ENROLLED

House Bill No. 3108

(By Delegates Fleischauer, Varner, Beane, Stemple, Palumbo, Foster and Manchin)

Passed March 7, 2003

In Effect Ninety Days from Passage
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(BY DELEGATES FLEISCHAUER, VARNER, BEANE, STEMPLE, PALUMBO, FOSTER AND MANCHIN)

[Passed March 7, 2003; in effect ninety days from passage.]

AN ACT to amend and reenact section three, article twelve-c, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact sections one hundred one, one hundred eight and one hundred nine, article one, chapter thirty-one-b; to amend and reenact sections two hundred three, two hundred six, two hundred eleven, article two of said chapter thirty-one-b; to amend and reenact sections one thousand two and one thousand six, article ten of said chapter thirty-one-b; to amend and reenact section three hundred one, article three, chapter thirty-one-e of said code; to amend and reenact section four, article eight, chapter forty-seven of said code; to amend and reenact sections one thousand, thirteen, sixteen and fifty, article nine of said chapter forty-seven; to amend and reenact sections two, three and four, article nine-a of said chapter forty-seven; to amend and reenact section one, article one, chapter forty-seven-b of said code; and to amend and reenact sections one and four, article ten of said chapter forty-seven, all relating to making all business entity filing requirements consistent with the corporation require-
ments under the new corporation laws, including electronic filing, no requirement to have an agent and office in West Virginia, and no requirement to have a street address; requiring county and business class codes to be on the annual tax returns filed with the tax department; and clarifying the use of trade names by limited liability companies.

Be it enacted by the Legislature of West Virginia:

That section three, article twelve-c, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that sections one hundred one, one hundred eight and one hundred nine, article one, chapter thirty-one-b of said code be amended and reenacted; that sections two hundred three, two hundred six, two hundred eleven, article two of said chapter be amended and reenacted; that sections one thousand two and one thousand six, article ten of said chapter be amended and reenacted; that section three hundred one, article three, chapter thirty-one-e of said code be amended and reenacted; that section four, article eight, chapter forty-seven of said code be amended and reenacted; that sections one, thirteen, sixteen and fifty, article nine of said chapter be amended and reenacted; that sections two, three and four, article nine-a of said chapter be amended and reenacted; that section one, article one, chapter forty-seven-b of said code be amended and reenacted; and that sections one and four, article ten of said chapter be amended and reenacted, all to read as follows:

CHAPTER 11. TAXATION.

ARTICLE 12C. CORPORATE LICENSE TAX.

§11-12C-3. Payment and collection of tax; deposit of money; return required.

(a) Payment and collection of tax. — When application is made to the secretary of state for a certificate of incorporation or authority to do business in this state, the applicant shall pay
all taxes and fees due under this article; and the secretary of state shall collect the corporate license tax for the first year before issuing the certificate. Thereafter, on or before the first day of the license tax year next following the date of the certificate, and on or before the first day of each succeeding license tax year, the corporation shall pay and the tax commissioner shall collect the tax for a full license tax year together with the statutory attorney fee: Provided, That if the application is made on or after the first day of the second month preceding the beginning of the next license tax year, and before the first day of the license tax year, the secretary of state shall collect the tax for the full year beginning on the first day of the next license tax year in addition to the initial tax, together with the statutory attorney fee.

(b) Deposit of money. — The first year license tax received by the secretary of state pursuant to the provisions of this article shall be deposited by the secretary of state as follows: One-half shall be deposited in the state general revenue fund and one-half shall be deposited in the services fees and collections account established by section two, article one, chapter fifty-nine of this code. The license tax received by the tax commissioner every year after the initial registration shall be deposited into the state general revenue fund.

(c) Returns. — Payment of the tax and statutory attorney fee required under the provisions of this section shall be accompanied by a return on forms provided by the tax commissioner for that purpose. The tax commissioner shall upon completion of processing the return, forward it to the secretary of state, together with a list of all corporations which have paid the tax. The return shall contain: (1) The address of the corporation’s principal office; (2) the names and mailing addresses of its officers and directors; (3) the name and mailing address of the person on whom notice of process may be served; (4) the name and address of the corporation’s parent corporation and
of each subsidiary of the corporation licensed to do business in this state; (5) the county or county code in which the principal office address or mailing address of the company is located in; (6) business class code; and (7) any other information the tax commissioner considers appropriate. Notwithstanding any other provision of law to the contrary, the secretary of state shall, upon request of any person, disclose: (A) The address of the corporation’s principal office; (B) the names and addresses of its officers and directors; (C) the name and mailing address of the person on whom notice of process may be served; (D) the name and address of each subsidiary of the corporation and the corporation’s parent corporation; (E) the county or county code in which the principal office address or mailing address of the company is located; and (F) the business class code.

CHAPTER 31B. UNIFORM LIMITED LIABILITY COMPANY ACT.

ARTICLE 1. GENERAL PROVISIONS.


In this chapter:

(1) “Articles of organization” means initial, amended and restated articles of organization and articles of merger. In the case of a foreign limited liability company, the term includes all records serving a similar function required to be filed in the office of the secretary of state or other official having custody of company records in the state or country under whose law it is organized.

(2) “At-will company” means a limited liability company other than a term company.

(3) “Business” includes every trade, occupation, profession and other lawful purpose, whether or not carried on for profit.
(4) "Debtor in bankruptcy" means a person who is the subject of an order for relief under Title 11 of the United States Code or a comparable order under a successor statute of general application or a comparable order under federal, state or foreign law governing insolvency.

(5) "Deliver" or "delivery" means any method of delivery used in conventional commercial practice, including, but not limited to, delivery by hand, mail, commercial delivery and electronic transmission.

(6) "Distinguishable" means, in relation to the name of a business a difference between names which would allow a person to recognize or perceive the name of the business as being noticeably different including at least a one-word difference between names when the words are common terms and the company is or might appear to be in a similar business and at least a word order difference between names when the different word is a proper name or an unusual term, or when the company is clearly in a different type of business from the existing name.

(7) "Distribution" means a transfer of money, property or other benefit from a limited liability company to a member in the member's capacity as a member or to a transferee of the member's distributional interest.

(8) "Distributional interest" means all of a member's interest in distributions by the limited liability company.

(9) "Electronic transmission" or "electronically transmitted" means any process of communication not directly involving the physical transfer of paper that is suitable for the retention, retrieval and reproduction of information by the recipient.

(10) "Entity" means a person other than an individual.
(11) "Foreign limited liability company" means an unincorporated entity organized under laws other than the laws of this state which afford limited liability to its owners comparable to the liability under section 3-303 and is not required to obtain a certificate of authority to transact business under any law of this state other than this chapter.

(12) "Limited liability company" means a limited liability company organized under this chapter.

(13) "Manager" means a person, whether or not a member of a manager-managed company, who is vested with authority under section 3-301.

(14) "Manager-managed company" means a limited liability company which is so designated in its articles of organization.

(15) "Member-managed company" means a limited liability company other than a manager-managed company.

(16) "Operating agreement" means the agreement under section 1-103 concerning the relations among the members, managers and limited liability company. The term includes amendments to the agreement.

(17) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality or any other legal or commercial entity.

(18) "Principal office" means the office, whether or not in this state, where the principal executive office of a domestic or foreign limited liability company is located.
(19) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(20) "Sign" or "signature" means to identify a record by means of a signature, mark or other symbol, with intent to authenticate it and includes, but is not limited to, any manual, facsimile, conformed or electronic signature.

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

(22) "Term company" means a limited liability company in which its members have agreed to remain members until the expiration of a term specified in the articles of organization.

(23) "Transfer" includes an assignment, conveyance, deed, bill of sale, lease, mortgage, security interest, encumbrance and gift.

§31B-1-108. Designated office and agent for service of process.

(a) A limited liability company and a foreign limited liability company authorized to do business in this state may continuously maintain in this state:

(1) An office, which need not be a place of its business in this state; and

(2) An agent and address of the agent for service of process on the company.

(b) An agent shall be an individual resident of this state, a domestic corporation, another limited liability company or a
(c) Every limited liability company shall pay an annual fee of twenty-five dollars for the services of the secretary of state as attorney-in-fact for the limited liability company, which fee shall be due and payable at the initial registration of the limited liability company and every year thereafter the same time that the annual report required under section two hundred eleven, article two of this chapter is due and one half of each fee shall be deposited in the state fund, general revenue and one half of the fees in the service fees and collections account established by section two, article one, chapter fifty-nine of this code for the operation of the office of the secretary of state. The secretary of state shall dedicate sufficient resources from that fund or other funds to provide the services required in this chapter.

(d) The secretary of state shall keep a record of all processes, notices and demands served pursuant to this section and record the time of and the action taken regarding the service.

(e) This section does not affect the right to serve process, notice or demand in any manner otherwise provided by law.

§31B-1-109. Change of designated office or agent for service of process.

A limited liability company may change its designated office or agent for service of process by delivering to the secretary of state for filing a statement of change which sets forth:

(1) The name of the company;

(2) The address of its current designated office, if any;
(3) If the current designated office is to be changed, the address of the new designated office;

(4) The name and address of its current agent for service of process, if any;

(5) If the current agent for service of process or address of that agent is to be changed, the new address or the name and address of the new agent for service of process.

ARTICLE 2. ORGANIZATION.

§31B-2-203. Articles of organization.

(a) Articles of organization of a limited liability company must set forth:

(1) The name of the company;

(2) The address of the initial designated office;

(3) The name and address of the initial agent for service of process;

(4) The name and address of each organizer and of each member having authority to execute instruments on behalf of the limited liability company;

(5) Whether the company is to be a term company and, if so, the term specified;

(6) Whether the company is to be manager-managed and, if so, the name and address of each initial manager; and

(7) Whether one or more of the members of the company are to be liable for its debts and obligations under section 3-303(c).
(b) Articles of organization of a limited liability company may set forth:

(1) Provisions permitted to be set forth in an operating agreement; or

(2) Other matters not inconsistent with law.

(c) Articles of organization of a limited liability company may not vary the nonwaivable provisions of section 1-103(b).

As to all other matters, if any provision of an operating agreement is inconsistent with the articles of organization:

(1) The operating agreement controls as to managers, members and members' transferees; and

(2) The articles of organization control as to persons other than managers, members and their transferees who reasonably rely on the articles to their detriment.

§31B-2-206. Filing in office of secretary of state.

(a) Articles of organization or any other record authorized to be filed under this chapter must be in a medium permitted by the secretary of state and must be delivered to the office of the secretary of state. Delivery may be made by electronic transmission if permitted by the secretary of state. Unless the secretary of state determines that a record fails to comply as to form with the filing requirements of this chapter, and if all filing fees have been paid, the secretary of state shall file the record and send a receipt for the record and the fees to the limited liability company or its representative.

(b) Upon request and payment of a fee, the secretary of state shall send to the requester a certified copy of the requested record.
(c) Except as otherwise provided in subsection (d) of this section and section 2-207(c), a record accepted for filing by the secretary of state is effective:

(1) At the time of filing on the date it is filed, as evidenced by the secretary of state’s date and time endorsement on the original record; or

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

(d) A record may specify a delayed effective time and date, and if it does so the record becomes effective at the time and date specified. If a delayed effective date but no time is specified, the record is effective at the close of business on that date. If a delayed effective date is later than the ninetieth day after the record is filed, the record is effective on the ninetieth day.

§31B-2-211. Annual report for secretary of state.

(a) A limited liability company, and a foreign limited liability company authorized to transact business in this state, shall deliver to the secretary of state for filing an annual report that sets forth:

(1) The name of the company and the state or country under whose law it is organized;

(2) The address of its designated office, if any and the name and address of its agent for service of process in this state, if any;

(3) The address of its principal office; and

(4) The names and business addresses of any managers and the name and address of each member having authority to
execute instruments on behalf of the limited liability company.

(b) Information in an annual report must be current as of the date the annual report is signed on behalf of the limited liability company.

(c) The first annual report must be delivered to the secretary of state between the first day of January and the first day of April of the year following the calendar year in which a limited liability company was organized or a foreign company was authorized to transact business. Subsequent annual reports must be delivered to the secretary of state between the first day of January and the first day of April of the ensuing calendar years.

(d) If an annual report does not contain the information required in subsection (a) of this section, the secretary of state shall promptly notify the reporting limited liability company or foreign limited liability company and return the report to it for correction. If the report is corrected to contain the information required in subsection (a) of this section and delivered to the secretary of state within thirty days after the effective date of the notice, it is timely filed.

ARTICLE 10. FOREIGN LIMITED LIABILITY COMPANIES.

§31B-10-1002. Application for certificate of authority.

(a) A foreign limited liability company may apply for a certificate of authority to transact business in this state by delivering an application to the secretary of state for filing, together with the fee prescribed by section two, article one, chapter fifty-nine of this code.

The application shall set forth:
(1) The name of the foreign company or, if its name is unavailable for use in this state, a name that satisfies the requirements of section 10-1005 of this article;

(2) The name of the state or country under whose law it is organized;

(3) The street address of its principal office;

(4) The name and address of each member having authority to execute instruments on behalf of the limited liability company;

(5) The address of its initial designated office in this state, if any;

(6) The name and address of its initial agent for service of process in this state, if any;

(7) Whether the duration of the company is for a specified term and, if so, the period specified;

(8) Whether the company is manager-managed and, if so, the name and address of each initial manager; and

(9) Whether the members of the company are to be liable for its debts and obligations under a provision similar to section 3-303(c).

(b) A foreign limited liability company shall deliver with the completed application a certificate of existence or a record of similar import authenticated by the secretary of state or other official having custody of company records in the state or country under whose law it is organized.

§31B-10-1006. Revocation and reinstatement of certificate of authority.
(a) A certificate of authority of a foreign limited liability company to transact business in this state may be revoked by the secretary of state in the manner provided in subsection (b) of this section if:

(1) The company fails to:

(i) Pay any fees, taxes and penalties owed to this state;

(ii) Deliver its annual report required under section 2-211 to the secretary of state within sixty days after it is due; or

(iii) File a statement of a change in the name or business address of the agent as required by this article; or

(2) A misrepresentation has been made of any material matter in any application, report, affidavit or other record submitted by the company pursuant to this article.

(b) The secretary of state may not revoke a certificate of authority of a foreign limited liability company unless the secretary of state sends the company notice of the revocation, at least sixty days before its effective date, by a record addressed to its principal office. The notice must specify the cause for the revocation of the certificate of authority. The authority of the company to transact business in this state ceases on the effective date of the revocation unless the foreign limited liability company cures the failure before that date.

(c) A foreign limited liability company administratively revoked may apply to the secretary of state for reinstatement within two years after the effective date of revocation. The application must:

(1) Recite the name of the company and the effective date of its administrative revocation; (2) state that the ground for revocation either did not exist or has been eliminated; (3) state
that the company’s name satisfies the requirements of section 10-1005; and (4) contain a certificate from the tax commissioner reciting that all taxes owed by the company have been paid.

(d) If the secretary of state determines that the application contains the information required by subsection (a) of this section and that the information is correct, the secretary of state shall cancel the certificate of revocation and prepare a certificate of reinstatement that recites this determination and the effective date of reinstatement, file the original of the certificate, and serve the company with a copy of the certificate.

(e) When reinstatement is effective, it relates back to and takes effect as of the effective date of the administrative revocation and the company may resume its business as if the administrative revocation had never occurred.

CHAPTER 31E. WEST VIRGINIA NONPROFIT CORPORATION ACT.

ARTICLE 3. PURPOSES AND POWERS.

§31E-3-301. Purposes.

Corporations may be organized under this chapter for any lawful purpose, including any one or more of the following purposes: Charitable, benevolent, eleemosynary, educational, civic, patriotic, political, religious, social, fraternal, literary, cultural, athletic, scientific, agricultural, horticultural, animal husbandry, and professional commercial, industrial or trade association.

CHAPTER 47. REGULATION OF TRADE.

ARTICLE 8. TRADE NAMES.
§47-8-4. Corporations, associations, limited partnerships, limited liability partnerships, and limited liability companies not to conduct business under assumed name without certificate of trade name; application; issuance of certificate of trade name.

(a) No business entity organized as a corporation, limited partnership, limited liability partnership, limited liability company, business trust or voluntary association required to register with the secretary of state in order to conduct business within the state may conduct or transact any business in this state under any assumed name, or under any designation, name or style, corporate or otherwise, other than the name established by the original certificate establishing the business entity or by an amendment thereto, unless the business entity files in the office of the secretary of state an application for registration of trade name. The application shall set forth:

(1) The name under which the business entity is organized and registered;

(2) The name under which the business of such business entity is, or is to be, conducted or transacted upon approval of the application, which name must be distinguishable from the name of any other corporation, limited partnership, limited liability partnership, limited liability company, business trust or voluntary association, and from any name reserved or registered for any of those business entities;

(3) The address of the principal office within the state or, if no office is maintained within the state, the address of the principal office in the state in which the business entity is established; and

(4) The name, title and signature of a person having authority to make the application.
The secretary of state shall grant a certificate of registration to any applicant who has met the requirements of this subsection. A new certificate of registration is to be filed if the business entity desires to conduct or transact any business in this state under any other assumed name not on file in the office of the secretary of state.

(b) One original executed of the application for trade name registration shall be delivered to the secretary of state. Delivery may be made by electronic transmission if permitted by the secretary of state. If the filing officer finds that the application for trade name registration conforms to law, he or she shall, when all fees have been paid as prescribed by law, file it and shall deliver to the entity or its representative a receipt for the record and fee.

(c) Upon discontinuing the use of a registered trade name the certificate of registration of trade name shall be withdrawn by filing a certificate of withdrawal with the office of the secretary of state setting forth the name to be discontinued, the real name, the address of the party transacting business and the date upon which the original certificate of registration of trade name was filed.

(d) Any corporation authorized to transact business in this state shall procure an amended certificate of incorporation in the event it changes its corporate name by filing articles of amendment with the office of the secretary of state as provided in article ten, chapter thirty-one-d, or article ten, chapter thirty-one-e of this code.

(e) Any limited liability company registering a trade name pursuant to the provisions of this section is subject to the limitations set forth in subsections (b), (c) and (d) section one hundred five, article one, chapter thirty-one-b of this code.

ARTICLE 9. UNIFORM LIMITED PARTNERSHIP ACT.
§47-9-1. Definitions.

As used in this article, unless the context otherwise requires:

(1) “Certificate of limited partnership” means the certificate referred to in section eight of this article and the certificate as amended;

(2) “Contribution” means any cash, property, services rendered, or a promissory note or other binding obligation to contribute cash or property or to perform services, which a partner contributes to a limited partnership in his or her capacity as a partner;

(3) “Deliver” or “delivery” means any method of delivery used in conventional commercial practice, including, but not limited to, delivery by hand, mail, commercial delivery and electronic transmission;

(4) “Electronic transmission” or electronically transmitted means any process of communication not directly involving the physical transfer of paper that is suitable for the retention, retrieval and reproduction of information by the recipient;

(5) “Event of withdrawal of a general partner” means an event that causes a person to cease to be a general partner as provided in section twenty-three of this article;

(6) “Foreign limited partnership” means a partnership formed under the laws of any state other than this state and having as partners one or more general partners and one or more limited partners;

(7) “General partner” means a person who has been admitted to a limited partnership as a general partner in
accordance with the partnership agreement and named in the certificate of limited partnership as a general partner;

(8) “Limited partner” means a person who has been admitted to a limited partnership as a limited partner in accordance with the partnership agreement;

(9) “Limited partnership” and “domestic limited partnership” means a partnership formed by two or more persons under the laws of this state and having one or more general partners and one or more limited partners;

(10) “Partner” means a limited or general partner;

(11) “Partnership agreement” means any valid agreement, written or oral, of the partners as to the affairs of a limited partnership and the conduct of its business;

(12) “Partnership interest” means a partner’s share of the profits and losses of a limited partnership and the right to receive distributions of partnership assets;

(13) “Person” means a natural person, partnership, limited partnership (domestic or foreign), limited liability company, professional limited liability company, trust, estate, association, corporation, or any other legal or commercial entity;

(14) “Sign” or “signature” includes, but is not limited to, any manual, facsimile, conformed or electronic signature; and

(15) “State” means a state, territory or possession of the United States, the District of Columbia or the Commonwealth of Puerto Rico.

§47-9-13. Filing of certificate
(a) One signed copy of the certificate of limited partnership and of any certificates of amendment or cancellation, or of any judicial decree of amendment or cancellation, shall be delivered to the secretary of state. Delivery may be made by electronic transmission if permitted by the secretary of state. A person who executes a certificate as an agent or fiduciary need not exhibit evidence of his authority as a prerequisite to filing. Unless the secretary of state finds that any certificate does not conform to law, upon receipt of all filing fees required by law, he or she shall file it and deliver to the limited partnership or its representative a receipt for the record and the fees.

(b) Upon the filing of a certificate of amendment, or judicial decree of amendment, in the office of the secretary of state the certificate of limited partnership shall be amended as set forth therein, and upon the effective date of a certificate of cancellation, or a judicial decree thereof, the certificate of limited partnership is canceled.

This filing, or failure to file, shall in no way affect the formation of the limited partnership. Only the filing in the office of the secretary of state, required by section eight of this article, shall determine the validity of the limited partnership.

§47-9-16. Delivery of certificates to limited partners.

Upon the return by the secretary of state pursuant to section thirteen of this article of a receipt for the record and the fees the general partners shall promptly deliver or mail a copy of the receipt for the record and the fees to each limited partner unless the partnership agreement provides otherwise.

§47-9-50. Issuance of registration.

(a) If the secretary of state finds that an application for registration conforms to law and all requisite fees have been
paid, he shall file it and deliver to the limited partnership or its representative a receipt for the record and the fees.

This filing, or failure to file, shall in no way affect the formation of the limited partnership. Only the filing in the office of the secretary of state, required by section nine of this article, shall determine the validity of the limited partnership.

ARTICLE 9A. VOLUNTARY ASSOCIATIONS AND BUSINESS TRUSTS.


(a) For the purposes of this article, a “business trust” is any trust organized for the purpose of conducting business and commonly designated as a Massachusetts trust.

(b) Any business trust organized in this state shall file with the secretary of state: (1) One executed original copies of an application for registration; and (2) one executed original copy of the declaration, articles or agreement of trust creating the business trust.

(c) Any business trust organized outside this state and operating within this state shall file with the secretary of state: (1) One executed original copy of an application for registration; (2) one executed original copy of the declaration, articles or agreement of trust creating the business trust as recorded in the state or country of origin of the business trust; and (3) a statement or certificate from the proper officer of the state or country of origin that the business trust is in good standing.

(d) An application for registration shall set forth:

(1) The name of the business trust;

(2) If organized within the state, a statement that it is a West Virginia business trust, or if organized outside the state,
the state in which it was organized and the formation date of the business trust;

(3) The purpose or purposes for which the business trust is organized;

(4) The address of its principal office;

(5) The name and address of the person to whom notice of process may be sent, if any;

(6) The names and addresses of all trustees having authority to act on behalf of the business trust; and

(7) A statement reflecting the business trust's consent to and recognition of the application to the business trust of the law of this state with respect to corporations.

(e) An application for registration may contain the notarized signature of a trustee of the business trust.

(f) If the secretary of state determines that an application for registration has been properly filed in complete form and that the fee prescribed in section two, article one, chapter fifty-nine of this code has been paid, he or she shall file it and deliver to the business trust or its representative a receipt for the record and the fees.

§47-9A-3. Filing of voluntary association; issuance of certificate of voluntary association.

(a) For purposes of this article, a “voluntary association” is any association organized for the purpose of conducting business in this state, but does not include an organization formed as an unincorporated nonprofit association under the provisions of article eleven, chapter thirty-six of this code.
(b) Any voluntary association organized in this state shall file with secretary of state: (1) One executed original copy of an application for registration; and (2) one executed original copy of the agreement of association creating the voluntary association (if such an agreement exists apart from the application for registration itself).

(c) Any voluntary association organized outside this state and operating within this state shall file with the secretary of state: (1) One executed original copy of an application for registration; (2) one executed original copy of the agreement of association creating the voluntary association; and (3) a statement or certificate from the proper officer of the state or country of origin that the voluntary association is in good standing.

(d) An application for registration shall set forth:

(1) The name of the voluntary association;

(2) The principal office address of the voluntary association;

(3) The mailing address of the voluntary association, if different from the principal office address;

(4) The name and address of the person to whom notice of process may be sent, if any;

(5) Whether the voluntary association is organized for profit or as a nonprofit voluntary association;

(6) The purpose or purposes for which the voluntary association is formed;

(7) The full names and addresses of one or more of the organizers of the voluntary association;
(8) The full names and addresses of no fewer than two officers, owners or members of the voluntary association who have signatory authority for the association;

(9) Any additional statements as may be required for the type of business to be conducted; and

(10) A statement reflecting the voluntary association's consent to and recognition of the application of the law of this state with respect to corporations to the voluntary association.

(e) An application for registration may contain the notarized signature of at least one organizer or member of the voluntary association.

(f) If the secretary of state determines that an application for registration has been properly filed in complete form and that the fee prescribed in section two, article one, chapter fifty-nine of this code has been paid, he or she shall file it and deliver to the voluntary association or its representative a receipt for the record and the fees.

§47-9A-4. Application of laws relating to corporations; name of business trust or voluntary association; adoption and use of trade name and seal; amendment of declaration, articles or agreement; change of agent for service of process, trustees, and members; dissolution; filing.

(a) Unless otherwise specifically provided in this article, any business trust or voluntary association conducting business in this state is subject to the laws of this state with respect to corporations, including laws relating to license fees and all other taxes, to the extent such laws are applicable.

(b) The name of any business trust or voluntary association applying for registration shall meet the requirements for
corporate names set forth in section four hundred one, article
four, chapter thirty-one-d or section four hundred one, chapter
thirty-one-e, except that the name shall not contain the words
“incorporated,” “corporation,” “limited,” or any abbreviation of
these terms.

(c) Any business trust or voluntary association may use a
trade name upon complying with the provisions of section four,
article eight, chapter forty-seven of this code. Any business
trust or voluntary association may adopt and use a common
seal.

(d) Upon the adoption of an amendment to the declaration,
articles or agreement of trust of a business trust or the agree-
ment of association of a voluntary association, the business
trust or voluntary association shall file one executed original
copy of the amendment, and may contain the notarized signa-
ture of at least one trustee of the business trust or at least one
organizer or member of the voluntary association, with the
office of the secretary of state.

(e) Upon any change of trustees, organizers, members or
other persons previously recorded as having authority to act on
behalf of the business trust or voluntary association, or upon
any change of the agent of the business trust or voluntary
association for service of process, a business trust or voluntary
association shall file notice of the change with the secretary of
state.

(f) Upon the determination of the majority of trustees of a
business trust or a majority of members of a voluntary associa-
tion that the business trust or voluntary association shall be
dissolved; and after all debts, liabilities and obligations of the
business trust or voluntary association have been paid and
discharged, the business trust or voluntary association shall
distribute all of the remaining assets of the business trust or
voluntary association and file articles of dissolution with the 
secretary of state in the manner provided for corporations in 
section fourteen hundred three, article fourteen, chapter thirty-
one-d, or section thirteen hundred three, article thirteen, chapter 
three-one-e of this code. Upon verification by the appropriate 
state agencies that the business trust or voluntary association 
has paid all taxes, assessments and fees due to the state, the 
secretary of state shall file it and deliver to the voluntary 
association or business trust or its representative a receipt for 
the record and the fees.

(g) A business trust or voluntary association organized 
outside the state and registered to do business within this state 
may withdraw from the state in the manner provided for 
corporations in section fifteen hundred twenty, article fifteen, 
chapter thirty-one-d or section fourteen hundred twenty, article 
fourteen, chapter thirty-one-e of this code.

(h) No document required to be filed by this section shall 
be filed with the secretary of state unless the trustee of the 
business trust or the organizer or member of the voluntary 
association is currently authorized as such.

CHAPTER 47B. UNIFORM PARTNERSHIP ACT.

ARTICLE 1. GENERAL PROVISIONS.

§47B-1-1. Definitions.

1 In this chapter:

2 (1) "Business" includes every trade, occupation and 
3 profession.

4 (2) "Debtor in bankruptcy" means a person who is the 
5 subject of:
(i) In order for relief under Title 11 of the United States Code or a comparable order under a successor statute of general application; or

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

(3) “Deliver” or “delivery” means any method of delivery used in conventional commercial practice, including, but not limited to, delivery by hand, mail, commercial delivery and electronic transmission.

(4) “Distribution” means a transfer of money or other property from a partnership to a partner in the partner’s capacity as a partner or to the partner’s transferee.

(5) “Electronic transmission” or “electronically transmitted”, means any process of communication not directly involving the physical transfer of paper that is suitable for the retention, retrieval and reproduction of information by the recipient.

(6) “Foreign limited liability partnership” means a partnership or association formed under or pursuant to an agreement governed by the laws of any state or jurisdiction other than this state that is denominated as a registered limited liability partnership or limited liability partnership under the laws of such other jurisdiction.

(7) “Partnership” means an association of two or more persons to carry on as coowners a business for profit formed under section two, article two of this chapter, predecessor law, or comparable law of another jurisdiction and includes, for all purposes of the laws of this state, a registered limited liability partnership.
(8) "Partnership agreement" means the agreement, whether written, oral or implied, among the partners concerning the partnership, including amendments to the partnership agreement.

(9) "Partnership at will" means a partnership in which the partners have not agreed to remain partners until the expiration of a definite term or the completion of a particular undertaking.

(10) "Partnership interest" or "partner’s interest in the partnership" means all of a partner’s interests in the partnership, including the partner’s transferable interest and all management and other rights.

(11) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, professional limited liability company, association, joint venture, government, governmental subdivision, agency or instrumentality, or any other legal or commercial entity.

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

(13) "Registered limited liability partnership" means a partnership formed pursuant to an agreement governed by the laws of this state, registered under section one, article ten of this chapter.

(14) "Sign" or "signature" includes, but is not limited to, any manual, facsimile, conformed or electronic signature.

(15) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or insular possession subject to the jurisdiction of the United States.
(16) “Statement” means a statement of partnership authority under section three, article three of this chapter, a statement of denial under section four of said article, a statement of dissociation under section four, article seven of this chapter, a statement of dissolution under section five, article eight of this chapter, a statement of merger under section seven, article nine of this chapter, a statement of registration and a statement of withdrawal under section one, article ten of this chapter, or an amendment or cancellation of any of the foregoing.

(17) “Transfer” includes an assignment, conveyance, lease, mortgage, deed and encumbrance.

ARTICLE 10. LIMITED LIABILITY PARTNERSHIPS.

§47B-10-1. Registered limited liability partnerships.

(a) To become a registered limited liability partnership, a partnership shall deliver and file with the secretary of state a statement of registration stating the name of the partnership; the address of its principal office; the address of a registered office and the name and address of a registered agent for service of process; a brief statement of the business in which the partnership engages; any other matters that the partnership determines to include; and that the partnership thereby registers as a registered limited liability partnership.

(b) The registration shall be executed by one or more partners authorized to execute a registration.

(c) The registration shall be accompanied by a fee of two hundred fifty dollars.

(d) The secretary of state shall register as a registered limited liability partnership any partnership that submits a completed registration with the required fee and deliver to the
partnership or its representative a receipt for the record and the fees.

(e) A partnership registered under this section shall pay, in each year following the year in which its registration is filed, on a date specified by the secretary of state, an annual fee of five hundred dollars. The fee shall be accompanied by a notice, on a form provided by the secretary of state, of any material changes in the information contained in the partnership’s registration.

(f) Registration is effective:

(1) Immediately after the date a registration is filed; or

(2) On a date specified in the statement of registration, which date shall not be more than sixty days after the date of filing.

(g) Registration remains effective until:

(1) It is voluntarily withdrawn by filing with the secretary of state a statement of withdrawal; or

(2) Thirty days after receipt by the partnership of a notice from the secretary of state, which shall be sent by certified mail, return receipt requested, that the partnership has failed to make timely payment of the annual fee specified in subsection (e) of this section, unless the fee is paid within a thirty-day period.

(h) The status of a partnership as a registered limited liability partnership and the liability of the partners thereof shall not be affected by:

(1) Errors in the information contained in a statement of registration under subsection (a) of this section or notice under subsection (e) of this section; or
(2) Changes after the filing of the statement of registration or notice in the information stated in the registration or notice.

(i) The secretary of state may provide forms for the statement of registration under subsection (a) of this section or a notice under subsection (e) of this section.

(j) All fees and moneys collected by the secretary of state pursuant to the provisions of this article shall be deposited by the secretary of state as follows: One-half shall be deposited in the state general revenue fund and one-half shall be deposited in the service fees and collections account established by section two, article one, chapter fifty-nine of this code for the operation of the office of the secretary of state. The secretary of state shall dedicate sufficient resources from that fund or other funds to provide the services required in this article.

§47B-10-4. Applicability of article to foreign and interstate commerce.

(a) A registered limited liability partnership formed under this article may conduct its business, carry on its operations, and have and exercise the powers granted by this chapter in any state, territory, district or possession of the United States or in any foreign country.

(b) It is the intent of the Legislature that the legal existence of registered limited liability partnerships formed under this article be recognized outside the boundaries of this state and that the laws of this state governing such registered limited liability partnerships doing business outside this state be granted the protection of full faith and credit under the Constitution of the United States.

(c) Notwithstanding section six, article one of this chapter, the internal affairs of registered limited liability partnerships formed under this article, including the liability of partners for
debts, obligations and liabilities of or chargeable to the partnership, shall be subject to and governed by the laws of this state.

(d) Before transacting business in this state, a foreign registered limited liability partnership shall:

(i) Comply with any statutory or administrative registration or filing requirements governing the specific type of business in which the partnership is engaged; and

(ii) File a notice with the secretary of state, stating the name of the partnership; the address of its principal office; the address of a registered office and the name and address of a registered agent for service of process; any other matters that the partnership determines to include; and a brief statement of the business in which the partnership engages. Such notice shall be effective for two years from the date of filing, after which time the partnership shall file a new notice.

(e) The name of a foreign registered limited liability partnership doing business in this state shall contain the words "Registered Limited Liability Partnership" or the abbreviation "L.L.P." or "LLP" as the last words or letters of its name.

(f) Notwithstanding section six, article one of this chapter, the internal affairs of foreign registered limited liability partnerships, including the liability of partners for debts, obligations and liabilities of or chargeable to the partnership, shall be subject to and governed by the laws of the jurisdiction in which the foreign registered limited liability partnership is registered.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect ninety days from passage

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within approved this the 15th day of March, 2003.

Governor