

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

**SENATE BILL 842
RATIFIED BILL**

AN ACT TO MAKE VARIOUS CHANGES TO THE NORTH CAROLINA BUSINESS CORPORATION ACT, THE NORTH CAROLINA NONPROFIT CORPORATION ACT, THE NORTH CAROLINA LIMITED LIABILITY COMPANY ACT, AND THE LAWS GOVERNING PARTNERSHIPS.

The General Assembly of North Carolina enacts:

PART I. AMENDMENTS TO THE NORTH CAROLINA BUSINESS CORPORATION ACT.

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

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

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

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

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

"(12a) Articles of conversion (other than articles of conversion included as part of another document) 50.00."

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

"§ 55-1-40. Chapter definitions.

In this Chapter unless otherwise specifically provided:

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

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

- (6c) 'Domestic limited partnership' has the same meaning as in G.S. 59-102.
- (6d) 'Domestic nonprofit corporation' means a corporation as defined in G.S. 55A-1-40.
- (8) 'Electronic' has the same meaning as in G.S. 66-312.
- (8a) 'Electronic record' has the same meaning as in G.S. 66-312.
- (8b) 'Electronic signature' has the same meaning as in G.S. 66-312.
- ...
- (10a) 'Foreign limited liability company' has the same meaning as in G.S. 57C-1-03.
- (10b) 'Foreign limited partnership' has the same meaning as in G.S. 59-102.
- (10c) 'Foreign nonprofit corporation' means a foreign corporation as defined in G.S. 55A-1-40.

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

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

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

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

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

"§ 55-1-41. Notice.

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

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

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

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

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

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

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

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

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

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

"Part 5. Miscellaneous.

"§ 55-1-50. Electronic transactions.

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

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

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

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

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

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

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

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

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

"§ 55-7-04. Action without meeting.

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

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

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

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

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

~~(d) If this Chapter requires that notice of proposed action be given to nonvoting shareholders and the action is to be taken by unanimous consent of the voting shareholders, the corporation must give its nonvoting shareholders written notice of the proposed action at least 10 days before the action is taken. Unless the articles of incorporation otherwise provide, if shareholder approval is required by this Chapter for (i) an amendment to the articles of incorporation pursuant to Article 10 of this Chapter, (ii) a plan of merger or share exchange pursuant to Article 11 of this Chapter, (iii) a plan of conversion pursuant to Part 2 of Article 11A of this Chapter, (iv) the sale, lease, exchange, or other disposition of all, or substantially all, of the corporation's property pursuant to Article 12 of this Chapter, or (v) a proposal for dissolution pursuant to Article 14 of this Chapter, and the approval is to be obtained through action without meeting, the corporation must give its shareholders, other than shareholders who consent to the action, written notice of the proposed action at least 10 days before the action is taken. The notice must shall contain or be accompanied by the same material that, under this Chapter, would have been required to be sent to nonvoting shareholders not entitled to vote on the action in a notice of meeting at which the proposed action would have been submitted to the shareholders for action.~~

(e) If action is taken without a meeting by fewer than all shareholders entitled to vote on the action, the corporation shall give written notice to all shareholders who have not consented to the action and who, if the action had been taken at a meeting, would have been entitled to notice of the meeting with the same record date as the action taken without a meeting, within 10 days after the action is taken. The notice shall describe the

action and indicate that the action has been taken without a meeting of shareholders. Failure to comply with the requirements of this subsection shall not invalidate any action taken that otherwise complies with this section."

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

"§ 55-7-08. Attendance.

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

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

"(c) The corporation shall make the shareholders' list available at the meeting, and any shareholder, personally or by or with his representative, is entitled to inspect the list at any time during the meeting or any adjournment. The corporation is not required to make the list available through electronic or other means of remote communication to a shareholder or proxy attending the meeting by remote communication pursuant to G.S. 55-7-08."

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

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

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

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

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

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

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

"Article 11A.

"Conversions.

"Part 1. Conversion to Corporation.

"§ 55-11A-01. Conversion.

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

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

"§ 55-11A-02. Plan of conversion.

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

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

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

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

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

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

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

- (1) That the corporation is being formed pursuant to a conversion of a business entity;
- (2) The name of the converting business entity, its type of business entity, and the state or country whose laws govern its organization and internal affairs; and
- (3) That a plan of conversion has been approved by the converting business entity as required by law.

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

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

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

"§ 55-11A-04. Effects of conversion.

When the conversion takes effect:

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

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

"Part 2. Conversion of Corporation.

"§ 55-11A-10. Conversion.

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

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

"§ 55-11A-11. Plan of conversion.

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

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

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

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

- (1) The board of directors shall recommend the plan of conversion to the shareholders, unless the board of directors determines that because of conflict of interest or other special circumstances it should make no recommendation, in which event the board of directors shall communicate the basis for its lack of a recommendation to the shareholders with the plan; and
- (2) The shareholders entitled to vote shall approve the plan.

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

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

(e) Unless this Chapter, the articles of incorporation, a bylaw adopted by the shareholders or the board of directors, acting pursuant to subsection (c) of this section, require a greater vote or a vote by voting groups, the plan of conversion to be authorized shall be approved by each voting group entitled to vote separately on the plan by a majority of all the votes entitled to be cast on the plan by that voting group and, for the purpose of Article 9 of this Chapter or any provision in the articles of incorporation or bylaws adopted prior to January 1, 2002, a conversion shall be deemed to be included within the term 'merger'. If any shareholder of the converting domestic corporation has or will have personal liability for any existing or future obligation of the resulting business entity solely as a result of holding an interest in the resulting business entity, then in addition to the requirements of the preceding sentence, approval of the plan of conversion by the domestic corporation shall require the affirmative vote or written consent of that shareholder.

(f) Separate voting by voting groups is required on a plan of conversion if the plan contains a provision that, if contained in a proposed amendment to articles of incorporation, would require action by one or more separate voting groups on the proposed amendment under G.S. 55-10-04, except where the consideration to be received in exchange for the shares of that group consists solely of cash.

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

"§ 55-11A-12. Articles of conversion.

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

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

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

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

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

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

"§ 55-11A-13. Effects of conversion.

- (a) When the conversion takes effect:
- (1) The converting domestic corporation ceases its prior form of organization and continues in existence as the resulting business entity;
 - (2) The title to all real estate and other property owned by the converting domestic corporation continues vested in the resulting business entity without reversion or impairment;
 - (3) All liabilities of the converting domestic corporation continue as liabilities of the resulting business entity;
 - (4) A proceeding pending by or against the converting domestic corporation may be continued as if the conversion did not occur;
 - (5) The shares in the converting domestic corporation that are to be converted into interests, obligations, or securities of the resulting business entity or into the right to receive cash or other property are thereupon so converted, and the former shareholders of the converting domestic corporation are entitled only to the rights provided in the plan of conversion or any rights they may have under Article 13 of this Chapter; and
 - (6) The resulting business entity is deemed to agree that it will promptly pay to the dissenting former shareholders of the converting domestic corporation the amount, if any, to which they are entitled under Article 13 of this Chapter and otherwise to comply with the requirements of Article 13 as if it were a domestic corporation.

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

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

- (1) To agree that it may be served with process in this State for enforcement of (i) any obligation of the converting domestic corporation, (ii) the rights of dissenting shareholders of the converting domestic corporation under Article 13 of this Chapter, and (iii) any obligation of the resulting business entity arising from the conversion; and
- (2) To have appointed the Secretary of State as its agent for service of process in any proceeding described in subdivision (1) of this subsection. Service on the Secretary of State of any such process shall be made by delivering to and leaving with the Secretary of State, or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of the process and the fee required by G.S. 55-1-22(b). Upon receipt of service of process on behalf of a resulting business entity in the manner provided for in this section, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the resulting business entity. If the resulting business entity is authorized to transact business or conduct affairs in this State, the address for mailing shall be its principal office designated in the latest document filed with the Secretary of State that is authorized by law to designate the principal office or, if there is no principal office on file, its registered office. If the resulting business entity is not authorized to transact business or

conduct affairs in this State, the address for mailing shall be the mailing address designated pursuant to G.S. 55-11A-12(a)(2)."

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

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

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

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

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

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

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

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

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

- (1) Each domestic nonprofit corporation complies with the applicable provisions of G.S. 55A-11-01 through G.S. 55A-11-03;
- (2) In a merger involving one or more foreign nonprofit corporations, the merger is permitted by law of the state or country under whose law each foreign nonprofit corporation is incorporated and each foreign nonprofit corporation complies with that law in effecting the merger;

- (3) The domestic or foreign nonprofit corporation complies with G.S. 55-11-05 if it is the surviving corporation; corporation and, in the case of a foreign nonprofit corporation not authorized to conduct affairs in this State, includes in the articles of merger filed pursuant to G.S. 55-11-05 a designation of the foreign nonprofit corporation's mailing address and a commitment to file with the Secretary of State a statement of any subsequent change in its mailing address; and
- (4) Each domestic corporation complies with the applicable provisions of G.S. 55-11-01, 55-11-03, and 55-11-04 and, if it is the surviving corporation, with G.S. 55-11-05."

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

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

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

Service on the Secretary of State of any process authorized by this subsection shall be made by delivering to and leaving with the Secretary of State, or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of the process and the fee required by G.S. 55-1-22(b). Upon receipt of service of process in the manner provided in this subsection, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the foreign nonprofit corporation. If the foreign nonprofit corporation is authorized to conduct affairs in this State, the address for mailing shall be its principal office as defined in G.S. 55A-1-40(20), or, if there is no mailing address for the principal office on file, its registered office. If the foreign nonprofit corporation is not authorized to conduct affairs in this State, the address for mailing shall be the mailing address designated pursuant to subdivision (3) of subsection (a) of this section."

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

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

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

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

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

In the case of a domestic corporation, approval of the plan of merger requires that the plan of merger be adopted by its board of directors as provided in G.S. 55-11-03 and, unless shareholder approval is not required under subsection (g) of G.S. 55-11-03, be approved by its shareholders as provided in G.S. 55-11-03. If any shareholder of a merging domestic corporation has or will have personal liability for any existing or future obligation of the surviving business entity solely as a result of holding an interest in the surviving business entity, then in addition to the requirements of the preceding

sentence, approval of the plan of merger by the domestic corporation shall require the affirmative vote or written consent of that shareholder. In the case of each other merging business entity, the plan of merger must be approved in accordance with the laws of the state or country governing the organization and internal affairs of that merging business entity.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"(b) Whenever a foreign corporation authorized to transact business in this State shall fail to appoint or maintain a registered agent in this State, or whenever its registered agent cannot with due diligence be found at the registered office, or whenever its certificate of authority shall have been revoked under G.S. 55-15-31, then the Secretary of State shall be an agent of such corporation upon whom any such process, notice or demand may be served. Service on the Secretary of State of any such process, notice or demand shall be made by delivering to and leaving with ~~him~~ the Secretary of State, or with any clerk having charge of the corporation department of his office, authorized by the Secretary of State to accept service of process, duplicate copies of such process, notice or demand, demand and the fee required by G.S. 55-1-22(b). In the event any such process, notice or demand is served on the Secretary of State, ~~he~~ the State in the manner provided in this subsection, the Secretary of State shall immediately mail one of the copies thereof, by registered or certified mail, return receipt requested, to the corporation at its principal office shown in its most recent annual report or in any subsequent communication received from the corporation stating the current mailing address of its principal office or, if there is no mailing address for the principal office on file, to the corporation at its registered office. Service on a foreign corporation under this subsection shall be effective for all purposes from and after the date of such the service on the Secretary of State."

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

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

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

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

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

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

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

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

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

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

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

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

PART II. AMENDMENTS TO THE NORTH CAROLINA NONPROFIT CORPORATION ACT.

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

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

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

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

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

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

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

"§ 55A-1-40. Chapter definitions.

In this Chapter unless otherwise specifically provided:

...
(2a) 'Business corporation' or 'domestic business corporation' means a corporation as defined in G.S. 55-1-40.

...

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

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

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

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

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

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

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

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

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

- (1) The merger is permitted by the law of the state or country under whose law each foreign corporation is incorporated and each foreign corporation complies with that law in effecting the merger;
- (2) The foreign corporation complies with G.S. 55A-11-04 if it is the surviving corporation of the ~~merger; merger and,~~ if the foreign corporation is not authorized to conduct affairs in this State, includes in the articles of merger filed with the Secretary of State pursuant to G.S. 55A-11-04 a designation of the foreign corporation's mailing address and a commitment to file with the Secretary of State a statement of any subsequent change in its mailing address; and
- (3) Each domestic nonprofit corporation complies with the applicable provisions of G.S. 55A-11-01 through G.S. 55A-11-03 and, if it is the surviving corporation of the merger, with G.S. 55A-11-04."

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

"(b) Upon the merger taking effect, ~~if the surviving corporation, if it does not have a registered agent in this State, corporation is a foreign corporation, it shall be deemed to have appointed the Secretary of State as its registered agent for service of process in a proceeding to enforce any obligation of a domestic corporation party to the merger, until such time as it appoints a registered agent in this State.~~ merger. Service on the Secretary of State of any such process shall be made by delivering to and leaving with the Secretary of State, or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of the process and the fee required by G.S. 55A-1-22(b). Upon receipt of service of process in the manner provided in this subsection, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the foreign corporation. If the foreign corporation is authorized to conduct affairs in this State, the address for mailing shall be its principal office or, if there is no mailing address for the principal office on file, its registered office. If the foreign corporation is not authorized to conduct affairs in this State, the address for mailing shall be the mailing address designated pursuant to subdivision (2) of subsection (a) of this section."

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

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

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

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

"(b) Upon the merger taking effect, if the surviving corporation ~~does not have a registered agent in this State, is a foreign business corporation,~~ it shall be deemed to have appointed the Secretary of State as its ~~registered agent~~ for service of process in a proceeding to enforce any obligation of a domestic nonprofit corporation party to the ~~merger, until such time as it appoints a registered agent in this State.~~ merger. Service on the Secretary of State of any such process shall be made by delivering to and leaving with the Secretary of State, or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of the process and the fee required by G.S. 55A-1-22(b). Upon receipt of service of process in the manner provided in this subsection, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the foreign business corporation. If the foreign business corporation is authorized to transact business in this State, the address for mailing shall be its principal office as defined in G.S. 55-1-40(17) or, if there is no mailing address for the principal office on file, its registered office. If the foreign business corporation is not authorized to transact business in this State, the address for mailing shall be the mailing address designated pursuant to subdivision (3) of subsection (a) of this section."

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

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

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

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

- (1) The plan of merger;

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

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

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

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

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

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

"(b) When a foreign corporation authorized to conduct affairs in this State fails to appoint or maintain a registered agent in this State, or when its registered agent cannot with due diligence be found at the registered office, or when its certificate of authority shall have been revoked under G.S. 55A-15-31, the Secretary of State shall be an agent of such corporation upon whom any process, notice, or demand may be served. Service on the Secretary of State of any process, notice, or demand shall be made by delivering to and leaving with the Secretary of ~~State State~~, or with any clerk ~~having charge of the corporation department of the Secretary of State's office, authorized by the Secretary of State to accept service of process, duplicate copies of such process, notice, or demand.~~ demand and the fee required by G.S. 55A-1-22(b). In the event any process, notice, or demand is served on the Secretary of ~~State State~~ in the manner provided for in this subsection, he the Secretary of State shall immediately mail one of the copies thereof, by registered or certified mail, return receipt requested, to the corporation at its principal office ~~shown in its most recent annual report, if applicable, the articles of incorporation, the Designation of Principal Office Address form, in any subsequent Corporation's Statement of Change of Principal Office Address form, or in any subsequent communication received from the corporation stating the current mailing address of its~~

~~principal office~~ or, if there is no mailing address for the principal office on file, to the corporation at its registered office. Service on a foreign corporation under this subsection shall be effective for all purposes from and after the date of ~~such~~ the service on the Secretary of State."

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

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

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

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

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

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

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

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

read:

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

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

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

"§ 57C-1-03. Definitions.

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

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

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

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

...
(9a) Foreign nonprofit corporation. – A foreign corporation as defined in G.S. 55A-1-40(11).

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

...
(17a) Principal office. – The office, in or out of this State, where the principal executive offices of a domestic or foreign limited liability company are located, as designated in its most recent annual report filed with the Secretary of State or, in the case of a domestic or foreign limited liability company that has not yet filed an annual report, in its articles of organization or application for a certificate of authority, respectively.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

<u>Document</u>	<u>Fee</u>
(1) Articles of organization	\$125.00
(2) Application for reserved name	10.00
(3) Notice of transfer of reserved name	10.00
(4) Application for registered name	10.00
(5) Application for renewal of registered name	10.00
(6) Limited liability company's statement of change of registered agent or registered office or both	5.00
(7) Agent's statement of change of registered office for each affected limited liability company	5.00
(8) Agent's statement of resignation	No fee
(9) Designation of registered agent or registered office or both	5.00
(10) Amendment of articles of organization	50.00
(11) Restated articles of organization without amendment of articles	10.00

(12)	Restated articles of organization with amendment of articles	50.00
(12a)	<u>Articles of conversion (other than articles of conversion included as part of another document)</u>	50.00
(13)	Articles of merger	50.00
(14)	Articles of dissolution	30.00
(15)	Cancellation of articles of dissolution	10.00
(16)	Certificate of administrative dissolution	No fee
(16a)	Application for reinstatement following administrative dissolution	100.00
(17)	Certificate of reinstatement	No fee
(18)	Certificate of judicial dissolution	No fee
(19)	Application for certificate of authority	250.00
(20)	Application for amended certificate of authority	50.00
(21)	Application for certificate of withdrawal	10.00
(22)	Certificate of revocation of authority to transact business	No fee
(23)	Articles of correction	10.00
(24)	Application for certificate of existence or authorization	5.00
(25)	Annual report	200.00
(26)	Any other document required or permitted to be filed by this Chapter	10.00
(27)	Advisory review of a document	200.00."

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

"§ 57C-2-01. Purposes.

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

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

(c) Subsections (a) and (b) of this section to the contrary notwithstanding and except as set forth in this subsection, a domestic or foreign limited liability company shall engage in rendering professional services only to the extent that a professional corporation acting pursuant to Chapter 55B of the General Statutes or a corporation acting pursuant to Chapter 55 of the General Statutes may engage in rendering professional services under the conditions and limitations imposed by an applicable licensing statute. Chapter 55B of the General Statutes and each applicable licensing statute are deemed amended to provide that professionals licensed under the applicable licensing statute may render professional services through a domestic or foreign limited liability company. For purposes of applying the provisions, conditions, and limitations of Chapter 55B of the General Statutes and the applicable licensing statute to domestic and foreign limited liability companies that engage in rendering professional services, (i) unless the context clearly requires otherwise, references to Chapter 55 of the General Statutes (the North Carolina Business Corporation Act) shall be treated as references to this Chapter, and references to a "corporation" or "foreign corporation" shall be treated as references to a limited liability company or foreign limited liability company, respectively, (ii) members shall be treated in the same manner as shareholders of a professional corporation, (iii) managers and directors shall be treated in the same manner as directors of a professional corporation, (iv) the persons signing the articles of organization of a limited liability company shall be treated in the same manner as the incorporators of a professional corporation, and (v) the name of a domestic or foreign limited liability company so engaged shall comply with G.S. 57C-2-30 or G.S.

57C-7-06 and, in addition, shall contain the word "Professional" or the abbreviation "P.L.L.C." or "PLLC". For purposes of this subsection, "applicable licensing statute" shall mean those provisions of the General Statutes referred to in G.S. 55B-2(6).

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

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

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

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

- (1) To sue and be sued, complain, and defend in its own name;
- (2) To make and amend operating agreements, not inconsistent with its articles of organization or with the laws of this State, for managing the business and regulating the affairs of the limited liability company;
- (3) To purchase, receive, lease, or otherwise acquire, and own, hold, improve, use, and otherwise deal with, real or personal property, or any legal or equitable interest in property, wherever located;
- (4) To sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of all or any part of its property;
- (5) To purchase, receive, subscribe for, or otherwise acquire; own, hold, vote, use, sell, mortgage, lend, pledge, or otherwise dispose of; and deal in and with shares or other interests in, or obligations of, any other entity;
- (6) To make contracts and guarantees, incur liabilities, borrow money, issue its notes, bonds, and other obligations (which may be convertible into or include the option to purchase other interests in the limited liability company), and secure any of its obligations by mortgage or pledge of any of its property, franchises, or income;
- (7) To lend money, invest and reinvest its funds, and receive and hold real and personal property as security for repayment;
- (8) To be a promoter, partner, member, associate, or manager of any partnership, joint venture, trust, or other entity;
- (9) To conduct its business, locate offices, and exercise the powers granted by this Chapter within or without this State;
- (10) To elect or appoint managers, directors, executives, officers, employees, and agents of the limited liability company, define their duties, fix their compensation, and lend them money and credit;
- (11) To pay pensions and establish pension plans, pension trusts, profit-sharing plans, and other benefit or incentive plans for any or all of its current or former managers, directors, executives, officers, employees, and agents;

- (12) To make donations for the public welfare or for charitable, religious, cultural, scientific, or educational purposes;
- (13) To transact any lawful business that will aid governmental policy;
- (14) To make payments or donations, or do any other act, not inconsistent with law, that furthers the business and affairs of the limited liability company;
- (15) To provide insurance for its benefit on the life or physical or mental ability of any of its managers, directors, executives, officers, or employees or on the life or physical or mental ability of any owner of any interest in the limited liability company for the purpose of acquiring the interest owned by him at the time of his death or disability, and for these purposes the limited liability company is deemed to have an insurable interest in its managers, directors, executives, officers, employees, or members and other interest owners; and to provide insurance for its benefit on the life or physical or mental ability of any other person in whom it has an insurable interest; and
- (16) To render professional services, subject to G.S. 57C-2-01(c)."

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

"(c) Organization of a limited liability company requires one or more initial members and any further action as may be determined by the initial member or members. If initial members are not identified in the articles of organization of a limited liability company in the manner provided in G.S. 57C-3-01(a), the organizers shall hold one or more meetings at the call of a majority of the organizers to identify the initial members of the limited liability company. Unless otherwise provided in this Chapter or in the articles of organization of the limited liability company, all decisions to be made by the organizers at such meetings shall require the approval, consent, agreement, or ratification of a majority of the organizers. Unless otherwise provided in the articles of organization, the organizers may, in lieu of a meeting, take action as described in this subsection by written consent signed by all of the organizers. The written consent may be incorporated in, or otherwise made part of, the initial written operating agreement of the limited liability company."

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

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

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

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

- (1) The name of the limited liability or foreign limited liability company and the state or country under whose law it is ~~organized~~ formed.
- (2) The street address, and the mailing address if different from the street address, of the registered office, the county in which the registered office is located, and the name of its registered agent at that office in this State, and a statement of any change of the registered office or registered agent, or both.
- (3) The address and telephone number of its principal office.
- (4) The names and business addresses of its ~~managers~~ managers or, if the limited liability company has never had members, its organizers.
- (5) A brief description of the nature of its business.

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

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

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

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

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

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

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

- (1) Setting forth its name, or its name with any required addition, the state or country and date of its ~~organization~~ formation, and a brief description of the nature of the business in which it is engaged; and
- (2) Accompanied by a certificate of existence (or a document of a similar import) from the state or country of ~~organization~~ formation."

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

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

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

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

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

"(c) Nothing in this Chapter precludes a person from being a member of a limited liability company because that person has not made, and has no obligation to make, any

contributions to the limited liability company and has no right to receive any distributions from the limited liability company or share in any profits or losses of the limited liability company."

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

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

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

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

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

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

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

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

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

"§ **57C-3-30. Liability to third parties of ~~members and managers; members, managers, directors, and executives; parties to actions; governing law.~~**

(a) A person who is a ~~member or manager, or both, member, manager, director, executive, or any combination thereof~~ of a limited liability company is not liable for the obligations of a limited liability company solely by reason of being a ~~member or manager or both, member, manager, director, or executive~~ and does not become so by participating, in whatever capacity, in the management or control of the business. A ~~member or manager member, manager, director, or executive~~ may, however, become personally liable by reason of his that person's own acts or conduct.

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

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

(d) If a conflict arises between the laws of this State and the laws of any other jurisdiction with regard to the liability of a ~~member or manager members, managers, directors, or executives~~ of a limited liability company ~~organized formed~~ and existing under this Chapter for the debts, obligations, and liabilities of the limited liability company, this Chapter and the laws of this State shall govern in determining the liability."

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

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

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

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

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

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

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

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

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

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

(c) A limited liability company may purchase and maintain insurance on behalf of an individual who is or was a manager, ~~an~~ director, executive, officer, ~~an~~ employee, or ~~an~~ agent of the limited liability company, or who, while a manager, ~~an~~ director, executive, officer, ~~an~~ employee, or ~~an~~ agent of the limited liability company is or was serving at the request of the limited liability company as a director, ~~an~~ executive, officer, a partner, a member, manager, a trustee, ~~an~~ employee, or ~~an~~ agent of a person, against liability asserted against or incurred by ~~him~~ ~~the person~~ him the person in that capacity or arising from ~~his~~ ~~the person's~~ his the person's status as a manager, ~~an~~ director, executive, officer, ~~an~~ employee, or ~~an~~ agent, whether or not the limited liability company would have the power to

indemnify ~~him~~ the person against the same liability under any provision of this Chapter."

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

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

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

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

- (1) Contribution from each other manager or director who could be held liable under subsection (a) of this section for the wrongful distribution; and
- (2) Reimbursement from each member for the amount the member received knowing that the distribution was made in violation of G.S. 57C-4-06 or the operating agreement.

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

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

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

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

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

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

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

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

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

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

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

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

"§ 57C-7-01. Law governing.

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

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

"(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. The application must set forth:

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

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

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

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

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

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

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

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

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

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

"(c) A foreign limited liability company may apply to the Secretary of State for authorization to use in this State a name that is not distinguishable upon the Secretary of State's records from the name of another limited liability company (~~organized~~ formed

or authorized to transact business in this State). The Secretary of State shall authorize use of the name applied for if:

- (1) The other person who has or uses the name or who has reserved or registered the name consents to the use in writing and submits an undertaking in form satisfactory to the Secretary of State to change its name to a name that is distinguishable upon the records of the Secretary of State from the name of the applying limited liability company; or
- (2) The applicant delivers to the Secretary of State a certified copy of a final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this State."

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

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

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

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

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

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

"(d) After the withdrawal of the foreign limited liability company is effective, service of process on the Secretary of State in accordance with ~~subdivision (b)(3)~~

subsection (b) of this section is service on the foreign limited liability company. shall be made by delivering to and leaving with the Secretary of State, or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of that process and the fee required by G.S. 57C-1-22(b). Upon receipt of process, process in the manner provided in this subsection, the Secretary of State shall mail a copy of the process by registered or certified mail, return receipt requested, to the foreign limited liability company at the mailing address set forth under designated pursuant to subsection (b) of this section."

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

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

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

SECTION 89. G.S. 57C-7-12 is amended by adding a new subsection to

read:

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

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

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

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

"(c) Upon motion of the limited liability company, the court may appoint a committee composed of two or more disinterested ~~managers~~ managers, directors, or other disinterested persons, acceptable to the limited liability company, to determine whether it is in the best interest of the limited liability company to pursue a particular legal right or remedy. The committee shall report its findings to the court. After considering the report and any other relevant evidence, the court shall determine whether the proceeding should be continued or not."

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

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

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

"§ 57C-9A-01. Conversion.

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

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

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

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

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

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

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

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

"§ 57C-9A-02. Plan of conversion.

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

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

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

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

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

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

(b) ~~In the case of a domestic limited partnership or other partnership as defined in G.S. 59-36 whose organization and internal affairs are governed by the laws of this~~

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

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

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

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

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

- (1) That the domestic limited liability company is being formed pursuant to a conversion of another business entity;
- (2) The name of the converting business entity, its type of business entity, and the state or country whose laws govern its organization and internal affairs; and
- (3) That a plan of conversion has been approved by the converting business entity as required by law.

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

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

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

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

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

"Part 1A. Conversion of Limited Liability Company.

"§ 57C-9A-10. Conversion.

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

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

"§ 57C-9A-11. Plan of conversion.

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

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

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

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

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

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

"§ 57C-9A-12. Articles of conversion.

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

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

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

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

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

(c) Certificates of conversion shall also be registered as provided in G.S. 47-18.1.
"§ 57C-9A-13. Effects of conversion.

(a) When the conversion takes effect:

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

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

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

- (1) To agree that it may be served with process in this State for enforcement of (i) any obligation of the converting domestic limited liability company and (ii) any obligation of the resulting business entity arising from the conversion; and
- (2) To have appointed the Secretary of State as its agent for service of process in any such proceeding. Service on the Secretary of State of any such process shall be made by delivering to and leaving with the Secretary of State, or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of the process and the fee required by G.S. 57C-1-22(b). Upon receipt of service of process on behalf of a resulting business entity in the manner provided for in this section, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the resulting business entity. If the resulting business entity is authorized to transact business or conduct affairs in this State, the address for mailing shall be its principal office designated in the latest document filed with the Secretary of State that is authorized by law to designate the principal office or, if there is no principal office on file, its registered office. If the resulting business entity is not authorized to transact business or conduct affairs in this State, the address for mailing shall be the mailing address designated pursuant to G.S. 57C-9A-12(a)(2)."

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

"(b) In the case of a merging domestic limited liability company, the plan of merger must be approved in the manner provided in its articles of organization or a

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

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

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

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

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

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

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

- (1) To agree that it may be served with process in this State in any proceeding for enforcement of (i) any obligation of any merging domestic limited liability company, domestic corporation, domestic nonprofit corporation, domestic limited partnership, or other partnership as defined in G.S. 59-36 that is formed under the laws of this State, (ii) the rights of dissenting shareholders of any merging domestic corporation under Article 13 of Chapter 55 of the General Statutes, and (iii) any obligation of the surviving business entity arising from the merger; and
- (2) To have appointed the Secretary of State as its registered agent for service of process in any such proceeding. Service on the Secretary of State of any such process shall be made by delivering to and leaving with the Secretary of ~~State~~ State, or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of such process and the fee required by G.S. 57C-1-22(b). Upon receipt of service of process on behalf of a surviving business entity in the manner provided for in this section, the Secretary of State shall

immediately mail a copy of the process by registered or certified mail, return receipt requested, to the surviving business entity. If the surviving business entity is authorized to transact business or conduct affairs in this State, the address for mailing shall be its principal office designated in the latest document filed with the Secretary of State that is authorized by law to designate the principal office or, if there is no principal office on file, its registered office. If the surviving business entity is not authorized to transact business or conduct affairs in this State, the address for mailing shall be the mailing address designated pursuant to ~~subdivision (3) of subsection (d) of this section.~~ G.S. 57C-9A-22(a)(3)."

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

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

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

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

"§ 57C-10-06. Income taxation.

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

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

"§ 57C-10-07. Intent.

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

PART IV. AMENDMENTS TO THE LAW GOVERNING PARTNERSHIPS.

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

"§ 59-32. Definition of terms.

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

- (01) 'Act' means the North Carolina Uniform Partnership Act and refers to all provisions therein.
- (1) 'Bankrupt' means bankrupt under the Federal Bankruptcy Act or insolvent under any State insolvent act.

- (2) 'Business' means every trade, occupation, or profession.
- (3) 'Conveyance' means every assignment, lease, mortgage, or encumbrance.
- (4) 'Court' means every court and judge having jurisdiction in the case.
- (4a) 'Domestic corporation' has the same meaning as in G.S. 55-1-40.
- (4b) 'Domestic limited liability company' has the same meaning as in G.S. 57C-1-03.
- (4c) 'Domestic limited partnership' has the same meaning as in G.S. 59-102.
- (4d) 'Domestic nonprofit corporation' means a corporation as defined in G.S. 55A-1-40.
- (4e) 'Foreign corporation' has the same meaning as in G.S. 55-1-40.
- (4f) 'Foreign limited liability company' has the same meaning as in G.S. 57C-1-03.
- (4a)(4g) 'Foreign limited liability partnership' means a partnership that (i) is formed under laws other than the laws of this State, and (ii) has the status of a limited liability partnership or registered limited liability partnership under those laws.
- (4h) 'Foreign limited partnership' has the same meaning as in G.S. 59-102.
- (4i) 'Foreign nonprofit corporation' means a foreign corporation as defined in G.S. 55A-1-40.
- (5) 'Person' means individuals, partnerships, corporations, limited liability companies, and other associations.
- (5a) 'Principal office' means the office (in or out of this State) where the principal executive offices of a registered limited liability partnership or a foreign limited liability partnership are located, as designated in its most recent annual report filed with the Secretary of State or, if no annual report has yet been filed, in its application for registration as a registered limited liability partnership or foreign limited liability partnership.
- (6) 'Real property' means land and any interest or estate in land.
- (7) 'Registered limited liability partnership' means a partnership that is registered under G.S. 59-84.2 and complies with G.S. 59-84.3."

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

"§ 59-35.1. Filing of documents.

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

- (1) The document shall contain the information required by this act. It may contain other information as well.
- (2) The document shall be typewritten or printed.
- (3) The document shall be in the English language.
- (4) A document submitted by a partnership other than a domestic or foreign limited partnership shall be executed by a general partner of the partnership. A document submitted by any other type of entity shall be executed by a person authorized to execute documents (i) pursuant to G.S. 55-1-20(f) if the entity is a domestic or foreign corporation, (ii) pursuant to G.S. 55A-1-20(f) if the entity is a domestic or foreign nonprofit corporation, (iii) pursuant to G.S. 57C-1-20(f) if the entity is a domestic or foreign limited liability company, or (iv) pursuant to G.S. 59-204 if the entity is a domestic or foreign limited partnership.
- (5) The person executing the document shall sign it and state beneath or opposite the person's signature the person's name and the capacity in which the person signs. Any signature on the document may be a

facsimile. The document may, but need not, contain an acknowledgment, verification, or proof.

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

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

A document is corrected by:

- (1) Preparing articles of correction that (i) describe the document, including its filing date, or have attached to them a copy of the document, (ii) specify the incorrect statement and the reason it is incorrect or the manner in which the execution was defective, and (iii) correct the incorrect statement or defective execution; and
- (2) Delivering the articles of correction to the Secretary of State for filing, accompanied by one exact or conformed copy and the required filing fee.

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

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

- (1) An application for registration as a registered limited liability partnership;
- (2) Cancellation of registration as a registered limited liability partnership;
- (3) Application for registration as a foreign limited liability partnership;
and
- (4) Cancellation of registration as a foreign limited liability partnership.

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

(d) The Secretary of State may adopt and furnish on request forms for other 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</u>	<u>25.00</u>

(9)	<u>as a registered limited liability partnership</u> <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 causing service of process is entitled to recover this fee as costs if the party prevails in the proceeding.

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

- (1) One dollar (\$1.00) a page for copying or comparing a copy to the original; and
- (2) Five dollars (\$5.00) for the certificate.

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

- (1) Two hundred dollars (\$200.00) for the filing by the end of the same business day of a document received by 12:00 noon Eastern Standard Time; and
- (2) One hundred dollars (\$100.00) for the filing of a document within 24 hours after receipt, excluding weekends and holidays.

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

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

(j) Except as provided in this subsection and in subsection (b) of this section, a document accepted for filing 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 document; or

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

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

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

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

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

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

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

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

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

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

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

(m) A certificate attached to a copy of a document filed by the Secretary of State, bearing the Secretary of State's signature, which may be in facsimile, and the seal of

office and certifying that the copy is a true copy of the document, is conclusive evidence that the original document is on file with the Secretary of State. A photographic, microfilm, optical disk media, or other reproduced copy of a document filed pursuant to this act or any predecessor act, when certified by the Secretary, shall be considered an original for all purposes and is admissible in evidence in like manner as an original.

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

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

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

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

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

"Article 2A.

"Conversion and Merger."

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

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

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

"Part 1. General Provisions."

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

"§ 59-73.1. Definitions.

As used in this ~~Part~~ Article:

- (1) "Business entity" means a domestic corporation as defined in G.S. 55-1-40 (including a professional corporation as defined in G.S. 55B-2), a foreign corporation as defined in G.S. 55-1-40 (including a foreign professional corporation as defined in G.S. 55B-16), a domestic or foreign nonprofit corporation as defined in G.S. 55A-1-40, a domestic or foreign limited liability company as defined in G.S. 57C-1-03, ~~company,~~ a domestic or foreign limited partnership partnership, as defined in G.S. 59-102, a domestic partnership, or any other partnership as defined in G.S. 59-36 formed under a law other than the laws of this State (including a limited liability partnership). ~~partnership.~~
- (2) "Domestic partnership" means a partnership as defined in G.S. 59-36 that is formed under the laws of this State, including a registered limited liability partnership partnership, as defined in G.S. 59-32, but

excluding a domestic limited partnership as defined in G.S. 59-102-partnership.

- (3) "Partnership" means a partnership as defined in G.S. 59-36 whether or not formed under the laws of this State including a registered limited liability partnership and ~~any other a foreign~~ limited liability partnership ~~formed under a law other than the laws of this State~~ partnership, but excluding a domestic limited partnership as defined in G.S. 59-102 and a foreign limited partnership as defined in G.S. 59-102. partnership."

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

"Part 2. Conversion to Domestic Partnership.

"§ 59-73.10. Conversion.

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

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

"§ 59-73.11. Plan of conversion.

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

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

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

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

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

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

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

- (1) That the domestic partnership is being formed pursuant to a conversion of another business entity;
- (2) The name of the resulting domestic partnership, a designation of its mailing address, and a commitment to file with the Secretary of State a statement of any subsequent change in its mailing address;
- (3) The name of the converting business entity, its type of business entity, and the state or country whose laws govern its organization and internal affairs; and

- (4) That a plan of conversion has been approved by the converting business entity as required by law.

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

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

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

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

"§ 59-73.13. Effects of conversion.

(a) When the conversion takes effect:

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

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

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

- (1) To agree that it may be served with process in this State for enforcement of (i) any obligation of the converting business entity and (ii) any obligation of the resulting domestic partnership arising from the conversion; and
- (2) To have appointed the Secretary of State as its agent for service of process in any such proceeding. Service on the Secretary of State of any such process shall be made by delivering to and leaving with the Secretary of State, or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of the process and the fee required by G.S. 59-35.1(f). Upon receipt of service of process on behalf of a resulting domestic partnership in the manner provided for in this section, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the resulting domestic partnership. If the resulting domestic partnership is a registered limited liability partnership, the address for mailing shall be its principal office or, if there is no principal office on

file, its registered office. If the resulting domestic partnership is not a registered limited liability partnership, the address for mailing shall be the mailing address designated pursuant to G.S. 59-73.12(a)(2)."

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

"Part 3. Conversion of Domestic Partnership."

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

"§ 59-73.20. Conversion.

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

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

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

"§ 59-73.21. Plan of conversion.

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

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

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

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

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

"§ 59-73.22. Articles of conversion.

(a) After a plan of conversion has been approved by the converting domestic partnership as provided in G.S. 59-73.21, the converting domestic partnership shall

deliver articles of conversion to the Secretary of State for filing. The articles of conversion shall state:

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

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

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

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

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

"§ 59-73.23. Effects of conversion.

(a) When the conversion takes effect:

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

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

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

- (1) To agree that it may be served with process in this State for enforcement of (i) any obligation of the converting domestic partnership and (ii) any obligation of the resulting business entity arising from the conversion; and
- (2) To have appointed the Secretary of State as its agent for service of process in any such proceeding. Service on the Secretary of State of

any such process shall be made by delivering to and leaving with the Secretary of State, or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of the process and the fee required by G.S. 59-35.1(f). Upon receipt of service of process on behalf of a resulting business entity in the manner provided for in this section, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the resulting business entity. If the resulting business entity is authorized to transact business or conduct affairs in this State, the address for mailing shall be its principal office designated in the latest document filed with the Secretary of State that is authorized by law to designate the principal office or, if there is no principal office on file, its registered office. If the resulting business entity is not authorized to transact business or conduct affairs in this State, the address for mailing shall be the mailing address designated pursuant to G.S. 59-73.12(a)(2)."

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

"Part 4. Merger."

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

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

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

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

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

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

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

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

- (1) To agree that it may be served with process in this State in any proceeding for enforcement of (i) any obligation of any merging domestic limited liability company, domestic corporation, domestic nonprofit corporation, domestic limited partnership, or other partnership as defined in G.S. 59-36 that is formed under the laws of this State, (ii) the rights of dissenting shareholders of any merging domestic corporation under Article 13 of Chapter 55 of the General Statutes, and (iii) any obligation of the surviving business entity arising from the merger; and
- (2) To have appointed the Secretary of State as its registered agent for service of process in any such proceeding. Service on the Secretary of State of any such process shall be made by delivering to and leaving with the Secretary of ~~State~~State, or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of such process and the ~~fees~~fee required by ~~G.S. 59-73.7(e)~~G.S. 59-35.1(f). Upon receipt of service of process on behalf of a surviving business entity in the manner provided for in this section, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the surviving business entity. If the surviving business entity is authorized to transact business or conduct affairs in this State, the address for mailing shall be its principal office designated in the latest document filed with the Secretary of State that is authorized by law to designate the principal office or, if there is no principal office on file, its registered office. If the surviving business entity is not authorized to transact business or conduct affairs in this State, the address for mailing shall be the mailing address designated pursuant to ~~subdivision (3) of subsection (d) of this section~~G.S. 59-73.32(a)(3)."

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

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

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

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

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

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

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

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

"§ 59-84.2. Registered limited liability partnerships.

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

- (1) The name of the partnership.
- (2) The street ~~address~~ address, and the mailing address if different from the street address, of its principal ~~office~~ office and the county in which the principal office is located.
- (3) The name and street address, and the mailing address if different from the street address, ~~for~~ of the partnership's registered agent and registered office for service of process.
- (4) The county in this State in which the registered office is located.
- ~~(5) A brief statement of the business in which the partnership engages.~~
- ~~(6) A deferred effective date, if any.~~
- (7) The fiscal year end of the partnership.

(a1) The terms and conditions on which a partnership becomes a limited liability partnership must be approved by the ~~vote necessary in the manner provided in to amend the partnership agreement~~ except agreement; provided, however, if the partnership agreement does not contain any such provision, the terms and conditions shall be approved (i) in the case of a partnership having a partnership agreement that expressly considers obligations to contribute to the partnership, the ~~vote~~ in the manner necessary to amend those ~~provisions~~ provisions, or (ii) in any other case, in the manner necessary to amend the partnership agreement.

~~(b) An application for registration as a registered limited liability partnership must be executed by one or more partners.~~

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

~~(d) The Secretary of State shall register a partnership that submits a completed application with the required fee.~~

~~(e) A registration is effective on the later of the date the registration is filed or the date specified in the application for registration, unless it is voluntarily withdrawn by filing with the Secretary of State a written withdrawal notice executed by one or more of the partners, or is revoked pursuant to G.S. 59-84.4(f).~~

~~(f) The Secretary of State may provide forms for applications for registration.~~

(f1) A partnership becomes a registered limited liability partnership when its application for registration becomes effective.

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

(h) A partnership shall promptly amend its registration to reflect any change in the information contained in its application for registration, other than changes that are properly included in other documents filed with the Secretary of State. A registration is amended by filing a certificate of amendment thereto in the office of with the Secretary of State. The certificate of amendment shall set forth the following:

- (1) The name of the partnership as reflected on the application for registration.
- (2) The date of filing of the application for registration.
- (3) The amendment to the application for registration.

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

- (1) A registered office that may be the same as any of its places of business; and
- (2) The A registered agent of a registered limited liability partnership for service of process must who shall be (i) an individual who is a resident of this State and whose business office is identical with the registered office; (ii) a domestic corporation, nonprofit corporation, or limited liability company whose business office is identical with the registered office; or (iii) a foreign corporation, nonprofit corporation, or limited liability company authorized to transact business or conduct affairs in this State whose business office is identical with the registered office. The sole duty of the registered agent to the registered limited liability partnership is to forward to the registered limited liability partnership at its last known address any notice, process, or demand that is served on the registered agent.

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

- (1) The name of the partnership as reflected on the application for registration;
- (2) The date of filing of the application for registration;
- (3) A mailing address to which the Secretary of State may mail a copy of any process served on the Secretary of State under this subsection;
- (4) A commitment to file with the Secretary of State a statement of any subsequent change in its mailing address; and
- (5) The effective date and time of cancellation if it is not to be effective at the time of filing the certificate.

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

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

- (1) The name of the registered limited liability partnership;
- (2) The street address, and the mailing address if different from the street address, of the registered limited liability partnership's current registered office and the county in which it is located;
- (3) If the address of the registered limited liability partnership's registered office is to be changed, the street address, and the mailing address if different from the street address, of the new registered office and the county in which it is located;
- (4) The name of its current registered agent;
- (5) If the current registered agent is to be changed, the name of the new registered agent and the new registered agent's written consent (either on the statement or attached to it) to the appointment; and
- (6) That after the change or changes are made, the addresses of its registered office and the business office of its registered agent will be identical.

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

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

- (l) The following provisions shall apply for the resignation of a registered agent:
 - (1) A registered agent may resign the agent's appointment by signing and filing with the Secretary of State the signed original and two exact or conformed copies of a statement of resignation which may include a statement that the registered office is also discontinued. The statement must include or be accompanied by a certification from the registered agent that the agent has mailed or delivered to the registered limited liability partnership at its last known address written notice of the agent's resignation. Such certification shall include the name and title of the partner notified, if any, and the address to which the notice was mailed or delivered.
 - (2) After filing the statement, the Secretary of State shall mail one copy to the registered office (if not discontinued) and the other copy to the registered limited liability partnership at its principal office.
 - (3) The agency appointment is terminated, and the registered office discontinued if so provided, on the thirty-first day after the date on which the statement was filed.

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

(n) Whenever a registered limited liability partnership shall fail to appoint or maintain a registered agent in this State, or whenever its registered agent cannot with due diligence be found at the registered office, then the Secretary of State shall be an agent of the registered limited liability partnership upon whom any such process, notice, or demand may be served. Service on the Secretary of State of any process, notice, or demand shall be made by delivering to and leaving with the Secretary of State, or with any clerk authorized by the Secretary of State to accept service of process, duplicate

copies of the process, notice, or demand and the fee required by G.S. 59-35.1(f). In the event any such process, notice, or demand is served on the Secretary of State in the manner provided in this subsection, the Secretary of State shall immediately mail one of the copies thereof, by registered or certified mail, return receipt requested, to the registered limited liability partnership at its principal office or, if there is no mailing address for the principal office on file, to the registered limited liability partnership at its registered office. Service on a registered limited liability partnership under this subsection shall be effective for all purposes from and after the date of the service on the Secretary of State.

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

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

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

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

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

"§ 59-91. Statement of foreign registration.

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

- (1) The name of the foreign limited liability partnership that satisfies the requirements of the State or other jurisdiction under whose law it is formed and ends with the words "registered limited liability partnership" or "limited liability partnership" or the abbreviation "R.L.L.P.", "L.L.P.", "RLLP", or "LLP".
- (2) The street address, and the mailing address if different from the street address, of the partnership's principal office, and the county in which the principal office is located.
- (3) The name and street address, and the mailing address if different from the street address, for the partnership's registered agent and registered office for service of process, and the county in which the registered office is located.
- ~~(4) A brief statement of the business in which the partnership is engaged.~~
- ~~(5) A deferred effective date, if any.~~
- (6) The fiscal year end of the partnership.

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

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

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

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

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

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

- ~~(1) The name of the partnership.~~
- ~~(2) The date of filing of the registration.~~
- ~~(3) The amendment to the registration.~~

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

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

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

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

- (1) The name of the foreign limited liability partnership under which it is registered in this State;
- (2) The date of filing of the application for registration; and
- (3) The amendment to the application for registration.

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

- (1) The name of the foreign limited liability partnership under which it is registered in this State;
- (2) The date of filing of the application for registration;
- (3) A mailing address to which the Secretary of State may mail a copy of any process served on the Secretary of State under this subsection;
- (4) A commitment to file with the Secretary of State a statement of any subsequent change in its mailing address; and
- (5) The effective date and time of cancellation if it is not to be effective at the time of filing the certificate.

Cancellation of registration terminates the authority of the foreign limited liability partnership's registered agent to accept service of process, notice, or demand and appoints the Secretary of State as agent to accept such service on behalf of the foreign limited liability partnership with respect to any action or proceeding based upon any cause of action arising in this State, or arising out of business transacted in this State, during the time the foreign limited liability partnership was registered in this State. Service on the Secretary of State of any such process, notice, or demand shall be made by delivering to and leaving with the Secretary of State, or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of such process, notice, or demand and the fee required by G.S. 59-35.1(f). Upon receipt of process, notice, or demand in the manner herein provided, the Secretary of State shall immediately mail a copy of the process, notice, or demand by registered or certified

mail, return receipt requested, to the foreign limited liability partnership at the mailing address designated pursuant to this subsection.

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

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

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

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

- (1) The name of the foreign limited liability partnership;
- (2) The street address, and the mailing address if different from the street address, of the foreign limited liability partnership's current registered office and the county in which it is located;
- (3) If the address of the foreign limited liability partnership's registered office is to be changed, the street address, and the mailing address if different from the street address, of the new registered office and the county in which it is located;
- (4) The name of its current registered agent;
- (5) If the current registered agent is to be changed, the name of the new registered agent and the new registered agent's written consent (either on the statement or attached to it) to the appointment; and
- (6) That after the change or changes are made, the addresses of its registered office and the business office of its registered agent will be identical.

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

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

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

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

- (2) After filing the statement, the Secretary of State shall mail one copy to the registered office (if not discontinued) and the other copy to the foreign limited liability partnership at its principal office.
- (3) The agency appointment is terminated, and the registered office discontinued if so provided, on the thirty-first day after the date on which the statement was filed.

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

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

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

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

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

- (1) The name of the foreign liability limited partnership authorized to transact business in this State, the type of entity and name of the surviving or resulting entity, and a statement that the surviving or resulting entity is not authorized to transact business or conduct affairs in this State;
- (2) A statement that the surviving or resulting entity consents that service of process based on any cause of action arising in this State, or arising out of business transacted in this State, during the time the foreign limited liability partnership was authorized to transact business in this

State, may thereafter be made by service thereof on the Secretary of State;

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

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

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

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

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

(3) Issue a certificate of withdrawal; and

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

(u) After the withdrawal of the foreign limited liability partnership is effective, service of process on the Secretary of State in accordance with subsection (s) of this section shall be made by delivering to and leaving with the Secretary of State, or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of such process and the fee required by G.S. 59-35.1(f). Upon receipt of process in the manner herein provided, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the surviving or resulting entity at the mailing address designated pursuant to subsection (s) of this section."

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

"§ 59-102. Definitions.

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

(1) "Business" means any lawful trade, investment, or other purpose or activity, whether or not the trade, investment, purpose, or activity is carried on for profit.

(1a) "Business entity" means a domestic corporation ~~as defined in G.S. 55-1-40 (including, without limitation, (including a professional corporation as defined in G.S. 55B-2), a foreign corporation as defined in G.S. 55-1-40 (including, without limitation, (including a foreign professional corporation as defined in G.S. 55B-16), a domestic or foreign nonprofit corporation as defined in G.S. 55A-1-40, corporation, a domestic limited liability company as defined in G.S. 57C-1-03, a or foreign limited liability company as defined in G.S. 57C-1-03, company, a domestic limited partnership, a foreign limited partnership, a registered limited liability partnership, a foreign limited liability partnership, or any other partnership as defined in G.S. 59-36 whether or not formed under the laws of this State (including a registered limited liability partnership as defined in G.S. 59-32 and any other limited liability partnership formed under a law other than the laws of this State).~~State.

(1b) "Certificate of limited partnership" means the certificate referred to in G.S. 59-201, and the certificate as amended.

(2) "Conformed copy" shall include a photostatic or other photographic copy of the original document.

(3) "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 capacity as a partner.

- (3a) "Domestic corporation" has the same meaning as in G.S. 55-1-40.
- (3b) "Domestic limited liability company" has the same meaning as in G.S. 57C-1-03.
- (3c) "Domestic nonprofit corporation" means a corporation as defined in G.S. 55A-1-40.
- (4) "Event of withdrawal of a general partner" means an event that causes a person to cease to be a general partner as provided in G.S. 59-402.
- (4a) "Foreign corporation" has the same meaning as in G.S. 55-1-40.
- (4b) "Foreign limited liability company" has the same meaning as in G.S. 57C-1-03.
- (4c) "Foreign limited liability limited partnership" means a foreign limited partnership whose general partners have limited liability for the obligations of the foreign limited partnership under a provision similar to the provisions of G.S. 59-403(b) pertaining to general partners in limited liability limited partnerships.
- (5) "Foreign limited partnership" means a partnership formed under the laws of any state, province, country, or other jurisdiction other than this State and having as partners one or more general partners and one or more limited partners-partners, and includes, for all purposes of the laws of the State of North Carolina, a foreign limited liability limited partnership.
- (5a) "Foreign nonprofit corporation" means a foreign corporation as defined in G.S. 55A-1-40.
- (6) "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.
- (6a) "Limited liability limited partnership" and "registered limited liability limited partnership" mean a limited partnership that is registered under and complies with G.S. 59-210.
- (7) "Limited partner" means a person who has been admitted to a limited partnership as a limited partner in accordance with the partnership agreement.
- (8) "Limited partnership" and "domestic limited partnership" mean 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-partners, and includes, for all purposes of the laws of the State of North Carolina, a limited liability limited partnership.
- (9) "Partner" means a limited or general partner.
- (10) "Partnership agreement" means any valid agreement of the partners as to the affairs of a limited partnership, the conduct of its business, and the responsibilities and rights of its partners. The term "partnership agreement" includes any written or oral agreement, whether or not the agreement is set forth in a document referred to by the partners as a "partnership agreement", and includes any amendment agreed upon by the partners unanimously or in accordance with the terms of the agreement. The term also includes any agreement of the partners to waive or revise the terms of the partnership agreement in one or more specific instances and not necessarily on an ongoing or permanent basis.
- (11) "Partnership interest" means a partner's share of the allocations of income, gain, loss, deduction or credit of a limited partnership and the right to receive distributions of cash or other partnership assets.
- (12) "Person" means a natural person, domestic or foreign partnership, domestic or foreign limited partnership—(domestic or

~~foreign), partnership, domestic or foreign limited liability company, trust, estate, unincorporated association, or corporation-domestic or foreign corporation, or another entity.~~

- (12a) "Principal office" means the office (in or out of this State) where the principal executive offices of a limited liability limited partnership are located, as designated in its most recent annual report filed with the Secretary of State or, if no annual report has yet been filed, in its application for registration as limited liability limited partnership.
- (13) "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico."

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

"§ 59-103. Name.

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

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

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

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

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

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

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

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

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

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

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

- (1) The name of the limited partnership;
- (2) The street address, and the mailing address if different from the street address, of the limited partnership's current registered office and the county in which it is located;
- (3) If the address of the limited partnership's registered office is to be changed, the street address, and the mailing address if different from

the street address, of the new registered office and the county in which it is located;

- (4) The name of its current registered agent;
- (5) If the current registered agent is to be changed, the name of the new registered agent and the new registered agent's written consent (either on the statement or attached to it) to the appointment; and
- (6) That after the change or changes are made, the addresses of its registered office and the business office of its registered agent will be identical.

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

(c) Whenever a limited partnership shall fail to appoint or maintain a registered agent in this State, or whenever its registered agent cannot with due diligence be found at the registered office, then the Secretary of State shall be an agent of such limited partnership upon whom any such process, notice, or demand may be served. Service on the Secretary of State of any such process, notice, or demand shall be made by delivering to and leaving with the Secretary of State, or with any clerk having charge of the limited partnership department of his office, authorized by the Secretary of State to accept service of process, duplicate copies of such the process, notice, or demand. demand and the fee required by G.S. 59-1106(b). In the event any such process, notice, or demand is served on the Secretary of State, he the Secretary of State shall immediately cause one of the copies thereof to be forwarded by registered or certified mail, addressed to the limited partnership at its partnership. If the limited partnership is a limited liability limited partnership, the address for mailing shall be its principal office or, if there is no principal office on file, its registered office. If the limited partnership is not a limited liability limited partnership, the address for mailing shall be the limited partnership's registered office. Any such Service on a limited partnership so served under this subsection shall be in court effective for all purposes from and after the date of such service on the Secretary of State.

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

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

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

- (1) A registered agent may resign the agent's appointment by signing and filing with the Secretary of State the signed original and two exact or conformed copies of a statement of resignation which may include a statement that the registered office is also discontinued. The statement shall include or be accompanied by a certification from the registered agent that the agent has mailed or delivered to the limited partnership at its last known address written notice of the agent's resignation. The certification shall include the name and title of the partner notified, if any, and the address to which the notice was mailed or delivered.
- (2) After filing the statement, the Secretary of State shall mail one copy to the registered office, if not discontinued, and the other copy to the limited partnership at the address certified in the statement of resignation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"§ 59-209. Certificate of existence.

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

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

- (1) The domestic limited partnership's name or the foreign limited partnership's name used in this State;
- (2) That (i) the domestic limited partnership has filed a certificate of limited partnership under the law of this State, the effective date of the filing, and the period of the domestic limited partnership's duration, or (ii) the foreign limited partnership is authorized to transact business in this State;
- (3) If the limited partnership has registered as a limited liability limited partnership, that the registration has not been cancelled or revoked;
- (4) That a certificate of cancellation of the certificate of limited partnership has not been filed; and
- (5) Other facts of record in the office of the Secretary of State that may be requested by the applicant.

(c) Subject to any qualification stated in the certificate, a certificate of existence or authorization issued by the Secretary of State may be relied upon as conclusive evidence that the domestic limited partnership has filed a certificate of limited partnership and has not filed a certificate of cancellation or that the foreign limited partnership is authorized to transact business in this State, and, if applicable, that the domestic limited partnership has registered as a limited liability limited partnership and that such registration has not been cancelled or revoked.

"§ 59-210. Limited liability limited partnerships.

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

- (1) The name of the limited liability limited partnership, which shall contain the words 'registered limited liability limited partnership' or 'limited liability limited partnership' or the abbreviation 'L.L.L.P.', 'R.L.L.L.P.', 'LLLP', or 'RLLLP' as the last words or letters of its name.
- (2) The street address, and mailing address if different from the street address, of its principal office, and the county in which the principal office is located.
- (3) The fiscal year end of the limited liability limited partnership.

(b) The terms and conditions on which a limited partnership becomes a limited liability limited partnership shall be approved in the manner provided in the partnership agreement; provided, however, if the partnership agreement does not contain any such provision, the terms and conditions must be approved (i) in the case of a limited partnership having a partnership agreement that expressly considers obligations to contribute to the partnership, in the manner necessary to amend those provisions, or (ii) in any other case, in the manner necessary to amend the partnership agreement.

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

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

(e) A limited liability limited partnership shall promptly amend its registration to reflect any change in the information contained in its application for registration, other than changes that are properly included in other documents filed with the Secretary of State. A registration is amended by filing a certificate of amendment with the Secretary of State. The certificate of amendment shall set forth:

- (1) The name of the limited liability limited partnership as reflected on the application for registration;
- (2) The date of filing of the application for registration; and
- (3) The amendment to the application for registration.

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

- (1) The name of the limited liability limited partnership as reflected on the application for registration;
- (2) The date of filing of the application for registration; and
- (3) The effective date and time of cancellation if it is not to be effective at the time of filing the certificate.

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

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

- "(6) In the case of a general partner who is a natural person,
- a. ~~His~~ The general partner's death; or
 - b. The entry ~~or~~ of an order by a court of competent jurisdiction adjudicating ~~him~~ the general partner incompetent to manage his or her person or ~~his estate; property;~~."

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

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

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

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

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

- "(11) In the case of a general partner that is a limited liability company, the dissolution and commencement of winding up of the limited liability company; or
- (12) In the case of a general partner that is not a natural person, trust, separate partnership, corporation, estate, or limited liability company, the termination of the general partner."

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

"(b) Except as provided in this Article, a general partner of a limited partnership that is not a limited liability limited partnership has the liabilities of a partner in a partnership without limited partners to persons other than the partnership and the other ~~partners~~ partners, and a general partner of a limited liability limited partnership has the liabilities of, and has the limitation on liability afforded to, a partner in a registered limited liability partnership under the North Carolina Uniform Partnership Act to persons other than the partnership and the other partners with respect to debts and obligations of the limited partnership incurred while it is a limited liability limited partnership. Except as provided in this Article or in the partnership agreement, a general partner of a limited partnership that is not a limited liability limited partnership has the liabilities of a partner in a partnership without limited partners to the partnership and to

the other partners, partners, and a general partner of a limited liability limited partnership has the liabilities of, and has the limitation on liability afforded to, a partner in a registered limited liability partnership under the North Carolina Uniform Partnership Act to the partnership and to the other partners."

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

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

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

"§ 59-902. Registration.

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

- (1) The name of the foreign limited partnership and, if different, the name under which it proposes to register and transact business in this State;
- (2) The jurisdiction and date of its formation;
- (3) The date of formation and the period of duration;
- (4) The street address, including county and city or town, and street and number, if any, and the mailing address if different from the street address, of the principal office of the foreign limited partnership;
- (5) The street address, including county and city or town, and street and number, if any, and the mailing address if different from the street address, of the proposed registered office of the foreign limited partnership in this State, the county in which the registered office is located, and the name of its proposed registered agent in this State at such address; the agent must be an individual resident of this State, a domestic corporation, or a foreign corporation having a place of business in, and authorized to do business in this State;
- (6) If the certificate of limited partnership filed in the foreign limited partnership's state of organization is not required to include the names and addresses of the partners, a list of the names and addresses or, at the election of the foreign limited partnership, a list of the names and addresses of the general partners and the address, including county and city or town, and street and number, of the office at which is kept a list of the names and addresses of the limited partners and their capital contributions, together with an undertaking by the foreign limited partnership to keep such records until such foreign limited partnership's registration in this State is cancelled;
- (7) A statement that in consideration of the issuance of a certificate of authority to transact business in this State, the foreign limited partnership appoints the Secretary of State of North Carolina as the agent to receive service of process, notice, or demand, whenever the foreign limited partnership fails to appoint or maintain a registered

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

- (8) The names and addresses including county and city or town, and street and number, if any, of all of the general partners;
- (8a) Whether the foreign limited partnership is a foreign limited liability limited partnership; and
- (9) ~~The execution of a certificate or amendment by a general partner constitutes an affirmation under the penalties of perjury that the facts stated therein are true.~~ effective date and time of the registration if it is not to be effective at the time of filing of the application.

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

- (1) Maintaining or defending any action or suit or any administrative or arbitration proceeding, or effecting the settlement thereof or the settlement of claims or disputes;
- (2) Holding meetings of its partners or carrying on other activities concerning its internal affairs;
- (3) Maintaining bank accounts or borrowing money in this State, with or without security, even if such borrowings are repeated and continuous transactions;
- (4) Maintaining offices or agencies for the transfer, exchange, and registration of its securities, or appointing and maintaining trustees or depositaries with relation to its securities;
- (5) Soliciting or procuring orders, whether by mail or through employees or agents or otherwise, where such orders require acceptance without this State before becoming binding contracts;
- (6) Making or investing in loans with or without security including servicing of mortgages or deeds of trust through independent agencies within the State, the conducting of foreclosure proceedings and ~~sale,~~ sales, the acquiring of property at foreclosure sale and the management and rental of such property for a reasonable time while liquidating its investment, provided no office or agency therefor is maintained in this State;
- (7) Taking security for or collecting debts due to it or enforcing any rights in property securing the same;
- (8) Transacting business in interstate commerce; and
- (9) Conducting an isolated transaction completed within a period of six months and not in the course of a number of repeated transactions of like nature.

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

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

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

(b2) A foreign limited partnership authorized to transact business in this State may change its registered office or registered agent by delivering to the Secretary of State for filing a statement of change that sets forth:

- (1) Its name;
- (2) The street address, and the mailing address if different from the street address, of its current registered office, and the county in which it is located;
- (3) If the address of its registered office is to be changed, the street address, and the mailing address if different from the street address, of the new registered office, and the county in which it is located;
- (4) The name of its current registered agent;
- (5) If the current registered agent is to be changed, the name of its new registered agent and the new agent's written consent (either on the statement or attached to it) to the appointment; and
- (6) That after the change or changes are made, the addresses of its registered office and the business office of its registered agent will be identical.

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

(b3) The following provisions shall apply for the resignation of a registered agent:

- (1) A registered agent may resign the agent's agency appointment by signing and filing with the Secretary of State the signed original and two exact or conformed copies of a statement of resignation which may include a statement that the registered office is also discontinued. The statement shall include or be accompanied by a certification from the registered agent that the agent has mailed or delivered to the foreign limited partnership at its last known address written notice of the agent's resignation. Such certification shall include the name and title of the partner notified, if any, and the address to which the notice was mailed or delivered.
- (2) After filing the statement, the Secretary of State shall mail one copy to the registered office, if not discontinued, and the other copy to the foreign limited partnership at the address certified in the statement of resignation.
- (3) The agency appointment is terminated, and the registered office discontinued if so provided, on the thirty-first day after the date on which the statement was filed.

(b4) The registered agent of a foreign limited partnership authorized to transact business in this State is an agent of the foreign limited partnership for service of process, notice, or demand required or permitted by law to be served on the foreign limited partnership.

(c) Whenever a foreign limited partnership shall fail to appoint or maintain a registered agent in this State, or whenever its registered agent cannot with due diligence be found at the registered office, then the Secretary of State shall be an agent of such foreign limited partnership upon whom any such process, notice, or demand may be served. Service on the Secretary of State of any such process, notice, or demand shall be made by delivering to and leaving with ~~him, the Secretary of State,~~ or with any clerk ~~having charge of the limited partnership department of his office, authorized by the Secretary of State to accept service of process, duplicate copies of such the process, notice or demand-~~ and the fee required by G.S. 59-1106(b). In the event any

such process, notice or demand is served on the Secretary of State, ~~he~~ the Secretary of State shall immediately cause one of the copies thereof to be forwarded by registered or certified mail, ~~addressed mail~~ to the foreign limited partnership at its registered office. ~~Any such Service on a foreign limited partnership so served under this subsection shall be in court effective for all purposes from and after the date of such~~ the service on the Secretary of State.

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

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

SECTION 135. G.S. 59-904 reads as rewritten:

"§ 59-904. Name.

A foreign limited partnership may register with the Secretary of State under any name (whether or not it is the name under which it is registered in its state of organization) that includes without abbreviation the words 'limited partnership' or has the abbreviation 'L.P.', 'LP', 'R.L.L.L.P.', 'RLLLP', 'L.L.L.P.', or 'LLLP' as the last letters of its name and that could be registered and used as its name under G.S. 59-103 by a domestic limited partnership."

SECTION 136. G.S. 59-909(a) reads as rewritten:

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

- (1) The name of the foreign limited partnership authorized to transact business in this State, the type of entity and name of the surviving or resulting entity, and a statement that the surviving or resulting entity is not authorized to transact business in this State;
- (2) A statement that the surviving or resulting entity consents that service of process based on any cause of action arising in this State, or arising out of business transacted in this State, during the time the foreign limited partnership was authorized to transact business in this State, may thereafter be made by service thereof on the Secretary of State;
- (3) A mailing address to which the Secretary of State may mail a copy of any process served upon the Secretary under subdivision (a)(2) of this section; and
- (4) A commitment to ~~notify~~ file with the Secretary of State ~~in the future~~ a statement of any subsequent change in its mailing address."

SECTION 137. G.S. 59-909 is amended by adding a new subsection to read:

"(c) After the withdrawal of the foreign limited partnership is effective, service of process on the Secretary of State in accordance with subsection (a) of this section shall be made by delivering to and leaving with the Secretary of State, or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of the process and the fee required by G.S. 59-1106(b). Upon receipt of process in the manner provided in this subsection, the Secretary of State shall immediately mail a copy of the

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

SECTION 138. The heading of Part 10A of Chapter 59 of the General Statutes reads as rewritten:

"Part 10A. Conversion and ~~Merger to Limited Partnership.~~"

SECTION 139. G.S. 59-1050 reads as rewritten:

"~~§ 59-1050. Conversions.~~**Conversion.**

(a) ~~A domestic limited partnership may convert to a domestic limited liability company pursuant to Part 1 of Article 9A of Chapter 57C of the General Statutes.~~

(b) ~~A domestic limited liability company as defined in G.S. 57C-1-03, a foreign limited liability company as defined in G.S. 57C-1-03, a foreign limited partnership, or any other partnership as defined in G.S. 59-36 whether or not formed under the laws of this State, including a registered limited liability partnership as defined in G.S. 59-32, and any other limited liability partnership formed under a law other than the laws of this State, but excluding a domestic limited partnership, may convert to a domestic limited partnership if:~~

(1) ~~Such converting business entity complies with the requirements of G.S. 59-1051 and G.S. 59-1052; and~~

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

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

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

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

SECTION 140. G.S. 59-1051 reads as rewritten:

"~~§ 59-1051. Plan of conversion.~~

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

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

~~(1)~~(2) The name of the resulting domestic limited partnership into which the converting business entity shall convert;

~~(2)~~(3) The terms and conditions of the conversion; and

~~(3)~~(4) The manner and basis for converting the interests in the converting business entity into interests, obligations, or securities of the resulting domestic limited partnership or into cash or other property in whole or in part.

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

(b) ~~In the case of a domestic limited liability company, the plan of conversion must be approved in the manner provided for approval of such a conversion in its articles of organization or a written operating agreement or, if there is no such provision, by the unanimous consent of its members. In the case of a partnership as defined in G.S. 59-36 whose organization and internal affairs are governed by the laws of this State, the plan of conversion must be approved in the manner provided for the~~

~~approval of such a conversion in a written partnership agreement that is binding on all the partners or, if there is no such provision, by the unanimous consent of all the partners. In the case of a foreign limited liability company, a foreign limited partnership, or other partnership as defined in G.S. 59-36 whose organization and internal affairs are governed by a law other than the laws of this State, the~~ The plan of conversion must shall be approved in accordance with the laws of the state or country governing the organization and internal affairs of the converting business entity.

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

SECTION 141. G.S. 59-1052 reads as rewritten:

"§ 59-1052. Filing of certificate of limited partnership by converting business entity.

(a) After a plan of conversion has been approved by the converting business entity as provided in G.S. 59-1051, the converting business entity shall deliver a certificate of limited partnership to the Secretary of State for filing. In addition to the matters required or permitted by G.S. 59-201, the certificate of limited partnership shall ~~state:~~ contain articles of conversion stating:

- (1) That the domestic limited partnership is being formed pursuant to a conversion of another business entity;
- (2) The name of the converting business entity, its type of business entity, and the state or country whose laws govern its organization and internal affairs; and
- (3) That a plan of conversion has been approved by the converting business entity in the manner required by law.

If the plan of conversion is abandoned ~~after the certificate of limited partnership has been filed with the Secretary of State but before the certificate of limited partnership becomes effective, the converting business entity promptly shall deliver to the Secretary of State for filing prior to the time the articles of organization become effective an amendment to the certificate of limited partnership reflecting the abandonment of the plan of conversion, withdrawing the certificate of limited partnership.~~

(b) The conversion takes effect when the certificate of limited partnership becomes effective.

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

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

SECTION 142. Article 5 of Chapter 59 of the General Statutes is amended by adding a new Part to read:

"Part 10B. Conversion of Limited Partnership.

"§ 59-1060. Conversion.

A domestic limited partnership may convert to a different business entity if:

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

"§ 59-1061. Plan of conversion.

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

- (1) The name of the converting domestic limited partnership;

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

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

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

(c) After a plan of conversion has been approved by a domestic limited partnership but before the articles of conversion become effective, the plan of conversion (i) may be amended as provided in the plan of conversion, or (ii) may be abandoned (subject to any contractual rights) as provided in the plan of conversion or written partnership agreement or, if not so provided, as determined by the general partners of the domestic limited partnership in accordance with G.S. 59-403.

"§ 59-1062. Articles of conversion.

(a) After a plan of conversion has been approved by the converting domestic limited partnership as provided in G.S. 59-1061, the converting domestic limited partnership shall deliver articles of conversion to the Secretary of State for filing. The articles of conversion shall state:

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

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

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

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

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

"§ 59-1063. Effects of conversion.

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

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

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

- (1) To agree that it may be served with process in this State for enforcement of (i) any obligation of the converting domestic limited partnership, and (ii) any obligation of the resulting business entity arising from the conversion; and
- (2) To have appointed the Secretary of State as its agent for service of process in any such proceeding. Service on the Secretary of State of any such process shall be made by delivering to and leaving with the Secretary of State, or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of the process and the fee required by G.S. 59-1106(b). Upon receipt of service of process on behalf of a resulting business entity in the manner provided for in this section, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the resulting business entity. If the resulting business entity is authorized to transact business or conduct affairs in this State, the address for mailing shall be its principal office designated in the latest document filed with the Secretary of State that is authorized by law to designate the principal office or, if there is no principal office on file, its registered office. If the resulting business entity is not authorized to transact business or conduct affairs in this State, the address for mailing shall be the mailing address designated pursuant to G.S. 59-1062(a)(2)."

SECTION 143. Article 5 of Chapter 59 of the General Statutes is amended by adding a new Part with the heading set forth below and containing G.S. 59-1054, 59-1055, 59-1056, and 59-1057, recodified as G.S. 59-1070, 59-1071, 59-1072, and 59-1073, respectively.

"Part 10C. Merger."

SECTION 144. G.S. 59-1070, as recodified by Section 143 of this act, reads as rewritten:

"§ 59-1070. Merger.

A domestic limited partnership may merge with one or more other domestic limited partnerships or other business entities if:

- (1) The merger is permitted by the laws of the state or country governing the organization and internal affairs of each other merging business entity; and
- (2) Each merging domestic limited partnership and each other merging business entity comply with the requirements of ~~G.S. 59-1055 and G.S. 59-1056~~, this Part, and, to the extent applicable, the laws referred to in subdivision (1) of this section."

SECTION 145. G.S. 59-1071(b), as recodified by Section 143 of this act, reads as rewritten:

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

SECTION 146. G.S. 59-1072(a), as recodified by Section 143 of this act, reads as rewritten:

"(a) After a plan of merger has been approved by each merging domestic limited partnership and each other merging business entity as provided in G.S. ~~59-1055, 59-1071~~, the surviving business entity shall deliver articles of merger to the Secretary of State for filing. The articles of merger shall set forth:

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

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

SECTION 147. G.S. 59-1073(b), as recodified by Section 143 of this act, reads as rewritten:

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

- (1) To agree that it may be served with process in this State in any proceeding for enforcement of (i) any obligation of any merging domestic limited liability company, domestic corporation, domestic

nonprofit corporation, domestic limited partnership or other partnership as defined in G.S. 59-36 that is formed under the laws of this State, (ii) the rights of dissenting shareholders of any merging domestic corporation under Article 13 of Chapter 55 of the General Statutes, and (iii) any obligation of the surviving business entity arising from the merger; and

- (2) ~~If the surviving business entity does not have a registered agent in this State, to~~ To have appointed the Secretary of State as its registered agent for service of process in any such ~~proceeding~~ proceeding until such time as the surviving business entity appoints a registered agent in this State. Service on the Secretary of State of any such process shall be made by delivering to and leaving with the Secretary of State ~~State~~, or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of such ~~process~~ the process and the fee required by G.S. 59-1106(b). Upon receipt of service of process on behalf of a surviving business entity, ~~entity in the manner provided for in this section~~, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the surviving business entity at its address shown in the articles of merger or, if an application for a certificate of withdrawal by reason of merger has been filed, at the address for service of process contained in that application. entity. If the surviving business entity is authorized to transact business or conduct affairs in this State, the address for mailing shall be its principal office designated in the latest document filed with the Secretary of State that is authorized by law to designate the principal office or, if there is no principal office on file, its registered office. If the surviving business entity is not authorized to transact business or conduct affairs in this State, the address for mailing shall be the mailing address designated pursuant to G.S. 59-1072(a)(3)."

SECTION 148. G.S. 59-1105 is repealed.

SECTION 149. G.S. 59-1106 reads as rewritten:

"§ 59-1106. Filing, service, and copying Fees; fees; expedited filings.

(a) The Secretary of State shall collect the following fees and remit them to the State Treasurer for the use of the State when the documents described in this subsection are delivered to the Secretary of State for filing:

	<u>Document</u>	<u>Fee</u>
(1)	For filing a certificate Certificate of limited partnership (G.S. 59-201) <u>which does not include an application for registration as a limited liability limited partnership</u>	\$50.00
(1a)	<u>Certificate of limited partnership which includes an application for registration as a limited liability limited partnership</u>	<u>125.00</u>
(2)	For filing a certificate Certificate of amendment (G.S. 59-202; 59-905)	25.00
(3)	For filing a certificate Certificate of cancellation (G.S. 59-203; 59-906)	25.00
(4)	For filing an application Application for reservation of name (G.S. 59-104(a))	10.00
(5)	For filing a Notice of transfer of name (G.S. 59-104(d))	10.00
(5a)	<u>Limited partnership's or foreign limited</u>	

	<u>partnership's statement of change of registered agent or registered office or both</u>	<u>5.00</u>
(5b)	<u>Agent's statement of change of registered office for each affected partnership</u>	<u>5.00</u>
(5c)	<u>Agent's statement of resignation</u>	<u>No Fee</u>
(5d)	<u>Designation of registered agent or registered office or both</u>	<u>5.00</u>
(6)	For filing an application <u>Application for registration as foreign limited partnership (G.S. 59-502)</u>	<u>50.00</u>
(7)	For preparing and furnishing a copy of any document, instrument or paper filed or recorded relating to a limited partnership (G.S. 59-206(e)) For each page For affixing the certificate and official seal thereto	<u>1.00</u> <u>5.00</u>
(8)	For comparing a copy furnished to him of any document instrument or paper filed or recorded relating to a limited partnership. For each page	<u>1.00</u>
(9)	For filing any other document not herein specifically provided for	<u>10.00</u>
(10)	For the expedited filing by the end of the same business day of a document received in good order by 12:00 noon Eastern Standard Time	<u>200.00</u> additional fee
(11)	For the expedited filing of a document received in good order within 24 hours after receipt, excluding weekends and holidays	<u>100.00</u> additional fee
(12)	Advisory review of a document	200.00 <u>200.00</u>
(13)	<u>Certificate of amendment of registration as foreign limited partnership</u>	<u>25.00</u>
(14)	<u>Cancellation of registration as foreign limited partnership</u>	<u>25.00</u>
(15)	<u>Application for certificate of withdrawal by reason of merger, consolidation, or conversion</u>	<u>10.00</u>
(16)	<u>Articles of merger</u>	<u>50.00</u>
(17)	<u>Articles of conversion (other than articles of conversion included as part of another document)</u>	<u>50.00</u>
(18)	<u>Application for registration as a limited liability limited partnership (other than an application included in the certificate of limited partnership)</u>	<u>125.00</u>
(19)	<u>Certificate of amendment of registration as a limited liability limited partnership</u>	<u>25.00</u>
(20)	<u>Certificate of cancellation of registration as a limited liability limited partnership</u>	<u>25.00</u>
(21)	<u>Annual report for a limited liability limited partnership</u>	<u>200.00</u>
(22)	<u>Any other document required or</u>	

permitted to be filed under this Article 10.00.
(b) The Secretary of State shall collect a fee of ten dollars (\$10.00) each time process is served on the Secretary under this Article. The party to a proceeding causing service of process is entitled to recover this fee as costs if the party prevails in the proceeding.

(c) The Secretary of State shall collect the following fees for copying, comparing, and certifying a copy of any filed document relating to a domestic or foreign limited partnership:

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

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

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

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

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

~~The Secretary of State shall not collect the fees allowed in subdivisions (10) and (11) of this section-subsection unless the person submitting the document for filing requests an expedited filing and is informed by the Secretary of State of the fees prior to the filing of the document. Upon receipt of a document in proper form and payment of the required filing fee, the Secretary of State shall guarantee the expedited filing of the document."~~

SECTION 150. Part 11 of Article 5 of Chapter 59 of the General Statutes is amended by adding a new section to read:

"§ 59-1107. Income taxation.

A limited partnership, a foreign limited partnership authorized to transact business in this State, and a partner of one of these partnerships are subject to taxation under Article 4 of Chapter 105 of the General Statutes in accordance with their classification for federal income tax purposes. Accordingly, if a limited partnership or a foreign limited partnership authorized to transact business in this State is classified for federal income tax purposes as a C corporation as defined in G.S. 105-131(b)(2) or an S corporation as defined in G.S. 105-131(b)(8), the partnership and its partners are subject to tax under Article 4 of Chapter 105 of the General Statutes to the same extent as a C corporation or an S corporation, as the case may be, and its shareholders. If a limited partnership or a foreign limited partnership authorized to transact business in this State is classified for federal income tax purposes as a partnership, the partnership and its partners are subject to tax under Article 4 of Chapter 105 of the General Statutes accordingly. If a limited partnership or a foreign limited partnership authorized to transact business in this State is classified for federal income tax purposes as other than a corporation or a partnership, the partnership and its partners are subject to tax under Article 4 of Chapter 105 of the General Statutes in a manner consistent with that classification. This section does not require a limited partnership or a foreign limited partnership to obtain an administrative ruling from the Internal Revenue Service on its classification under the Internal Revenue Code."

PART V. AMENDMENTS TO CHAPTER 105.

SECTION 151. G.S. 105-187.6(b) reads as rewritten:

"(b) Partial Exemptions. – A maximum tax of forty dollars (\$40.00) applies when a certificate of title is issued as the result of a transfer of a motor vehicle:

(1) To a secured party who has a perfected security interest in the motor vehicle.

- (2) To a partnership, limited liability company, ~~or corporation as an incident to the formation of the partnership, limited liability company, or corporation, and trust, or other person~~ where no gain or loss arises on the transfer of the motor vehicle under section 351 or section 721 of the Code, or because the transfer is treated under the Code as being to an entity that is not a separate entity from its owner or whose separate existence is otherwise disregarded, or to a partnership, limited liability company, or corporation by merger, conversion, or consolidation in accordance with applicable law."

SECTION 152. G.S. 105-230(b) reads as rewritten:

"(b) Any act performed or attempted to be performed during the period of suspension is invalid and of no ~~effect~~.effect, unless the Secretary of State reinstates the corporation or limited liability company pursuant to G.S. 105-232."

SECTION 153. G.S. 105-232(a) reads as rewritten:

"(a) Any corporation or limited liability company whose articles of incorporation, articles of organization, or certificate of authority to do business in this State has been suspended by the Secretary of State under G.S. 105-230, that complies with all the requirements of this Subchapter and pays all State taxes, fees, or penalties due from it (which total amount due may be computed, for years prior and subsequent to the suspension, in the same manner as if the suspension had not taken place), and pays to the Secretary of Revenue a fee of twenty-five dollars (\$25.00) to cover the cost of reinstatement, is entitled to exercise again its rights, privileges, and franchises in this State. The Secretary of Revenue shall notify the Secretary of State of this compliance and the Secretary of State shall reinstate the corporation or limited liability company by appropriate entry upon the records of the ~~Office of~~ office of the Secretary of State. Upon entry of reinstatement, it relates back to and takes effect as of the date of the suspension by the Secretary of State, and the corporation or limited liability company resumes carrying on its business as if the suspension had never occurred, subject to the rights of any person who reasonably relied on that person's prejudice on the suspension. The Secretary of State shall immediately notify by mail the corporation or limited liability company of the reinstatement."

PART VI. MISCELLANEOUS PROVISIONS.

SECTION 154.(a) The Revisor of Statutes shall cause to be printed all explanatory comments of the drafters of this act as the Revisor may deem appropriate.

SECTION 154.(b) Nothing in this act shall supersede the provisions of Article 10 or 65 of Chapter 58 of the General Statutes, and this act does not create an alternate means for an entity governed by Article 65 of Chapter 58 of the General Statutes to convert to a different business form.

PART VII. CONTINGENT CONFORMING CHANGES.

SECTION 155. Sections 1, 28, 32, 43, 53, 60, 61, 62, 63, 83, 84, 104, 105(c), 122, 123, 125, 126, and 135 of this act are repealed.

SECTION 156.(a) Section 118 of this act is repealed.

SECTION 156.(b) G.S. 59-84.2, as amended by House Bill 385, 2001 Regular Session of the General Assembly, reads as rewritten:

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

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

- (1) The name of the partnership.
- (2) The street ~~address~~ address, and the mailing address if different from the street address, of its principal office-office and the county in which the principal office is located.

- (3) The name and street address, and the mailing address if different from the street address, ~~for of~~ the partnership's registered agent and registered office for service of process.
- (4) The county in this State in which the registered office is located.
- ~~(5) A brief statement of the business in which the partnership engages.~~
- ~~(6) A deferred effective date, if any.~~
- (7) The fiscal year end of the partnership.

(a1) ~~The terms and conditions on which a partnership becomes a limited liability partnership must be approved by the vote necessary in the manner provided in to amend the partnership agreement except, agreement; provided, however, if the partnership agreement does not contain any such provision, the terms and conditions shall be approved (i) in the case of a partnership having a partnership agreement that expressly considers obligations to contribute to the partnership, the vote in the manner necessary to amend those provisions, provisions, or (ii) in any other case, in the manner necessary to amend the partnership agreement.~~

~~(b) An application for registration as a registered limited liability partnership must be executed by one or more partners.~~

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

~~(d) The Secretary of State shall register a partnership that submits a completed application with the required fee.~~

~~(e) A registration is effective on the later of the date the registration is filed or the date specified in the application for registration, unless it is voluntarily withdrawn by filing with the Secretary of State a written withdrawal notice executed by one or more of the partners, or is revoked pursuant to G.S. 59-84.4(f).~~

~~(f) The Secretary of State may provide forms for applications for registration.~~

(f1) A partnership becomes a registered limited liability partnership when its application for registration becomes effective.

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

(h) A partnership shall promptly amend its registration to reflect any change in the information contained in its application for registration, other than changes that are properly included in other documents filed with the Secretary of State. A registration is amended by filing a certificate of amendment ~~thereto in the office of~~with the Secretary of State. The certificate ~~of amendment shall set forth the following:~~forth:

- (1) The name of the partnership-partnership as reflected on the application for registration.
- (2) The date of filing of the application for registration.
- (3) The amendment to the application for registration.

(i) Each registered limited liability partnership must maintain a registered office and registered agent as required by Article 4 of Chapter 55D of the General Statutes and is subject to service on the Secretary of State under that Article.

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

- (1) The name of the partnership as reflected on the application for registration;
- (2) The date of filing of the application for registration;
- (3) A mailing address to which the Secretary of State may mail a copy of any process served on the Secretary of State under this subsection;
- (4) A commitment to file with the Secretary of State a statement of any subsequent change in its mailing address; and
- (5) The effective date and time of cancellation if it is not to be effective at the time of filing the certificate.

Cancellation of registration terminates the authority of the partnership's registered agent to accept service of process, notice, or demand, and appoints the Secretary of State as agent to accept service on behalf of the partnership with respect to any action or proceeding based upon any cause of action arising in this State, or arising out of business transacted in this State, during the time the partnership was registered as a registered limited liability partnership. Service on the Secretary of State of any such process, notice, or demand shall be made by delivering to and leaving with the Secretary of State, or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of such process, notice, or demand and the fee required by G.S. 59-35.2. Upon receipt of process, notice, or demand in the manner provided in this section, the Secretary of State shall immediately mail a copy of the process, notice, or demand by registered or certified mail, return receipt requested, to the partnership at the mailing address designated pursuant to this subsection."

SECTION 157.(a) Section 120 of this act is repealed.

SECTION 157.(b) G.S. 59-91, as amended by House Bill 385, 2001 Regular Session of the General Assembly, reads as rewritten:

"§ 59-91. Statement of foreign registration.

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

- (1) The name of the foreign limited liability partnership that satisfies the requirements of the state or other jurisdiction under whose law it is formed and meets the requirements of Article 3 of Chapter 55D of the General Statutes.
- (2) The street address, and the mailing address if different from the street address, of the partnership's principal office, and the county in which the principal office is located.
- (3) The name and street address, and the mailing address if different from the street address, for the partnership's registered agent and registered office for service of process, and the county in which the registered office is located.
- ~~(4) A brief statement of the business in which the partnership is engaged.~~
- ~~(5) A deferred effective date, if any.~~
- (6) The fiscal year end of the partnership.

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

(b) Each foreign limited liability partnership maintaining a statement of foreign registration in this State must maintain a registered office and registered agent as required by Article 4 of Chapter 55D of the General Statutes and is subject to service on the Secretary of State under that Article.

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

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

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

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

- (1) The name of the partnership.
- (2) The date of filing of the registration.
- (3) The amendment to the registration.

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

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

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

(j) A foreign limited liability partnership shall promptly amend its registration to reflect any change in the information contained in its application for registration, other than changes that are properly included in other documents filed with the Secretary of State. A registration is amended by filing a certificate of amendment with the Secretary of State. The certificate of amendment shall set forth:

- (1) The name of the foreign limited liability partnership under which it is registered in this State;
- (2) The date of filing of the application for registration; and
- (3) The amendment to the application for registration.

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

- (1) The name of the foreign limited liability partnership under which it is registered in this State;
- (2) The date of filing of the application for registration;
- (3) A mailing address to which the Secretary of State may mail a copy of any process served on the Secretary of State under this subsection;
- (4) A commitment to file with the Secretary of State a statement of any subsequent change in its mailing address; and
- (5) The effective date and time of cancellation if it is not to be effective at the time of filing the certificate.

Cancellation of registration terminates the authority of the foreign limited liability partnership's registered agent to accept service of process, notice, or demand and appoints the Secretary of State as agent to accept such service on behalf of the foreign limited liability partnership with respect to any action or proceeding based upon any cause of action arising in this State, or arising out of business transacted in this State, during the time the foreign limited liability partnership was registered in this State. Service on the Secretary of State of any such process, notice, or demand shall be made by delivering to and leaving with the Secretary of State, or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of such process, notice, or demand and the fee required by G.S. 59-35.2. Upon receipt of process, notice, or demand in the manner herein provided, the Secretary of State shall immediately mail a copy of the process, notice, or demand by registered or certified mail, return receipt requested, to the foreign limited liability partnership at the mailing address designated pursuant to this subsection.

(l) Whenever a foreign limited liability partnership authorized to transact business in this State ceases its separate existence as a result of a statutory merger or consolidation permitted by the laws of the state or country under which it was organized, or converts into another type of entity as permitted by those laws, the surviving or resulting entity shall apply for a certificate of withdrawal for the foreign limited liability partnership by delivering to the Secretary of State for filing a copy of the articles of merger, consolidation, or conversion or a certificate reciting the facts of the merger, consolidation, or conversion, duly authenticated by the Secretary of State or other official having custody of limited liability partnership records in the state or country under the laws of which the foreign limited liability partnership was organized.

If the surviving or resulting entity is not authorized to transact business or conduct affairs in this State, the articles or certificate must be accompanied by an application which must set forth:

- (1) The name of the foreign liability limited partnership authorized to transact business in this State, the type of entity and name of the surviving or resulting entity, and a statement that the surviving or resulting entity is not authorized to transact business or conduct affairs in this State;
- (2) A statement that the surviving or resulting entity consents that service of process based on any cause of action arising in this State, or arising out of business transacted in this State, during the time the foreign limited liability partnership was authorized to transact business in this State, may thereafter be made by service thereof on the Secretary of State;
- (3) A mailing address to which the Secretary of State may mail a copy of any process served upon the Secretary under subdivision (2) of this subsection; and
- (4) A commitment to file with the Secretary of State a statement of any subsequent change in its mailing address.

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

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

(n) After the withdrawal of the foreign limited liability partnership is effective, service of process on the Secretary of State in accordance with subsection (1) of this section shall be made by delivering to and leaving with the Secretary of State, or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of such process and the fee required by G.S. 59-35.2. Upon receipt of process in the manner herein provided, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the surviving or resulting entity at the mailing address designated pursuant to subsection (1) of this section."

SECTION 158. G.S. 59-210(a)(1), as enacted by this act, reads as rewritten:

"(1) The name of the limited liability limited partnership, which ~~shall contain the words 'registered limited liability limited partnership' or 'limited liability limited partnership' or the abbreviation 'L.L.L.P.', 'R.L.L.L.P.', 'LLLP', or 'RLLLP' as the last words or letters of its name.~~ must satisfy the requirements of Article 3 of Chapter 55D of the General Statutes."

SECTION 159.(a) Section 134 of this act is repealed.

SECTION 159.(b) G.S. 59-902, as amended by House Bill 385, 2001 Regular Session of the General Assembly, reads as rewritten:

"§ 59-902. Registration.

(a) Before transacting business in this State, a foreign limited partnership shall procure a certificate of authority to transact business in this State from the Secretary of State. No foreign limited partnership shall be entitled to transact in this State any business which a limited partnership organized under this Article is not permitted to transact. In order to register, a foreign limited partnership shall deliver to the Secretary

of State ~~an original and one conformed copy of an~~ application for registration as a foreign limited partnership, signed by a general partner and setting forth:

- (1) The name of the foreign limited partnership and, if different, the name under which it proposes to register and transact business in this State;
- (2) The jurisdiction and date of its formation;
- (3) The date of formation and the period of duration;
- (4) ~~The street address, including county and city or town, and street and number, if any, and the mailing address if different from the street address,~~ of the principal office of the foreign limited partnership;
- (5) ~~The street address, including county and city or town, and street and number, if any, and the mailing address if different from the street address,~~ of the ~~proposed~~ registered office of the foreign limited partnership in this State, the county in which the registered office is located, and the name of its proposed registered agent in this ~~State at such address; State;~~
- (6) If the certificate of limited partnership filed in the foreign limited partnership's state of organization is not required to include the names and addresses of the partners, a list of the names and addresses or, at the election of the foreign limited partnership, a list of the names and addresses of the general partners and the address, including county and city or town, and street and number, of the office at which is kept a list of the names and addresses of the limited partners and their capital contributions, together with an undertaking by the foreign limited partnership to keep such records until such foreign limited partnership's registration in this State is cancelled;
- (7) A statement that in consideration of the issuance of a certificate of authority to transact business in this State, the foreign limited partnership appoints the Secretary of State of North Carolina as the agent to receive service of process, notice, or demand, whenever the foreign limited partnership fails to appoint or maintain a registered agent in this State or whenever any such registered agent cannot with reasonable diligence be found at the registered office;
- (8) The names and addresses including county and city or town, and street and number, if any, of all of the general partners; and
- (9) ~~The execution of a certificate or amendment by a general partner constitutes an affirmation under the penalties of perjury that the facts stated therein are true.~~ effective date and time of the registration if it is not to be effective at the time of filing of the application.

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

- (1) Maintaining or defending any action or suit or any administrative or arbitration proceeding, or effecting the settlement thereof or the settlement of claims or disputes;
- (2) Holding meetings of its partners or carrying on other activities concerning its internal affairs;
- (3) Maintaining bank accounts or borrowing money in this State, with or without security, even if such borrowings are repeated and continuous transactions;
- (4) Maintaining offices or agencies for the transfer, exchange, and registration of its securities, or appointing and maintaining trustees or depositaries with relation to its securities;

- (5) Soliciting or procuring orders, whether by mail or through employees or agents or otherwise, where such orders require acceptance without this State before becoming binding contracts;
- (6) Making or investing in loans with or without security including servicing of mortgages or deeds of trust through independent agencies within the State, the conducting of foreclosure proceedings and ~~sale,~~ sales, the acquiring of property at foreclosure sale and the management and rental of such property for a reasonable time while liquidating its investment, provided no office or agency therefor is maintained in this State;
- (7) Taking security for or collecting debts due to it or enforcing any rights in property securing the same;
- (8) Transacting business in interstate commerce; and
- (9) Conducting an isolated transaction completed within a period of six months and not in the course of a number of repeated transactions of like nature.

(c) Each foreign limited partnership authorized to transact business in this State must maintain a registered agent as required by Article 4 of Chapter 55D of the General Statutes and is subject to service on the Secretary of State under that Article.

(d) Repealed.

(e) Repealed."

SECTION 160. The title of Chapter 55D of the General Statutes, as enacted by Section 1 and amended by Sections 12 and 42 of House Bill 385, 2001 Regular Session of the General Assembly, reads as rewritten:

"Chapter 55D.

"Filings, Names, and Registered Agents for Corporations, Nonprofit Corporations, ~~Limited Liability Companies, Limited partnerships, and Limited Liability Partnerships.~~"

SECTION 161. G.S. 55D-1, as enacted by House Bill 385, 2001 Regular Session of the General Assembly, reads as rewritten:

"§ 55D-1. **Applicable definitions.**

The following definitions apply in this Chapter:

- (1) 'Corporation' or 'domestic corporation' is defined in G.S. 55-1-40(4).
- (2) 'Deliver' is defined in G.S. 55-1-40(5).
- (3) 'Entity' is defined in G.S. 55-1-40(9).
- (4) 'Foreign corporation' is defined in G.S. 55-1-40(10).
- (5) 'Foreign limited liability company' is defined in G.S. 57C-1-03(8).
- (5a) 'Foreign limited liability limited partnership' is defined in G.S. 59-102(4c).
- (6) 'Foreign limited liability partnership' is defined in G.S. ~~59-32(4a).~~ 59-32(4g).
- (7) 'Foreign limited partnership' is defined in G.S. 59-102(5).
- (8) 'Foreign nonprofit corporation' means a foreign corporation as defined in G.S. 55A-1-40(11).
- (9) 'Individual' is defined in G.S. 55-1-40(13).
- (10) 'Limited liability company' or 'domestic limited liability company' is defined in G.S. 57C-1-03(11).
- (11) 'Limited liability limited partnership' is defined in G.S. 59-102(6a).
- ~~(11)~~(12) 'Limited liability partnership' or 'registered limited liability partnership' means a registered limited liability partnership as defined in G.S. 59-32(7).
- ~~(12)~~(13) 'Limited partnership' or 'domestic limited partnership' is defined in G.S. 59-102(8).
- ~~(13)~~(14) 'Nonprofit corporation' or 'domestic nonprofit corporation' means a corporation as defined in G.S. 55A-1-40(5).
- ~~(14)~~(15) 'Person' is defined in G.S. 55-1-40(16)."

SECTION 162. G.S. 55D-20, as recodified and amended by House Bill 385, 2001 Regular Session of the General Assembly, reads as rewritten:

"§ 55D-20. Name requirements.

(a) In addition to the requirements of any other applicable section of the General Statutes:

- (1) The name of ~~the~~ a corporation must contain the word 'corporation', 'incorporated', 'company', or 'limited', or the abbreviation 'corp.', 'inc.', 'co.', or 'ltd.'
- (2) The name of a limited liability company must contain the words 'limited liability company' or the abbreviation 'L.L.C.' or 'LLC', or the combination 'ltd. liability co.', 'limited liability co.', or 'ltd. liability company'.
- (3) The name of a limited partnership:
 - a. ~~Must partnership that is not a limited liability limited partnership must~~ contain the words 'limited partnership', the abbreviation 'L.P.' or 'LP', or the combination 'ltd. partnership'; ~~and partnership'.~~
 - b. ~~Shall not contain the name of a limited partner unless (i) it is also the name of a general partner or the corporate name of a corporate general partner, or (ii) the business of the limited partnership has been carried on under that name before the admission of that limited partner.~~
- (4) The name of a limited liability limited partnership must contain the words 'registered limited liability limited partnership' or 'limited liability limited partnership' or the abbreviation 'L.L.L.P.', 'R.L.L.L.P.', 'LLLP', or 'RLLLLP'.
- (5) A registered limited liability partnership's name must contain the words 'registered limited liability partnership' or 'limited liability partnership' or the abbreviation 'L.L.P.', 'R.L.L.P.', 'LLP' or ~~RLLP~~ as the last words or letters of its name. RLLP'.

(b) In addition to the requirements of subsection (a) of this section, the name of a limited partnership shall not contain the name of a limited partner unless (i) it is also the name of a general partner or the corporate name of a corporate general partner, or (ii) the business of the limited partnership has been carried on under that name before the admission of that limited partner.

~~(b)(c)~~ The name of a corporation, nonprofit corporation, or limited liability company shall not contain language stating or implying that the entity is organized for a purpose other than that permitted by G.S. 55-3-01, 55A-3-01, or 57C-2-01 and by its articles of incorporation or organization.

~~(c)(d)~~ The use of assumed names or fictitious names, as provided for in Chapter 66, is not affected by this Chapter or by Chapter 55, 55A, 57C, or 59 of the General Statutes.

~~(d)(e)~~ The filing of any document, the reservation or registration of any name under this Chapter or under Chapter 55, 55A, 55B, 57C, or 59 of the General Statutes, or the issuance of a certificate of authority to transact business or conduct affairs or a statement ~~or~~ of foreign registration does not authorize the use in this State of a name in violation of the rights of any third party under the federal trademark act, the trademark act of this State, or other statutory or common law, and is not a defense to an action for violation of any of those rights."

SECTION 163. G.S. 55D-21(d), as recodified by Section 14 and amended by Section 15 of House Bill 385, 2001 Regular Session of the General Assembly, reads as rewritten:

"(d) Except as otherwise provided in this subsection, the name of a corporation dissolved under Article 14 of Chapter 55 of the General Statutes, of a nonprofit corporation dissolved under Article 14 of Chapter 55A of the General Statutes, of a

limited liability company dissolved under Article 6 of Chapter 57C of the General Statutes, ~~or of a limited partnership dissolved under Part 8 of Article 5 of Chapter 59 of the General Statutes, or of a limited liability partnership whose registration as a limited liability partnership has been cancelled under G.S. 59-84.2 or revoked under G.S. 59-84.4,~~ may not be used by another entity until:

- (1) In the case of a nonjudicial dissolution other than an administrative ~~dissolution, dissolution or cancellation of registration as a limited liability partnership,~~ dissolution or cancellation, 120 days after the effective date of the ~~dissolution, dissolution or cancellation.~~
- (2) In the case of an administrative ~~dissolution, dissolution or revocation of registration as a limited liability partnership,~~ dissolution or revocation of registration as a limited liability partnership, the expiration of the period within which the entity or its registration may be reinstated.
- (3) In the case of a judicial dissolution, 120 days after the later of the date the judgment has become final or the effective date of the dissolution. The person applying for the name must certify to the Secretary of State that no appeal or other judicial review of the judgment directing dissolution is pending.

The name of a dissolved entity may be used at any time if the entity changes its name to a name that is distinguishable upon the records of the Secretary of State from the names of other domestic corporations, nonprofit corporations, limited liability companies, limited partnerships, or registered limited liability partnerships or foreign corporations, foreign nonprofit corporations, foreign limited liability companies, or foreign limited partnerships authorized to transact business or conduct affairs in this State, or foreign limited liability partnerships maintaining a statement of foreign registration, in this State."

SECTION 164. G.S. 55D-22(a), as enacted by Section 15 of House Bill 385, 2001 Regular Session of the General Assembly, reads as rewritten:

"(a) If the name of a foreign corporation, foreign nonprofit corporation, foreign limited liability company, foreign limited partnership, or foreign limited liability partnership does not satisfy the requirements of G.S. 55D-20 and G.S. 55D-21, then to obtain or maintain a certificate of authority to transact business or conduct affairs in this State or a statement of foreign registration in this State, the entity may:

- (1) If a foreign corporation or foreign nonprofit corporation, add the word 'corporation', 'incorporated', 'company', or 'limited', or the abbreviation 'corp.', 'inc.', 'co.', or 'ltd.' to its corporate name for use in this State;
- (2) If a foreign limited liability company, add the words 'limited liability company', or the abbreviation 'L.L.C.', or 'LLC', or the combination 'ltd. liability co.', 'limited liability co.', or 'ltd. liability company' to its name for use in this State if the addition will cause the name to satisfy the requirements of G.S. 55D-20 and G.S. 55D-21;
- (3) If a foreign limited ~~partnership, partnership that is not a foreign limited liability limited partnership,~~ partnership that is not a foreign limited liability limited partnership, add the words 'limited partnership' or the abbreviation 'L.P.' or 'LP', or the combination 'ltd. partnership';
- (4) If a foreign limited partnership that is a foreign limited liability limited partnership, add the words 'registered limited liability limited partnership' or 'limited liability limited partnership' or the abbreviation 'L.L.L.P.', 'R.L.L.L.P.', 'LLLP', or 'RLLLP'.
- (5) If a foreign limited liability partnership, add the words 'registered limited liability partnership', or 'limited liability partnership' or the abbreviation 'L.L.P.', 'R.L.L.P.', 'LLP', or ~~RLLP' as the last words or letters of its name; or~~ 'RLLP'; or
- ~~(5)~~(6) Use a fictitious name, which includes one or more of the words, abbreviations, or combinations in subdivisions (1) through ~~(4)~~-(5) of this subsection if applicable, to transact business or conduct affairs in this State if its real name is unavailable and it delivers to the Secretary

of State for filing a copy of the resolution adopting the fictitious name."

SECTION 165.(a) G.S. 55D-24(b), as recodified by Section 14 and amended by Section 15 of House Bill 385, 2001 Regular Session of the General Assembly, reads as rewritten:

"(b) An entity described in subsection (a) of this section registers its name, or its name with any addition required by G.S. 55D-22, by filing with the Secretary of State an application:

- (1) Setting forth its name, or its name with any addition required by G.S. 55D-22, the state or country and date of its ~~incorporation, organization,~~ incorporation or formation, and a brief description of the nature of the business or activities in which it is engaged; and
- (2) Accompanied by a certificate of existence (or a document of a similar import) from the state or country of ~~incorporation, organization,~~ incorporation or formation."

SECTION 165.(b) G.S. 55D-24(e), as recodified by Section 14 and amended by Section 15 of House Bill 385, 2001 Regular Session of the General Assembly, reads as rewritten:

"(e) An entity whose registration is effective may thereafter become authorized to transact business or conduct affairs under that name or consent in writing to the use of that name by:

- (1) A domestic corporation, nonprofit corporation, limited liability company, limited partnership, or registered limited liability partnership thereafter ~~incorporated, organized, or formed~~ incorporated, formed, or registered in this State under that name;
- (2) A domestic corporation, nonprofit corporation, limited liability company, limited partnership, or registered limited liability partnership that changes its name to that name; or
- (3) Another foreign corporation, foreign nonprofit corporation, foreign limited liability company, foreign limited partnership, or foreign limited liability partnership that becomes authorized to transact business or conduct affairs in this State under that name.

The registration terminates when the domestic corporation, nonprofit corporation, limited liability company, limited partnership, or registered limited liability partnership is ~~incorporated, organized, formed,~~ registered, or changes its name or the foreign corporation, foreign nonprofit corporation, foreign limited liability company, foreign limited partnership, or foreign limited liability partnership qualifies or registers or consents to the qualification or registration of another entity under the registered name."

SECTION 166. G.S. 55D-26(a)(1), as recodified by Section 14 and amended by Section 15 of House Bill 385, 2001 Regular Session of the General Assembly, reads as rewritten:

- (1) The name of any domestic corporation, nonprofit corporation, limited liability company, limited partnership, or registered limited liability partnership or foreign corporation, foreign nonprofit corporation, foreign limited liability company, foreign limited partnership, or foreign limited liability partnership that holds title to real property in this State is changed upon amendment to its articles of incorporation or organization, its certificate of limited partnership, or its ~~application for registration as a limited liability partnership; partnership or foreign~~ limited liability partnership; or"

SECTION 167. G.S. 55D-31(c), as recodified by Section 44 and amended by Section 45 of House Bill 385, 2001 Regular Session of the General Assembly, reads as rewritten:

"(c) A domestic corporation, limited liability company, limited liability limited partnership, registered limited liability partnership, foreign corporation, foreign limited

liability company, or foreign limited liability partnership may change its registered office or registered agent by including in its annual report required by G.S. 55-16-22, 57C-2-23, ~~or 59-84.4~~ ~~59-84.4~~, or ~~59-210~~ the information and any written consent required by subsection (a) of this section."

SECTION 168. G.S. 55D-32(b), as recodified by Section 44 and amended by Section 45 of House Bill 385, 2001 Regular Session of the General Assembly, reads as rewritten:

"(b) After filing the statement the Secretary of State shall mail a copy to the registered office (if not discontinued) and a copy to the entity at its principal office address on file with the Secretary of State or, if none is on file, at the address contained in the certification included in or accompanying the statement of ~~resignation or, if different, at the address indicated in the latest document filed by the Secretary of State stating the entity's current mailing address.~~ resignation."

SECTION 169.(a) G.S. 55-15-03(a)(1), as amended by Section 17 of House Bill 385, 2001 Regular Session of the General Assembly, reads as rewritten:

"(1) The name of the foreign corporation or, if its name is unavailable for use in this State, a corporate name that satisfies the requirements of ~~G.S. 55D-22;~~ Article 3 of Chapter 55D of the General Statutes;"

SECTION 169.(b) G.S. 55A-15-03(a)(1), as amended by Section 21 of House Bill 385, 2001 Regular Session of the General Assembly, reads as rewritten:

"(1) The name of the foreign corporation or, if its name is unavailable for use in this State, a corporate name that satisfies the requirements of ~~G.S. 55D-22;~~ Article 3 of Chapter 55D of the General Statutes;"

SECTION 170.(a) G.S. 59-35.1, as recodified by Section 9 and amended by Sections 9, 38, and 51(c) of House Bill 385, 2001 Regular Session of the General Assembly, reads as rewritten:

"§ 59-35.1. Filing of documents.

(a) A document required or permitted by this act to be filed by the Secretary of State must be filed under Chapter 55D of the General Statutes.

(b) A document submitted under this act for filing by the Secretary of State must be executed by a general partner of the partnership.

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

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

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

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

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

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

~~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>
Application for reserved name	\$10.00
Notice of transfer of reserved name	10.00
Application for registered name	10.00
Application for renewal of registered name	10.00
Articles of merger	50.00
Articles of correction	10.00

~~Whenever the Secretary of State is deemed appointed as a registered agent under this Act or under Chapter 55D of the General Statutes, 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 causing service of process is entitled to recover this fee as costs if the party prevails in the proceeding.~~

~~The Secretary of State shall collect the following fees for copying, comparing, and certifying a copy of a document filed by a partnership pursuant to this Part:~~

- (1) ~~One dollar (\$1.00) a page for copying or comparing a copy to the original; and~~
- (2) ~~Five dollars (\$5.00) for the certificate.~~

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

SECTION 170.(b) Part 1 of Article 2 of Chapter 59 of the General Statutes is amended by adding a new section to read:

"§ 59-35.2. Fees.

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

(b) Whenever the Secretary of State is deemed appointed as a resisted agent under this act or under Chapter 55D of the General Statutes, 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 causing service of process is entitled to recover this fee as costs if the party prevails in the proceeding.

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

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

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

SECTION 170.(c) G.S. 59-73.13(b)(2), 59-73.23(b)(2), and 59-73.33(b)(2), as enacted in this act, are amended by deleting "G.S. 59-35.1(f)" and substituting in lieu thereof "G.S. 59-35.2".

SECTION 171.(a) Sections 10(f) and 37 of House Bill 385, 2001 Regular Session of the General Assembly, are repealed.

SECTION 171.(b) G.S. 59-1106, as amended by Section 149 of this act, reads as rewritten:

"§ 59-1106. Filing, service, and copying fees; expedited filings fees.

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

Document	Fee
(1) Certificate of limited partnership which does not include an application for registration as a limited liability limited partnership	\$50.00
(1a) (2) Certificate of limited partnership which includes an application for registration as a limited liability limited partnership	125.00
(2) (3) Certificate of amendment	25.00
(3) (4) Certificate of cancellation	25.00
(4) (5) Application for reservation of name	10.00
(5) (6) Notice of transfer of reserved name	10.00
(7) <u>Application for registration of name</u>	<u>10.00</u>
(8) <u>Application for renewal of registration name</u>	<u>10.00</u>
(5a) (9) Limited partnership's or foreign limited partnership's statement of change of registered agent or registered office or both	5.00
(5b) (10) Agent's statement of change of registered office for each affected partnership	5.00
(5c) (11) Agent's statement of resignation	No Fee
(5d) (12) Designation of registered agent or registered office or both	5.00
(6) (13) Application for registration as foreign limited partnership	50.00
	additional fee
(12) Advisory review of a document	200.00
(13) (14) Certificate of amendment of registration as foreign limited partnership	25.00
(14) (15) Cancellation of registration as foreign limited partnership	25.00
(15) (16) Application for certificate of withdrawal by reason of merger, consolidation, or conversion	10.00
(16) (17) Articles of merger	50.00
(17) (18) Articles of conversion (other than articles of conversion included as part of another document)	50.00
(18) (19) Application for registration as a limited liability limited partnership (other than an	

	application included in the certificate of limited partnership)	125.00
(19) (20)	Certificate of amendment of registration as a limited liability limited partnership	25.00
(20) (21)	Certificate of cancellation of registration as a limited liability limited partnership	25.00
(21) (22)	Annual report for a limited liability limited partnership	200.00
(22) (23)	Any other document required or permitted to be filed under this Article	10.00.

(b) The Secretary of State shall collect a fee of ten dollars (\$10.00) each time process is served on the Secretary under this Article. The party to a proceeding causing service of process is entitled to recover this fee as costs if the party prevails in the proceeding.

(c) The Secretary of State shall collect the following fees for copying, comparing, and certifying a copy of any filed document relating to a domestic or foreign limited partnership:

- (1) One dollar (\$1.00) a page for copying or comparing a copy to the original; and
- (2) Five dollars (\$5.00) for the certificate.

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

- ~~(1) Two hundred dollars (\$200.00) for the filing by the end of the same business day of a document received by 12:00 noon Eastern Standard Time; and~~
- ~~(2) One hundred dollars (\$100.00) for the filing of a document within 24 hours after receipt, excluding weekends and holidays.~~

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

SECTION 172. G.S. 59-103, as amended by Section 32 of House Bill 385, 2001 Regular Session of the General Assembly, reads as rewritten:

"§ 59-103. Name.

The name of the limited partnership must meet any requirements of Article 3 of Chapter 55D of the General Statutes."

SECTION 173. Section 53 of House Bill 385, 2001 Regular Session of the General Assembly, reads as rewritten:

"SECTION 53. This act becomes effective ~~October 1, 2001,~~ January 1, 2002, and applies to documents submitted for filing on or after that date."

SECTION 174. This Part becomes effective if House Bill 385, 2001 Regular Session of the General Assembly, becomes law.

PART VIII. EFFECTIVE DATE.

SECTION 175.(a) Section 59A of this act becomes effective September 1, 2001. The remainder of this act becomes effective January 1, 2002.

SECTION 175.(b) The amendment to G.S. 105-232 set forth in Section 153 of this act is intended to be retroactive. Accordingly, any act performed or attempted to be performed during the period of suspension of any corporation or limited liability company reinstated pursuant to G.S. 105-232(a) prior to January 1, 2002, shall not be deemed to be invalid and of no effect under G.S. 105-230, subject to the rights of any person who reasonably relied on that person's prejudice on the suspension.

In the General Assembly read three times and ratified this the 16th day of August, 2001.

Beverly E. Perdue
President of the Senate

James B. Black
Speaker of the House of Representatives

Michael F. Easley
Governor

Approved _____m. this _____ day of _____, 2001