either personally or by ~~his~~ the
6 shareholder's attorney-in-fact. ~~A photocopy, telegram, cablegram, facsimile~~
7 ~~transmission, or equivalent reproduction of a writing appointing one or more~~
8 ~~proxies.~~ Without limiting G.S. 55-1-50, an appointment in the form of an electronic
9 record that bears the shareholder's electronic signature and that may be directly
10 reproduced in paper form by an automated process shall be deemed a valid appointment
11 form within the meaning of this section. In addition, if and to the extent permitted by the
12 ~~corporation,~~ a public corporation may permit a shareholder ~~may to~~ appoint one or more
13 proxies (i) ~~by an electronic mail message or other form of electronic, wire, or wireless~~
14 ~~communication that provides a written statement appearing to have been sent by the~~
15 ~~shareholder, or (ii) in the case of a public corporation, by any kind of electronic or~~
16 ~~telephonic transmission, even if not accompanied by written communication, under~~
17 ~~circumstances or together with information from which the corporation can reasonably~~
18 ~~assume that the appointment was made or authorized by the shareholder."~~

19 **SECTION 15.** G.S. 55-8-21(a) reads as rewritten:

20 "(a) Unless the articles of incorporation or bylaws provide otherwise, action
21 required or permitted by this Chapter to be taken at a board of directors' meeting may be
22 taken without a meeting if the action is taken by all members of the board. The action
23 must be evidenced by one or more written consents signed by each director before or
24 after such action, describing the action taken, and included in the minutes or filed with
25 the corporate records. To the extent the corporation has agreed pursuant to G.S. 55-1-
26 50, a director's consent to action taken without meeting may be in electronic form and
27 delivered by electronic means."

28 **SECTION 16.** G.S. 55-9-01(b)(1) reads as rewritten:

29 "(1) 'Business combination' includes any ~~merger or consolidation merger,~~
30 consolidation, or conversion of a corporation with or into any other
31 corporation or any unincorporated entity, or the sale or lease of all or
32 any substantial part of the corporation's assets to, or any payment, sale
33 or lease to the corporation or any subsidiary thereof in exchange for
34 securities of the corporation of any assets (except assets having an
35 aggregate fair market value of less than five million dollars
36 (\$5,000,000)) of any other entity."

37 **SECTION 17.** Chapter 55 of the General Statutes is amended by adding a
38 new Article to read:

39 "Article 11A.

40 "Conversions.

41 "Part 1. Conversion to Corporation.

42 "§ 55-11A-01. Conversion.

1 A business entity, other than a domestic corporation, may convert to a domestic
2 corporation if:

- 3 (1) The conversion is permitted by the laws of the state or country
4 governing the organization and internal affairs of the converting
5 business entity; and
6 (2) The converting business entity complies with the requirements of this
7 Part and, to the extent applicable, the laws referred to in subdivision
8 (1) of this section.

9 **"§ 55-11A-02. Plan of conversion.**

10 (a) The converting business entity shall approve a written plan of conversion
11 containing:

- 12 (1) The name of the converting business entity, its type of business entity,
13 and the state or country whose laws govern its organization and
14 internal affairs;
15 (2) The name of the resulting domestic corporation into which the
16 converting business entity shall convert;
17 (3) The terms and conditions of the conversion; and
18 (4) The manner and basis for converting the interests in the converting
19 business entity into shares, obligations, or other securities of the
20 resulting domestic corporation or into cash or other property in whole
21 or in part.

22 The plan of conversion may contain other provisions relating to the conversion.

23 (b) The plan of conversion shall be approved in accordance with the laws of the
24 state or country governing the organization and internal affairs of the converting
25 business entity.

26 (c) After a plan of conversion has been approved as provided in subsection (b) of
27 this section, but before articles of incorporation for the resulting domestic corporation
28 become effective, the plan of conversion may be amended or abandoned to the extent
29 permitted by the laws that govern the organization and internal affairs of the converting
30 business entity.

31 **"§ 55-11A-03. Filing of articles of incorporation by converting entity.**

32 (a) After a plan of conversion has been approved by the converting business
33 entity as provided in G.S. 55-11A-02, the converting business entity shall deliver
34 articles of incorporation to the Secretary of State for filing. In addition to the matters
35 required or permitted by G.S. 55-2-02, the articles of incorporation shall contain articles
36 of conversion stating:

- 37 (1) That the corporation is being formed pursuant to a conversion of a
38 business entity;
39 (2) The name of the converting business entity, its type of business entity,
40 and the state or country whose laws govern its organization and
41 internal affairs; and

1 (3) That a plan of conversion has been approved by the converting
2 business entity as required by law.

3 (b) If the plan of conversion is abandoned after the articles of incorporation have
4 been filed with the Secretary of State but before the articles of incorporation become
5 effective, the converting business entity shall deliver to the Secretary of State for filing
6 prior to the time the articles of incorporation become effective an amendment to the
7 articles of incorporation withdrawing the articles of incorporation.

8 (c) The conversion takes effect when the articles of incorporation become
9 effective.

10 (d) Certificates of conversion shall also be registered as provided in G.S. 47-18.1.

11 **"§ 55-11A-04. Effects of conversion.**

12 When the conversion takes effect:

13 (1) The converting business entity ceases its prior form of organization
14 and continues in existence as the resulting domestic corporation;

15 (2) The title to all real estate and other property owned by the converting
16 business entity continues vested in the resulting domestic corporation
17 without reversion or impairment;

18 (3) All liabilities of the converting business entity continue as liabilities of
19 the resulting domestic corporation;

20 (4) A proceeding pending by or against the converting business entity may
21 be continued as if the conversion did not occur; and

22 (5) The interests in the converting business entity that are to be converted
23 into shares, obligations, or other securities of the resulting domestic
24 corporation or into the right to receive cash or other property are
25 thereupon so converted, and the former holders of interests in the
26 converting business entity are entitled only to the rights provided in the
27 plan of conversion.

28 The conversion shall not affect the liability or absence of liability of any holder of an
29 interest in the converting business entity for any acts, omissions, or obligations of the
30 converting business entity made or incurred prior to the effectiveness of the conversion.
31 The cessation of the existence of the converting business entity in its prior form of
32 organization in the conversion shall not constitute a dissolution or termination of the
33 converting business entity.

34 "Part 2. Conversion of Corporation.

35 **"§ 55-11A-10. Conversion.**

36 A domestic corporation may convert to a different business entity if:

37 (1) The conversion is permitted by the laws of the state or country
38 governing the organization and internal affairs of such other business
39 entity; and

40 (2) The converting domestic corporation complies with the requirements
41 of this Part and, to the extent applicable, the laws referred to in
42 subdivision (1) of this section.

1 **"§ 55-11A-11. Plan of conversion.**

2 (a) The converting domestic corporation shall approve a written plan of
3 conversion containing:

4 (1) The name of the converting domestic corporation;

5 (2) The name of the resulting business entity into which the domestic
6 corporation shall convert, its type of business entity, and the state or
7 country whose laws govern its organization and internal affairs;

8 (3) The terms and conditions of the conversion; and

9 (4) The manner and basis for converting the shares of the domestic
10 corporation into interests, obligations, or securities of the resulting
11 business entity or into cash or other property in whole or in part.

12 The plan of conversion may contain other provisions relating to the conversion.

13 (b) For a plan of conversion to be approved:

14 (1) The board of directors shall recommend the plan of conversion to the
15 shareholders, unless the board of directors determines that because of
16 conflict of interest or other special circumstances it should make no
17 recommendation, in which event the board of directors shall
18 communicate the basis for its lack of a recommendation to the
19 shareholders with the plan; and

20 (2) The shareholders entitled to vote shall approve the plan.

21 (c) The board of directors may condition its submission of the proposed
22 conversion on any basis.

23 (d) The corporation shall notify each shareholder, whether or not entitled to vote,
24 of the proposed shareholders' meeting in accordance with G.S. 55-7-05. The notice shall
25 state that the purpose, or one of the purposes, of the meeting is to consider the plan of
26 conversion and contain or be accompanied by a copy of the plan.

27 (e) Unless this Chapter, the articles of incorporation, a bylaw adopted by the
28 shareholders or the board of directors, acting pursuant to subsection (c) of this section,
29 require a greater vote or a vote by voting groups, the plan of conversion to be authorized
30 shall be approved by each voting group entitled to vote separately on the plan by a
31 majority of all the votes entitled to be cast on the plan by that voting group and, for the
32 purpose of Article 9 of this Chapter or any provision in the articles of incorporation or
33 bylaws adopted prior to October 1, 2001, a conversion shall be deemed to be included
34 within the term 'merger'. If any shareholder of the converting domestic corporation has
35 or will have personal liability for any existing or future obligation of the resulting
36 business entity solely as a result of holding an interest in the resulting business entity,
37 then in addition to the requirements of the preceding sentence, approval of the plan of
38 conversion by the domestic corporation shall require the affirmative vote or written
39 consent of that shareholder.

40 (f) Separate voting by voting groups is required on a plan of conversion if the
41 plan contains a provision that, if contained in a proposed amendment to articles of
42 incorporation, would require action by one or more separate voting groups on the

1 proposed amendment under G.S. 55-10-04, except where the consideration to be
2 received in exchange for the shares of that group consists solely of cash.

3 (g) After a plan of conversion has been approved by a domestic corporation but
4 before the articles of conversion become effective, the plan of conversion (i) may be
5 amended as provided in the plan of conversion, or (ii) may be abandoned, subject to any
6 contractual rights, as provided in the plan of conversion or, if there is no such provision,
7 as determined by the board of directors without further shareholder action.

8 **"§ 55-11A-12. Articles of conversion.**

9 (a) After a plan of conversion has been approved by the converting domestic
10 corporation as provided in G.S. 55-11A-11, the converting domestic corporation shall
11 deliver articles of conversion to the Secretary of State for filing. The articles of
12 conversion shall state:

13 (1) The name of the converting domestic corporation;

14 (2) The name of the resulting business entity, its type of business entity,
15 the state or country whose laws govern its organization and internal
16 affairs, and, if the resulting business entity is not authorized to transact
17 business or conduct affairs in this State, a designation of its mailing
18 address and a commitment to file with the Secretary of State a
19 statement of any subsequent change in its mailing address; and

20 (3) That a plan of conversion has been approved by the domestic
21 corporation as required by law.

22 If the domestic corporation is converting to a business entity whose formation or
23 whose status as a registered limited liability partnership, as defined in G.S. 59-32, or
24 limited liability limited partnership, as defined in G.S. 59-102, requires the filing of a
25 document with the Secretary of State, then the articles of conversion shall be included
26 as part of that document instead of separately filing the articles of conversion.

27 If the plan of conversion is abandoned after the articles of conversion have been
28 filed with the Secretary of State but before the articles of conversion become effective,
29 the converting domestic corporation shall deliver to the Secretary of State for filing
30 prior to the time the articles of conversion become effective an amendment to the
31 articles of conversion withdrawing the articles of conversion.

32 (b) The conversion takes effect when the articles of conversion become effective.

33 (c) Certificates of conversion shall also be registered as provided in G.S. 47-18.1.

34 **"§ 55-11A-13. Effects of conversion.**

35 (a) When the conversion takes effect:

36 (1) The converting domestic corporation ceases its prior form of
37 organization and continues in existence as the resulting business entity;

38 (2) The title to all real estate and other property owned by the converting
39 domestic corporation continues vested in the resulting business entity
40 without reversion or impairment;

41 (3) All liabilities of the converting domestic corporation continue as
42 liabilities of the resulting business entity;

- 1 (4) A proceeding pending by or against the converting domestic
2 corporation may be continued as if the conversion did not occur;
3 (5) The shares in the converting domestic corporation that are to be
4 converted into interests, obligations, or securities of the resulting
5 business entity or into the right to receive cash or other property are
6 thereupon so converted, and the former shareholders of the converting
7 domestic corporation are entitled only to the rights provided in the plan
8 of conversion or any rights they may have under Article 13 of this
9 Chapter; and
10 (6) The resulting business entity is deemed to agree that it will promptly
11 pay to the dissenting former shareholders of the converting domestic
12 corporation the amount, if any, to which they are entitled under Article
13 13 of this Chapter and otherwise to comply with the requirements of
14 Article 13 as if it were a domestic corporation.

15 The conversion shall not affect the liability or absence of liability of any shareholder
16 of the converting domestic corporation for any acts, omissions, or obligations of the
17 converting domestic corporation made or incurred prior to the effectiveness of the
18 conversion. The cessation of the existence of the converting domestic corporation in its
19 form of organization as a domestic corporation in the conversion shall not constitute a
20 dissolution or termination of the converting domestic corporation.

21 (b) If the resulting business entity is not a domestic limited liability company or a
22 domestic limited partnership, when the conversion takes effect the resulting business
23 entity is deemed:

- 24 (1) To agree that it may be served with process in this State for
25 enforcement of (i) any obligation of the converting domestic
26 corporation, (ii) the rights of dissenting shareholders of the converting
27 domestic corporation under Article 13 of this Chapter, and (iii) any
28 obligation of the resulting business entity arising from the conversion;
29 and
30 (2) To have appointed the Secretary of State as its agent for service of
31 process in any proceeding described in subdivision (1) of this
32 subsection. Service on the Secretary of State of any such process shall
33 be made by delivering to and leaving with the Secretary of State, or
34 with any clerk authorized by the Secretary of State to accept service of
35 process, duplicate copies of the process and the fee required by G.S.
36 55-1-22(b). Upon receipt of service of process on behalf of a resulting
37 business entity in the manner provided for in this section, the Secretary
38 of State shall immediately mail a copy of the process by registered or
39 certified mail, return receipt requested, to the resulting business entity.
40 If the resulting business entity is authorized to transact business or
41 conduct affairs in this State, the address for mailing shall be its
42 principal office designated in the latest document filed with the

1 Secretary of State that is authorized by law to designate the principal
2 office or, if there is no principal office on file, its registered office. If
3 the resulting business entity is not authorized to transact business or
4 conduct affairs in this State, the address for mailing shall be the
5 mailing address designated pursuant to G.S. 55-11A-12(a)(2)."

6 **SECTION 18.** G.S. 55-11-07(a) reads as rewritten:

7 "(a) One or more foreign corporations may merge or enter into a share exchange
8 with one or more domestic corporations if:

- 9 (1) In a merger, the merger is permitted by the law of the state or country
10 under whose law each foreign corporation is incorporated and each
11 foreign corporation complies with that law in effecting the merger;
12 (2) In a share exchange, the corporation whose shares will be acquired is a
13 domestic corporation, whether or not a share exchange is permitted by
14 the law of the state or country under whose law the acquiring
15 corporation is incorporated;
16 (3) The foreign corporation complies with G.S. 55-11-05 if it is the
17 surviving corporation of the merger or acquiring corporation of the
18 share ~~exchange~~; exchange and, if the foreign corporation is not
19 authorized to transact business in this State, includes in the articles of
20 merger or articles of share exchange filed pursuant to G.S. 55-11-05 a
21 designation of the foreign corporation's mailing address and a
22 commitment to file with the Secretary of State a statement of any
23 subsequent change in its mailing address; and
24 (4) Each domestic corporation complies with the applicable provisions of
25 G.S. 55-11-01 through G.S. 55-11-04 and, if it is the surviving
26 corporation of the merger or acquiring corporation of the share
27 exchange, with G.S. 55-11-05."

28 **SECTION 19.** G.S. 55-11-07(b) reads as rewritten:

29 "(b) Upon the merger or share exchange taking effect, the surviving foreign
30 corporation of a merger and the acquiring foreign corporation of a share exchange is
31 deemed:

- 32 (1) To appoint the Secretary of State as its agent for service of process in a
33 proceeding to enforce any obligation or the rights of dissenting
34 shareholders of each domestic corporation party to the merger or share
35 exchange; and
36 (2) To agree that it will promptly pay to the dissenting shareholders of
37 each domestic corporation party to the merger or share exchange the
38 amount, if any, to which they are entitled under Article 13.

39 Service on the Secretary of State of any process authorized by this subsection shall
40 be made by delivering to and leaving with the Secretary of State, or with any clerk
41 authorized by the Secretary of State to accept service of process, duplicate copies of the
42 process and the fee required by G.S. 55-1-22(b). Upon receipt of service of process in

1 the manner provided in this subsection, the Secretary of State shall immediately mail a
2 copy of the process by registered or certified mail, return receipt requested, to the
3 foreign corporation. If the foreign corporation is authorized to transact business in this
4 State, the address for mailing shall be its principal office or, if there is no mailing
5 address for the principal office on file, its registered office. If the foreign corporation is
6 not authorized to transact business in this State, the address for mailing shall be the
7 mailing address designated pursuant to subdivision (3) of subsection (a) of this section."

8 **SECTION 20.** G.S. 55-11-09(a) reads as rewritten:

9 "(a) One or more domestic or foreign nonprofit corporations may merge with one
10 or more domestic corporations if:

- 11 (1) Each domestic nonprofit corporation complies with the applicable
12 provisions of G.S. 55A-11-01 through G.S. 55A-11-03;
- 13 (2) In a merger involving one or more foreign nonprofit corporations, the
14 merger is permitted by law of the state or country under whose law
15 each foreign nonprofit corporation is incorporated and each foreign
16 nonprofit corporation complies with that law in effecting the merger;
- 17 (3) The domestic or foreign nonprofit corporation complies with G.S.
18 55-11-05 if it is the surviving ~~corporation; corporation and, in the case~~
19 of a foreign nonprofit corporation not authorized to conduct affairs in
20 this State, includes in the articles of merger filed pursuant to G.S. 55-
21 11-05 a designation of the foreign nonprofit corporation's mailing
22 address and a commitment to file with the Secretary of State a
23 statement of any subsequent change in its mailing address; and
- 24 (4) Each domestic corporation complies with the applicable provisions of
25 G.S. 55-11-01, 55-11-03, and 55-11-04 and, if it is the surviving
26 corporation, with G.S. 55-11-05."

27 **SECTION 21.** G.S. 55-11-09(b) reads as rewritten:

28 "(b) Upon the merger taking effect, if ~~the domestic or a~~ foreign nonprofit
29 corporation is the surviving corporation, then it is deemed:

- 30 (1) To appoint the Secretary of State as its agent for service of process in a
31 proceeding to enforce any obligation or the rights of dissenting
32 shareholders of each domestic corporation party to the merger; and
- 33 (2) To agree that it will promptly pay to the dissenting shareholders of
34 each domestic corporation party to the merger or share exchange the
35 amount, if any, to which they are entitled under Article 13 of this
36 Chapter.

37 Service on the Secretary of State of any process authorized by this subsection shall
38 be made by delivering to and leaving with the Secretary of State, or with any clerk
39 authorized by the Secretary of State to accept service of process, duplicate copies of the
40 process and the fee required by G.S. 55-1-22(b). Upon receipt of service of process in
41 the manner provided in this subsection, the Secretary of State shall immediately mail a
42 copy of the process by registered or certified mail, return receipt requested, to the

1 foreign nonprofit corporation. If the foreign nonprofit corporation is authorized to
2 conduct affairs in this State, the address for mailing shall be its principal office as
3 defined in G.S. 55A-1-40(20), or, if there is no mailing address for the principal office
4 on file, its registered office. If the foreign nonprofit corporation is not authorized to
5 conduct affairs in this State, the address for mailing shall be the mailing address
6 designated pursuant to subdivision (3) of subsection (a) of this section."

7 **SECTION 22.** G.S. 55-11-10(a) is repealed.

8 **SECTION 23.** G.S. 55-11-10(c) reads as rewritten:

9 "(c) Each merging domestic corporation and each other merging business entity
10 shall approve a written plan of merger containing:

- 11 (1) For each merging business entity, its name, type of business entity, and
12 the state or country whose laws govern its organization and internal
13 affairs;
- 14 (2) The name of the merging business entity that shall survive the merger;
- 15 (3) The terms and conditions of the merger;
- 16 (4) The manner and basis for converting the interests in each merging
17 business entity into interests, obligations, or securities of the surviving
18 business entity or into cash or other property in whole or in part; and
- 19 (5) If the surviving business entity is a domestic corporation, any
20 amendments to its articles of incorporation that are to be made in
21 connection with the merger.

22 The plan of merger may contain other provisions relating to the merger.

23 In the case of a domestic corporation, approval of the plan of merger requires that
24 the plan of merger be adopted by its board of directors as provided in G.S. 55-11-03
25 and, unless shareholder approval is not required under subsection (g) of G.S. 55-11-03,
26 be approved by its shareholders as provided in G.S. 55-11-03. If any shareholder of a
27 merging domestic corporation has or will have personal liability for any existing or
28 future obligation of the surviving business entity solely as a result of holding an interest
29 in the surviving business entity, then in addition to the requirements of the preceding
30 sentence, approval of the plan of merger by the domestic corporation shall require the
31 affirmative vote or written consent of that shareholder. In the case of each other
32 merging business entity, the plan of merger must be approved in accordance with the
33 laws of the state or country governing the organization and internal affairs of that
34 merging business entity.

35 After a plan of merger has been approved by a domestic corporation but before the
36 articles of merger become effective, the plan of merger (i) may be amended as provided
37 in the plan of merger, or (ii) may be abandoned (subject to any contractual rights) as
38 provided in the plan of merger or, if there is no such provision, as determined by the
39 board of directors without further shareholder action."

40 **SECTION 24.** G.S. 55-11-10(e1)(2) reads as rewritten:

- 41 "(2) To have appointed the Secretary of State as its agent for service of
42 process in any such proceeding. Service on the Secretary of State of

1 any such process shall be made by delivering to and leaving with the
2 Secretary of ~~State State~~, or with any clerk authorized by the Secretary
3 of State to accept service of process, duplicate copies of such process
4 and the fee required by G.S. 55-1-22(b). Upon receipt of service of
5 process on behalf of a surviving business entity in the manner provided
6 for in this section, the Secretary of State shall immediately mail a copy
7 of the process by registered or certified mail, return receipt requested,
8 to the surviving business entity. If the surviving business entity is
9 authorized to transact business or conduct affairs in this State, the
10 address for mailing shall be its principal office designated in the latest
11 document filed with the Secretary of State that is authorized by law to
12 designate the principal office or, if there is no principal office on file,
13 its registered office. If the surviving business entity is not authorized to
14 transact business or conduct affairs in this State, the address for
15 mailing shall be the mailing address designated pursuant to
16 subdivision (3) of subsection (d) of this section."

17 **SECTION 25.** G.S. 55-11-10(d) reads as rewritten:

18 "(d) After a plan of merger has been approved by each merging domestic
19 corporation and each other merging business entity as provided in subsection (c) of this
20 section, the surviving business entity shall deliver articles of merger to the Secretary of
21 State for filing. The articles of merger shall set forth:

- 22 (1) The plan of merger;
- 23 (2) For each merging business entity, its name, type of business entity, and
24 the state or country whose laws govern its organization and internal
25 affairs;
- 26 (3) The name and address of the surviving business entity; entity and, if
27 the surviving business entity is not authorized to transact business or
28 conduct affairs in this State, a designation of its mailing address and a
29 commitment to file with the Secretary of State a statement of any
30 subsequent change in its mailing address;
- 31 (4) A statement that the plan of merger has been approved by each
32 merging business entity in the manner required by law; and
- 33 (5) The effective date and time of merger if it is not to be effective at the
34 time of filing of the articles of merger.

35 If the plan of merger is amended or abandoned after the articles of merger have been
36 filed but before the articles of merger become effective, the surviving business entity
37 promptly shall deliver to the Secretary of State for filing prior to the time the articles of
38 merger become effective an amendment to the articles of merger reflecting the
39 amendment or abandonment of the plan of merger.

40 Certificates of merger shall also be registered as provided in G.S. 47-18.1."

41 **SECTION 26.** G.S. 55-13-02(a) is amended by adding the following new
42 subdivision to read:

1 "(2a) Consummation of a plan of conversion pursuant to Part 2 of Article
2 11A of this Chapter;".

3 **SECTION 27.** G.S. 55-13-22(a) reads as rewritten:

4 "(a) If proposed corporate action creating dissenters' rights under G.S. 55-13-02 is
5 ~~authorized~~ approved at a shareholders' meeting, the corporation shall mail by registered
6 or certified mail, return receipt requested, a written dissenters' notice to all shareholders
7 who satisfied the requirements of G.S. 55-13-21. If proposed corporate action creating
8 dissenters' rights under G.S. 55-13-02 is approved by shareholder action without
9 meeting pursuant to G.S. 55-7-04, the corporation shall mail by registered or certified
10 mail, return receipt requested, a written dissenters' notice to each shareholder entitled to
11 assert dissenters' rights. A shareholder who consents to such action taken without
12 meeting pursuant to G.S. 55-7-04 approving a proposed corporate action is not entitled
13 to payment for the shareholder's shares under this Article with respect to that corporate
14 action."

15 **SECTION 27A.** G.S. 55-15-03(a) reads as rewritten:

16 "(a) A foreign corporation may apply for a certificate of authority to transact
17 business in this State by delivering an application to the Secretary of State for filing.
18 The application must set forth:

- 19 (1) The name of the foreign corporation or, if its name is unavailable for
20 use in this State, a corporate name that satisfies the requirements of
21 G.S. 55-15-06;
- 22 (2) The name of the state or country under whose law it is incorporated;
- 23 (3) Its date of incorporation and period of duration;
- 24 (4) The street address, and the mailing address if different from the street
25 address, of its principal ~~office;~~ office, if any, and the county in which
26 the principal office, if any, is located;
- 27 (5) The street address, and the mailing address if different from the street
28 address, of its registered office in this State, the county in which the
29 registered office is located, and the name of its registered agent at that
30 office; and
- 31 (6) The names and usual business addresses of its current officers."

32 **SECTION 28.** G.S. 55-15-10(b) reads as rewritten:

33 "(b) Whenever a foreign corporation authorized to transact business in this State
34 shall fail to appoint or maintain a registered agent in this State, or whenever its
35 registered agent cannot with due diligence be found at the registered office, or whenever
36 its certificate of authority shall have been revoked under G.S. 55-15-31, then the
37 Secretary of State shall be an agent of such corporation upon whom any such process,
38 notice or demand may be served. Service on the Secretary of State of any such process,
39 notice or demand shall be made by delivering to and leaving with ~~him~~ the Secretary of
40 State or with any clerk ~~having charge of the corporation department of his office,~~
41 authorized by the Secretary of State to accept service of process, duplicate copies of
42 such process, notice or ~~demand.~~ demand and the fee required by G.S. 55-1-22(b). In the

1 event any such process, notice or demand is served on the Secretary of State, ~~he~~ the State in
2 the manner provided in this subsection, the Secretary of State shall immediately mail
3 one of the copies thereof, by registered or certified mail, return receipt requested, to the
4 corporation at its principal office shown in its most recent annual report or in any
5 subsequent communication received from the corporation stating the current mailing
6 address of its principal office or, if there is no mailing address for the principal office on
7 file, to the corporation at its registered office. Service on a foreign corporation under
8 this subsection shall be effective for all purposes from and after the date of such the
9 service on the Secretary of State."

10 **SECTION 29.** G.S. 55-15-20(b) reads as rewritten:

11 "(b) A foreign corporation authorized to transact business in this State may apply
12 for a certificate of withdrawal by delivering an application to the Secretary of State for
13 filing. The application must set forth:

- 14 (1) The name of the foreign corporation and the name of the state or
15 country under whose law it is incorporated;
- 16 (2) That it is not transacting business in this State and that it surrenders its
17 authority to transact business in this State;
- 18 (3) That the corporation revokes the authority of its registered agent to
19 accept service of process and consents that service of process in any
20 action or proceeding based upon any cause of action arising in this
21 State, or arising out of business transacted in this State, during the time
22 the corporation was authorized to transact business in this State may
23 thereafter be made on such corporation by service thereof on the
24 Secretary of State;
- 25 (4) A mailing address to which the Secretary of State may mail a copy of
26 any process served on ~~him~~ the Secretary of State under subdivision (3);
27 and
- 28 (5) A commitment to ~~notify~~ file with the Secretary of State ~~in the future~~ a
29 statement of any subsequent change in its mailing address."

30 **SECTION 30.** G.S. 55-15-20(c) reads as rewritten:

31 "(c) After the withdrawal of the foreign corporation is effective, service of process
32 on the Secretary of State in accordance with subsection (b)(3)(b) of this section is
33 service on the foreign corporation, shall be made by delivering to and leaving with the
34 Secretary of State or any clerk authorized by the Secretary of State to accept service of
35 process, duplicate copies of the process and the fee required by G.S. 55-1-22(b). Upon
36 receipt of process, process in the manner provided in this subsection, the Secretary of
37 State shall immediately mail a copy of the process by registered or certified mail, return
38 receipt requested, to the foreign corporation at the mailing address set forth under
39 designated pursuant to subsection (b)-(b) of this section."

40 **SECTION 31.** G.S. 55-15-21 reads as rewritten:

41 "§ 55-15-21. **Withdrawal of foreign corporation by reason of a merger,**
42 **consolidation, or conversion.**

1 (a) Whenever a foreign corporation authorized to transact business in this State
2 ceases its separate existence as a result of a statutory merger or consolidation permitted
3 by the laws of the state or country under which it was incorporated, or converts into
4 another entity as permitted by those laws, the surviving or resulting entity shall apply
5 for a certificate of withdrawal for the foreign corporation by delivering to the Secretary
6 of State for filing a copy of the articles of merger, consolidation, or conversion or a
7 certificate reciting the facts of the merger, consolidation, or conversion, duly
8 authenticated by the Secretary of State or other official having custody of corporate
9 records in the state or country under the laws of which such foreign corporation was
10 incorporated. If the surviving or resulting entity is not authorized to transact business in
11 this State the articles or certificate must be accompanied by an application which must
12 set forth:

- 13 (1) The name of the foreign corporation authorized to transact business in
14 this State, the type of entity and name of the surviving or resulting
15 entity, and a statement that the surviving or resulting entity is not
16 authorized to transact business in this State;
- 17 (2) A statement that the surviving or resulting entity consents that service
18 of process based upon any cause of action arising in this State, or
19 arising out of business transacted in this State, during the time the
20 foreign corporation was authorized to transact business in this State
21 may thereafter be made by service thereof on the Secretary of State;
- 22 (3) A mailing address to which the Secretary of State may mail a copy of
23 any process served on ~~him~~ the Secretary of State under subdivision
24 (a)(2) of this section; and
- 25 (4) A commitment to ~~notify~~ file with the Secretary of State ~~in the future~~ a
26 statement of any subsequent change in its mailing address.

27 (b) If the Secretary of State finds that the articles or certificate and the application
28 for withdrawal, if required, conform to law the Secretary of State shall:

- 29 (1) Endorse on the articles or certificate and the application for
30 withdrawal, if required, the word "filed" and the hour, day, month and
31 year of the filing thereof;
- 32 (2) File the articles or certificate and the application, if required;
- 33 (3) Issue a certificate of withdrawal; and
- 34 (4) Send to the surviving or resulting entity or its representative the
35 certificate of withdrawal, together with the exact or conformed copy of
36 the application, if required, affixed thereto.

37 (c) After the withdrawal of the foreign corporation is effective, service of process
38 on the Secretary of State in accordance with subsection (a) of this section shall be made
39 by delivering to and leaving with the Secretary of State, or any clerk authorized by the
40 Secretary of State to accept service of process, duplicate copies of the process and the
41 fee required by G.S. 55-1-22(b). Upon receipt of process in the manner provided in this
42 subsection, the Secretary of State shall immediately mail a copy of the process by

1 registered or certified mail, return receipt requested, to the surviving or resulting entity
2 at the mailing address designated pursuant to subsection (a) of this section."

3 **PART II. AMENDMENTS TO THE NORTH CAROLINA NONPROFIT**
4 **CORPORATION ACT.**

5 **SECTION 32.** G.S. 55A-1-20(f) reads as rewritten:

6 "(f) A document submitted by a domestic or foreign corporation or business
7 corporation shall be executed:

- 8 (1) By the presiding officer of the board of directors by its president, or by
9 another of its officers;
10 (2) If directors have not been selected or the corporation has not been
11 formed, by an incorporator; or
12 (3) If the corporation is in the hands of a receiver, trustee, or other
13 court-appointed fiduciary, by that fiduciary.

14 A document submitted by an unincorporated entity must be executed by a person
15 authorized to execute documents (i) pursuant to G.S. 57C-1-20(f) if the unincorporated
16 entity is a domestic or foreign limited liability company, (ii) pursuant to G.S. 59-204 if
17 the unincorporated entity is a domestic or foreign limited partnership, or (iii) pursuant to
18 ~~G.S. 59-73.7(a)(4)~~ G.S. 59-35.1(a)(4) if the unincorporated entity is any other
19 partnership as defined in G.S. 59-36 whether or not formed under the laws of this
20 State."

21 **SECTION 33.** G.S. 55A-1-40(20) reads as rewritten:

22 "(20) 'Principal office' means the office (in or out of this State) so designated
23 in the articles of incorporation, the Designation of Principal Office
24 Address form, or in any subsequent Corporation's Statement of Change
25 of Principal Office Address form filed with the Secretary of State
26 where the principal offices of a domestic or foreign corporation are
27 ~~located.~~ located, as most recently designated by the domestic or
28 foreign corporation in its articles of incorporation, a Designation of
29 Principal Office Address form, a Corporation's Statement of Change of
30 Principal Office Address form, or in the case of a foreign corporation,
31 its application for a certificate of authority."

32 **SECTION 34.** G.S. 55A-1-40 is amended by adding the following new
33 subdivisions, to be placed by the Revisor of Statutes in the appropriate order, to read:

34 **"§ 55A-1-40. Chapter definitions.**

35 In this Chapter unless otherwise specifically provided:

- 36 ...
37 (2a) 'Business corporation' or 'domestic business corporation' means a
38 corporation as defined in G.S. 55-1-40.
39 ...
40 (8a) 'Domestic limited liability company' has the same meaning as in G.S.
41 57C-1-03.

1 (8b) 'Domestic limited partnership' has the same meaning as in G.S. 59-
2 102.

3 ...

4 (10a) 'Foreign business corporation' means a foreign corporation as defined
5 in G.S. 55-1-40.

6 ...

7 (11a) 'Foreign limited liability company' has the same meaning as in G.S.
8 57C-1-03.

9 (11b) 'Foreign limited partnership' has the same meaning as in G.S. 59-102.

10 "

11 **SECTION 35.** G.S. 55A-1-40(24a) reads as rewritten:

12 "(24a) 'Unincorporated entity' means a domestic or foreign limited liability
13 ~~company as defined in G.S. 57C-1-03, company, a domestic or foreign~~
14 ~~limited partnership as defined in G.S. 59-102, partnership, a registered~~
15 limited liability partnership or foreign limited liability partnership as
16 defined in G.S. 59-32, or any other partnership as defined in G.S.
17 59-36, whether or not formed under the laws of this State, including a
18 ~~registered limited liability partnership as defined in G.S. 59-32 and any~~
19 ~~other limited liability partnership formed under a law other than the~~
20 ~~laws of this State.State."~~

21 **SECTION 36.** G.S. 55A-11-06(a) reads as rewritten:

22 "(a) Except as provided in G.S. 55A-11-02, one or more foreign nonprofit
23 corporations may merge with one or more domestic nonprofit corporations if:

24 (1) The merger is permitted by the law of the state or country under whose
25 law each foreign corporation is incorporated and each foreign
26 corporation complies with that law in effecting the merger;

27 (2) The foreign corporation complies with G.S. 55A-11-04 if it is the
28 surviving corporation of the ~~merger; merger~~ and, if the foreign
29 corporation is not authorized to conduct affairs in this State, includes
30 in the articles of merger filed with the Secretary of State pursuant to
31 G.S. 55A-11-04 a designation of the foreign corporation's mailing
32 address and a commitment to file with the Secretary of State a
33 statement of any subsequent change in its mailing address; and

34 (3) Each domestic nonprofit corporation complies with the applicable
35 provisions of G.S. 55A-11-01 through G.S. 55A-11-03 and, if it is the
36 surviving corporation of the merger, with G.S. 55A-11-04."

37 **SECTION 37.** G.S. 55A-11-06(b) reads as rewritten:

38 "(b) Upon the merger taking effect, if the surviving corporation, if it does not have
39 ~~a registered agent in this State, corporation is a foreign corporation, it shall be deemed~~
40 to have appointed the Secretary of State as its ~~registered agent for service of process in a~~
41 proceeding to enforce any obligation of a domestic corporation party to the ~~merger, until~~
42 such time as it appoints a registered agent in this State.merger. Service on the Secretary

1 of State of any such process shall be made by delivering to and leaving with the
2 Secretary of State, or with any clerk authorized by the Secretary of State to accept
3 service of process, duplicate copies of the process and the fee required by G.S. 55A-1-
4 22(b). Upon receipt of service of process in the manner provided in this subsection, the
5 Secretary of State shall immediately mail a copy of the process by registered or certified
6 mail, return receipt requested, to the foreign corporation. If the foreign corporation is
7 authorized to conduct affairs in this State, the address for mailing shall be its principal
8 office or, if there is no mailing address for the principal office on file, its registered
9 office. If the foreign corporation is not authorized to conduct affairs in this State, the
10 address for mailing shall be the mailing address designated pursuant to subdivision (2)
11 of subsection (a) of this section."

12 **SECTION 38.** G.S. 55A-11-08(a) reads as rewritten:

13 "(a) One or more domestic or foreign business corporations may merge with one
14 or more domestic nonprofit corporations if:

- 15 (1) Each domestic business corporation complies with the applicable
16 provisions of G.S. 55-11-01, 55-11-03, and 55-11-04;
- 17 (2) In a merger involving one or more foreign business corporations, the
18 merger is permitted by the law of the state or country under whose law
19 each foreign business corporation is incorporated and each foreign
20 business corporation complies with that law in effecting the merger;
- 21 (3) The domestic or foreign business corporation complies with G.S.
22 55A-11-04 if it is the surviving ~~corporation;~~ corporation and, in the
23 case of a foreign business corporation not authorized to transact
24 business in this State, includes in the articles of merger filed pursuant
25 to G.S. 55A-11-04 a designation of the foreign business corporation's
26 mailing address and a commitment to file with the Secretary of State a
27 statement of any subsequent change in its mailing address; and
- 28 (4) Each domestic nonprofit corporation complies with the applicable
29 provisions of G.S. 55A-11-01 through G.S. 55A-11-03 and, if it is the
30 surviving corporation, with G.S. 55A-11-04."

31 **SECTION 39.** G.S. 55A-11-08(b) reads as rewritten:

32 "(b) Upon the merger taking effect, if the surviving corporation ~~does not have a~~
33 ~~registered agent in this State,~~ is a foreign business corporation, it shall be deemed to
34 have appointed the Secretary of State as its ~~registered~~-agent for service of process in a
35 proceeding to enforce any obligation of a domestic nonprofit corporation party to the
36 ~~merger, until such time as it appoints a registered agent in this State.~~ merger. Service on
37 the Secretary of State of any such process shall be made by delivering to and leaving
38 with the Secretary of State, or with any clerk authorized by the Secretary of State to
39 accept service of process, duplicate copies of the process and the fee required by G.S.
40 55A-1-22(b). Upon receipt of service of process in the manner provided in this
41 subsection, the Secretary of State shall immediately mail a copy of the process by
42 registered or certified mail, return receipt requested, to the foreign business corporation.

1 If the foreign business corporation is authorized to transact business in this State, the
2 address for mailing shall be its principal office as defined in G.S. 55-1-40(17) or, if
3 there is no mailing address for the principal office on file, its registered office. If the
4 foreign business corporation is not authorized to transact business in this State, the
5 address for mailing shall be the mailing address designated pursuant to subdivision (3)
6 of subsection (a) of this section."

7 **SECTION 40.** G.S. 55A-11-09(a) reads as rewritten:

8 "(a) As used in this section, 'business entity' means a domestic business
9 corporation as defined in G.S. 55-1-40 (including a professional corporation as defined
10 in G.S. 55B-2), a foreign business corporation as defined in G.S. 55-1-40 (including a
11 foreign professional corporation as defined in G.S. 55B-16), a domestic or foreign
12 nonprofit corporation as defined in G.S. 55A-1-40, corporation, a domestic or foreign
13 limited liability company-company, as defined in G.S. 57C-1-03, a domestic or foreign
14 limited partnership-partnership, as defined in G.S. 59-102, a registered limited liability
15 partnership or foreign limited liability partnership as defined in G.S. 59-32, or any other
16 partnership as defined in G.S. 59-36 whether or not formed under the laws of this
17 State."

18 **SECTION 41.** G.S. 55A-11-09(d) reads as rewritten:

19 "(d) After a plan of merger has been approved by each merging domestic
20 nonprofit corporation and each other merging business entity as provided in subsection
21 (c) of this section, the surviving business entity shall deliver articles of merger to the
22 Secretary of State for filing. The articles of merger shall set forth:

- 23 (1) The plan of merger;
- 24 (2) For each merging business entity, its name, type of business entity, and
25 the state or country whose laws govern its organization and internal
26 affairs;
- 27 (3) The name of the surviving business entity and, if the surviving
28 business entity is not authorized to transact business or conduct affairs
29 in this State, a designation of its mailing address and a commitment to
30 file with the Secretary of State a statement of any subsequent change
31 in its mailing address;
- 32 (4) A statement that the plan of merger has been approved by each
33 merging business entity in the manner required by law; and
- 34 (5) The effective date and time of merger if it is not to be effective at the
35 time of filing of the articles of merger.

36 If the plan of merger is amended or abandoned after the articles of merger have been
37 filed but before the articles of merger become effective, the surviving business entity
38 promptly shall deliver to the Secretary of State for filing prior to the time the articles of
39 merger become effective an amendment to the articles of merger reflecting the
40 amendment or abandonment of the plan of merger.

41 Certificates of merger shall also be registered as provided in G.S. 47-18.1."

42 **SECTION 42.** G.S. 55A-11-09(e1)(2) reads as rewritten:

1 "(2) To have appointed the Secretary of State as its agent for service of
2 process in any such proceeding. Service on the Secretary of State of
3 any such process shall be made by delivering to and leaving with the
4 Secretary of ~~State~~ State, or with any clerk authorized by the Secretary
5 of State to accept service of process, duplicate copies of such process
6 and the fee required by G.S. 55A-1-22(b). Upon receipt of service of
7 process on behalf of a surviving business entity in the manner provided
8 ~~by for in~~ this section, the Secretary of State shall immediately mail a
9 copy of the process by registered or certified mail, return receipt
10 requested, to the surviving business entity. If the surviving business
11 entity is authorized to transact business or conduct affairs in this State,
12 the address for mailing shall be its principal office designated in the
13 latest document filed with the Secretary of State that is authorized by
14 law to designate the principal office or, if there is no principal office
15 on file, its registered office. If the surviving business entity is not
16 authorized to transact business or conduct affairs in this State, the
17 address for mailing shall be the mailing address designated pursuant to
18 subdivision (3) of subsection (d) of this section."

19 **SECTION 43.** G.S. 55A-15-10(b) reads as rewritten:

20 "(b) When a foreign corporation authorized to conduct affairs in this State fails to
21 appoint or maintain a registered agent in this State, or when its registered agent cannot
22 with due diligence be found at the registered office, or when its certificate of authority
23 shall have been revoked under G.S. 55A-15-31, the Secretary of State shall be an agent
24 of such corporation upon whom any process, notice, or demand may be served. Service
25 on the Secretary of State of any process, notice, or demand shall be made by delivering
26 to and leaving with the Secretary of State or with any clerk ~~having charge of the~~
27 ~~corporation department of the Secretary of State's office, authorized by the Secretary of~~
28 State to accept service of process, duplicate copies of such process, notice, or demand.
29 demand and the fee required by G.S. 55A-1-22(b). In the event any process, notice, or
30 demand is served on the Secretary of ~~State, State in the manner provided for in this~~
31 subsection, he the Secretary of State shall immediately mail one of the copies thereof,
32 by registered or certified mail, return receipt requested, to the corporation at its principal
33 office shown in its most recent annual report, if applicable, the articles of incorporation,
34 the Designation of Principal Office Address form, in any subsequent Corporation's
35 Statement of Change of Principal Office Address form, or in any subsequent
36 communication received from the corporation stating the current mailing address of its
37 principal office or, if there is no mailing address for the principal office on file, to the
38 corporation at its registered office. Service on a foreign corporation under this
39 subsection shall be effective for all purposes from and after the date of such the service
40 on the Secretary of State."

41 **SECTION 44.** G.S. 55A-15-20(b)(5) reads as rewritten:

1 "(5) A commitment to ~~notify~~ file with the Secretary of State ~~in the future a~~
2 statement of any subsequent change in its mailing address."

3 **SECTION 45.** G.S. 55A-15-20(d) reads as rewritten:

4 "(d) After the withdrawal of the foreign corporation is effective, service of process
5 on the Secretary of State in accordance with ~~subdivision (b)(3)~~ subsection (b) of this
6 section ~~is service on the foreign corporation.~~ shall be made by delivering to and leaving
7 with the Secretary of State or any clerk authorized by the Secretary of State to accept
8 service of process, duplicate copies of the process and the fee required by G.S. 55A-1-
9 22(b). Upon receipt of ~~process,~~ process in the manner provided in this subsection, the
10 Secretary of State shall immediately mail a copy of the process by registered or certified
11 mail, return receipt requested, to the foreign corporation at the mailing address ~~set forth~~
12 ~~under~~ designated pursuant to subsection (b) of this section."

13 **SECTION 46.** G.S. 55A-15-21(a) reads as rewritten:

14 "(a) Whenever a foreign corporation authorized to conduct affairs in this State
15 ceases its separate existence as a result of a statutory merger or consolidation permitted
16 by the laws of the state or country under which it was incorporated, or converts into
17 another entity as permitted by those laws, the surviving or resulting entity shall apply
18 for a certificate of withdrawal for the foreign corporation by delivering to the Secretary
19 of State for filing a copy of the articles of merger, consolidation, or conversion or a
20 certificate reciting the facts of the merger, consolidation, or conversion duly
21 authenticated by the secretary of state or other official having custody of corporate
22 records in the state or country under the laws of which the foreign corporation was
23 incorporated. If the surviving or resulting entity is not authorized to conduct affairs in
24 this State, the articles or certificate shall be accompanied by an application which must
25 set forth:

- 26 (1) The name of the foreign corporation authorized to conduct affairs in
27 this State, the type of entity and the name of the surviving or resulting
28 entity, and a statement that the surviving or resulting entity is not
29 authorized to conduct affairs in this State;
- 30 (2) A statement that the surviving or resulting entity consents that service
31 of process based upon any cause of action arising in this State, or
32 arising out of affairs conducted in this State, during the time the
33 foreign corporation was authorized to conduct affairs in this State may
34 thereafter be made by service thereof on the Secretary of State;
- 35 (3) A mailing address to which the Secretary of State may mail a copy of
36 any process served on ~~him~~ the Secretary of State under subdivision
37 (a)(2) of this section; and
- 38 (4) A commitment to ~~notify~~ file with the Secretary of State ~~in the future a~~
39 statement of any subsequent change in its mailing address."

40 **SECTION 47.** G.S. 55A-15-21 is amended by adding a new subsection to

41 read:

1 "(c) After the withdrawal of the foreign corporation is effective, service of process
2 on the Secretary of State in accordance with subsection (b) of this section shall be made
3 by delivering to and leaving with the Secretary of State, or any clerk authorized by the
4 Secretary of State to accept service of process, duplicate copies of the process and the
5 fee required by G.S. 55A-1-22(b). Upon receipt of process in the manner provided in
6 this subsection, the Secretary of State shall immediately mail a copy of the process by
7 registered or certified mail, return receipt requested, to the foreign corporation at the
8 mailing address designated pursuant to subsection (a) of this section."

9 **PART III. AMENDMENTS TO THE NORTH CAROLINA LIMITED**
10 **LIABILITY COMPANY ACT.**

11 **SECTION 48.** G.S. 57C-1-03 is amended by adding the following new
12 subdivisions, to be placed by the Revisor of Statutes in the appropriate order, to read:

13 **"§ 57C-1-03. Definitions.**

14 The following definitions apply in this Chapter, unless otherwise specifically
15 provided:

16 ...

17 (5a) Director. – For any limited liability company the management of
18 whose affairs is vested in whole or in part in persons other than its
19 managers pursuant to G.S. 57C-3-20(b), any person who is so vested
20 with, or is one of a group of persons so vested with, the authority to
21 direct the management of the limited liability company's affairs.

22 ...

23 (6a) Domestic nonprofit corporation. – A corporation as defined in G.S.
24 55A-1-40(5).

25 (6b) Executive. – For any limited liability company the management of
26 whose affairs is vested in whole or in part in persons other than its
27 managers pursuant to G.S. 57C-3-20(b), any person who is so vested
28 with authority to participate in the management of the limited liability
29 company's affairs under the direction of the limited liability company's
30 managers or directors.

31 ...

32 (9a) Foreign nonprofit corporation. – A foreign corporation as defined in
33 G.S. 55A-1-40(11) that is a nonprofit corporation as defined in G.S.
34 55A-1-40(17).

35 ...

36 (12a) Management of the affairs. – In respect of an entity, unless the context
37 indicates otherwise, the authority to direct and participate in the
38 management of the entity.

39 ...

40 (17a) Principal office. – The office, in or out of this State, where the
41 principal executive offices of a domestic or foreign limited liability
42 company are located, as designated in its most recent annual report

1 filed with the Secretary of State or, in the case of a domestic or foreign
2 limited liability company that has not yet filed an annual report, in its
3 articles of organization or application for a certificate of authority,
4 respectively.

5"

6 **SECTION 49.** G.S. 57C-1-03(3a) reads as rewritten:

7 "(3a) Business entity. – A corporation (including a professional corporation
8 as defined in G.S. 55B-2), a foreign corporation (including a foreign
9 professional corporation defined in G.S. 55B-16), a domestic or
10 foreign nonprofit ~~corporation~~ corporation, as defined in G.S. 55A-1-
11 40, a domestic or foreign limited liability company, a domestic or
12 foreign limited ~~partnership~~ partnership, as defined in G.S. 59-102, a
13 registered limited liability partnership or foreign limited liability
14 partnership as defined in G.S. 59-32, or any other partnership as
15 defined in G.S. 59-36 whether or not formed under the laws of this
16 State ~~(including a registered limited liability partnership as defined in~~
17 ~~G.S. 59-32 and any other limited liability partnership formed under a~~
18 ~~law other than the laws of this State).~~ State."

19 **SECTION 50.** G.S. 57C-1-03(4) reads as rewritten:

20 "(4) ~~Corporation.~~ Corporation or domestic corporation. – Has the same
21 meaning as in G.S. 55-1-40(4)."

22 **SECTION 51.** G.S. 57C-1-03(13) reads as rewritten:

23 "(13) Manager. – Has the following meanings: (i) with respect to a domestic
24 limited liability company that has set forth in its articles of
25 organization that it is to be or may be managed by persons other than
26 members, company, any person designated in, or in accordance ~~with~~
27 with, G.S. 57C-3-20(a), (ii) ~~with respect to any other limited liability~~
28 ~~company, its members, and (iii)~~ (ii) with respect to a foreign limited
29 liability company, any person authorized to act for and bind the
30 foreign limited liability company."

31 **SECTION 52.** G.S. 57C-1-03(15) reads as rewritten:

32 "(15) Membership interest or interest. – In the context of a member of a
33 limited liability company, the terms mean all of a member's rights in
34 the limited liability company, including ~~without limitation the~~
35 ~~member's any~~ share of the profits and losses of the limited liability
36 company, ~~the any~~ right to receive distributions of the limited liability
37 company assets, any right to ~~vote,~~ vote on matters relating to the
38 limited liability company, and any right to participate in the
39 management. management of the limited liability company's affairs."

40 **SECTION 53.** G.S. 57C-1-20(f) reads as rewritten:

41 "(f) A document submitted by a domestic or foreign limited liability company
42 must be executed:

- 1 (1) By a manager of the limited liability company;
 2 ~~(2) If managers have not been selected, or if the limited liability company~~
 3 ~~does not have a manager other than a member, by any member;~~
 4 (3) If the limited liability company has not been formed or if no initial
 5 members of the limited liability company have been identified in the
 6 manner provided in this Chapter, by an organizer; or
 7 (4) If the limited liability company is in the hands of a receiver, trustee, or
 8 other court-appointed fiduciary, by that fiduciary.

9 A document submitted by a business entity other than a domestic or foreign limited
 10 liability company must be executed by a person authorized to execute documents (i)
 11 pursuant to G.S. 55-1-20(f) if the business entity is a corporation or foreign corporation,
 12 (ii) pursuant to G.S. 55A-1-20(f) if the business entity is a domestic or foreign nonprofit
 13 corporation, (iii) pursuant to G.S. 59-204 if the business entity is a domestic or foreign
 14 limited partnership, or (iv) pursuant to ~~G.S. 59-73.7(a)(4)~~ G.S. 59-35.1(a)(4) if the
 15 business entity is any other partnership as defined in G.S. 59-36 whether or not formed
 16 under the laws of this State."

17 **SECTION 54.** G.S. 57C-1-22(a) reads as rewritten:

18 "(a) The Secretary of State shall collect the following fees when the documents
 19 described in this subsection are delivered to the Secretary of State for filing:

<u>Document</u>	<u>Fee</u>
21 (1) Articles of organization	\$125.00
22 (2) Application for reserved name	10.00
23 (3) Notice of transfer of reserved name	10.00
24 (4) Application for registered name	10.00
25 (5) Application for renewal of registered name	10.00
26 (6) Limited liability company's statement of change of 27 registered agent or registered office or both	5.00
28 (7) Agent's statement of change of registered office for 29 each affected limited liability company	5.00
30 (8) Agent's statement of resignation	No fee
31 (9) Designation of registered agent or registered 32 office or both	5.00
33 (10) Amendment of articles of organization	50.00
34 (11) Restated articles of organization without amendment of 35 articles	10.00
36 (12) Restated articles of organization with amendment of 37 articles	50.00
38 <u>(12a) Articles of conversion (other than articles of conversion</u> 39 <u>included as part of another document)</u>	<u>50.00</u>
40 (13) Articles of merger	50.00
41 (14) Articles of dissolution	30.00
42 (15) Cancellation of articles of dissolution	10.00

1	(16) Certificate of administrative dissolution	No fee
2	(16a) Application for reinstatement following administrative	
3	dissolution	100.00
4	(17) Certificate of reinstatement	No fee
5	(18) Certificate of judicial dissolution	No fee
6	(19) Application for certificate of authority	250.00
7	(20) Application for amended certificate of authority	50.00
8	(21) Application for certificate of withdrawal	10.00
9	(22) Certificate of revocation of authority to transact	
10	business	No fee
11	(23) Articles of correction	10.00
12	(24) Application for certificate of existence or	
13	authorization	5.00
14	(25) Annual report	200.00
15	(26) Any other document required or permitted to be filed by	
16	this Chapter	10.00
17	(27) Advisory review of a document	200.00."

18 **SECTION 55.** G.S. 57C-2-01 reads as rewritten:

19 **"§ 57C-2-01. Purposes.**

20 (a) Every limited liability company ~~organized~~ formed under this Chapter has the
21 purpose of engaging in any lawful business unless a more limited lawful purpose is set
22 forth in its articles of organization.

23 (b) A domestic or foreign limited liability company engaging in a business that is
24 subject to regulation under another statute of this State may be formed or authorized to
25 transact business under this Chapter only if permitted by and subject to all limitations of
26 the other statute giving effect to subsection (c) of this section.

27 (c) Subsections (a) and (b) of this section to the contrary notwithstanding and
28 except as set forth in this subsection, a domestic or foreign limited liability company
29 shall engage in rendering professional services only to the extent that a professional
30 corporation acting pursuant to Chapter 55B of the General Statutes or a corporation
31 acting pursuant to Chapter 55 of the General Statutes may engage in rendering
32 professional services under the conditions and limitations imposed by an applicable
33 licensing statute. Chapter 55B of the General Statutes and each applicable licensing
34 statute are deemed amended to provide that professionals licensed under the applicable
35 licensing statute may render professional services through a domestic or foreign limited
36 liability company. For purposes of applying the provisions, conditions, and limitations
37 of Chapter 55B of the General Statutes and the applicable licensing statute to domestic
38 and foreign limited liability companies that engage in rendering professional services,
39 (i) unless the context clearly requires otherwise, references to Chapter 55 of the General
40 Statutes (the North Carolina Business Corporation Act) shall be treated as references to
41 this Chapter, and references to a "corporation" or "foreign corporation" shall be treated
42 as references to a limited liability company or foreign limited liability company,

1 respectively, (ii) members shall be treated in the same manner as shareholders of a
2 professional corporation, (iii) managers and directors shall be treated in the same
3 manner as directors of a professional corporation, (iv) the persons signing the articles of
4 organization of a limited liability company shall be treated in the same manner as the
5 incorporators of a professional corporation, and (v) the name of a domestic or foreign
6 limited liability company so engaged shall comply with G.S. 57C-2-30 or G.S.
7 57C-7-06 and, in addition, shall contain the word "Professional" or the abbreviation
8 "P.L.L.C." or "PLLC". For purposes of this subsection, "applicable licensing statute"
9 shall mean those provisions of the General Statutes referred to in G.S. 55B-2(6).

10 Nothing in this Chapter shall be interpreted to abolish, modify, restrict, limit, or alter
11 the law in this State applicable to the professional relationship and liabilities between
12 the individual furnishing the professional services and the person receiving the
13 professional services, the standards of professional conduct applicable to the rendering
14 of the services, or any responsibilities, obligations, or sanctions imposed under
15 applicable licensing statutes. A ~~member or~~ member, manager, director, or
16 executive of a professional limited liability company is not individually liable, directly
17 or indirectly, including by indemnification, contribution, assessment, or otherwise, for
18 debts, obligations, and liabilities of, or chargeable to, the professional limited liability
19 company that arise from errors, omissions, negligence, malpractice, incompetence, or
20 malfeasance committed by another member, manager, director, executive, employee,
21 agent, or other representative of the professional limited liability company; provided,
22 however, nothing in this Chapter shall affect the liability of a ~~member or~~ member,
23 ~~manager~~ manager, director, or executive of a professional limited liability company for
24 his or her own errors, omissions, negligence, malpractice, incompetence, or malfeasance
25 committed in the rendering of professional services."

26 **SECTION 56.** G.S. 57C-2-02 reads as rewritten:

27 **"§ 57C-2-02. Powers of the limited liability company.**

28 Unless its articles of organization or this Chapter provide otherwise, each limited
29 liability company has the same powers as an individual to do all things necessary or
30 convenient to carry out its business and affairs, including, without limitation, power:

- 31 (1) To sue and be sued, complain, and defend in its own name;
- 32 (2) To make and amend operating agreements, not inconsistent with its
33 articles of organization or with the laws of this State, for managing the
34 business and regulating the affairs of the limited liability company;
- 35 (3) To purchase, receive, lease, or otherwise acquire, and own, hold,
36 improve, use, and otherwise deal with, real or personal property, or
37 any legal or equitable interest in property, wherever located;
- 38 (4) To sell, convey, mortgage, pledge, lease, exchange, and otherwise
39 dispose of all or any part of its property;
- 40 (5) To purchase, receive, subscribe for, or otherwise acquire; own, hold,
41 vote, use, sell, mortgage, lend, pledge, or otherwise dispose of; and

- 1 deal in and with shares or other interests in, or obligations of, any other
2 entity;
- 3 (6) To make contracts and guarantees, incur liabilities, borrow money,
4 issue its notes, bonds, and other obligations (which may be convertible
5 into or include the option to purchase other interests in the limited
6 liability company), and secure any of its obligations by mortgage or
7 pledge of any of its property, franchises, or income;
- 8 (7) To lend money, invest and reinvest its funds, and receive and hold real
9 and personal property as security for repayment;
- 10 (8) To be a promoter, partner, member, associate, or manager of any
11 partnership, joint venture, trust, or other entity;
- 12 (9) To conduct its business, locate offices, and exercise the powers
13 granted by this Chapter within or without this State;
- 14 (10) To elect or appoint managers, directors, executives, officers,
15 employees, and agents of the limited liability company, define their
16 duties, fix their compensation, and lend them money and credit;
- 17 (11) To pay pensions and establish pension plans, pension trusts,
18 profit-sharing plans, and other benefit or incentive plans for any or all
19 of its current or former managers, directors, executives, officers,
20 employees, and agents;
- 21 (12) To make donations for the public welfare or for charitable, religious,
22 cultural, scientific, or educational purposes;
- 23 (13) To transact any lawful business that will aid governmental policy;
- 24 (14) To make payments or donations, or do any other act, not inconsistent
25 with law, that furthers the business and affairs of the limited liability
26 company;
- 27 (15) To provide insurance for its benefit on the life or physical or mental
28 ability of any of its managers, directors, executives, officers, or
29 employees or on the life or physical or mental ability of any owner of
30 any interest in the limited liability company for the purpose of
31 acquiring the interest owned by him at the time of his death or
32 disability, and for these purposes the limited liability company is
33 deemed to have an insurable interest in its managers, directors,
34 executives, officers, employees, or members and other interest owners;
35 and to provide insurance for its benefit on the life or physical or mental
36 ability of any other person in whom it has an insurable interest; and
- 37 (16) To render professional services, subject to G.S. 57C-2-01(c)."

38 **SECTION 57.** G.S. 57C-2-20(c) reads as rewritten:

39 "(c) Organization of a limited liability company requires one or more initial
40 members and any further action as may be determined by the initial member or
41 members. If initial members are not identified in the articles of organization of a limited
42 liability company in the manner provided in G.S. 57C-3-01(a), the organizers shall hold

1 one or more meetings at the call of a majority of the organizers to identify the initial
2 members of the limited liability company. Unless otherwise provided in this Chapter or
3 in the articles of organization of the limited liability company, all decisions to be made
4 by the organizers at such meetings shall require the approval, consent, agreement, or
5 ratification of a majority of the organizers. Unless otherwise provided in the articles of
6 organization, the organizers may, in lieu of a meeting, take action as described in this
7 subsection by written consent signed by all of the organizers. The written consent may
8 be incorporated in, or otherwise made part of, the initial written operating agreement of
9 the limited liability company."

10 **SECTION 58.** G.S. 57C-2-21(a) reads as rewritten:

11 "(a) The articles of organization must set forth:

- 12 (1) A name for the limited liability company that satisfies the provisions
13 of G.S. 57C-2-30;
- 14 (2) If the limited liability company is to dissolve by a specific date, the
15 latest date on which the limited liability company is to dissolve. If no
16 date for dissolution is specified, there shall be no limit on the duration
17 of the limited liability company;
- 18 (3) The name and address of each person executing the articles of
19 organization and whether the person is executing the articles of
20 organization in the capacity of a member or an organizer;
- 21 (4) The street address, and the mailing address if different from the street
22 address, of the limited liability company's initial registered office, the
23 county in which the initial registered office is located, and the name of
24 the limited liability company's initial registered agent at that address;
25 ~~and~~
- 26 (4a) The street address, and the mailing address if different from the street
27 address, of the limited liability company's principal office, if any, and
28 the county in which the principal office, if any, is located; and
- 29 (5) Unless all of the members by virtue of their status as members shall be
30 managers of the limited liability company, a statement that, except as
31 provided in G.S. 57C-3-20(a), the members shall not be managers by
32 virtue of their status as members."

33 **SECTION 59.** G.S. 57C-2-23(a) reads as rewritten:

34 "(a) Each domestic limited liability company other than a professional limited
35 liability company governed by G.S. 57C-2-01(c) and each foreign limited liability
36 company authorized to transact business in this State, shall deliver to the Secretary of
37 State for filing an annual report, in a form ~~jointly~~ prescribed by the ~~Secretary of~~
38 ~~Revenue and~~ Secretary of State, that sets forth all of the following:

- 39 (1) The name of the limited liability or foreign limited liability company
40 and the state or country under whose law it is ~~organized~~ formed.
- 41 (2) The street address, and the mailing address if different from the street
42 address, of the registered office, the county in which the registered

1 office is located, and the name of its registered agent at that office in
2 this State, and a statement of any change of the registered office or
3 registered agent, or both.

4 (3) The address and telephone number of its principal office.

5 (4) The names and business addresses of its ~~managers~~managers or if the
6 limited liability company has never had members, its organizers.

7 (5) A brief description of the nature of its business.

8 If the information contained in the most recently filed annual report has not changed, a
9 certification to that effect may be made instead of setting forth the information required
10 by subdivisions (2) through (5) of this subsection. The Secretary of State shall make
11 available the form required to file an annual report."

12 **SECTION 59A.** G.S. 57C-2-23(c) reads as rewritten:

13 "(c) The Secretary of State must notify limited liability companies of the annual
14 report filing requirement. The annual report shall be delivered to the Secretary of State
15 by ~~the fifteenth day of the fourth month following the close of the limited liability~~
16 ~~company's fiscal~~ April 15th of each year."

17 **SECTION 60.** G.S. 57C-2-30(a)(2) reads as rewritten:

18 "(2) ~~May~~ Shall not contain language stating or implying that the limited
19 liability company is ~~organized~~formed for a purpose other than that
20 permitted by G.S. 57C-2-01 and its articles of organization; and".

21 **SECTION 61.** G.S. 57C-2-32(b) reads as rewritten:

22 "(b) A foreign limited liability company registers its name, or its name with any
23 required addition, by filing with the Secretary of State an application:

24 (1) Setting forth its name, or its name with any required addition, the state
25 or country and date of its ~~organization~~formation, and a brief
26 description of the nature of the business in which it is engaged; and

27 (2) Accompanied by a certificate of existence (or a document of a similar
28 import) from the state or country of ~~organization~~formation."

29 **SECTION 62.** G.S. 57C-2-32(e) reads as rewritten:

30 "(e) A foreign limited liability company whose registration is effective may
31 thereafter qualify as a foreign limited liability company under that name or consent in
32 writing to the use of that name by a limited liability company thereafter ~~organized~~
33 formed under this Chapter or by another foreign limited liability company thereafter
34 authorized to transact business in this State. The registration terminates when the
35 domestic limited liability company is ~~organized~~formed or the foreign limited liability
36 company qualifies or consents to the qualification of another foreign limited liability
37 company under the registered name."

38 **SECTION 63.** G.S. 57C-2-34(b) reads as rewritten:

39 "(b) The Secretary of State shall adopt uniform certificates to be furnished for
40 registration in accordance with this section. In the case of a foreign limited liability
41 company, a similar certificate by any competent authority of the jurisdiction of
42 ~~organization~~formation may be registered in accordance with this section."

1 **SECTION 64.** G.S. 57C-3-01 is amended by adding the following new
2 subsection to read:

3 "(c) Nothing in this Chapter precludes a person from being a member of a limited
4 liability company because that person has not made, and has no obligation to make, any
5 contributions to the limited liability company and has no right to receive any
6 distributions from the limited liability company or share in any profits or losses of the
7 limited liability company."

8 **SECTION 65.** G.S. 57C-3-02(3)e. reads as rewritten:

9 "e. Seeking, consenting to, or acquiescing in, the appointment of a
10 trustee or receiver for, or liquidation of the ~~member person~~ or of
11 all or any substantial part of ~~his~~ that person's properties; or".

12 **SECTION 66.** G.S. 57C-3-04(e) reads as rewritten:

13 "(e) The managers or directors shall have the right to keep confidential from
14 members who are not ~~managers~~, managers or directors, for such period of time as the
15 managers or directors deem reasonable, any information which the managers or
16 directors reasonably believe to be in the nature of trade secrets or other information the
17 disclosure of which the managers or directors in good faith believe is not in the best
18 interest of the limited liability company."

19 **SECTION 67.** G.S. 57C-3-20(a) reads as rewritten:

20 "(a) Unless the articles of organization provide otherwise, all members by virtue
21 of their status as members shall be managers of the limited liability company, together
22 with any other persons that may be designated as managers ~~in~~ in, or in accordance with,
23 the articles of organization or a written operating agreement. If the articles of
24 organization provide that all members are not necessarily managers by virtue of their
25 status as members, then those persons designated as managers ~~in~~ in, or in accordance
26 with, the articles of organization or a written operating agreement shall be managers,
27 but for any period during which no such designation has been made or is in effect, all
28 members shall be managers."

29 **SECTION 68.** G.S. 57C-3-22 is amended by adding a new subsection to
30 read:

31 "(f) Except to the extent otherwise provided in the articles of organization or a
32 written operating agreement, each director and executive shall be subject to the same
33 requirements and afforded the same rights as are provided in this section for a manager
34 when the director or executive exercises authority in the management of a limited
35 liability company's affairs that would otherwise be vested in the managers pursuant to
36 G.S. 57C-3-20(b)."

37 **SECTION 69.** G.S. 57C-3-30 reads as rewritten:

38 "**§ 57C-3-30. Liability to third parties of members and managers; parties to**
39 **actions; governing law.**

40 (a) A person who is a ~~member or manager, or both,~~ member, manager, director,
41 executive, or any combination thereof of a limited liability company is not liable for the
42 obligations of a limited liability company solely by reason of being a ~~member or~~

1 ~~manager or both, member, manager, director, or executive~~ and does not become so by
2 participating, in whatever capacity, in the management or control of the business. A
3 ~~member or manager~~ member, manager, director, or executive may, however, become
4 personally liable by reason of ~~his~~ that person's own acts or conduct.

5 (b) A member of a limited liability company is not a proper party to proceedings
6 by or against a limited liability company, except where the object of the proceeding is to
7 enforce a member's right against or liability to the limited liability company.

8 (c) The liability of ~~members and managers~~ members, managers, directors, and
9 executives of a limited liability company organized and existing under this Chapter shall
10 at all times be determined solely and exclusively by this Chapter and the laws of this
11 State.

12 (d) If a conflict arises between the laws of this State and the laws of any other
13 jurisdiction with regard to the liability of a member or manager of a limited liability
14 company organized and existing under this Chapter for the debts, obligations, and
15 liabilities of the limited liability company, this Chapter and the laws of this State shall
16 govern in determining the liability."

17 **SECTION 70.** G.S. 57C-3-31 reads as rewritten:

18 "**§ 57C-3-31. Mandatory indemnification of managers, managers, directors,**
19 **executives, and members.**

20 (a) ~~A~~ Unless otherwise provided in the articles of organization or a written
21 operating agreement, a limited liability company must indemnify every ~~manager~~
22 manager, director, and executive in respect of payments made and personal liabilities
23 reasonably incurred by the ~~manager~~ manager, director, and executive in the authorized
24 conduct of its business or for the preservation of its business or property.

25 (b) ~~Unless limited by its~~ Unless otherwise provided in the articles of
26 ~~organization, organization~~ organization or a written operating agreement, a limited liability company
27 shall indemnify a ~~member or manager~~ member, manager, director, or executive who is
28 wholly successful, on the merits or otherwise, in the defense of any proceeding to which
29 ~~he~~ the person was a party because ~~he~~ the person is or was a ~~member or manager~~
30 member, manager, director, or executive of the limited liability company against
31 reasonable expenses incurred by ~~him~~ the person in connection with the proceeding."

32 **SECTION 71.** G.S. 57C-3-32 reads as rewritten:

33 "**§ 57C-3-32. Limitation of liability of managers, managers, directors, executives,**
34 **and members and permissive indemnification of managers, managers,**
35 **directors, executives, and members; insurance.**

36 (a) Subject to subsection (b) of this section, the articles of organization or a
37 written operating agreement may:

38 (1) Eliminate or limit the personal liability of a ~~manager~~ manager,
39 director, or executive for monetary damages for breach of any duty
40 provided for in G.S. 57C-3-22 (other than liability under G.S.
41 57C-4-07); and

1 (2) Provide for indemnification of a ~~manager or member~~ manager,
2 member, director, or executive for judgments, settlements, penalties,
3 fines, or expenses incurred in a proceeding to which the ~~member or~~
4 ~~manager~~ member, manager, director, or executive is a party because ~~he~~
5 the person is or was a ~~manager or member~~ manager, member, director,
6 or executive. For purposes of this subdivision, the words "expenses",
7 "proceeding", and "party" shall have the meanings set forth in G.S.
8 55-8-50(b).

9 (b) No provision permitted under subsection (a) of this section shall limit,
10 eliminate, or indemnify against the liability of a ~~manager~~ manager, director, or
11 executive for (i) acts or omissions that the ~~manager~~ manager, director, or executive
12 knew at the time of the acts or omissions were clearly in conflict with the interests of
13 the limited liability company, (ii) any transaction from which the ~~manager~~ manager,
14 director, or executive derived an improper personal benefit, or (iii) acts or omissions
15 occurring prior to the date the provision became effective, except that indemnification
16 pursuant to subdivision (2) of subsection (a) of this section may be provided if approved
17 by all the members. As used in this subsection, "improper personal benefit" does not
18 include reasonable compensation or other reasonable incidental benefit for or on
19 account of service as a manager, ~~an~~ director, executive, officer, ~~an~~ employee, an
20 independent contractor, ~~an~~ attorney, or a consultant of the limited liability company.

21 (c) A limited liability company may purchase and maintain insurance on behalf
22 of an individual who is or was a manager, ~~an~~ director, executive, officer, employee, or
23 ~~an~~ agent of the limited liability company, or who, while a manager, ~~an~~ director,
24 executive, officer, employee, or ~~an~~ agent of the limited liability company is or was
25 serving at the request of the limited liability company as a director, ~~an~~ executive,
26 officer, a partner, a member, manager, a trustee, ~~an~~ employee, or an agent of a person,
27 against liability asserted against or incurred by ~~him~~ the person in that capacity or arising
28 from ~~his~~ the person's status as a member, manager, ~~an~~ employee, or an agent, whether or
29 not the limited liability company would have the power to indemnify ~~him~~ the person
30 against the same liability under any provision of this Chapter."

31 **SECTION 72.** G.S. 57C-4-07 reads as rewritten:

32 "**§ 57C-4-07. Liability upon wrongful distribution.**

33 (a) A manager or director who votes for or assents to a distribution in violation of
34 G.S. 57C-4-06 or a written operating agreement is personally liable to the limited
35 liability company for the amount of the distribution that exceeds what could have been
36 distributed without violating G.S. 57C-4-06 or the operating agreement if it is
37 established that the manager or director did not act in compliance with G.S. 57C-3-22.

38 (b) Each manager or director held liable under subsection (a) of this section for a
39 wrongful distribution is entitled to:

40 (1) Contribution from each other manager or director who could be held
41 liable under subsection (a) of this section for the wrongful distribution;
42 and

1 (2) Reimbursement from each member for the amount the member
2 received knowing that the distribution was made in violation of G.S.
3 57C-4-06 or the operating agreement.

4 (c) A proceeding under this section is barred unless it is commenced within three
5 years after the date on which the effect of the distribution is measured under G.S.
6 57C-4-06(c)."

7 **SECTION 73.** G.S. 57C-6-02(2) reads as rewritten:

8 "(2) A member if it is established that (i) ~~the managers or those managers,~~
9 directors, or any other persons in control of the limited liability
10 company are deadlocked in the management of the affairs of the
11 limited liability company, the members are unable to break the
12 deadlock, and irreparable injury to the limited liability company is
13 threatened or being suffered, or the business and affairs of the limited
14 liability company can no longer be conducted to the advantage of the
15 members generally, because of the deadlock; (ii) liquidation is
16 reasonably necessary for the protection of the rights or interests of the
17 complaining member, (iii) the assets of the limited liability company
18 are being misapplied or wasted; or (iv) the articles of organization or a
19 written operating agreement entitles the complaining member to
20 dissolution of the limited liability company; or".

21 **SECTION 74.** G.S. 57C-6-03(c) reads as rewritten:

22 "(c) A limited liability company administratively dissolved under this section may
23 apply to the Secretary of State for reinstatement not later than five years after the
24 effective date of the administrative dissolution. The procedures for reinstatement and for
25 the appeal of any denial of the limited liability company's application for reinstatement
26 shall be the same procedures applicable to business corporations under G.S. 55-14-22,
27 55-14-23, and 55-14-24. The effect of reinstatement of a limited liability company shall
28 be the same as for a business corporation under G.S. 55-14-22."

29 **SECTION 75.** G.S. 57C-6-04(a) reads as rewritten:

30 "(a) Except as otherwise provided in this Chapter, the articles of organization, or a
31 written operating agreement, the managers shall wind up the limited liability company's
32 affairs following its dissolution. If the dissolved limited liability company has no
33 manages, managers, and provision is not otherwise made in the articles of organization
34 or a written operating agreement, the legal representative of or successor to the ~~member~~
35 ~~whose event of withdrawal has resulted in the dissolution may wind up~~ last remaining
36 member may wind up the limited liability company's affairs. The court may wind up the
37 limited liability company's affairs, or appoint a person to wind up its affairs, on
38 application of any member, his legal representative, or assignee."

39 **SECTION 76.** G.S. 57C-6-06(5) reads as rewritten:

40 "(5) Any other information the ~~members or~~ managers filing the articles of
41 dissolution determine."

42 **SECTION 77.** G.S. 57C-6-06.1(5) reads as rewritten:

1 "(5) Any other information the ~~members or~~ managers filing the articles of
2 cancellation determine."

3 **SECTION 78.** G.S. 57C-7-01 reads as rewritten:

4 "**§ 57C-7-01. Law governing.**

5 The laws of the state or other jurisdiction under which a foreign limited liability
6 company is ~~organized~~ formed shall govern its formation, organization, and
7 internal affairs and the liability of its managers and members, regardless of whether the
8 foreign limited liability company procured or should have procured a certificate of
9 authority under this Chapter, and a foreign limited liability company ~~may~~ shall not be
10 denied a certificate of authority by reason of any difference between the laws under
11 which it is ~~organized~~ formed and the laws of this State. A foreign limited liability
12 company with a valid certificate of authority has the same but no greater rights and has
13 the same but no greater privileges as, and is subject to the same duties, restrictions,
14 penalties, and liabilities now or later imposed on, a domestic limited liability company
15 of like character."

16 **SECTION 79.** G.S. 57C-7-04(a) reads as rewritten:

17 "(a) A foreign limited liability company may apply for a certificate of authority to
18 transact business in this State by delivering an application to the Secretary of State for
19 filing. The application must set forth:

- 20 (1) The name of the foreign limited liability company or, if its name is
21 unavailable for use in this State, a name that satisfies the requirements
22 of G.S. 57C-7-06;
23 (2) The name of the state or country under whose law it is ~~organized;~~
24 formed;
25 (3) Its date of ~~organization~~ formation and period of duration;
26 (4) The street address, and the mailing address if different from the street
27 address, of its principal ~~office in the state or country under whose law~~
28 ~~it is organized;~~ office, if any, and the county in which the principal
29 office, if any, is located;
30 (5) The street address, and the mailing address if different from the street
31 address, of its registered office in this State and the name of its
32 registered agent at that office; and
33 (6) The names and usual business addresses of its current managers."

34 **SECTION 80.** G.S. 57C-7-04(b) reads as rewritten:

35 "(b) The foreign limited liability company shall deliver with the completed
36 application a certificate of existence (or a document of similar import) duly
37 authenticated by the Secretary of State or other official having custody of limited
38 liability company records in the state or country under whose law it is ~~organized-~~
39 formed."

40 **SECTION 81.** G.S. 57C-7-05(a)(3) reads as rewritten:

41 "(3) The state or country of its ~~organization.~~ formation."

42 **SECTION 82.** G.S. 57C-7-05(b)(2) reads as rewritten:

1 "(2) The name of the state or country under whose law it is ~~organized;~~
2 formed."

3 **SECTION 83.** G.S. 57C-7-06(b)(1) reads as rewritten:

4 "(1) The name of a corporation, limited partnership, or limited liability
5 company ~~organized~~ formed in this State, or a foreign corporation,
6 foreign limited partnership, or foreign limited liability company
7 authorized to transact business in this State;"

8 **SECTION 84.** G.S. 57C-7-06(c) reads as rewritten:

9 "(c) A foreign limited liability company may apply to the Secretary of State for
10 authorization to use in this State a name that is not distinguishable upon the Secretary of
11 State's records from the name of another limited liability company (~~organized~~ (formed
12 or authorized to transact business in this State). The Secretary of State shall authorize
13 use of the name applied for if:

14 (1) The other person who has or uses the name or who has reserved or
15 registered the name consents to the use in writing and submits an
16 undertaking in form satisfactory to the Secretary of State to change its
17 name to a name that is distinguishable upon the records of the
18 Secretary of State from the name of the applying limited liability
19 company; or

20 (2) The applicant delivers to the Secretary of State a certified copy of a
21 final judgment of a court of competent jurisdiction establishing the
22 applicant's right to use the name applied for in this State."

23 **SECTION 85.** G.S. 57C-7-10(b) reads as rewritten:

24 "(b) Whenever a foreign limited liability company authorized to transact business
25 in this State shall fail to appoint or maintain a registered agent in this State, or whenever
26 its registered agent cannot with due diligence be found at the registered office, then the
27 Secretary of State shall be an agent of the foreign limited liability company upon whom
28 any such process, notice, or demand may be served. Service on the Secretary of State of
29 any such process, notice, or demand shall be made by delivering to and leaving with the
30 Secretary of State or with any clerk ~~having charge of the limited liability company~~
31 ~~department of the Secretary of State's office,~~ authorized by the Secretary of State to
32 accept service of process, duplicate copies of the process, notice, or ~~demand.~~ demand
33 and the fee required by G.S. 57C-1-22(b). In the event any such process, notice, or
34 demand is served on the Secretary of State, State in the manner provided in this
35 subsection, the Secretary of State shall immediately mail one of the copies thereof, by
36 registered or certified mail, return receipt requested, to the foreign limited liability
37 company at its principal office ~~shown in its application for certificate of authority or~~
38 ~~amended certificate of authority or at the address indicated in the latest communication~~
39 ~~received by the Secretary of State from the foreign limited liability company stating the~~
40 ~~current mailing address of its principal office~~ or, if there is no mailing address for the
41 principal office on file, to the foreign limited liability company at its registered office.

1 Service on a foreign limited liability company under this subsection shall be effective
2 for all purposes from and after the date of the service on the Secretary of State."

3 **SECTION 86.** G.S. 57C-7-11(b) reads as rewritten:

4 "(b) A foreign limited liability company authorized to transact business in this
5 State may apply for a certificate of withdrawal by delivering an application to the
6 Secretary of State for filing. The application must set forth:

- 7 (1) The name of the foreign limited liability company and the name of the
8 state or country under whose law it is ~~organized~~; formed;
- 9 (2) That it is not transacting business in this State and that it surrenders its
10 authority to transact business in this State;
- 11 (3) That the foreign limited liability company revokes the authority of its
12 registered agent to accept service of process and consents that service
13 of process in any action or proceeding based upon any cause of action
14 arising in this State, or arising out of business transacted in this State,
15 during the time the foreign limited liability company was authorized to
16 transact business in this State, may thereafter be made on such foreign
17 limited liability company by service thereof on the Secretary of State;
- 18 (4) A mailing address to which the Secretary of State may mail a copy of
19 any process served on ~~him~~ the Secretary of State under subdivision (3)
20 of this subsection; and
- 21 (5) A commitment to ~~notify~~ file with the Secretary of State ~~in the future a~~
22 statement of any subsequent change in its mailing address."

23 **SECTION 87.** G.S. 57C-7-11(d) reads as rewritten:

24 "(d) After the withdrawal of the foreign limited liability company is effective,
25 service of process on the Secretary of State in accordance with ~~subdivision (b)(3)~~
26 subsection (b) of this section ~~is service on the foreign limited liability company.~~ shall be
27 made by delivering to and leaving with the Secretary of State, or any clerk authorized
28 by the Secretary of State to accept service of process, duplicate copies of that process
29 and the fee required by G.S. 57C-1-22(b). Upon receipt of ~~process~~, process in the
30 manner provided in this subsection, the Secretary of State shall mail a copy of the
31 process by registered or certified mail, return receipt requested, to the foreign limited
32 liability company at the mailing address ~~set forth under~~ designated pursuant to
33 subsection (b) of this section."

34 **SECTION 88.** G.S. 57C-7-12(a) reads as rewritten:

35 "(a) Whenever a foreign limited liability company authorized to transact business
36 in this State ceases its separate existence as a result of a statutory merger, consolidation,
37 or conversion permitted by the laws of the state or country under which it was
38 ~~organized~~, formed, or converts into another type of entity as permitted by those laws,
39 the surviving or resulting entity shall apply for a certificate of withdrawal for the foreign
40 limited liability company by delivering to the Secretary of State for filing a copy of the
41 articles of merger, consolidation, or conversion or a certificate reciting the facts of the
42 merger, consolidation, or conversion, duly authenticated by the Secretary of State or

1 other official having custody of limited liability company records in the state or country
2 under the laws of which the foreign limited liability company was ~~organized~~-formed. If
3 the surviving or resulting entity is not authorized to transact business in this State, the
4 articles or certificate must be accompanied by an application which must set forth:

- 5 (1) The name of the foreign limited liability company authorized to
6 transact business in this State, the type of entity and name of the
7 surviving or resulting entity, and a statement that the surviving or
8 resulting entity is not authorized to transact business in this State;
- 9 (2) A statement that the surviving or resulting entity consents that service
10 of process based upon any cause of action arising in this State, or
11 arising out of business transacted in this State, during the time the
12 foreign limited liability company was authorized to transact business
13 in this State, may thereafter be made by service thereof on the
14 Secretary of State;
- 15 (3) A mailing address to which the Secretary of State may mail a copy of
16 any process served on ~~him~~ the Secretary of State under subdivision
17 (a)(2) of this section; and
- 18 (4) A commitment to file with the Secretary of State a statement of any
19 subsequent change in its subsequent mailing address."

20 **SECTION 89.** G.S. 57C-7-12 is amended by adding a new subsection to
21 read:

22 "(c) After the withdrawal of the foreign limited liability company is effective,
23 service of process on the Secretary of State in accordance with subsection (a) of this
24 section shall be made by delivering to and leaving with the Secretary of State, or any
25 clerk authorized by the Secretary of State to accept service of process, duplicate copies
26 of process and the fee required by G.S. 57C-1-22(b). Upon receipt of process in the
27 manner provided in this subsection, the Secretary of State shall immediately mail a copy
28 of the process by registered or certified mail, return receipt requested, to the surviving
29 or resulting entity at the mailing address designated pursuant to subsection (a) of this
30 section."

31 **SECTION 90.** G.S. 57C-8-01(b) reads as rewritten:

32 "(b) The complaint shall allege with particularity the efforts, if any, made by the
33 plaintiff to obtain the action the plaintiff desires from the ~~managers or comparable~~
34 managers, directors, or other applicable authority and the reasons for the plaintiff's
35 failure to obtain the action, or for not making the effort. Whether or not a demand for
36 action was made, if the limited liability company commences an investigation of the
37 charges made in the demand or complaint, the court may stay any proceeding until the
38 investigation is completed."

39 **SECTION 91.** G.S. 57C-8-01(c) reads as rewritten:

40 "(c) Upon motion of the limited liability company, the court may appoint a
41 committee composed of two or more disinterested ~~managers~~ managers, directors,
42 other disinterested persons, acceptable to the limited liability company, to determine

1 whether it is in the best interest of the limited liability company to pursue a particular
2 legal right or remedy. The committee shall report its findings to the court. After
3 considering the report and any other relevant evidence, the court shall determine
4 whether the proceeding should be continued or not."

5 **SECTION 92.** The heading of Part 1 of Article 9A of Chapter 57C of the
6 General Statutes reads as rewritten:

7 "Part 1. ~~Conversions.~~ Conversion to Limited Liability Company."

8 **SECTION 93.** G.S. 57C-9A-01 reads as rewritten:

9 "**§ 57C-9A-01. Conversion.**

10 (a) ~~A domestic limited liability company may convert to a domestic limited~~
11 ~~partnership pursuant to Part 10A of Article 5 of Chapter 59 of the General Statutes.~~

12 (b) ~~A foreign limited liability company, a domestic or foreign limited partnership~~
13 ~~as defined in G.S. 59-102, or any other partnership as defined in G.S. 59-36 whether or~~
14 ~~not formed under the laws of this State (including a registered limited liability~~
15 ~~partnership as defined in G.S. 59-32 and any other limited liability partnership formed~~
16 ~~under a law other than the laws of this State) may convert to a domestic limited liability~~
17 ~~company if:~~

18 (1) ~~The converting business entity complies with the requirements of this~~
19 ~~Part; and~~

20 (2) ~~If the converting business entity is a foreign limited liability company,~~
21 ~~a foreign limited partnership, or other partnership as defined in G.S.~~
22 ~~59-36 whose organization and internal affairs are governed by a law~~
23 ~~other than the laws of this State, the conversion is permitted by the~~
24 ~~laws of the state or country governing the organization and internal~~
25 ~~affairs of the converting business entity and the converting business~~
26 ~~entity complies with those laws.~~

27 A business entity other than a domestic limited liability company may convert to a
28 domestic limited liability company if:

29 (1) The conversion is permitted by the laws of the state or country
30 governing the organization and internal affairs of the converting
31 business entity; and

32 (2) The converting business entity complies with the requirements of this
33 Part and, to the extent applicable, the laws referred to in subdivision
34 (1) of this section."

35 **SECTION 94.** G.S. 57C-9A-02 reads as rewritten:

36 "**§ 57C-9A-02. Plan of conversion.**

37 (a) ~~The holders of the interests in the~~ converting business entity shall approve a
38 written plan of conversion containing:

39 (1) The name of the resulting domestic limited liability company into
40 which the converting business entity shall convert;

1 (1a) The name of the converting business entity, its type of business entity,
2 and the state or country whose laws govern its organization and
3 internal affairs;

4 (2) The terms and conditions of the conversion; and

5 (3) The manner and basis for converting the interests in the converting
6 business entity into interests, obligations, or securities of the resulting
7 domestic limited liability company or into cash or other property in
8 whole or in part.

9 The plan of conversion may also contain other provisions relating to the conversion.

10 (b) ~~In the case of a domestic limited partnership or other partnership as defined in~~
11 ~~G.S. 59-36 whose organization and internal affairs are governed by the laws of this~~
12 ~~State, the plan of conversion must be approved in the manner provided for the approval~~
13 ~~of such a conversion in a written partnership agreement that is binding on all the~~
14 ~~partners or, if there is no such provision, by the unanimous consent of all the partners.~~
15 ~~In the case of a foreign limited liability company, a foreign limited partnership, or other~~
16 ~~partnership as defined in G.S. 59-36 whose organization and internal affairs are~~
17 ~~governed by a law other than the laws of this State, the~~ The plan of conversion must be
18 approved in accordance with the laws of the state or country governing the organization
19 and internal affairs of the converting business entity.

20 (c) After a plan of conversion has been approved as provided in subsection (b) of
21 this section, but before articles of organization for the resulting domestic limited
22 liability company become effective, the plan of conversion may be amended or
23 abandoned to the extent ~~provided in the plan of conversion permitted by the laws that~~
24 govern the organization and internal affairs of the converting business entity."

25 **SECTION 95.** G.S. 57C-9A-03 reads as rewritten:

26 **"§ 57C-9A-03. Filing of articles of organization by converting business entity.**

27 (a) After a plan of conversion has been approved by the converting business
28 entity as provided in G.S. 57C-9A-02, the converting business entity shall deliver
29 articles of organization to the Secretary of State for filing. In addition to the matters
30 required or permitted by G.S. 57C-2-21, the articles of organization shall ~~state:~~ contain
31 articles of conversion stating:

32 (1) That the domestic limited liability company is being formed pursuant
33 to a conversion of another business entity;

34 (2) The name of the converting business entity, its type of business entity,
35 and the state or country whose laws govern its organization and
36 internal affairs; and

37 (3) That a plan of conversion has been approved by the converting
38 business entity as required by law.

39 If the plan of conversion is abandoned after the articles of organization have been
40 filed with the Secretary of State but before the articles of organization become effective,
41 the converting business entity ~~promptly~~ shall deliver to the Secretary of State for filing
42 prior to the time the articles of organization become effective an amendment to the

1 ~~articles of organization reflecting the abandonment of the plan of conversion.~~
2 ~~withdrawing the articles of organization.~~

3 (b) The conversion takes effect when the articles of organization become
4 effective.

5 ~~(c) The converting business entity shall furnish a copy of the plan of conversion,~~
6 ~~on request and without cost, to any member or partner (whether general or limited) of~~
7 ~~the converting business entity.~~

8 (d) Certificates of conversion shall also be registered as provided in G.S.
9 47-18.1."

10 **SECTION 96.** Article 9A of Chapter 57C of the General Statutes is
11 amended by adding a new Part to read:

12 "Part 1A. Conversion of Limited Liability Company.

13 **"§ 57C-9A-10. Conversion.**

14 A domestic limited liability company may convert to a different business entity if:

- 15 (1) The conversion is permitted by the laws of the state or country
16 governing the organization and internal affairs of such other business
17 entity; and
18 (2) The converting domestic limited liability company complies with the
19 requirements of this Part and, to the extent applicable, the laws
20 referred to in subdivision (1) of this section.

21 **"§ 57C-9A-11. Plan of conversion.**

22 (a) The converting domestic limited liability company shall approve a written
23 plan of conversion containing:

- 24 (1) The name of the converting domestic limited liability company;
25 (2) The name of the resulting business entity into which the domestic
26 limited liability company shall convert, its type of business entity, and
27 the state or country whose laws govern its organization and internal
28 affairs;
29 (3) The terms and conditions of the conversion; and
30 (4) The manner and basis for converting the interests in the domestic
31 limited liability company into interests, obligations, or securities of the
32 resulting business entity or into cash or other property in whole or in
33 part.

34 The plan of conversion may contain other provisions relating to the conversion.

35 (b) The plan of conversion shall be approved by the domestic limited liability
36 company in the manner provided for the approval of such conversion in its articles of
37 organization or a written operating agreement or, if there is no such provision, by the
38 unanimous consent of its members. If any member of the converting domestic limited
39 liability company has or will have personal liability for any existing or future obligation
40 of the resulting business entity solely as a result of holding an interest in the resulting
41 business entity, then in addition to the requirements of the preceding sentence, approval
42 of the plan of conversion by the domestic limited liability company shall require the

1 consent of that member. The converting domestic limited liability company shall
2 provide a copy of the plan of conversion to each member of the converting domestic
3 limited liability company at the time provided in its articles of organization or a written
4 operating agreement or, if there is no such provision, prior to its approval of the plan of
5 conversion.

6 (c) After a plan of conversion has been approved by a domestic limited liability
7 company but before the articles of conversion become effective, the plan of conversion
8 (i) may be amended as provided in the plan of conversion or (ii) may be abandoned,
9 subject to any contractual rights, as provided in the plan of conversion, articles of
10 organization, or written operating agreement or, if not so provided, as determined by the
11 managers of the domestic limited liability company in accordance with G.S. 57C-3-
12 20(b).

13 **"§ 57C-9A-12. Articles of conversion.**

14 (a) After a plan of conversion has been approved by the converting domestic
15 limited liability company as provided in G.S. 57C-9A-11, the converting domestic
16 limited liability company shall deliver articles of conversion to the Secretary of State for
17 filing. The articles of conversion shall state:

18 (1) The name of the converting domestic limited liability company;

19 (2) The name of the resulting business entity, its type of business entity,
20 the state or country whose laws govern its organization and internal
21 affairs, and, if the resulting business entity is not authorized to transact
22 business or conduct affairs in this State, a designation of its mailing
23 address and a commitment to file with the Secretary of State a
24 statement of any subsequent change in its mailing address; and

25 (3) That a plan of conversion has been approved by the domestic limited
26 liability company as required by law.

27 If the domestic limited liability company is converting to a business entity whose
28 formation or whose status as a registered limited liability partnership, as defined in G.S.
29 59-32, or limited liability limited partnership, as defined in G.S. 59-102, requires the
30 filing of a document with the Secretary of State, then the articles of conversion shall be
31 included as part of that document instead of separately filing the articles of conversion.

32 If the plan of conversion is abandoned after the articles of conversion have been
33 filed with the Secretary of State but before the articles of conversion become effective,
34 the converting domestic limited liability company shall deliver to the Secretary of State
35 for filing prior to the time the articles of conversion become effective an amendment of
36 the articles of conversion withdrawing the articles of conversion.

37 (b) The conversion takes effect when the articles of conversion become effective.

38 (c) Certificates of conversion shall also be registered as provided in G.S. 47-18.1.

39 **"§ 57C-9A-13. Effects of conversion.**

40 (a) When the conversion takes effect:

- 1 (1) The converting domestic limited liability company ceases its prior
2 form of organization and continues in existence as the resulting
3 business entity;
- 4 (2) The title to all real estate and other property owned by the converting
5 domestic limited liability company continues vested in the resulting
6 business entity without reversion or impairment;
- 7 (3) All liabilities of the converting domestic limited liability company
8 continue as liabilities of the resulting business entity;
- 9 (4) A proceeding pending by or against the converting domestic limited
10 liability company may be continued as if the conversion did not occur;
11 and
- 12 (5) The interests in the converting domestic limited liability company that
13 are to be converted into interests, obligations, or securities of the
14 resulting business entity or into the right to receive cash or other
15 property are thereupon so converted, and the former holders of
16 interests in the converting domestic limited liability company are
17 entitled only to the rights provided in the plan of conversion.

18 The conversion shall not affect the liability or absence of liability of any holder of an
19 interest in the converting domestic limited liability company for any acts, omissions, or
20 obligations of the converting domestic limited liability company made or incurred prior
21 to the effectiveness of the conversion. The cessation of the existence of the converting
22 domestic limited liability company in its form of organization as a domestic limited
23 liability company in the conversion shall not constitute a dissolution or termination of
24 the converting domestic limited liability company.

25 (b) If the resulting business entity is not a domestic corporation or a domestic
26 limited partnership when the conversion takes effect, the resulting business entity is
27 deemed:

- 28 (1) To agree that it may be served with process in this State for
29 enforcement of (i) any obligation of the converting domestic limited
30 liability company and (ii) any obligation of the resulting business
31 entity arising from the conversion; and
- 32 (2) To have appointed the Secretary of State as its agent for service of
33 process in any such proceeding. Service on the Secretary of State of
34 any such process shall be made by delivering to and leaving with the
35 Secretary of State, or with any clerk authorized by the Secretary of
36 State to accept service of process, duplicate copies of the process and
37 the fee required by G.S. 57C-1-22(b). Upon receipt of service of
38 process on behalf of a resulting business entity in the manner provided
39 for in this section, the Secretary of State shall immediately mail a copy
40 of the process by registered or certified mail, return receipt requested,
41 to the resulting business entity. If the resulting business entity is
42 authorized to transact business or conduct affairs in this State, the

1 address for mailing shall be its principal office designated in the latest
2 document filed with the Secretary of State that is authorized by law to
3 designate the principal office or, if there is no principal office on file,
4 its registered office. If the resulting business entity is not authorized to
5 transact business or conduct affairs in this State, the address for
6 mailing shall be the mailing address designated pursuant to G.S. 57C-
7 9A-12(a)(2)."

8 **SECTION 97.** G.S. 57C-9A-21(b) reads as rewritten:

9 "(b) In the case of a merging domestic limited liability company, the plan of
10 merger must be approved in the manner provided in its articles of organization or a
11 written operating agreement for approval of a merger with the type of business entity
12 contemplated in the plan of merger, or, if there is no provision, by the unanimous
13 consent of its members. If any member of a merging domestic limited liability company
14 will have personal liability for any existing or future obligation of the surviving
15 business entity solely as a result of holding an interest in the surviving business entity,
16 then in addition to the requirements of the preceding sentence, approval of the plan of
17 merger by the domestic limited liability company shall require the consent of each such
18 member. In the case of each other merging business entity, the plan of merger must be
19 approved in accordance with the laws of the state or country governing the organization
20 and internal affairs of the merging business entity."

21 **SECTION 98.** G.S. 57C-9A-22(a) reads as rewritten:

22 "(a) After a plan of merger has been approved by each merging domestic limited
23 liability company and each other merging business entity as provided in G.S.
24 57C-9A-21, the surviving business entity shall deliver articles of merger to the
25 Secretary of State for filing. The articles of merger shall set forth:

- 26 (1) The plan of merger;
- 27 (2) For each merging business entity, its name, type of business entity, and
28 the state or country whose laws govern its organization and internal
29 affairs;
- 30 (3) The name ~~and address~~ of the surviving business entity; entity and, if
31 the surviving business entity is not authorized to transact business or
32 conduct affairs in this State, a designation of its mailing address and a
33 commitment to file with the Secretary of State a statement of any
34 subsequent change in its mailing address;
- 35 (4) A statement that the plan of merger has been approved by each
36 merging business entity in the manner required by law; and
- 37 (5) The effective date and time of the merger if it is not to be effective at
38 the time of filing of the articles of merger.

39 If the plan of merger is amended or abandoned after the articles of merger have been
40 filed but before the articles of merger become effective, the surviving business entity
41 promptly shall deliver to the Secretary of State for filing prior to the time the articles of

1 merger become effective an amendment to the articles of merger reflecting the
2 amendment or abandonment of the plan of merger."

3 **SECTION 99.** G.S. 57C-9A-23(b) reads as rewritten:

4 "(b) If the surviving business entity is not a domestic limited liability company, a
5 domestic corporation, a domestic nonprofit corporation, or a domestic limited
6 ~~partnership~~ partnership, when the merger takes ~~effect~~, effect the surviving business
7 entity is deemed:

- 8 (1) To agree that it may be served with process in this State in any
9 proceeding for enforcement of (i) any obligation of any merging
10 domestic limited liability company, domestic corporation, domestic
11 nonprofit corporation, domestic limited partnership, or other
12 partnership as defined in G.S. 59-36 that is formed under the laws of
13 this State, (ii) the rights of dissenting shareholders of any merging
14 domestic corporation under Article 13 of Chapter 55 of the General
15 Statutes, and (iii) any obligation of the surviving business entity
16 arising from the merger; and
- 17 (2) To have appointed the Secretary of State as its registered agent for
18 service of process in any such proceeding. Service on the Secretary of
19 State of any such process shall be made by delivering to and leaving
20 with the Secretary of State or with any clerk authorized by the
21 Secretary of State to accept service of process, duplicate copies of such
22 process and the fee required by G.S. 57C-1-22(b). Upon receipt of
23 service of process on behalf of a surviving business entity in the
24 manner provided for in this section, the Secretary of State shall
25 immediately mail a copy of the process by registered or certified mail,
26 return receipt requested, to the surviving business entity. If the
27 surviving business entity is authorized to transact business or conduct
28 affairs in this State, the address for mailing shall be its principal office
29 designated in the latest document filed with the Secretary of State that
30 is authorized by law to designate the principal office or, if there is no
31 principal office on file, its registered office. If the surviving business
32 entity is not authorized to transact business or conduct affairs in this
33 State, the address for mailing shall be the mailing address designated
34 pursuant to ~~subdivision (3) of subsection (d) of this section.~~ G.S. 57C-
35 9A-22(a)(3)."

36 **SECTION 100.** G.S. 57C-10-02 reads as rewritten:

37 "**§ 57C-10-02. Applicability of provisions to foreign and interstate commerce.**

38 The provisions of this Chapter shall apply to determine the rights and obligations of
39 a limited liability company ~~organized~~ formed hereunder in commerce with foreign
40 nations and among the several states, except as prohibited by law."

41 **SECTION 101.** G.S. 57C-10-06 reads as rewritten:

42 "**§ 57C-10-06. Income taxation.**

1 A limited liability company, a foreign limited liability company authorized to
2 transact business in this State, and a member of one of these companies are subject to
3 taxation under Article 4 of Chapter 105 of the General Statutes in accordance with their
4 classification for federal income tax purposes. Accordingly, if a limited liability
5 company or a foreign limited liability company authorized to transact business in this
6 State is classified for federal income tax purposes as a ~~corporation, the company is C~~
7 corporation, as defined in G.S. 105-131(b)(2), or an S corporation, as defined in G.S.
8 105-131(b)(8), the company and its members are subject to tax under Article 4 of
9 Chapter 105 of the General Statutes to the same extent as a ~~corporation. C corporation~~
10 or an S corporation, as the case may be, and its shareholders. If a limited liability
11 company or a foreign limited liability company authorized to transact business in this
12 State is classified for federal income tax purposes as a partnership, the company and its
13 members are subject to tax under Article 4 of Chapter 105 of the General Statutes to the
14 same extent as a partnership and its members. If a limited liability company or a foreign
15 limited liability company authorized to transact business in this State is classified for
16 federal income tax purposes as other than a corporation or a partnership, the company
17 and its members are subject to tax under Article 4 of Chapter 105 of the General
18 Statutes in a manner consistent with that classification. This section does not require a
19 limited liability company or a foreign limited liability company to obtain an
20 administrative ruling from the Internal Revenue Service on its classification under the
21 Internal Revenue Code."

22 **SECTION 102.** G.S. 57C-10-07 reads as rewritten:

23 **"§ 57C-10-07. Intent.**

24 It is the intent of the General Assembly that the legal existence of limited liability
25 companies ~~organized~~ formed under this Chapter be recognized outside the boundaries of
26 this State and that, subject to any reasonable requirement of registration, a domestic
27 limited liability company transacting business outside this State be granted full faith and
28 credit under Section 1 of Article IV of the Constitution of the United States."

29 **PART IV. AMENDMENTS TO THE LAW GOVERNING PARTNERSHIPS.**

30 **SECTION 103.** G.S. 59-32 reads as rewritten:

31 **"§ 59-32. Definition of terms.**

32 As used in this Chapter, except as otherwise defined in Article 5 of this Chapter for
33 purposes of that Article, unless the context otherwise requires:

- 34 (01) 'Act' means the North Carolina Uniform Partnership Act and refers to
35 all provisions therein.
- 36 (1) 'Bankrupt' means bankrupt under the Federal Bankruptcy Act or
37 insolvent under any State insolvent act.
- 38 (2) 'Business' means every trade, occupation, or profession.
- 39 (3) 'Conveyance' means every assignment, lease, mortgage, or
40 encumbrance.
- 41 (4) 'Court' means every court and judge having jurisdiction in the case.
- 42 (4a) 'Domestic corporation' has the same meaning as in G.S. 55-1-40.

- 1 (4b) 'Domestic limited liability company' has the same meaning as in G.S.
2 57C-1-03.
- 3 (4c) 'Domestic limited partnership' has the same meaning as in G.S. 59-
4 102.
- 5 (4d) 'Domestic nonprofit corporation' means a corporation as defined in
6 G.S. 55A-1-40.
- 7 (4e) 'Foreign corporation' has the same meaning as in G.S. 55-1-40.
- 8 (4f) 'Foreign limited liability company' has the same meaning as in G.S.
9 57C-1-03.
- 10 ~~(4a)~~(4g) 'Foreign limited liability partnership' means a partnership that (i) is
11 formed under laws other than the laws of this State, and (ii) has the
12 status of a limited liability partnership or registered limited liability
13 partnership under those laws.
- 14 (4h) 'Foreign limited partnership' has the same meaning as in G.S. 59-102.
- 15 (4i) 'Foreign nonprofit corporation' means a foreign corporation as defined
16 in G.S. 55A-1-40 that is a nonprofit corporation as defined in G.S.
17 55A-1-40.
- 18 (5) 'Person' means individuals, partnerships, corporations, limited liability
19 companies, and other associations.
- 20 (5a) 'Principal office' means the office (in or out of this State) where the
21 principal executive offices of a registered limited liability partnership
22 or a foreign limited liability partnership are located, as designated in
23 its most recent annual report filed with the Secretary of State or, if no
24 annual report has yet been filed, in its application for registration as a
25 registered limited liability partnership or foreign limited liability
26 partnership.
- 27 (6) 'Real property' means land and any interest or estate in land.
- 28 (7) 'Registered limited liability partnership' means a partnership that is
29 registered under G.S. 59-84.2 and complies with G.S. 59-84.3."

30 **SECTION 104.** Part 1 of Article 2 of Chapter 59 of the General Statutes is
31 amended by adding a new section to read:

32 **"§ 59-35.1. Filing of documents.**

33 (a) To be entitled to filing by the Secretary of State, a document submitted
34 pursuant to this Act shall meet all of the following requirements:

- 35 (1) The document shall contain the information required by this Act. It
36 may contain other information as well.
- 37 (2) The document shall be typewritten or printed.
- 38 (3) The document shall be in the English language.
- 39 (4) A document submitted by a partnership other than a domestic or
40 foreign limited partnership shall be executed by a general partner of
41 the partnership. A document submitted by any other type of entity
42 other than a partnership shall be executed by a person authorized to

1 execute documents (i) pursuant to G.S. 55-1-20(f) if the entity is a
2 domestic or foreign corporation, (ii) pursuant to G.S. 55A-1-20(f) if
3 the entity is a domestic or foreign nonprofit corporation, (iii) pursuant
4 to G.S. 57C-1-20(f) if the entity is a domestic or foreign limited
5 liability company, or (iv) pursuant to G.S. 59-204 if the entity is a
6 domestic or foreign limited partnership.

7 (5) The person executing the document shall sign it and state beneath or
8 opposite the person's signature the person's name and the capacity in
9 which the person signs. Any signature on the document may be a
10 facsimile. The document may, but need not, contain an
11 acknowledgment, verification, or proof.

12 (6) The document shall be delivered to the office of the Secretary of State
13 for filing and shall be accompanied by one exact or conformed copy
14 and by the required filing fee.

15 (b) A partnership may correct a document filed by the Secretary of State pursuant
16 to this Act if the document (i) contains a statement that is incorrect and was incorrect
17 when the document was filed or (ii) was defectively executed, attested, sealed, verified,
18 or acknowledged.

19 A document is corrected by:

20 (1) Preparing articles of correction that (i) describe the document,
21 including its filing date, or have attached to them a copy of the
22 document, (ii) specify the incorrect statement and the reason it is
23 incorrect or the manner in which the execution was defective, and (iii)
24 correct the incorrect statement or defective execution; and

25 (2) Delivering the articles of correction to the Secretary of State for filing,
26 accompanied by one exact or conformed copy and the required filing
27 fee.

28 Articles of correction are effective on the effective date of the document that is
29 corrected except as to persons relying on the uncorrected document and adversely
30 affected by the correction. As to those persons, articles of correction are effective when
31 filed.

32 (c) The Secretary of State may adopt and furnish on request forms for:

33 (1) An application for registration as a registered limited liability
34 partnership;

35 (2) Cancellation of registration as a registered limited liability partnership;

36 (3) Application for registration as a foreign limited liability partnership;
37 and

38 (4) Cancellation of registration as a foreign limited liability partnership.

39 If the Secretary of State so requires, use of these forms is mandatory.

40 (d) The Secretary of State may adopt and furnish on request forms for other
41 documents required or permitted to be filed by this Act, but their use is not mandatory.

(e) The Secretary of State shall collect the following fees when the documents described in this subsection are submitted by a partnership to the Secretary of State for filing:

	<u>Document</u>	<u>Fee</u>
(1)	<u>Registered limited liability partnership's or foreign limited liability partnership's statement of change of registered agent or registered office or both</u>	<u>\$5.00</u>
(2)	<u>Agent's statement of change of registered office for each affected registered limited liability partnership or foreign limited liability partnership</u>	<u>5.00</u>
(3)	<u>Agent's statement of resignation</u>	<u>No Fee</u>
(4)	<u>Designation of registered agent or registered office or both</u>	<u>5.00</u>
(5)	<u>Articles of conversion (other than articles of conversion included as part of another document)</u>	<u>50.00</u>
(6)	<u>Articles of merger</u>	<u>50.00</u>
(7)	<u>Application for registration as a registered limited liability partnership</u>	<u>125.00</u>
(8)	<u>Certificate of amendment of registration as a registered limited liability partnership</u>	<u>25.00</u>
(9)	<u>Cancellation of registration as a registered limited liability partnership</u>	<u>25.00</u>
(10)	<u>Application for registration as a foreign limited liability partnership</u>	<u>125.00</u>
(11)	<u>Certificate of amendment of registration as a foreign limited liability partnership</u>	<u>25.00</u>
(12)	<u>Cancellation of registration as a foreign limited liability partnership</u>	<u>25.00</u>
(13)	<u>Application for certificate of withdrawal by reason of merger, consolidation, or conversion</u>	<u>10.00</u>
(14)	<u>Annual report</u>	<u>200.00</u>
(15)	<u>Articles of correction</u>	<u>10.00</u>
(16)	<u>Any other document required or permitted to be filed pursuant to this Act</u>	<u>10.00</u>
(17)	<u>Advisory review of a document</u>	<u>200.00</u>

(f) The Secretary of State shall collect a fee of ten dollars (\$10.00) each time process is served on the Secretary of State under this Act. The party to the proceeding

1 causing service of process is entitled to recover this fee as costs if the party prevails in
2 the proceeding.

3 (g) The Secretary of State shall collect the following fees for copying,
4 comparing, and certifying a copy of a document filed pursuant to this Act:

5 (1) One dollar (\$1.00) a page for copying or comparing a copy to the
6 original; and

7 (2) Five dollars (\$5.00) for the certificate.

8 (h) The Secretary of State shall guarantee the expedited filing of a document
9 upon receipt of the document in proper form and the payment of the required filing fee.
10 The Secretary of State may collect the following additional fees for the expedited filing
11 of a document received in good form:

12 (1) Two hundred dollars (\$200.00) for the filing by the end of the same
13 business day of a document received by 12:00 noon Eastern Standard
14 Time; and

15 (2) One hundred dollars (\$100.00) for the filing of a document within 24
16 hours after receipt, excluding weekends and holidays.

17 The Secretary of State shall not collect the fees allowed in this subsection unless the
18 person submitting the document for filing requests an expedited filing and is informed
19 by the Secretary of State of the fees prior to the filing of the document.

20 (i) Upon request, the Secretary of State shall provide for the review of a
21 document prior to its submission for filing to determine whether it satisfies the
22 requirements of this Act. Submission of a document for review shall be accompanied by
23 the proper fee and shall be in accordance with procedures adopted by rule by the
24 Secretary of State. The advisory review shall be completed within 24 hours after
25 submission, excluding weekends and holidays, unless the person submitting the
26 document is otherwise notified in accordance with procedures adopted by rule by the
27 Secretary of State fixing priority between submissions under this subsection and filings
28 under subsection (h) of this section. Upon completion of the advisory review, the
29 Secretary of State shall notify the person submitting the document of any deficiencies in
30 the document that would prevent its filing.

31 (j) Except as provided in this subsection and in subsection (b) of this section, a
32 document accepted for filing is effective:

33 (1) At the time of filing on the date it is filed, as evidenced by the
34 Secretary of State's date and time endorsement on the original
35 document; or

36 (2) At the time specified in the document as its effective time on the date
37 it is filed.

38 A document may specify a delayed effective time and date, and if it does so the
39 document becomes effective at the time and date specified. If a delayed effective date
40 but no time is specified, the document is effective at 11:59:59 P.M. on that date. A
41 delayed effective date for a document shall not be later than the 90th day after the date it
42 is filed.

1 The fact that a document has become effective under this subsection does not
2 determine its validity or invalidity or the correctness or incorrectness of the information
3 contained in the document.

4 (k) If a document delivered to the office of the Secretary of State for filing
5 satisfies the requirements of this Act, the Secretary of State shall file it. Documents filed
6 with the Secretary of State pursuant to this Act may be maintained by the Secretary
7 either in their original form or in photographic, microfilm, optical disk media, or other
8 reproduced form. The Secretary may make reproductions of documents filed under this
9 Act, or under any predecessor act, by photographic, microfilm, optical disk media, or
10 other means of reproduction and may destroy the originals of those documents
11 reproduced.

12 The Secretary of State files a document by stamping or otherwise endorsing 'Filed',
13 together with the Secretary of State's name and official title and the date and time of
14 filing, on both the original and the document copy. After filing a document, the
15 Secretary of State shall deliver the document copy to the submitting business entity or
16 its representative.

17 If the Secretary of State refuses to file a document, the Secretary of State shall return
18 it to the submitting business entity or its representative within five days after the
19 document was received, together with a brief, written explanation of the reason for
20 refusal. The Secretary of State may correct apparent errors and omissions on a
21 document submitted for filing if authorized to make the corrections by the person
22 submitting the document for filing. Prior to making the correction, the Secretary shall
23 confirm the authorization to make the corrections according to procedures adopted by
24 rule.

25 The Secretary of State's duty is to review and file documents that satisfy the
26 requirements of this Act. The Secretary of State's filing or refusing to file a document
27 does not:

- 28 (1) Affect the validity or invalidity of the document in whole or in part;
- 29 (2) Relate to the correctness or incorrectness of information contained in
30 the document; or
- 31 (3) Create a presumption that the document is valid or invalid or that
32 information contained in the document is correct or incorrect.

33 (l) If the Secretary of State refuses to file a document delivered to the Secretary
34 of State's office for filing, the person tendering the document for filing may, within 30
35 days after the refusal, appeal the refusal to the Superior Court of Wake County. The
36 appeal is commenced by filing a petition with the court and with the Secretary of State
37 requesting the court to compel the Secretary of State to file the document. The petition
38 shall have attached to it the document to be filed and the Secretary of State's explanation
39 for the refusal to file. The appeal to the Superior Court is not governed by Chapter 150B
40 of the General Statutes, the Administrative Procedure Act, and the court shall
41 determine, based upon what is appropriate under the circumstances, any further notice
42 and opportunity to be heard.

1 Upon consideration of the petition and any response made by the Secretary of State,
2 the court may, prior to entering final judgment, order the Secretary of State to file the
3 document or take other action the court considers appropriate.

4 The court's final decision may be appealed as in other civil proceedings.

5 (m) A certificate attached to a copy of a document filed by the Secretary of State,
6 bearing the Secretary of State's signature, which may be in facsimile, and the seal of
7 office and certifying that the copy is a true copy of the document, is conclusive evidence
8 that the original document is on file with the Secretary of State. A photographic,
9 microfilm, optical disk media, or other reproduced copy of a document filed pursuant to
10 this Act or any predecessor act, when certified by the Secretary, shall be considered an
11 original for all purposes and is admissible in evidence in like manner as an original.

12 (n) A person commits an offense if the person signs a document the person
13 knows is false in any material respect with intent that the document be delivered to the
14 Secretary of State for filing. An offense under this subsection is a Class 1 misdemeanor.

15 (o) Whenever title to real property in this State held by a partnership is vested by
16 operation of law in another entity upon merger, consolidation, or conversion of the
17 partnership, a certificate reciting the merger, consolidation, or conversion shall be
18 recorded in the office of the register of deeds of the county where the property is
19 located, or if the property is located in more than one county, then in each county where
20 any portion of the property is located.

21 The Secretary of State shall adopt uniform certificates to be furnished for
22 registration in accordance with this subsection. In the case of a partnership formed
23 under a law other than the laws of this State, a similar certificate by any competent
24 authority of the jurisdiction of organization may be registered in accordance with this
25 subsection.

26 The certificate required by this subsection shall be recorded by the register of deeds
27 in the same manner as deeds, and for the same fees, but no formalities as to
28 acknowledgment, probate, or approval by any other officer shall be required. The
29 former name of the partnership holding title to the real property before the merger,
30 consolidation, or conversion shall appear in the 'Grantor' index, and the name of the
31 other entity holding title to the real property by virtue of the merger, consolidation, or
32 conversion shall appear in the 'Grantee' index."

33 **SECTION 105.(a)** Chapter 59 of the General Statutes is amended by
34 recodifying Part 7 of Article 2 as a separate new Article to read:

35 "Article 2A.

36 "Conversion and Merger."

37 **SECTION 105.(b)** G.S. 59-73.2, 59-73.3, 59-73.4, 59-73.5, and 59-73.6 are
38 recodified as G.S. 59-73.20, 59-73.30, 59-73.31, 59-73.32, and 59-73.33, respectively,
39 in Article 2A of Chapter 59 of the General Statutes, as enacted by this act.

40 **SECTION 105.(c)** G.S. 59-73.7 is repealed.

1 **SECTION 106.** Article 2A of Chapter 59 of the General Statutes, as enacted
 2 by this act, is amended by adding a new Part to read as follows and to include current
 3 G.S. 59-73.1 in Part 1:

4 "Part 1. General Provisions."

5 **SECTION 107.** G.S. 59-73.1 reads as rewritten:

6 "§ 59-73.1. Definitions.

7 As used in this ~~Part~~ Article:

- 8 (1) "Business entity" means a domestic corporation ~~as defined in G.S. 55-~~
 9 ~~1-40~~ (including a professional corporation as defined in G.S. 55B-2), a
 10 foreign corporation ~~as defined in G.S. 55-1-40~~ (including a foreign
 11 professional corporation as defined in G.S. 55B-16), a domestic or
 12 foreign nonprofit ~~corporation~~ corporation, as defined in G.S. 55A-1-
 13 ~~40,~~ a domestic or foreign limited liability ~~company~~ as defined in G.S.
 14 ~~57C-1-03,~~ company, a domestic or foreign limited ~~partnership~~
 15 partnership, as defined in G.S. 59-102, a domestic partnership, or any
 16 other ~~partnership as defined in G.S. 59-36~~ formed under a law other
 17 ~~than the laws of this State (including a limited liability~~ partnership).
 18 ~~partnership).~~
 19 (2) "Domestic partnership" means a partnership as defined in G.S. 59-36
 20 that is formed under the laws of this State, including a registered
 21 limited liability ~~partnership~~ partnership, as defined in G.S. 59-32, but
 22 excluding a domestic limited ~~partnership as defined in G.S. 59-~~
 23 ~~102.~~ partnership.
 24 (3) "Partnership" means a partnership as defined in G.S. 59-36 whether or
 25 not formed under the laws of this State including a registered limited
 26 liability ~~partnership~~ and any other a foreign limited liability
 27 ~~partnership formed under a law other than the laws of this State~~
 28 partnership, but excluding a domestic limited partnership as defined in
 29 G.S. 59-102 and a foreign limited ~~partnership as defined in G.S. 59-~~
 30 ~~102.~~ partnership."

31 **SECTION 108.** Article 2A of Chapter 59 of the General Statutes, as enacted
 32 by this act, is amended by adding a new Part to read:

33 "Part 2. Conversion to Domestic Partnership.

34 "§ 59-73.10. Conversion.

35 A business entity other than a domestic partnership may convert to a domestic
 36 partnership if:

- 37 (1) The conversion is permitted by the laws of the state or country
 38 governing the organization and internal affairs of the converting
 39 business entity; and
 40 (2) The converting business entity complies with the requirements of this
 41 Part and, to the extent applicable, the laws referred to in subdivision
 42 (1) of this section.

1 **"§ 59-73.11. Plan of conversion.**

2 (a) The converting business entity shall approve a written plan of conversion
3 containing:

4 (1) The name of the converting business entity, its type of business entity,
5 and the state or country whose laws govern its organization and
6 internal affairs;

7 (2) The name of the resulting domestic partnership into which the
8 converting business entity shall convert;

9 (3) The terms and conditions of the conversion; and

10 (4) The manner and basis for converting the interests in the converting
11 business entity into interests, obligations, or securities of the resulting
12 domestic partnership or into cash or other property in whole or in part.

13 The plan of conversion may contain other provisions relating to the conversion.

14 (b) The plan of conversion shall be approved in accordance with the laws of the
15 state or country governing the organization and internal affairs of the converting
16 business entity.

17 (c) After a plan of conversion has been approved as provided in subsection (b) of
18 this section but before the articles of conversion to domestic partnership for the
19 resulting domestic partnership become effective, the plan of conversion may be
20 amended or abandoned to the extent permitted by the laws that govern the organization
21 and internal affairs of the converting business entity.

22 **"§ 59-73.12. Filing of articles of conversion by converting business entity.**

23 (a) After a plan of conversion has been approved by the converting business
24 entity as provided in G.S. 59-73.11, the converting business entity shall deliver articles
25 of conversion to the Secretary of State for filing. The articles of conversion shall state:

26 (1) That the domestic partnership is being formed pursuant to a conversion
27 of another business entity;

28 (2) The name of the resulting domestic partnership, a designation of its
29 mailing address, and a commitment to file with the Secretary of State a
30 statement of any subsequent change in its mailing address;

31 (3) The name of the converting business entity, its type of business entity,
32 and the state or country whose laws govern its organization and
33 internal affairs; and

34 (4) That a plan of conversion has been approved by the converting
35 business entity in the manner required by law.

36 If the resulting domestic partnership is to be a registered limited liability partnership
37 when the conversion takes effect, then instead of separately filing the articles of
38 conversion, the articles of conversion shall be included as part of the application for
39 registration filed pursuant to G.S. 59-84.2 in addition to the matters otherwise required
40 or permitted by law.

41 If the plan of conversion is abandoned after the articles of conversion have been
42 filed with the Secretary of State but before the articles of conversion become effective,

1 the converting business entity shall deliver to the Secretary of State for filing prior to
2 the time the articles of conversion become effective an amendment to the articles of
3 conversion withdrawing the articles of conversion to domestic partnership.

4 (b) The conversion takes effect when the articles of conversion become effective.

5 (c) Certificates of conversion shall also be registered as provided in G.S. 47-18.1.

6 **"§ 59-73.13. Effects of conversion.**

7 (a) When the conversion takes effect:

8 (1) The converting business entity ceases its prior form of organization
9 and continues in existence as the resulting domestic partnership;

10 (2) The title to all real estate and other property owned by the converting
11 business entity continues vested in the resulting domestic partnership
12 without reversion or impairment;

13 (3) All liabilities of the converting business entity continue as liabilities of
14 the resulting domestic partnership;

15 (4) A proceeding pending by or against the converting business entity may
16 be continued as if the conversion did not occur; and

17 (5) The interests in the converting business entity that are to be converted
18 into interests, obligations, or securities of the resulting domestic
19 partnership or into the right to receive cash or other property are
20 thereupon so converted, and the former holders of interests in the
21 converting business entity are entitled only to the rights provided in the
22 plan of conversion.

23 The conversion shall not affect the liability or absence of liability of any holder of an
24 interest in the converting business entity for any acts, omissions, or obligations of the
25 converting business entity made or incurred prior to the effectiveness of the conversion.
26 The cessation of the existence of the converting business entity in its prior form of
27 organization in the conversion shall not constitute a dissolution or termination of the
28 converting business entity.

29 (b) When the conversion takes effect, the resulting domestic partnership is
30 deemed:

31 (1) To agree that it may be served with process in this State for
32 enforcement of (i) any obligation of the converting business entity and
33 (ii) any obligation of the resulting domestic partnership arising from
34 the conversion; and

35 (2) To have appointed the Secretary of State as its agent for service of
36 process in any such proceeding. Service on the Secretary of State of
37 any such process shall be made by delivering to and leaving with the
38 Secretary of State, or with any clerk authorized by the Secretary of
39 State to accept service of process, duplicate copies of the process and
40 the fee required by G.S. 59-35.1(f). Upon receipt of service of process
41 on behalf of a resulting domestic partnership in the manner provided
42 for in this section, the Secretary of State shall immediately mail a copy

1 of the process by registered or certified mail, return receipt requested,
2 to the resulting domestic partnership. If the resulting domestic
3 partnership is a registered limited liability partnership, the address for
4 mailing shall be its principal office designated in the latest document
5 filed with the Secretary of State that is authorized by law to designate
6 the principal office or, if there is no principal office on file, its
7 registered office. If the resulting domestic partnership is not a
8 registered limited liability partnership, the address for mailing shall be
9 the mailing address designated pursuant to G.S. 59-73.12(a)(2)."

10 **SECTION 109.** Article 2A of Chapter 59 of the General Statutes, as enacted
11 by this act, is amended by adding a new Part to read as follows and to include G.S.
12 59-73.20, as recodified in Section 105 of this act, as the first section in Part 3:

13 "Part 3. Conversion of Domestic Partnership."

14 **SECTION 110.** G.S. 59-73.20, as recodified in Section 105 of this act, reads
15 as rewritten:

16 **"§ 59-73.20. Conversion of domestic partnership.**

17 A domestic partnership may convert to a ~~domestic limited liability company~~
18 ~~pursuant to Part 1 of Article 9A of Chapter 57C of the General Statutes, or to a domestic~~
19 ~~limited partnership pursuant to Part 10A of Article 5 of Chapter 59 of the General~~
20 ~~Statutes, different business entity if:~~

- 21 (1) The conversion is permitted by the laws of the state or country
22 governing the organization and internal affairs of such other type of
23 business entity; and
24 (2) The converting domestic partnership complies with the requirements
25 of this Part and, to the extent applicable, the laws referred to in
26 subdivision (1) of this section."

27 **SECTION 111.** Part 3 of Article 2A of Chapter 59 of the General Statutes,
28 as created by Section 109 of this act, is amended by adding the following new sections
29 to read:

30 **"§ 59-73.21. Plan of conversion.**

31 (a) The converting domestic partnership shall approve a written plan of
32 conversion containing:

- 33 (1) The name of the converting domestic partnership;
34 (2) The name of the resulting business entity into which the domestic
35 partnership shall convert, its type of business entity, and the state or
36 country whose laws govern its organization and internal affairs;
37 (3) The terms and conditions of the conversion; and
38 (4) The manner and basis for converting the interests in the domestic
39 partnership into interests, obligations, or securities of the resulting
40 business entity or into cash or other property in whole or in part.

41 The plan of conversion may contain other provisions relating to the conversion.

1 **(b)** The plan of conversion shall be approved by the domestic partnership in the
2 manner provided for the approval of the conversion in a written partnership agreement
3 or, if there is no such provision, by the unanimous consent of its partners. If any partner
4 of the converting domestic partnership has or will have personal liability for any
5 existing or future obligation of the resulting business entity solely as a result of holding
6 an interest in the resulting business entity, then in addition to the requirements of the
7 preceding sentence, approval of the plan of conversion by the domestic partnership shall
8 require the consent of that partner. The converting domestic partnership shall provide a
9 copy of the plan of conversion to each partner of the converting domestic partnership at
10 the time provided in a written partnership agreement or, if there is no such provision,
11 prior to its approval of the plan of conversion.

12 **(c)** After a plan of conversion has been approved by a domestic partnership but
13 before the articles of conversion become effective, the plan of conversion (i) may be
14 amended as provided in the plan of conversion or (ii) may be abandoned, subject to any
15 contractual rights, as provided in the plan of conversion or written partnership
16 agreement or, if not so provided, as determined in the manner necessary for approval of
17 the plan of conversion.

18 **"§ 59-73.22. Articles of conversion.**

19 **(a)** After a plan of conversion has been approved by the converting domestic
20 partnership as provided in G.S. 59-73.21, the converting domestic partnership shall
21 deliver articles of conversion to the Secretary of State for filing. The articles of
22 conversion shall state:

- 23 **(1)** The name of the converting domestic partnership;
24 **(2)** The name of the resulting business entity, its type of business entity,
25 the state or country whose laws govern its organization and internal
26 affairs, and, if the resulting business entity is not authorized to transact
27 business or conduct affairs in this State, a designation of its mailing
28 address and a commitment to file with the Secretary of State a
29 statement of any subsequent change in its mailing address; and
30 **(3)** That a plan of conversion has been approved by the domestic
31 partnership as required by law.

32 If the domestic partnership is converting to a business entity whose formation or
33 whose status as a registered limited liability partnership or limited liability limited
34 partnership, as defined in G.S. 59-102, requires the filing of a document with the
35 Secretary of State, then the articles of conversion shall be included as part of that
36 document instead of separately filing the articles of conversion.

37 If the plan of conversion is abandoned after the articles of conversion have been
38 filed with the Secretary of State but before the articles of conversion become effective,
39 the converting domestic partnership shall deliver to the Secretary of State for filing prior
40 to the time the articles of conversion become effective an amendment of the articles of
41 conversion withdrawing the articles of conversion.

42 **(b)** The conversion takes effect when the articles of conversion become effective.

1 (c) Certificates of conversion shall also be registered as provided in G.S. 47-18.1.

2 **"§ 59-73.23. Effects of conversion.**

3 (a) When the conversion takes effect:

- 4 (1) The converting domestic partnership ceases its prior form of
5 organization and continues in existence as the resulting business entity;
6 (2) The title to all real estate and other property owned by the converting
7 domestic partnership continues vested in the resulting business entity
8 without reversion or impairment;
9 (3) All liabilities of the converting domestic partnership continue as
10 liabilities of the resulting business entity;
11 (4) A proceeding pending by or against the converting domestic
12 partnership may be continued as if the conversion did not occur; and
13 (5) The interests in the converting domestic partnership that are to be
14 converted into interests, obligations, or securities of the resulting
15 business entity or into the right to receive cash or other property are
16 thereupon so converted, and the former holders of interests in the
17 converting domestic partnership are entitled only to the rights provided
18 in the plan of conversion.

19 The conversion shall not affect the liability or absence of liability of any holder of an
20 interest in the converting domestic partnership for any acts, omissions, or obligations of
21 the converting domestic partnership made or incurred prior to the effectiveness of the
22 conversion. The cessation of the existence of the converting domestic partnership in its
23 form of organization as a domestic partnership in the conversion shall not constitute a
24 dissolution or termination of the converting domestic partnership.

25 (b) If the resulting business entity is not a domestic corporation, a domestic
26 limited partnership, or a domestic limited liability company, when the conversion takes
27 effect the resulting business entity is deemed:

- 28 (1) To agree that it may be served with process in this State for
29 enforcement of (i) any obligation of the converting domestic
30 partnership and (ii) any obligation of the resulting business entity
31 arising from the conversion; and
32 (2) To have appointed the Secretary of State as its agent for service of
33 process in any such proceeding. Service on the Secretary of State of
34 any such process shall be made by delivering to and leaving with the
35 Secretary of State, or with any clerk authorized by the Secretary of
36 State to accept service of process, duplicate copies of the process and
37 the fee required by G.S. 59-35.1(f). Upon receipt of service of process
38 on behalf of a resulting business entity in the manner provided for in
39 this section, the Secretary of State shall immediately mail a copy of the
40 process by registered or certified mail, return receipt requested, to the
41 resulting business entity. If the resulting business entity is authorized
42 to transact business or conduct affairs in this State, the address for

1 mailing shall be its principal office designated in the latest document
2 filed with the Secretary of State that is authorized by law to designate
3 the principal office or, if there is no principal office on file, its
4 registered office. If the resulting business entity is not authorized to
5 transact business or conduct affairs in this State, the address for
6 mailing shall be the mailing address designated pursuant to G.S. 59-
7 73.12(a)(2)."

8 **SECTION 112.** Article 2A of Chapter 59 of the General Statutes, as enacted
9 by this act, is amended by adding a new Part to read as follows and to include G.S.
10 59-73.30, 59-73.31, 59-73.32, 59-73.33, each as recodified in Section 105 of this act, in
11 Part 4:

12 "Part 4. Merger."

13 **SECTION 113.** G.S. 59-73.31(b), as recodified by Section 105 of this act,
14 reads as rewritten:

15 "(b) In the case of a merging domestic partnership, the plan of merger must be
16 approved in the manner provided in a written partnership agreement that is binding on
17 all the partners for approval of a merger with the type of business entity contemplated in
18 the plan of merger or, if there is no provision, by the unanimous consent of its partners.
19 If any partner of a merging domestic partnership has or will have personal liability for
20 any existing or future obligation of the surviving business entity solely as a result of
21 holding an interest in the surviving business entity, then in addition to the requirements
22 of the preceding sentence, approval of the plan of merger by the domestic partnership
23 shall require the consent of that partner. In the case of each other merging business
24 entity, the plan of merger must be approved in accordance with the laws of the state or
25 country governing the organization and internal affairs of such merging business
26 entity."

27 **SECTION 114.** G.S. 59-73.32(a), as recodified by Section 105 of this act,
28 reads as rewritten:

29 "(a) After a plan of merger has been approved by each merging domestic
30 partnership and each other merging business entity as provided in ~~G.S. 59-73.4~~, G.S.
31 59-73.31, the surviving business entity shall deliver articles of merger to the Secretary
32 of State for filing. The articles of merger shall set forth:

- 33 (1) The plan of merger;
- 34 (2) For each merging business entity, its name, type of business entity, and
35 the state or country whose laws govern its organization and internal
36 affairs;
- 37 (3) The name and address of the surviving business entity; entity and, if
38 the surviving business entity is not authorized to transact business or
39 conduct affairs in this State, a designation of its mailing address and a
40 commitment to file with the Secretary of State a statement of any
41 subsequent change in its mailing address;

- 1 (4) A statement that the plan of merger has been approved by each
2 merging business entity in the manner required by law; and
3 (5) The effective date and time of the merger if it is not to be effective at
4 the time of filing of the articles of merger.

5 If the plan of merger is amended or abandoned after the articles of merger have been
6 filed, but before the articles of merger become effective, the surviving business entity
7 ~~promptly~~ shall deliver to the Secretary of State for filing prior to the time the articles of
8 merger become effective an amendment to the articles of merger reflecting the
9 amendment or abandonment of the plan of merger."

10 **SECTION 115.** G.S. 59-73.33(b), as recodified by Section 105 of this act,
11 reads as rewritten:

12 "(b) If the surviving business entity is not a domestic limited liability company, a
13 domestic corporation, a domestic nonprofit corporation, or a domestic limited
14 ~~partnership~~ partnership, when the merger takes ~~effect~~, effect the surviving business
15 entity is deemed:

- 16 (1) To agree that it may be served with process in this State in any
17 proceeding for enforcement of (i) any obligation of any merging
18 domestic limited liability company, domestic corporation, domestic
19 nonprofit corporation, domestic limited partnership, or other
20 partnership as defined in G.S. 59-36 that is formed under the laws of
21 this State, (ii) the rights of dissenting shareholders of any merging
22 domestic corporation under Article 13 of Chapter 55 of the General
23 Statutes, and (iii) any obligation of the surviving business entity
24 arising from the merger; and
25 (2) To have appointed the Secretary of State as its registered agent for
26 service of process in any such proceeding. Service on the Secretary of
27 State of any such process shall be made by delivering to and leaving
28 with the Secretary of ~~State~~ State, or with any clerk authorized by the
29 Secretary of State to accept service of process, duplicate copies of such
30 process and the ~~fees~~ fee required by ~~G.S. 59-73.7(e)~~. G.S. 59-35.1(f).
31 Upon receipt of service of process on behalf of a surviving business
32 entity in the manner provided for in this section, the Secretary of State
33 shall immediately mail a copy of the process by registered or certified
34 mail, return receipt requested, to the surviving business entity. If the
35 surviving business entity is authorized to transact business or conduct
36 affairs in this State, the address for mailing shall be its principal office
37 designated in the latest document filed with the Secretary of State that
38 is authorized by law to designate the principal office or, if there is no
39 principal office on file, its registered office. If the surviving business
40 entity is not authorized to transact business or conduct affairs in this
41 State, the address for mailing shall be the mailing address designated

1 pursuant to ~~subdivision (3) of subsection (d) of this section. G.S. 59-~~
2 73.32(a)(3)."

3 **SECTION 116.** G.S. 59-77 reads as rewritten:

4 "**§ 59-77. When personal representative may take inventory; receiver.**

5 If the surviving partner should neglect or refuse to have such inventory made, the
6 personal representative of the deceased partner may have the same made in accordance
7 with the provisions of G.S. 59-76. Should any surviving partner fail to take such an
8 inventory or refuse to allow the personal representative of the deceased partner's estate
9 to do so, such personal representative of the deceased partner's estate may forthwith
10 apply to a court of competent jurisdiction for the appointment of a receiver for such
11 partnership, who shall thereupon proceed to wind up the same and dispose of the assets
12 thereof in accordance with law."

13 **SECTION 117.** G.S. 59-84.1 reads as rewritten:

14 "**§ 59-84.1. Partnership to comply with "assumed name" statute, statute; income**
15 **taxation.**

16 (a) Every partnership other than a limited partnership shall comply with, and be
17 subject to, the provisions of Articles 14 and 15 of Chapter 66 of the General Statutes in
18 all cases in which the same are applicable.

19 (b) A partnership, including a registered limited liability partnership and a
20 foreign limited liability partnership, and a partner of one of these partnerships are
21 subject to taxation under Article 4 of Chapter 105 of the General Statutes in accordance
22 with their classification for federal income tax purposes. Accordingly, if any such
23 partnership is classified for federal income tax purposes as a C corporation as defined in
24 G.S. 105-131(b)(2) or an S corporation as defined in G.S. 105-131(b)(8), the partnership
25 and its partners are subject to tax under Article 4 of Chapter 105 of the General Statutes
26 to the same extent as a C corporation or an S corporation, as the case may be, and its
27 shareholders. If any such partnership is classified for federal income tax purposes as a
28 partnership, the partnership and its partners are subject to tax under Article 4 of Chapter
29 105 of the General Statutes accordingly. If any such partnership is classified for federal
30 income tax purposes as other than a corporation or a partnership, the partnership and its
31 partners are subject to tax under Article 4 of Chapter 105 of the General Statutes in a
32 manner consistent with that classification. This section does not require a partnership,
33 including any registered limited liability partnership or foreign limited liability
34 partnership authorized to transact business in this State, to obtain an administrative
35 ruling from the Internal Revenue Service on its classification under the Internal
36 Revenue Code."

37 **SECTION 118.** G.S. 59-84.2 reads as rewritten:

38 "**§ 59-84.2. Registered limited liability partnerships.**

39 (a) ~~To become a registered limited liability partnership, a partnership must file A~~
40 partnership whose internal affairs are governed by the laws of this State, other than a
41 limited partnership, may become a registered limited liability partnership by filing with
42 the Secretary of State an application stating: stating all of the following:

- 1 (1) The name of the partnership.
- 2 (2) The street address, address, and the mailing address if different from
3 the street address, of its principal office, office and the county in which
4 the principal office is located.
- 5 (3) The name and street address, and the mailing address if different from
6 the street address, ~~for~~ of the partnership's registered agent and
7 registered office for service of process.
- 8 (4) The county in this State in which the registered office is located.
- 9 ~~(5) A brief statement of the business in which the partnership engages.~~
- 10 ~~(6) A deferred effective date, if any.~~
- 11 (7) The fiscal year end of the partnership.
- 12 (a1) The terms and conditions on which a partnership becomes a limited liability
13 partnership must be approved ~~by the vote necessary~~ in the manner provided in to
14 amend the partnership agreement except, agreement; provided, however, if the
15 partnership agreement does not contain any such provision, the terms and conditions
16 shall be approved (i) in the case of a partnership having a partnership agreement that
17 expressly considers obligations to contribute to the partnership, the vote in the manner
18 necessary to amend those provisions, provisions, or (ii) in any other case, in the manner
19 necessary to amend the partnership agreement.
- 20 ~~(b) An application for registration as a registered limited liability partnership~~
21 ~~must be executed by one or more partners.~~
- 22 ~~(c) An application for registration as a registered limited liability partnership~~
23 ~~must be accompanied by a fee of one hundred twenty five dollars (\$125.00).~~
- 24 ~~(d) The Secretary of State shall register a partnership that submits a completed~~
25 ~~application with the required fee.~~
- 26 ~~(e) A registration is effective on the later of the date the registration is filed or the~~
27 ~~date specified in the application for registration, unless it is voluntarily withdrawn by~~
28 ~~filing with the Secretary of State a written withdrawal notice executed by one or more~~
29 ~~of the partners, or is revoked pursuant to G.S. 59-84.4(f).~~
- 30 ~~(f) The Secretary of State may provide forms for applications for registration.~~
- 31 ~~(f1) A partnership becomes a registered limited liability partnership when its~~
32 application for registration becomes effective.
- 33 (g) The status of a registered limited liability partnership and the liability of its
34 partners is not affected by errors or later changes in the information required to be
35 contained in the application for registration.
- 36 (h) A partnership shall promptly amend its registration to reflect any change in
37 the information contained in its application for registration, other than changes in its
38 registered agent, registered office, or principal office. A registration is amended by
39 filing a certificate of amendment ~~thereto in the office of~~ with the Secretary of State. The
40 certificate of amendment shall set forth ~~the following:~~ forth:
- 41 (1) The name of the partnership-partnership as reflected on the application
42 for registration.

1 (2) The date of filing of the application for registration.

2 (3) The amendment to the application for registration.

3 (i) Each registered limited liability partnership shall continuously maintain in
4 this State:

5 (1) A registered office that may be the same as any of its places of
6 business; and

7 (2) ~~The A registered agent of a registered limited liability partnership for~~
8 ~~service of process must who shall~~ be (i) an individual who is a resident
9 of this State and whose business office is identical with the registered
10 office; (ii) a domestic corporation, nonprofit corporation, or limited
11 liability company whose business office is identical with the registered
12 office; or (iii) a foreign corporation, nonprofit corporation, or limited
13 liability company authorized to transact business or conduct affairs in
14 this State whose business office is identical with the registered office.
15 The sole duty of the registered agent to the registered limited liability
16 partnership is to forward to the registered limited liability partnership
17 at its last known address any notice, process, or demand that is served
18 on the registered agent.

19 (j) A partnership may cancel its registration by filing a certificate of cancellation
20 with the Secretary of State. The certificate of cancellation shall set forth:

21 (1) The name of the partnership as reflected on the application for
22 registration;

23 (2) The date of filing of the application for registration;

24 (3) A mailing address to which the Secretary of State may mail a copy of
25 any process served on the Secretary of State under this subsection;

26 (4) A commitment to file with the Secretary of State a statement of any
27 subsequent change in its mailing address; and

28 (5) The effective date and time of cancellation if it is not to be effective at
29 the time of filing the certificate.

30 Cancellation of registration terminates the authority of the partnership's registered
31 agent to accept service of process, notice, or demand, and appoints the Secretary of
32 State as agent to accept service on behalf of the partnership with respect to any action or
33 proceeding based upon any cause of action arising in this State, or arising out of
34 business transacted in this State, during the time the partnership was registered as a
35 registered limited liability partnership. Service on the Secretary of State of any process
36 shall be made by delivering to and leaving with the Secretary of State, or any clerk
37 authorized by the Secretary of State to accept service of process, duplicate copies of
38 such process and the fee required by G.S. 59-35.1(f). Upon receipt of process in the
39 manner provided in this section, the Secretary of State shall immediately mail a copy of
40 the process by registered or certified mail, return receipt requested, to the partnership at
41 the mailing address designated pursuant to this subsection.

1 (k) A registered limited liability partnership may change its registered office or
2 registered agent by delivering to the Secretary of State for filing a statement of change
3 that sets forth:

4 (1) The name of the registered limited liability partnership;

5 (2) The street address, and the mailing address if different from the street
6 address, of the registered limited liability partnership's current
7 registered office and the county in which it is located;

8 (3) If the address of the registered limited liability partnership's registered
9 office is to be changed, the street address, and the mailing address if
10 different from the street address, of the new registered office and the
11 county in which it is located;

12 (4) The name of its current registered agent;

13 (5) If the current registered agent is to be changed, the name of the new
14 registered agent and the new registered agent's written consent (either
15 on the statement or attached to it) to the appointment; and

16 (6) That after the change or changes are made, the addresses of its
17 registered office and the business office of its registered agent will be
18 identical.

19 If a registered agent changes the address of the registered agent's business office, the
20 registered agent may change the address of the registered office of any registered
21 limited liability partnership for which the agent is the registered agent by notifying the
22 registered limited liability partnership in writing of the change and signing (either
23 manually or in facsimile) and delivering to the Secretary of State for filing a statement
24 that complies with the requirements of this subsection and recites that the registered
25 limited liability partnership has been notified of the change.

26 A registered limited liability partnership may change its registered office or
27 registered agent by including in its annual report required by G.S. 59-84.4 the
28 information and any written consent required by this subsection.

29 (1) The following provisions shall apply for the resignation of a registered agent:

30 (1) A registered agent may resign his agency appointment by signing and
31 filing with the Secretary of State the signed original and two exact or
32 conformed copies of a statement of resignation which may include a
33 statement that the registered office is also discontinued. The statement
34 must include or be accompanied by a certification from the registered
35 agent that the agent has mailed or delivered to the registered limited
36 liability partnership at its last known address written notice of the
37 agent's resignation. Such certification shall include the name and title
38 of the partner notified, if any, and the address to which the notice was
39 mailed or delivered.

40 (2) After filing the statement, the Secretary of State shall mail one copy to
41 the registered office (if not discontinued) and the other copy to the
42 registered limited liability partnership at its principal office.

1 (3) The agency appointment is terminated, and the registered office
2 discontinued if so provided, on the thirty-first day after the date on
3 which the statement was filed.

4 (m) The registered agent of a registered limited liability partnership is an agent of
5 the registered limited liability partnership for service of process, notice, or demand
6 required or permitted by law to be served on the registered limited liability partnership.

7 (n) Whenever a registered limited liability partnership shall fail to appoint or
8 maintain a registered agent in this State, or whenever its registered agent cannot with
9 due diligence be found at the registered office, then the Secretary of State shall be an
10 agent of the registered limited liability partnership upon whom any process, notice, or
11 demand may be served. Service on the Secretary of State of any process, notice, or
12 demand shall be made by delivering to and leaving with the Secretary of State, or with
13 any clerk authorized by the Secretary of State to accept service of process, duplicate
14 copies of the process, notice, or demand and the fee required by G.S. 59-35.1(f). In the
15 event any such process, notice, or demand is served on the Secretary of State in the
16 manner provided in this subsection, the Secretary of State shall immediately mail one of
17 the copies thereof, by registered or certified mail, return receipt requested, to the
18 registered limited liability partnership at its principal office or, if there is no mailing
19 address for the principal office on file, to the registered limited liability partnership at its
20 registered office. Service on a registered limited liability partnership under this
21 subsection shall be effective for all purposes from and after the date of the service on
22 the Secretary of State.

23 (o) The Secretary of State shall keep a record of all processes, notices, and
24 demands served upon the Secretary of State under this section and shall record therein
25 the time of such service and the Secretary of State's action with reference thereto.

26 (p) Nothing herein contained shall limit or affect the right to serve any process,
27 notice, or demand required or permitted by law to be served upon a registered limited
28 liability partnership in any other manner now or hereafter permitted by law."

29 **SECTION 119.** G.S. 59-84.4(c) reads as rewritten:

30 "(c) The annual report shall be delivered to the Secretary of State by the fifteenth
31 day of the fourth month following the close of the registered or foreign limited liability
32 partnership's fiscal year. ~~The annual report must be accompanied by a fee of two~~
33 ~~hundred dollars (\$200.00)."~~

34 **SECTION 120.** G.S. 59-91 reads as rewritten:

35 "**§ 59-91. Statement of foreign registration.**

36 (a) Before transacting business in this State, a foreign limited liability partnership
37 must file an application for registration as a foreign limited liability partnership. The
38 application must contain:

39 (1) The name of the foreign limited liability partnership that satisfies the
40 requirements of the State or other jurisdiction under whose law it is
41 formed and ends with the words "registered limited liability

1 partnership" or "limited liability partnership" or the abbreviation
2 "R.L.L.P.", "L.L.P.", "RLLP", or "LLP".

3 (2) ~~The street address, and the mailing address if different from~~
4 ~~the street address, of the partnership's principal office, and the~~
5 ~~county in which the principal office is located.~~

6 (3) The name and street address, and the mailing address if different from
7 the street address, for the partnership's registered agent and registered
8 office for service of process, and the county in which the registered
9 office is located.

10 (4) ~~A brief statement of the business in which the partnership is engaged.~~

11 (5) ~~A deferred effective date, if any.~~

12 (6) The fiscal year end of the partnership.

13 The foreign limited liability partnership shall deliver with the completed application
14 a certificate of existence, or a document with similar import, duly authenticated by the
15 ~~secretary of state~~ Secretary of State or other official having custody of the records of
16 registered limited liability partnerships in the state or country under whose law it is
17 registered.

18 ~~(b) The registered agent of a foreign limited liability partnership for service of~~
19 ~~process must be (i) an individual who is a resident of this State and whose business~~
20 ~~office is identical with the registered office; (ii) a domestic corporation, nonprofit~~
21 ~~corporation, or limited liability company whose business office is identical with the~~
22 ~~registered office; or (iii) a foreign corporation, nonprofit corporation, or limited liability~~
23 ~~company authorized to transact business in this State whose business office is identical~~
24 ~~with the registered office. The sole duty of the registered agent to the foreign limited~~
25 ~~liability partnership is to forward to the foreign limited liability partnership at its last~~
26 ~~known address any notice, process, or demand that is served on the registered agent.~~

27 ~~(c) An application for registration as a foreign limited liability partnership must~~
28 ~~be accompanied by a fee of one hundred twenty five dollars (\$125.00).~~

29 ~~(d) The Secretary of State shall register a partnership that submits a completed~~
30 ~~application for registration as a foreign limited liability partnership with the required~~
31 ~~fee.~~

32 ~~(e) The status of a partnership as a foreign limited liability partnership is~~
33 ~~effective on the later of the date the registration is filed or a date specified in the~~
34 ~~statement. The status remains effective, regardless of changes in the partnership, until it~~
35 ~~is voluntarily withdrawn by filing with the Secretary of State a written withdrawal~~
36 ~~notice executed by one or more partners or revoked pursuant to G.S. 59-84.4(f).~~

37 ~~(f) A registration is amended by filing a certificate of amendment thereto in the~~
38 ~~office of the Secretary of State. The certificate shall set forth the following:~~

39 (1) ~~The name of the partnership.~~

40 (2) ~~The date of filing of the registration.~~

41 (3) ~~The amendment to the registration.~~

1 ~~(g) An application for registration as a foreign limited liability partnership must~~
2 ~~be executed by one or more partners.~~

3 (h) A foreign limited liability partnership authorized to transact business in this
4 State shall be subject to the provisions of G.S. 59-84.4 regarding annual reports and
5 revocation of registration.

6 (i) A foreign limited liability partnership becomes registered as a foreign limited
7 liability partnership when its application for registration becomes effective.

8 (j) A foreign limited liability partnership shall promptly amend its registration to
9 reflect any change in the information contained in its application for registration, other
10 than changes in its registered agent, registered office, or principal office. A registration
11 is amended by filing a certificate of amendment with the Secretary of State. The
12 certificate of amendment shall set forth:

13 (1) The name of the foreign limited liability partnership under which it is
14 registered in this State;

15 (2) The date of filing of the application for registration; and

16 (3) The amendment to the application for registration.

17 (k) A foreign limited liability partnership may cancel its registration by filing a
18 certificate of cancellation with the Secretary of State. The certificate of cancellation
19 shall set forth:

20 (1) The name of the foreign limited liability partnership under which it is
21 registered in this State;

22 (2) The date of filing of the application for registration;

23 (3) A mailing address to which the Secretary of State may mail a copy of
24 any process served on the Secretary of State under this subsection;

25 (4) A commitment to file with the Secretary of State a statement of any
26 subsequent change in its mailing address; and

27 (5) The effective date and time of cancellation if it is not to be effective at
28 the time of filing the certificate.

29 Cancellation of registration terminates the authority of the foreign limited liability
30 partnership's registered agent to accept service of process, notice, or demand and
31 appoints the Secretary of State as agent to accept such service on behalf of the foreign
32 limited liability partnership with respect to any action or proceeding based upon any
33 cause of action arising in this State, or arising out of business transacted in this State,
34 during the time the foreign limited liability partnership was registered in this State.
35 Service on the Secretary of State of any such process shall be made by delivering to and
36 leaving with the Secretary of State or with any clerk authorized by the Secretary of State
37 to accept service of process, duplicate copies of such process, and the fee required by
38 G.S. 59-35.1(f). Upon receipt of process in the manner herein provided, the Secretary of
39 State shall immediately mail a copy of the process by registered or certified mail, return
40 receipt requested, to the foreign limited liability partnership at the mailing address
41 designated pursuant to this subsection.

1 (l) Each foreign limited liability partnership registered in this State must
2 continuously maintain in this State:

3 (1) A registered office that may be the same as any of its places of
4 business; and

5 (2) A registered agent who shall be (i) an individual who is a resident of
6 this State and whose business office is identical with the registered
7 office; (ii) a domestic corporation, nonprofit corporation, or limited
8 liability company whose business office is identical with the registered
9 office; or (iii) a foreign corporation, nonprofit corporation, or limited
10 liability company authorized to transact business or conduct affairs in
11 this State whose business office is identical with the registered office.

12 The sole duty of the registered agent to the foreign limited liability partnership is to
13 forward to the foreign limited liability partnership at its last known address any notice,
14 process, or demand that is served on the registered agent.

15 (m) A foreign limited liability partnership may change its registered office or
16 registered agent by delivering to the Secretary of State for filing a statement of change
17 that sets forth:

18 (1) The name of the foreign limited liability partnership;

19 (2) The street address, and the mailing address if different from the street
20 address, of the foreign limited liability partnership's current registered
21 office and the county in which it is located;

22 (3) If the address of the foreign limited liability partnership's registered
23 office is to be changed, the street address, and the mailing address if
24 different from the street address, of the new registered office and the
25 county in which it is located;

26 (4) The name of its current registered agent;

27 (5) If the current registered agent is to be changed, the name of the new
28 registered agent and the new registered agent's written consent (either
29 on the statement or attached to it) to the appointment; and

30 (6) That after the change or changes are made, the addresses of its
31 registered office and the business office of its registered agent will be
32 identical.

33 If a registered agent changes the address of the registered agent's business office, the
34 registered agent may change the address of the registered office of any foreign limited
35 liability partnership for which he is the registered agent by notifying the foreign limited
36 liability partnership in writing of the change and signing (either manually or in
37 facsimile) and delivering to the Secretary of State for filing a statement that complies
38 with the requirements of this subsection and recites that the foreign limited liability
39 partnership has been notified of the change.

40 A foreign limited liability partnership may change its registered office or registered
41 agent by including in its annual report required by G.S. 59-84.4 the information and any
42 written consent required by this subsection.

1 (n) The following provisions shall apply for the resignation of a registered agent:

2 (1) A registered agent may resign the agent's appointment by signing and
3 filing with the Secretary of State the signed original and two exact or
4 conformed copies of a statement of resignation which may include a
5 statement that the registered office is also discontinued. The statement
6 must include or be accompanied by a certification from the registered
7 agent that the agent has mailed or delivered to the foreign limited
8 liability partnership at its last known address written notice of the
9 agent's resignation. Such certification shall include the name and title
10 of the partner notified, if any, and the address to which the notice was
11 mailed or delivered.

12 (2) After filing the statement, the Secretary of State shall mail one copy to
13 the registered office (if not discontinued) and the other copy to the
14 foreign limited liability partnership at its principal office.

15 (3) The agency appointment is terminated, and the registered office
16 discontinued if so provided, on the thirty-first day after the date on
17 which the statement was filed.

18 (o) The registered agent of a foreign limited liability partnership registered in the
19 State is an agent of the foreign limited liability partnership for service of process, notice,
20 or demand required or permitted by law to be served on the foreign limited liability
21 partnership.

22 (p) Whenever a foreign limited liability partnership registered in this State shall
23 fail to appoint or maintain a registered agent in this State, or whenever its registered
24 agent cannot with due diligence be found at the registered office, then the Secretary of
25 State shall be an agent of the foreign limited liability partnership upon whom any such
26 process, notice, or demand may be served. Service on the Secretary of State of any such
27 process, notice, or demand shall be made by delivering to and leaving with the Secretary
28 of State, or with any clerk authorized by the Secretary of State to accept service of
29 process, duplicate copies of the process, notice, or demand and the fee required by G.S.
30 59-35.1(f). In the event any process, notice, or demand is served on the Secretary of
31 State in the manner provided in this subsection, the Secretary of State shall immediately
32 mail one of the copies thereof, by registered or certified mail, return receipt requested,
33 to the foreign limited liability partnership at its principal office or, if there is no mailing
34 address for the principal office on file, to the foreign limited liability partnership at its
35 registered office. Service on a foreign limited liability partnership under this subsection
36 shall be effective for all purposes from and after the date of the service on the Secretary
37 of State.

38 (q) The Secretary of State shall keep a record of all processes, notices, and
39 demands served upon the Secretary of State under this section and shall record therein
40 the time of service and the Secretary of State's action with reference thereto.

1 (r) Nothing herein contained shall limit or affect the right to serve any process,
2 notice, or demand required or permitted by law to be served upon a foreign limited
3 liability partnership in any other manner now or hereafter permitted by law.

4 (s) Whenever a foreign limited liability partnership authorized to transact
5 business in this State ceases its separate existence as a result of a statutory merger or
6 consolidation permitted by the laws of the state or country under which it was
7 organized, or converts into another type of entity as permitted by those laws, the
8 surviving or resulting entity shall apply for a certificate of withdrawal for the foreign
9 limited liability partnership by delivering to the Secretary of State for filing a copy of
10 the articles of merger, consolidation, or conversion or a certificate reciting the facts of
11 the merger, consolidation, or conversion, duly authenticated by the Secretary of State or
12 other official having custody of limited liability partnership records in the state or
13 country under the laws of which the foreign limited liability partnership was organized.
14 If the surviving or resulting entity is not authorized to transact business in this State, the
15 articles or certificate must be accompanied by an application which must set forth:

16 (1) The name of the foreign liability limited partnership authorized to
17 transact business in this State, the type of entity and name of the
18 surviving or resulting entity, and a statement that the surviving or
19 resulting entity is not authorized to transact business in this State;

20 (2) A statement that the surviving or resulting entity consents that service
21 of process based on any cause of action arising in this State, or arising
22 out of business transacted in this State, during the time the foreign
23 limited liability partnership was authorized to transact business in this
24 State, may thereafter be made by service thereof on the Secretary of
25 State;

26 (3) A mailing address to which the Secretary of State may mail a copy of
27 any process served upon the Secretary under subdivision (2) of this
28 subsection; and

29 (4) A commitment to file with the Secretary of State a statement of any
30 subsequent change in its mailing address.

31 (t) If the Secretary of State finds that the articles or certificate and the application
32 for withdrawal, if required, conform to law, the Secretary of State shall:

33 (1) Endorse on the articles or certificate and the application for
34 withdrawal, if required, the word "filed" and the hour, day, month, and
35 year of filing thereof;

36 (2) File the articles or certificate and the application, if required;

37 (3) Issue a certificate of withdrawal; and

38 (4) Send to the surviving or resulting entity or its representative the
39 certificate of withdrawal, together with the exact or conformed copy of
40 the application, if required, affixed thereto.

41 (u) After the withdrawal of the foreign limited liability partnership is effective,
42 service of process on the Secretary of State in accordance with subsection (t) of this

1 section shall be made by delivering to and leaving with the Secretary of State, or with
2 any clerk authorized by the Secretary of State to accept service of process, duplicate
3 copies of such process and the fee required by G.S. 59-35.1(f). Upon receipt of process
4 in the manner herein provided, the Secretary of State shall immediately mail a copy of
5 the process by registered or certified mail, return receipt requested, to the surviving or
6 resulting entity at the mailing address designated pursuant to subsection (t) of this
7 section."

8 **SECTION 121.** G.S. 59-102 reads as rewritten:

9 **"§ 59-102. Definitions.**

10 As used in this Article, unless the context otherwise requires:

- 11 (1) 'Business' means any lawful trade, investment, or other purpose or
12 activity, whether or not the trade, investment, purpose, or activity is
13 carried on for profit.
- 14 (1a) 'Business entity' means a domestic corporation ~~as defined in G.S. 55-1-~~
15 ~~40 (including, without limitation, (including a professional corporation~~
16 ~~as defined in G.S. 55B-2), a foreign corporation as defined in G.S. 55-~~
17 ~~1-40 (including, without limitation, (including a foreign professional~~
18 ~~corporation as defined in G.S. 55B-16), a domestic or foreign~~
19 ~~nonprofit corporation as defined in G.S. 55A-1-40, corporation, a~~
20 ~~domestic limited liability company as defined in G.S. 57C-1-03, a or~~
21 ~~foreign limited liability company as defined in G.S. 57C-1-03,~~
22 company, a domestic limited partnership, a foreign limited partnership,
23 a registered limited liability partnership, a foreign limited liability
24 partnership, or any other partnership as defined in G.S. 59-36 whether
25 or not formed under the laws of this State (including a registered
26 limited liability partnership as defined in G.S. 59-32 and any other
27 limited liability partnership formed under a law other than the laws of
28 this State).State.
- 29 (1b) 'Certificate of limited partnership' means the certificate referred to in
30 G.S. 59-201, and the certificate as amended.
- 31 (2) 'Conformed copy' shall include a photostatic or other photographic
32 copy of the original document.
- 33 (3) 'Contribution' means any cash, property, services rendered, or a
34 promissory note or other binding obligation to contribute cash or
35 property or to perform services, which a partner contributes to a
36 limited partnership in his capacity as a partner.
- 37 (3a) 'Domestic corporation' has the same meaning as in G.S. 55-1-40 and
38 includes a professional corporation as defined in G.S. 55B-2.
- 39 (3b) 'Domestic limited liability company' has the same meaning as in G.S.
40 57C-1-03.
- 41 (3c) 'Domestic nonprofit corporation' means a corporation as defined in
42 G.S. 55A-1-40.

- 1 (4) "Event of withdrawal of a general partner" means an event that causes
2 a person to cease to be a general partner as provided in G.S. 59-402.
- 3 (4a) 'Foreign corporation' has the same meaning as in G.S. 55-1-40 and
4 includes a foreign professional corporation as defined in G.S. 55B-16.
- 5 (4b) 'Foreign limited liability company' has the same meaning as in G.S.
6 57C-1-03.
- 7 (5) 'Foreign limited partnership' means a partnership formed under the
8 laws of any state, province, country, or other jurisdiction other than
9 this State and having as partners one or more general partners and one
10 or more limited ~~partners.~~ partners, and includes, for all purposes of the
11 laws of the State of North Carolina, a limited partnership having the
12 status of a limited liability limited partnership under the laws of its
13 jurisdiction of formation.
- 14 (5a) 'Foreign nonprofit corporation' means a foreign corporation as defined
15 in G.S. 55A-1-40 that is a nonprofit corporation as defined in G.S.
16 55A-1-40.
- 17 (6) 'General partner' means a person who has been admitted to a limited
18 partnership as a general partner in accordance with the partnership
19 agreement and named in the certificate of limited partnership as a
20 general partner.
- 21 (6a) 'Limited liability limited partnership' and 'registered limited liability
22 limited partnership' mean a limited partnership that is registered under
23 and complies with G.S. 59-210.
- 24 (7) 'Limited partner' means a person who has been admitted to a limited
25 partnership as a limited partner in accordance with the partnership
26 agreement.
- 27 (8) 'Limited partnership' and 'domestic limited partnership' mean a
28 partnership formed by two or more persons under the laws of this State
29 and having one or more general partners and one or more limited
30 ~~partners.~~ partners, and includes, for all purposes of the laws of the
31 State of North Carolina, a registered limited liability limited
32 partnership.
- 33 (9) 'Partner' means a limited or general partner.
- 34 (10) 'Partnership agreement' means any valid agreement of the partners as
35 to the affairs of a limited partnership, the conduct of its business, and
36 the responsibilities and rights of its partners. The term 'partnership
37 agreement' includes any written or oral agreement, whether or not the
38 agreement is set forth in a document referred to by the partners as a
39 'partnership agreement', and includes any amendment agreed upon by
40 the partners unanimously or in accordance with the terms of the
41 agreement. The term also includes any agreement of the partners to
42 waive or revise the terms of the partnership agreement in one or more

1 specific instances and not necessarily on an ongoing or permanent
2 basis.

3 (11) 'Partnership interest' means a partner's share of the allocations of
4 income, gain, loss, deduction or credit of a limited partnership and the
5 right to receive distributions of cash or other partnership assets.

6 (12) 'Person' means a natural person, domestic or foreign partnership,
7 domestic or foreign limited partnership ~~(domestic or~~
8 ~~foreign), partnership, domestic or foreign limited liability company,~~
9 trust, estate, unincorporated association, or corporation, domestic or
10 foreign corporation, or another entity.

11 (13) 'State' means a state, territory, or possession of the United States, the
12 District of Columbia, or the Commonwealth of Puerto Rico."

13 **SECTION 122.** G.S. 59-103 reads as rewritten:

14 **"§ 59-103. Name.**

15 (a) The name of the limited partnership shall contain ~~without abbreviation~~ the
16 words ~~"limited partnership";~~ 'limited partnership' or have the abbreviated 'L.P.' or 'LP' as
17 the last letters of its name, except that in the case of a limited liability limited
18 partnership, its name shall comply with the provisions of G.S. 59-210(a)(1).

19 (b) The limited partnership name shall not contain the name of a limited partner
20 unless (i) it is also the name of a general partner or the corporate name of a corporate
21 general partner, or (ii) the business of the limited partnership has been carried on under
22 that name before the admission of that limited ~~partner;~~partner.

23 (c) The limited partnership name shall not contain any word or phrase ~~which that~~
24 ~~is likely to mislead the public or which indicates or implies that it is organized for any~~
25 ~~purpose other than one or more of the purposes contained in its certificate of limited~~
26 ~~partnership;~~public."

27 **SECTION 123.** G.S. 59-105 reads as rewritten:

28 **"§ 59-105. Registered office and registered agent.**

29 (a) Each limited partnership shall have and continuously maintain in this State:

30 (1) A registered office that may be the same as any of its places of
31 business;

32 (2) A registered agent, who shall be (i) an individual resident of this State
33 whose business office is identical with such registered office; (ii) a
34 domestic corporation, nonprofit corporation, or limited liability
35 company whose business office is identical with such registered office;
36 or (iii) a foreign corporation, nonprofit corporation, or limited liability
37 company authorized to transact business or conduct affairs in this
38 State, whose business office is identical with such registered office.

39 The sole duty of the registered agent to the limited partnership is to forward to the
40 limited partnership at its last known address any notice, process, or demand that is
41 served on the registered agent.

1 (b) Limited partnerships formed prior to October 1, 1986, shall file a certificate
2 of limited partnership with the Office of the Secretary of State pursuant to G.S.
3 59-201(a) designating the address of the registered office of the limited partnership and
4 the identity of the registered agent at such address.

5 (b1) Any process, notice or demand, which is required or permitted by law to be
6 served upon a limited partnership, may be served upon the duly appointed registered
7 agent of the limited partnership. Such service upon the registered agent is deemed to
8 have been made on the limited partnership itself.

9 (b2) A limited partnership may change its registered office or registered agent by
10 delivering to the Secretary of State for filing a statement of change that sets forth:

11 (1) The name of the limited partnership;

12 (2) The street address, and the mailing address if different from the street
13 address, of the limited partnership's current registered office and the
14 county in which it is located;

15 (3) If the address of the limited partnership's registered office is to be
16 changed, the street address, and the mailing address if different from
17 the street address, of the new registered office and the county in which
18 it is located;

19 (4) The name of its current registered agent;

20 (5) If the current registered agent is to be changed, the name of the new
21 registered agent and the new registered agent's written consent (either
22 on the statement or attached to it) to the appointment; and

23 (6) That after the change or changes are made, the addresses of its
24 registered office and the business office of its registered agent will be
25 identical.

26 (b3) If a registered agent changes the address of the agent's business office, the
27 agent may change the address of the registered office of any limited partnership for
28 which the agent is the registered agent by notifying the limited partnership in writing of
29 the change and signing (either manually or in facsimile) and delivering to the Secretary
30 of State for filing a statement that complies with the requirements of subsection (b2) of
31 this section and that recites that the limited partnership has been notified of the change.

32 (c) Whenever a limited partnership shall fail to appoint or maintain a registered
33 agent in this State, or whenever its registered agent cannot with due diligence be found
34 at the registered office, then the Secretary of State shall be an agent of such limited
35 partnership upon whom any such process, notice, or demand may be served. Service on
36 the Secretary of State of any such process, notice, or demand shall be made by
37 delivering to and leaving with the Secretary of State, or with any clerk ~~having charge of~~
38 ~~the limited partnership department of his office, authorized by the Secretary of State to~~
39 accept service of process, duplicate copies of such the process, notice, or
40 demand. demand and the fee required by G.S. 59-1106(b). In the event any such
41 process, ~~notice~~ notice, or demand is served on the Secretary of State, ~~he~~ the Secretary of
42 State shall immediately cause one of the copies thereof to be forwarded by registered or

1 certified mail, addressed to the limited partnership at its registered office. ~~Any such~~
2 Service on a limited partnership so served under this subsection shall be in court
3 effective for all purposes from and after the date of such service on the Secretary of
4 State.

5 (d) The Secretary of State shall keep a record of all processes, ~~notices~~ notices,
6 and demands served upon ~~him~~ the Secretary of State under this ~~section~~ section and
7 shall record therein the time of such service and ~~his~~ the Secretary of State's action with
8 reference thereto.

9 (e) Nothing herein contained shall limit or affect the right to serve any process,
10 ~~notice~~ notice, or demand required or permitted by law to be served upon a limited
11 partnership in any other manner now or hereafter permitted by law.

12 (f) The following provisions shall apply for the resignation of a registered agent:

13 (1) A registered agent may resign the agent's appointment by signing and
14 filing with the Secretary of State the signed original and two exact or
15 conformed copies of a statement of resignation which may include a
16 statement that the registered office is also discontinued. The statement
17 shall include or be accompanied by a certification from the registered
18 agent that the agent has mailed or delivered to the limited partnership
19 at its last known address written notice of the agent's resignation. The
20 certification shall include the name and title of the partner notified, if
21 any, and the address to which the notice was mailed or delivered.

22 (2) After filing the statement, the Secretary of State shall mail one copy to
23 the registered office, if not discontinued, and the other copy to the
24 limited partnership at the address certified in the statement of
25 resignation.

26 (3) The agency appointment is terminated, and the registered office
27 discontinued if so provided, on the thirty-first day after the date on
28 which the statement was filed."

29 **SECTION 124.** G.S. 59-201(a)(3) reads as rewritten:

30 "(3) The If the limited partnership is to dissolve by a specific date, the
31 latest date upon which the limited partnership is to dissolve. If no date
32 for dissolution is specified, there shall be no limit on the duration of
33 the limited partnership."

34 **SECTION 124A.** G.S. 59-201 is amended by adding a new subsection to
35 read:

36 "(e) If the limited partnership is to be a limited liability partnership at its
37 formation, then instead of separately filing the application for registration as a limited
38 liability limited partnership, the application for registration shall be included as part of
39 the certificate of limited partnership."

40 **SECTION 125.** G.S. 59-204(a) reads as rewritten:

41 "(a) Each certificate required by this Article to be filed in the office of the
42 Secretary of State shall be executed in the following manner:

- 1 (1) An original certificate of limited partnership must be signed by all
2 general partners;
- 3 (2) A certificate of amendment must be signed by at least one general
4 partner and by each other partner designated in the certificate as a new
5 general partner; and
- 6 (3) A certificate of cancellation must be signed by all general partners.

7 Any other document submitted by a domestic or foreign limited partnership for filing
8 pursuant to this or any other Chapter must be signed by at least one general partner. Any
9 document submitted by a business entity other than a domestic or foreign limited
10 partnership must be executed by a person authorized to execute documents (i) pursuant
11 to G.S. 55-1-20(f) if the business entity is a domestic or foreign corporation, (ii)
12 pursuant to G.S. 55A-1-20(f) if the business entity is a domestic or foreign nonprofit
13 corporation, (iii) pursuant to G.S. 57C-1-20(f) if the business entity is a domestic or
14 foreign limited liability company, or (iv) pursuant to G.S. ~~59-73.7(a)(4)~~59-35.1(a)(4) if
15 the business entity is a partnership as defined in G.S. 59-36, whether or not formed
16 under the laws of this State, other than a domestic or foreign limited partnership."

17 **SECTION 126.** G.S. 59-206 is amended by adding the following new
18 subsections to read:

19 "(d) If a document delivered to the office of the Secretary of State for filing
20 satisfies the requirements of this Article, the Secretary of State shall file it. Documents
21 filed with the Secretary of State pursuant to this Article may be maintained by the
22 Secretary either in their original form or in photographic, microfilm, optical disk media,
23 or other reproduced form. The Secretary may make reproductions of documents filed
24 under this Article, or under any predecessor act, by photographic, microfilm, optical
25 disk media, or other means of reproduction and may destroy the originals of those
26 documents reproduced.

27 (e) If the Secretary of State refuses to file a document, the Secretary of State
28 shall return it to the person submitting the document for filing within five days after the
29 document was received, together with a brief, written explanation of the reason for
30 refusal.

31 (f) The Secretary of State's duty is to review and file documents that satisfy the
32 requirements of this Article. The Secretary of State's filing or refusing to file a
33 document does not:

- 34 (1) Affect the validity or invalidity of the document in whole or part;
35 (2) Relate to the correctness or incorrectness of information contained in
36 the document; or
37 (3) Create a presumption that the document is valid or invalid or that
38 information contained in the document is correct or incorrect.

39 (g) A person commits an offense if the person signs a document the person
40 knows is false in any material respect with intent that the document be delivered to the
41 Secretary of State for filing. An offense under this subsection is a Class 1
42 misdemeanor."

1 **SECTION 127.** Part 2 of Article 5 of Chapter 59 of the General Statutes is
2 amended by adding the following new sections to read:

3 **"§ 59-209. Certificate of existence.**

4 (a) Anyone may apply to the Secretary of State to furnish a certificate of
5 existence for a domestic limited partnership or a certificate of authorization for a foreign
6 limited partnership.

7 (b) A certificate of existence or authorization sets forth:

8 (1) The domestic limited partnership's name or the foreign limited
9 partnership's name used in this State;

10 (2) That (i) the domestic limited partnership has filed a certificate of
11 limited partnership under the law of this State, the effective date of the
12 filing, and the period of the domestic limited partnership's duration, or
13 (ii) the foreign limited partnership is authorized to transact business in
14 this State;

15 (3) If the limited partnership has registered as a limited liability limited
16 partnership, that the registration has not been withdrawn or revoked for
17 failure to comply with the provisions of this Chapter;

18 (4) That a certificate of cancellation has not been filed; and

19 (5) Other facts of record in the office of the Secretary of State that may be
20 requested by the applicant.

21 (c) Subject to any qualification stated in the certificate, a certificate of existence
22 or authorization issued by the Secretary of State may be relied upon as conclusive
23 evidence that the domestic limited partnership has filed a certificate of limited
24 partnership and has not filed a certificate of cancellation or that the foreign limited
25 partnership is authorized to transact business in this State.

26 **"§ 59-210. Limited liability limited partnerships.**

27 (a) To become a limited liability limited partnership, a limited partnership shall
28 file with the Secretary of State an application stating:

29 (1) The name of the limited liability limited partnership, which shall
30 contain the words 'registered limited liability limited partnership' or
31 'limited liability limited partnership' or the abbreviation 'L.L.L.P.',
32 'R.L.L.L.P.', 'LLLP', or 'RLLLP' as the last words or letters of its name.

33 (2) The street address, and mailing address if different from the street
34 address, of its principal office, and the county in which the principal
35 office is located.

36 (3) The fiscal year end of the limited liability limited partnership.

37 (b) The terms and conditions on which a limited partnership becomes a limited
38 liability limited partnership shall be approved in the manner provided in the partnership
39 agreement; provided, however, if the partnership agreement does not contain any such
40 provision, the terms and conditions must be approved (i) in the case of a limited
41 partnership having a partnership agreement that expressly considers obligations to

1 contribute to the partnership, in the manner necessary to amend those provisions, or (ii)
2 in any other case, in the manner necessary to amend the partnership agreement.

3 (c) A limited partnership becomes a limited liability limited partnership when its
4 application for registration becomes effective.

5 (d) The status of a limited liability limited partnership and the liability of its
6 partners is not affected by errors or later changes in the information required to be
7 contained in the application for registration.

8 (e) A limited liability limited partnership shall promptly amend its registration to
9 reflect any change in the information contained in its application for registration, other
10 than changes which are required to be reflected in an amendment to its certificate of
11 limited partnership or in an annual report. A registration is amended by filing a
12 certificate of amendment with the Secretary of State. The certificate of amendment shall
13 set forth:

14 (1) The name of the limited liability limited partnership as reflected on the
15 application for registration;

16 (2) The date of filing of the application for registration; and

17 (3) The amendment to the application for registration.

18 (f) A limited liability limited partnership may cancel its registration by filing a
19 certificate of cancellation with the Secretary of State. The certificate of cancellation
20 shall set forth:

21 (1) The name of the limited liability limited partnership as reflected on the
22 application for registration;

23 (2) The date of filing of the application for registration;

24 (3) A mailing address to which the Secretary of State may mail a copy of
25 any process served on the Secretary of State under this subsection;

26 (4) A commitment to file with the Secretary of State a statement of any
27 subsequent change in its mailing address; and

28 (5) The effective date and time of cancellation if it is not to be effective at
29 the time of filing the certificate.

30 (g) Each limited liability limited partnership shall continuously maintain in this
31 State a registered office and agent in accordance with G.S. 59-105.

32 (h) A limited liability limited partnership shall be subject to the provisions of
33 G.S. 59-84.4(f) regarding annual reports and revocation of registration as if it were a
34 registered limited liability partnership."

35 **SECTION 128.** G.S. 59-402(6) reads as rewritten:

36 "(6) In the case of a general partner who is a natural person,

37 a. ~~His~~ The general partner's death; or

38 b. ~~The entry of an order by a court of competent jurisdiction~~
39 ~~adjudicating him the general partner incompetent to manage his~~
40 ~~or her person or his estate; property;".~~

41 **SECTION 129.** G.S. 59-402(9) reads as rewritten:

1 "(9) In the case of a general partner that is a corporation, the filing of a
2 certificate of dissolution, or its equivalent, for the corporation or the
3 revocation of its charter; ~~or~~".

4 **SECTION 130.** G.S. 59-402(10) reads as rewritten:

5 "(10) Unless otherwise provided in the partnership agreement, or with the
6 consent of all partners, in ~~In~~ the case of a general partner that is an
7 estate, the distribution by the fiduciary of the estate's entire interest in
8 the ~~partnership-partnership~~."

9 **SECTION 131.** G.S. 59-402 is amended by adding the following new
10 subdivisions to read:

11 "(11) In the case of a general partner that is a limited liability company, the
12 dissolution and commencement of winding up of the limited liability
13 company; or

14 (12) In the case of a general partner that is not a natural person, trust,
15 separate partnership, corporation, estate, or limited liability company,
16 the termination of the general partner."

17 **SECTION 132.** G.S. 59-403(b) reads as rewritten:

18 "(b) Except as provided in this Article, a general partner of a limited partnership
19 that is not a limited liability limited partnership has the liabilities of a partner in a
20 partnership without limited partners to persons other than the partnership and the other
21 partners- partners, and a general partner of a limited liability limited partnership has the
22 liabilities of, and has the limitation on liability afforded to, a partner in a registered
23 limited liability partnership under the North Carolina Uniform Partnership Act to
24 persons other than the partnership and the other partners. Except as provided in this
25 Article or in the partnership agreement, a general partner of a limited partnership that is
26 not a limited liability limited partnership has the liabilities of a partner in a partnership
27 without limited partners to the partnership and to the other partners- partners, and a
28 general partner of a limited liability limited partnership has the liabilities of, and has the
29 limitation on liability afforded to, a partner in a registered limited liability partnership
30 under the North Carolina Uniform Partnership Act to the partnership and to the other
31 partners."

32 **SECTION 133.** G.S. 59-403 is amended by adding a new subsection to read:

33 "(c) Unless otherwise provided in the partnership agreement, a general partner of
34 a limited partnership has the power and authority to delegate to one or more other
35 persons the general partner's rights and powers to manage and control the business and
36 affairs of the limited partnership, including to delegate to agents, officers, and
37 employees of the general partner or the limited partnership, and to delegate by a
38 management agreement or another agreement with, or otherwise to, other persons.
39 Unless otherwise provided in the partnership agreement, a delegation by a general
40 partner of a limited partnership shall not cause the general partner to cease to be a
41 general partner of the limited partnership, and shall not reduce or absolve the general

1 partner of the general partner's duties or obligations to the limited partnership or its
2 other partners."

3 **SECTION 134.** G.S. 59-902 reads as rewritten:

4 **"§ 59-902. Registration.**

5 (a) Before transacting business in this State, a foreign limited partnership shall
6 procure a certificate of authority to transact business in this State from the Secretary of
7 State. No foreign limited partnership shall be entitled to transact in this State any
8 business which a limited partnership organized under this Article is not permitted to
9 transact. In order to register, a foreign limited partnership shall deliver to the Secretary
10 of State an original and one conformed copy of an application for registration as a
11 foreign limited partnership, signed by a general partner and setting forth:

- 12 (1) The name of the foreign limited partnership and, if different, the name
13 under which it proposes to register and transact business in this State;
- 14 (2) The jurisdiction and date of its formation;
- 15 (3) The date of formation and the period of duration;
- 16 (4) The street address, ~~including county and city or town, and street and~~
17 ~~number, if any, and the mailing address if different from the street~~
18 ~~address,~~ of the principal office of the foreign limited partnership;
- 19 (5) The street address, ~~including county and city or town, and street and~~
20 ~~number, if any, and the mailing address if different from the street~~
21 ~~address,~~ of the ~~proposed~~ registered office of the foreign limited
22 partnership in this State, the county in which the registered office is
23 located, and the name of its proposed registered agent in this State ~~at~~
24 ~~such address; the agent must be an individual resident of this State, a~~
25 ~~domestic corporation, or a foreign corporation having a place of~~
26 ~~business in, and authorized to do business in this State;~~
- 27 (6) If the certificate of limited partnership filed in the foreign limited
28 partnership's state of organization is not required to include the names
29 and addresses of the partners, a list of the names and addresses or, at
30 the election of the foreign limited partnership, a list of the names and
31 addresses of the general partners and the address, including county and
32 city or town, and street and number, of the office at which is kept a list
33 of the names and addresses of the limited partners and their capital
34 contributions, together with an undertaking by the foreign limited
35 partnership to keep such records until such foreign limited
36 partnership's registration in this State is cancelled;
- 37 (7) A statement that in consideration of the issuance of a certificate of
38 authority to transact business in this State, the foreign limited
39 partnership appoints the Secretary of State of North Carolina as the
40 agent to receive service of process, notice, or demand, whenever the
41 foreign limited partnership fails to appoint or maintain a registered

1 agent in this State or whenever any such registered agent cannot with
2 reasonable diligence be found at the registered office;

3 (8) The names and addresses including county and city or town, and street
4 and number, if any, of all of the general partners; and

5 (9) ~~The execution of a certificate or amendment by a general partner~~
6 ~~constitutes an affirmation under the penalties of perjury that the facts~~
7 ~~stated therein are true.~~ effective date and time of the registration if it is
8 not to be effective at the time of filing of the application.

9 (b) Without excluding other activities which ~~may~~ shall not constitute transacting
10 business in this State, a foreign limited partnership shall not be considered to be
11 transacting business in this State, for the purpose of this Article, by reason of carrying
12 on in this State any one or more of the following activities:

13 (1) Maintaining or defending any action or suit or any administrative or
14 arbitration proceeding, or effecting the settlement thereof or the
15 settlement of claims or disputes;

16 (2) Holding meetings of its partners or carrying on other activities
17 concerning its internal affairs;

18 (3) Maintaining bank accounts or borrowing money in this State, with or
19 without security, even if such borrowings are repeated and continuous
20 transactions;

21 (4) Maintaining offices or agencies for the transfer, exchange, and
22 registration of its securities, or appointing and maintaining trustees or
23 depositaries with relation to its securities;

24 (5) Soliciting or procuring orders, whether by mail or through employees
25 or agents or otherwise, where such orders require acceptance without
26 this State before becoming binding contracts;

27 (6) Making or investing in loans with or without security including
28 servicing of mortgages or deeds of trust through independent agencies
29 within the State, the conducting of foreclosure proceedings and ~~sale,~~
30 sales, the acquiring of property at foreclosure sale and the management
31 and rental of such property for a reasonable time while liquidating its
32 investment, provided no office or agency therefor is maintained in this
33 State;

34 (7) Taking security for or collecting debts due to it or enforcing any rights
35 in property securing the same;

36 (8) Transacting business in interstate commerce; and

37 (9) Conducting an isolated transaction completed within a period of six
38 months and not in the course of a number of repeated transactions of
39 like nature.

40 (b1) Each foreign limited partnership authorized to transact business in this State
41 shall continuously maintain in this State:

- 1 (1) A registered office that may be the same as any of its places of
2 business; and
3 (2) A registered agent, who shall be (i) an individual who resides in this
4 State and whose business office is identical with the registered office;
5 (ii) a domestic corporation, nonprofit corporation, or limited liability
6 company whose business office is identical with the registered office,
7 or (iii) a foreign corporation, nonprofit corporation, or limited liability
8 company authorized to transact business or conduct affairs in this State
9 whose business office is identical with the registered office.

10 The sole duty of the registered agent to the foreign limited partnership is to forward
11 to the foreign limited partnership at its last known address any notice, process, or
12 demand that is served on the registered agent.

13 (b2) A foreign limited partnership authorized to transact business in this State may
14 change its registered office or registered agent by delivering to the Secretary of State for
15 filing a statement of change that sets forth:

- 16 (1) Its name;
17 (2) The street address, and the mailing address if different from the street
18 address, of its current registered office, and the county in which it is
19 located;
20 (3) If the address of its registered office is to be changed, the street
21 address, and the mailing address if different from the street address, of
22 the new registered office, and the county in which it is located;
23 (4) The name of its current registered agent;
24 (5) If the current registered agent is to be changed, the name of its new
25 registered agent and the new agent's written consent (either on the
26 statement or attached to it) to the appointment; and
27 (6) That after the change or changes are made, the addresses of its
28 registered office and the business office of its registered agent will be
29 identical.

30 If a registered agent changes the address of his business office, the registered agent
31 may change the address of the registered office of any foreign limited partnership for
32 which he is the registered agent by notifying the foreign limited partnership in writing
33 of the change and signing (either manually or in facsimile) and delivering to the
34 Secretary of State for filing a statement of change that complies with the requirements
35 of this subsection and recites that the foreign limited partnership has been notified of the
36 change.

37 (b3) The following provisions shall apply for the resignation of a registered agent:

- 38 (1) A registered agent may resign his agency appointment by signing and
39 filing with the Secretary of State the signed original and two exact or
40 conformed copies of a statement of resignation which may include a
41 statement that the registered office is also discontinued. The statement
42 shall include or be accompanied by a certification from the registered

1 agent that the agent has mailed or delivered to the foreign limited
2 partnership at its last known address written notice of the agent's
3 resignation. Such certification shall include the name and title of the
4 partner notified, if any, and the address to which the notice was mailed
5 or delivered.

6 (2) After filing the statement, the Secretary of State shall mail one copy to
7 the registered office, if not discontinued, and the other copy to the
8 foreign limited partnership at the address certified in the statement of
9 resignation.

10 (3) The agency appointment is terminated, and the registered office
11 discontinued if so provided, on the thirty-first day after the date on
12 which the statement was filed.

13 (b4) The registered agent of a foreign limited partnership authorized to transact
14 business in this State is an agent of the foreign limited partnership for service of
15 process, notice, or demand required or permitted by law to be served on the foreign
16 limited partnership.

17 (c) Whenever a foreign limited partnership shall fail to appoint or maintain a
18 registered agent in this State, or whenever its registered agent cannot with due diligence
19 be found at the registered office, then the Secretary of State shall be an agent of such
20 foreign limited partnership upon whom any such process, notice, or demand may be
21 served. Service on the Secretary of State of any such process, notice, or demand shall be
22 made by delivering to and leaving with ~~him~~, the Secretary of State, or with any clerk
23 ~~having charge of the limited partnership department of his office~~, authorized by the
24 Secretary of State to accept service of process, duplicate copies of ~~such~~ the process,
25 notice or ~~demand~~, demand and the fee required by G.S. 59-1106(b). In the event any
26 such process, notice or demand is served on the Secretary of State, ~~he~~ the Secretary of
27 State shall immediately cause one of the copies thereof to be forwarded by registered or
28 certified ~~mail~~, addressed mail to the foreign limited partnership at its registered office.
29 ~~Any such~~ Service on a foreign limited partnership ~~so served~~ under this subsection shall
30 be ~~in court~~ effective for all purposes from and after the date of ~~such~~ the service on the
31 Secretary of State.

32 (d) The Secretary of State shall keep a record of all processes, notices and
33 demands served upon ~~him~~ the Secretary of State under this section, and shall record
34 therein the time of such service and ~~his~~ the Secretary of State's action with reference
35 thereto.

36 (e) Nothing herein contained shall limit or affect the right to serve any process
37 notice or demand required or permitted by law to be served upon a foreign limited
38 partnership in any other manner now or hereafter permitted by law."

39 **SECTION 135.** G.S. 59-904 reads as rewritten:

40 "**§ 59-904. Name.**

41 A foreign limited partnership may register with the Secretary of State under any
42 name (whether or not it is the name under which it is registered in its state of

1 organization) that includes without abbreviation the words 'limited partnership' or has
2 the abbreviation 'L.P.', 'LP', 'R.L.L.L.P.', 'RLLLP', 'L.L.L.P.', or 'LLLP' as the last letters
3 of its name and that could be registered and used as its name under G.S. 59-103 by a
4 domestic limited partnership."

5 **SECTION 136.** G.S. 59-909(a) reads as rewritten:

6 "(a) Whenever a foreign limited partnership authorized to transact business in this
7 State ceases its separate existence as a result of a statutory merger or consolidation
8 permitted by the laws of the state or country under which it was organized, or converts
9 into another type of entity as permitted by those laws, the surviving or resulting entity
10 shall apply for a certificate of withdrawal for the foreign limited partnership by
11 delivering to the Secretary of State for filing a copy of the articles of merger,
12 consolidation, or conversion or a certificate reciting the facts of the merger,
13 consolidation, or conversion, duly authenticated by the Secretary of State or other
14 official having custody of limited partnership records in the state or country under the
15 laws of which the foreign limited partnership was organized. If the surviving or
16 resulting entity is not authorized to transact business in this State, the articles or
17 certificate must be accompanied by an application which must set forth:

- 18 (1) The name of the foreign limited partnership authorized to transact
19 business in this State, the type of entity and name of the surviving or
20 resulting entity, and a statement that the surviving or resulting entity is
21 not authorized to transact business in this State;
- 22 (2) A statement that the surviving or resulting entity consents that service
23 of process based on any cause of action arising in this State, or arising
24 out of business transacted in this State, during the time the foreign
25 limited partnership was authorized to transact business in this State,
26 may thereafter be made by service thereof on the Secretary of State;
- 27 (3) A mailing address to which the Secretary of State may mail a copy of
28 any process served upon the Secretary under subdivision (a)(2) of this
29 section; and
- 30 (4) A commitment to ~~notify~~ file with the Secretary of State ~~in the future~~ a
31 statement of any subsequent change in its mailing address."

32 **SECTION 137.** G.S. 59-909 is amended by adding a new subsection to read:

33 "(c) After the withdrawal of the foreign limited partnership is effective, service of
34 process on the Secretary of State in accordance with subsection (a) of this section shall
35 be made by delivering to and leaving with the Secretary of State or any clerk authorized
36 by the Secretary of State to accept service of process, duplicate copies of the process
37 and the fee required by G.S. 59-1106(b). Upon receipt of process in the manner
38 provided in this subsection, the Secretary of State shall immediately mail a copy of the
39 process by registered or certified mail, return receipt requested, to the surviving or
40 resulting entity at the mailing address designated pursuant to subsection (a) of this
41 section."

1 **SECTION 138.** The heading of Part 10A of Chapter 59 of the General
2 Statutes reads as rewritten:

3 "Part 10A. Conversion and Merger. to Limited Partnership."

4 **SECTION 139.** G.S. 59-1050 reads as rewritten:

5 "**§ 59-1050. ~~Conversions.~~ Conversion.**

6 (a) ~~A domestic limited partnership may convert to a domestic limited liability~~
7 ~~company pursuant to Part 1 of Article 9A of Chapter 57C of the General Statutes.~~

8 (b) ~~A domestic limited liability company as defined in G.S. 57C 1-03, a foreign~~
9 ~~limited liability company as defined in G.S. 57C 1-03, a foreign limited partnership, or~~
10 ~~any other partnership as defined in G.S. 59-36 whether or not formed under the laws of~~
11 ~~this State, including a registered limited liability partnership as defined in G.S. 59-32,~~
12 ~~and any other limited liability partnership formed under a law other than the laws of this~~
13 ~~State, but excluding a domestic limited partnership, may convert to a domestic limited~~
14 ~~partnership if:~~

15 (1) ~~Such converting business entity complies with the requirements of~~
16 ~~G.S. 59-1051 and G.S. 59-1052; and~~

17 (2) ~~If the converting business entity is a foreign limited liability company,~~
18 ~~a foreign limited partnership, or other partnership as defined in G.S.~~
19 ~~59-36 whose organization and internal affairs are governed by a law~~
20 ~~other than the laws of this State, the conversion is permitted by laws of~~
21 ~~the state or country governing the organization and internal affairs of~~
22 ~~the converting business entity, and the converting business entity~~
23 ~~complies with the laws.~~

24 A business entity other than a domestic limited partnership may convert to a
25 domestic limited partnership if:

26 (1) The conversion is permitted by the laws of the state or country
27 governing the organization and internal affairs of the converting
28 business entity; and

29 (2) The converting business entity complies with the requirements of this
30 part and, to the extent applicable, the laws referred to in subdivision
31 (1) of this section."

32 **SECTION 140.** G.S. 59-1051 reads as rewritten:

33 "**§ 59-1051. Plan of conversion.**

34 (a) ~~The holders of the interests in the converting business entity shall approve a~~
35 ~~written plan of conversion containing:~~

36 (1) The name of the converting business entity, its type of business entity,
37 and the state or country whose laws govern its organization and
38 internal affairs;

39 ~~(1)~~(2) The name of the resulting domestic limited partnership into which the
40 converting business entity shall convert;

41 ~~(2)~~(3) The terms and conditions of the conversion; and

1 (3)(4) The manner and basis for converting the interests in the converting
2 business entity into interests, obligations, or securities of the resulting
3 domestic limited partnership or into cash or other property in whole or
4 in part.

5 The plan of conversion may contain other provisions relating to the conversion.

6 (b) ~~In the case of a domestic limited liability company, the plan of conversion~~
7 ~~must be approved in the manner provided for approval of such a conversion in its~~
8 ~~articles of organization or a written operating agreement or, if there is no such~~
9 ~~provision, by the unanimous consent of its members. In the case of a partnership as~~
10 ~~defined in G.S. 59-36 whose organization and internal affairs are governed by the laws~~
11 ~~of this State, the plan of conversion must be approved in the manner provided for the~~
12 ~~approval of such a conversion in a written partnership agreement that is binding on all~~
13 ~~the partners or, if there is no such provision, by the unanimous consent of all the~~
14 ~~partners. In the case of a foreign limited liability company, a foreign limited partnership,~~
15 ~~or other partnership as defined in G.S. 59-36 whose organization and internal affairs are~~
16 ~~governed by a law other than the laws of this State, the~~ The plan of conversion must
17 shall be approved in accordance with the laws of the state or country governing the
18 organization and internal affairs of the converting business entity.

19 (c) After a plan of conversion has been approved as provided in subsection (b) of
20 this section, but before a certificate of limited partnership for the resulting domestic
21 ~~limited liability company partnership~~ becomes effective, the plan of conversion may be
22 amended or abandoned to the extent ~~provided in the plan of conversion.~~ permitted by
23 the laws that govern the organization and internal affairs of the converting business
24 entity."

25 **SECTION 141.** G.S. 59-1052 reads as rewritten:

26 "**§ 59-1052. Filing of certificate of limited partnership by converting business**
27 **entity.**

28 (a) After a plan of conversion has been approved by the converting business
29 entity as provided in G.S. 59-1051, the converting business entity shall deliver a
30 certificate of limited partnership to the Secretary of State for filing. In addition to the
31 matters required or permitted by G.S. 59-201, the certificate of limited partnership shall
32 ~~state:~~ contain articles of conversion stating:

33 (1) That the domestic limited partnership is being formed pursuant to a
34 conversion of another business entity;

35 (2) The name of the converting business entity, its type of business entity,
36 and the state or country whose laws govern its organization and
37 internal affairs; and

38 (3) That a plan of conversion has been approved by the converting
39 business entity in the manner required by law.

40 If the plan of conversion is abandoned after the certificate of limited partnership has
41 been filed with the Secretary of State but before the certificate of limited partnership
42 becomes effective, the converting business entity ~~promptly~~ shall deliver to the Secretary

1 of State for filing prior to the time the articles of organization become effective an
2 amendment to the certificate of limited partnership reflecting the abandonment of the
3 plan of conversion, withdrawing the certificate of limited partnership.

4 (b) The conversion takes effect when the certificate of limited partnership
5 becomes effective.

6 (c) ~~The converting business entity shall furnish a copy of the plan of conversion,~~
7 ~~on request and without cost, to any member or partner (whether general or limited) of~~
8 ~~the converting business entity.~~

9 (d) Certificates of conversion shall also be registered as provided in G.S.
10 47-18.1."

11 **SECTION 142.** Article 5 of Chapter 59 of the General Statutes is amended
12 by adding a new Part to read:

13 "Part 10B. Conversion of Limited Partnership.

14 "**§ 59-1054. Conversion.**

15 A domestic limited partnership may convert to a different business entity if:

16 (1) The conversion is permitted by the laws of the state or country
17 governing the organization and internal affairs of such other business
18 entity; and

19 (2) The converting domestic limited partnership complies with the
20 requirements of this Part and, to the extent applicable, the laws
21 referred to in subdivision (1) of this section.

22 "**§ 59-1055. Plan of conversion.**

23 (a) The converting domestic limited partnership shall approve a written plan of
24 conversion containing:

25 (1) The name of the converting domestic limited partnership;

26 (2) The name of the resulting business entity into which the domestic
27 limited partnership shall convert, its type of business entity, and the
28 state or country whose laws govern its organization and internal
29 affairs;

30 (3) The terms and conditions of the conversion; and

31 (4) The manner and basis for converting the interests in the domestic
32 limited partnership into interests, obligations, or securities of the
33 resulting business entity or into cash or other property in whole or in
34 part.

35 The plan of conversion may contain other provisions relating to the conversion.

36 (b) The plan of conversion shall be approved by the domestic limited partnership
37 in the manner provided for the approval of the conversion in a written partnership
38 agreement or, if there is no provision, by the unanimous consent of its partners. If any
39 partner of the converting domestic limited partnership will have personal liability for
40 any existing or future obligation of the resulting business entity solely as a result of
41 holding an interest in the resulting business entity, then in addition to the requirements
42 of the preceding sentence, approval of the plan of conversion by the domestic limited

1 partnership shall require the consent of each such partner. The converting domestic
2 limited partnership shall provide a copy of the plan of conversion to each partner of the
3 converting domestic limited partnership at the time provided in a written partnership
4 agreement or, if there is no such provision, prior to its approval of the plan of
5 conversion.

6 (c) After a plan of conversion has been approved by a domestic limited
7 partnership but before the articles of conversion become effective, the plan of
8 conversion (i) may be amended as provided in the plan of conversion, or (ii) may be
9 abandoned (subject to any contractual rights) as provided in the plan of conversion or
10 written partnership agreement or, if not so provided, as determined by the general
11 partners of the domestic limited partnership in accordance in G.S. 59-403.

12 **"§ 59-1056. Articles of conversion.**

13 (a) After a plan of conversion has been approved by the converting domestic
14 limited partnership as provided in G.S. 59-1055, the converting domestic limited
15 partnership shall deliver articles of conversion to the Secretary of State for filing. The
16 articles of conversion shall state:

17 (1) The name of the converting domestic limited partnership;

18 (2) The name of the resulting business entity, its type of business entity,
19 the state or country whose laws govern its organization and internal
20 affairs, and, if the resulting business entity is not authorized to transact
21 business or conduct affairs in this State, a designation of its mailing
22 address and a commitment to file with the Secretary of State a
23 statement of any subsequent change in its mailing address; and

24 (3) That a plan of conversion has been approved by the domestic limited
25 partnership as required by law.

26 If the domestic limited partnership is converting to a business entity whose
27 formation or whose status as a registered limited liability partnership, as defined in G.S.
28 59-32, or limited liability limited partnership requires the filing of a document with the
29 Secretary of State, then the articles of conversion shall be included as part of that
30 document instead of separately filing the articles of conversion.

31 If the plan of conversion is abandoned after the articles of conversion have been
32 filed with the Secretary of State but before the articles of conversion become effective,
33 the converting domestic limited partnership shall deliver to the Secretary of State for
34 filing prior to the time the articles of conversion become effective an amendment of the
35 articles of conversion withdrawing the articles of conversion.

36 (b) The conversion takes effect when the articles of conversion become effective.

37 (c) Certificates of conversion shall also be registered as provided in G.S. 47-18.1.

38 **"§ 59-1057. Effects of conversion.**

39 (a) When the conversion takes effect:

40 (1) The converting domestic limited partnership ceases its prior form of
41 organization and continues in existence as the resulting business entity;

- 1 (2) The title to all real estate and other property owned by the converting
2 domestic limited partnership continues vested in the resulting business
3 entity without reversion or impairment;
4 (3) All liabilities of the converting domestic limited partnership continue
5 as liabilities of the resulting business entity;
6 (4) A proceeding pending by or against the converting domestic limited
7 partnership may be continued as if the conversion did not occur; and
8 (5) The interests in the converting domestic limited partnership that are to
9 be converted into interests, obligations, or securities of the resulting
10 business entity or into the right to receive cash or other property are
11 thereupon so converted, and the former holders of interests in the
12 converting domestic limited partnership are entitled only to the rights
13 provided in the plan of conversion.

14 The conversion shall not affect the liability or absence of liability of any holder of an
15 interest in the converting domestic limited partnership for any acts, omissions, or
16 obligations of the converting domestic limited partnership made or incurred prior to the
17 effectiveness of the conversion. The cessation of the existence of the converting
18 domestic limited partnership in its form of organization as a domestic limited
19 partnership in the conversion shall not constitute a dissolution or termination of the
20 converting domestic limited partnership.

21 (b) If the resulting business entity is not a domestic corporation or a domestic
22 limited liability company, when the conversion takes effect the resulting business entity
23 is deemed:

- 24 (1) To agree that it may be served with process in this State for
25 enforcement of (i) any obligation of the converting domestic limited
26 partnership, and (ii) any obligation of the resulting business entity
27 arising from the conversion; and
28 (2) To have appointed the Secretary of State as its agent for service of
29 process in any such proceeding. Service on the Secretary of State of
30 any such process shall be made by delivering to and leaving with the
31 Secretary of State, or with any clerk authorized by the Secretary of
32 State to accept service of process, duplicate copies of the process and
33 the fee required by G.S. 59-1106(b). Upon receipt of service of process
34 on behalf of a resulting business entity in the manner provided for in
35 this section, the Secretary of State shall immediately mail a copy of the
36 process by registered or certified mail, return receipt requested, to the
37 resulting business entity. If the resulting business entity is authorized
38 to transact business or conduct affairs in this State, the address for
39 mailing shall be its principal office designated in the latest document
40 filed with the Secretary of State that is authorized by law to designate
41 the principal office or, if there is no principal office on file, its
42 registered office. If the resulting business entity is not authorized to

1 transact business or conduct affairs in this State, the address for
2 mailing shall be the mailing address designated pursuant to G.S.
3 59-1056(a)(2)."

4 **SECTION 143.** Article 5 of Chapter 59 of the General Statutes is amended
5 by adding a new Part with the heading set forth below and containing G.S. 59-1054,
6 59-1055, 59-1056, and 59-1057 recodified as G.S. 59-1070, 59-1071, 59-1072, and
7 59-1073, respectively.

8 "Part 10C. Merger."

9 **SECTION 144.** G.S. 59-1070, as recodified by Section 143 of this act, reads
10 as rewritten:

11 **"§ 59-1070. Merger.**

12 A domestic limited partnership may merge with one or more other domestic limited
13 partnerships or other business entities if:

- 14 (1) The merger is permitted by the laws of the state or country governing
15 the organization and internal affairs of each other merging business
16 entity; and
17 (2) Each merging domestic limited partnership and each other merging
18 business entity comply with the requirements of G.S. ~~59-1055~~ 59-1071
19 and G.S. ~~59-1056~~ 59-1072, and, to the extent applicable, the laws
20 referred to in subdivision (1) of this section."

21 **SECTION 145.** G.S. 59-1071(b), as recodified by Section 143 of this act,
22 reads as rewritten:

23 "(b) In the case of a merging domestic limited partnership, the plan of merger
24 must be approved in the manner provided in a written partnership agreement that is
25 binding on all the partners for approval of a merger with the type of business entity
26 contemplated in the plan of merger, or, if there is no provision, by the unanimous
27 consent of its partners. If any partner of a merging domestic limited partnership has or
28 will have personal liability for any existing or future obligation of the surviving
29 business entity solely as a result of holding an interest in the surviving business entity,
30 then in addition to the requirements of the preceding sentence, approval of the plan of
31 merger by the domestic limited partnership shall require the consent of that partner. In
32 the case of each other merging business entity, the plan of merger must be approved in
33 accordance with the laws of the state or country governing the organization and internal
34 affairs of the merging business entity."

35 **SECTION 146.** G.S. 59-1072(a), as recodified by Section 143 of this act,
36 reads as rewritten:

37 "(a) After a plan of merger has been approved by each merging domestic limited
38 partnership and each other merging business entity as provided in G.S. ~~59-1055,~~
39 59-1071, the surviving business entity shall deliver articles of merger to the Secretary of
40 State for filing. The articles of merger shall set forth:

- 41 (1) The plan of merger;

- 1 (2) For each merging business entity, its name, type of business entity, and
2 the state or country whose laws govern its organization and internal
3 affairs;
- 4 (3) The name ~~and address~~ of the surviving business ~~entity~~; entity and, if
5 the surviving business entity is not authorized to transact business or
6 conduct affairs in this State, a designation of its mailing address and a
7 commitment to file with the Secretary of State a statement of any
8 subsequent change in its mailing address;
- 9 (4) A statement that the plan of merger has been approved by each
10 merging business entity in the manner required by law; and
- 11 (5) The effective date and time of the merger if it is not to be effective at
12 the time of filing of the articles of merger.

13 If the plan of merger is amended or abandoned after the articles of merger have been
14 filed but before the articles of merger become effective, the surviving business entity
15 promptly shall deliver to the Secretary of State for filing an amendment to the articles of
16 merger reflecting the amendment or abandonment of the plan of merger."

17 **SECTION 147.** G.S. 59-1073(b), as recodified by Section 143 of this act,
18 reads as rewritten:

19 "(b) If the surviving business entity is not a domestic limited liability company, a
20 domestic corporation, a domestic nonprofit corporation, or a domestic limited
21 partnership, when the merger takes effect the surviving business entity is deemed:

- 22 (1) To agree that it may be served with process in this State in any
23 proceeding for enforcement of (i) any obligation of any merging
24 domestic limited liability company, domestic corporation, domestic
25 nonprofit corporation, domestic limited partnership or other
26 partnership as defined in G.S. 59-36 that is formed under the laws of
27 this State, (ii) the rights of dissenting shareholders of any merging
28 domestic corporation under Article 13 of Chapter 55 of the General
29 Statutes, and (iii) any obligation of the surviving business entity
30 arising from the merger; and
- 31 (2) ~~If the surviving business entity does not have a registered agent in this~~
32 ~~State, to~~ To have appointed the Secretary of State as its registered
33 agent for service of process in any such proceeding. ~~proceeding until~~
34 ~~such time as the surviving business entity appoints a registered agent~~
35 ~~in this State.~~ Service on the Secretary of State of any such process
36 shall be made by delivering to and leaving with the Secretary of State
37 State, or with any clerk authorized by the Secretary of State to accept
38 service of process, duplicate copies of ~~such process~~. the process and
39 the fee required by G.S. 59-1106(b). Upon receipt of service of process
40 on behalf of a surviving business ~~entity~~, entity in the manner provided
41 for in this section, the Secretary of State shall immediately mail a copy
42 of the process by registered or certified mail, return receipt requested,

1 to the surviving business entity at its address shown in the articles of
 2 merger or, if an application for a certificate of withdrawal by reason of
 3 merger has been filed, at the address for service of process contained
 4 in that application. entity. If the surviving business entity is authorized
 5 to transact business or conduct affairs in this State, the address for
 6 mailing shall be its principal office designated in the latest document
 7 filed with the Secretary of State that is authorized by law to designate
 8 the principal office or, if there is no principal office on file, its
 9 registered office. If the surviving business entity is not authorized to
 10 transact business or conduct affairs in this State, the address for
 11 mailing shall be the mailing address designated pursuant to G.S.
 12 59-1072(a)(3)."

13 **SECTION 148.** G.S. 59-1105 is repealed.

14 **SECTION 149.** G.S. 59-1106 reads as rewritten:

15 "**§ 59-1106. Filing, service, and copying Fees; fees; expedited filings.**

16 (a) The Secretary of State shall collect the following fees ~~and remit them to the~~
 17 ~~State Treasurer for the use of the State. when the documents described in this subsection~~
 18 ~~are delivered to the Secretary of State for filing:~~

	<u>Document</u>	<u>Fee</u>
21	(1) For filing a certificate <u>Certificate</u>	
22	of limited partnership (G.S. 59-201)	
23	<u>partnership, which does not include an application for</u>	
24	<u>registration as a limited liability limited</u>	
25	<u>partnership</u>	\$50.00
26	(1a) <u>Certificate of limited partnership, which includes</u>	
27	<u>an application for registration as a limited</u>	
28	<u>liability limited partnership</u>	125.00
29	(2) For filing a certificate <u>Certificate of</u>	
30	amendment (G.S. 59-202; 59-905)	25.00
31	(3) For filing a certificate <u>Certificate of</u>	
32	cancellation (G.S. 59-203; 59-906)	25.00
33	(4) For filing an application <u>Application</u>	
34	for reservation of name (G.S. 59-104(a))	10.00
35	(5) For filing a <u>Notice of transfer</u>	
36	of name (G.S. 59-104(d))	10.00
37	(5a) <u>Limited partnership's or foreign limited</u>	
38	<u>partnership's statement of</u>	
39	<u>change of registered agent or registered</u>	
40	<u>office or both</u>	5.00
41	(5b) <u>Agent's statement of change of registered</u>	
42	<u>office for each affected</u>	

1	<u>partnership</u>	<u>5.00</u>
2	(5c) <u>Agent's statement of resignation</u>	<u>No Fee</u>
3	(5d) <u>Designation of registered agent or</u>	
4	<u>registered office or both</u>	<u>5.00</u>
5	(6) For filing an application <u>Application</u>	
6	for registration as foreign limited	
7	partnership (G.S. 59-502)	50.00
8	(7) For preparing and furnishing a copy of	
9	any document, instrument or	
10	paper filed or recorded relating to a limited	
11	partnership (G.S. 59-206(e))	
12	For each page	<u>1.00</u>
13	For affixing the certificate and official seal	
14	There to	<u>5.00</u>
15	(8) For comparing a copy furnished to him	
16	of any document instrument or	
17	paper filed or recorded relating to a limited partnership.	
18	For each page	<u>1.00</u>
19	(9) For filing any <u>Any other document</u>	
20	not herein specifically provided	
21	for required or permitted to be filed by this Article	<u>10.00</u>
22	(10) For the expedited filing by the end of the	
23	same business day of a document received in good	
24	order by 12:00 noon Eastern Standard Time	<u>200.00 additional fee</u>
25	(11) For the expedited filing of a document received	
26	in good order within 24 hours after receipt,	
27	excluding weekends and holidays	<u>100.00</u>
28	additional fee	
29	(12) Advisory review of a document	<u>200.00, 200.00</u>
30	(13) <u>Certificate of amendment of</u>	
31	<u>registration as foreign limited partnership</u>	<u>25.00</u>
32	(14) <u>Cancellation of registration as foreign</u>	
33	<u>limited partnership</u>	<u>25.00</u>
34	(15) <u>Application for certificate of withdrawal</u>	
35	<u>by reason of merger, consolidation, or conversion</u>	<u>10.00</u>
36	(16) <u>Articles of merger</u>	<u>50.00</u>
37	(17) <u>Articles of conversion (other than articles of</u>	
38	<u>conversion included</u>	
39	<u>as part of another document)</u>	<u>50.00</u>
40	(18) <u>Application for registration as a limited</u>	
41	<u>liability limited partnership (other than an</u>	
42	<u>application included in the certificate of</u>	

1	<u>limited partnership)</u>	<u>125.00</u>
2	(19) <u>Certificate of amendment of registration</u>	
3	<u>as a limited liability limited partnership</u>	<u>25.00</u>
4	(20) <u>Certificate of cancellation of registration</u>	
5	<u>as a limited liability limited partnership</u>	<u>25.00</u>
6	(21) <u>Annual report for a limited liability</u>	
7	<u>limited partnership</u>	<u>200.00.</u>

8 (b) The Secretary of State shall collect a fee of ten dollars (\$10.00) each time
 9 process is served on the Secretary under this Article. The party to a proceeding causing
 10 service of process is entitled to recover this fee as costs if the party prevails in the
 11 proceeding.

12 (c) The Secretary of State shall collect the following fees for copying,
 13 comparing, and certifying a copy of any filed document relating to a domestic or foreign
 14 limited partnership:

15 (1) One dollar (\$1.00) a page for copying or comparing a copy to the
 16 original; and

17 (2) Five dollars (\$5.00) for the certificate.

18 (d) The Secretary of State shall guarantee the expedited filing of a document
 19 upon receipt of the document in proper form and the payment of the required filing fee.
 20 The Secretary of State may collect the following additional fees for the expedited filing
 21 of a document received in good form:

22 (1) Two hundred dollars (\$200.00) for the filing by the end of the same
 23 business day of a document received by 12:00 noon Eastern Standard
 24 Time; and

25 (2) One hundred dollars (\$100.00) for the filing of a document within 24
 26 hours after receipt, excluding weekends and holidays.

27 The Secretary of State shall not collect the fees allowed in ~~subdivisions (10) and (11)~~
 28 ~~of this section-subsection~~ unless the person submitting the document for filing requests
 29 an expedited filing and is informed by the Secretary of State of the fees prior to the
 30 filing of the document. ~~Upon receipt of a document in proper form and payment of the~~
 31 ~~required filing fee, the Secretary of State shall guarantee the expedited filing of the~~
 32 ~~document."~~

33 **SECTION 150.** Part 11 of Article 5 of Chapter 59 of the General Statutes is
 34 amended by adding a new section to read:

35 **"§ 59-1107. Income taxation.**

36 A limited partnership, a foreign limited partnership authorized to transact business in
 37 this State, and a partner of one of these partnerships are subject to taxation under Article
 38 4 of Chapter 105 of the General Statutes in accordance with their classification for
 39 federal income tax purposes. Accordingly, if a limited partnership or a foreign limited
 40 partnership authorized to transact business in this State is classified for federal income
 41 tax purposes as a C corporation as defined in G.S. 105-131(b)(2) or a S corporation as
 42 defined in G.S. 105-131(b)(8), the partnership and its partners are subject to tax under

1 Article 4 of Chapter 105 of the General Statutes to the same extent as a C corporation or
2 an S corporation, as the case may be, and its shareholders. If a limited partnership or a
3 foreign limited partnership authorized to transact business in this State is classified for
4 federal income tax purposes as a partnership, the partnership and its partners are subject
5 to tax under Article 4 of Chapter 105 of the General Statutes accordingly. If a limited
6 partnership or a foreign limited partnership authorized to transact business in this State
7 is classified for federal income tax purposes as other than a corporation or a partnership,
8 the partnership and its partners are subject to tax under Article 4 of Chapter 105 of the
9 General Statutes in a manner consistent with that classification. This section does not
10 require a limited partnership or a foreign limited partnership to obtain an administrative
11 ruling from the Internal Revenue Service on its classification under the Internal
12 Revenue Code."

13 **PART V. AMENDMENTS TO CHAPTER 105.**

14 **SECTION 151.** G.S. 105-187.6(b) reads as rewritten:

15 "(b) Partial Exemptions. – A maximum tax of forty dollars (\$40.00) applies when
16 a certificate of title is issued as the result of a transfer of a motor vehicle:

- 17 (1) To a secured party who has a perfected security interest in the motor
18 vehicle.
- 19 (2) To a partnership, limited liability company, ~~or corporation as an~~
20 ~~incident to the formation of the partnership, limited liability company,~~
21 ~~or corporation, and trust, or other person where~~ no gain or loss arises
22 on the transfer of the motor vehicle under section 351 or section 721 of
23 the Code, or because the transfer is treated under the Code as being to
24 an entity that is not a separate entity from its owner or whose separate
25 existence is otherwise disregarded, or to a partnership, limited liability
26 company, or corporation by merger, conversion, or consolidation in
27 accordance with applicable law."

28 **SECTION 152.** G.S. 105-230(b) reads as rewritten:

29 "(b) Any act performed or attempted to be performed during the period of
30 suspension is invalid and of no ~~effect.~~ effect, unless the Secretary of State reinstates the
31 corporation or limited liability company pursuant to G.S. 105-232."

32 **SECTION 153.** G.S. 105-232(a) reads as rewritten:

33 "(a) Any corporation or limited liability company whose articles of incorporation,
34 articles of organization, or certificate of authority to do business in this State has been
35 suspended by the Secretary of State under G.S. 105-230, that complies with all the
36 requirements of this Subchapter and pays all State taxes, fees, or penalties due from it
37 (which total amount due may be computed, for years prior and subsequent to the
38 suspension, in the same manner as if the suspension had not taken place), and pays to
39 the Secretary of Revenue a fee of twenty-five dollars (\$25.00) to cover the cost of
40 reinstatement, is entitled to exercise again its rights, privileges, and franchises in this
41 State. The Secretary of Revenue shall notify the Secretary of State of this compliance
42 and the Secretary of State shall reinstate the corporation or limited liability company by

1 appropriate entry upon the records of the ~~Office of~~ office of the Secretary of State. Upon
2 entry of reinstatement, it relates back to and takes effect as of the date of the suspension
3 by the Secretary of State, and the corporation or limited liability company resumes
4 carrying on its business as if the suspension had never occurred, subject to the rights of
5 any person who reasonably relied to that person's prejudice on the suspension. The
6 Secretary of State shall immediately notify by mail the corporation or limited liability
7 company of the reinstatement."

8 **PART VI. MISCELLANEOUS PROVISIONS.**

9 **SECTION 154.(a)** The Revisor of Statutes shall cause to be printed all
10 explanatory comments of the drafters of this act as the Revisor may deem appropriate.

11 **SECTION 154.(b)** Nothing in this act shall supersede the provisions of
12 Articles 10 or 65 of Chapter 58 of the General Statutes, and this act does not create an
13 alternate means for an entity governed by Article 65 of Chapter 58 of the General
14 Statutes to convert to a different business form.

15 **PART VII. EFFECTIVE DATE.**

16 **SECTION 155.(a)** Section 59 of this act becomes effective September 1,
17 2001. The remainder of this act becomes effective January 1, 2002.

18 **SECTION 155.(b)** The amendment to G.S. 105-232 set forth in Section 153
19 of this act is intended to be retroactive. Accordingly, any act performed or attempted to
20 be performed during the period of suspension of any corporation or limited liability
21 company reinstated pursuant to G.S. 105-232(a) prior to January 1, 2002, shall not be
22 deemed to be invalid and of no effect under G.S. 105-230, subject to the rights of any
23 person who reasonably relied to that person's prejudice on the suspension.