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SENATE BILL 842
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Short Title: Business Entity Changes.

(Public)

Sponsors:

Referred to:

April 4, 2001

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

6 The General Assembly of North Carolina enacts:

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

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

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

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

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

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

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

50.00."

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

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

4 In this Chapter unless otherwise specifically provided:

5 ...

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

15 ...

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

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

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

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

23 (8a) 'Electronic record' has the same meaning as in G.S. 66-312.

24 (8b) 'Electronic signature' has the same meaning as in G.S. 66-312.

25 ...

26 (10a) 'Foreign limited liability company' has the same meaning as in G.S.
27 57C-1-03.

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

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

31 "

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

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

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

41 "(24a) 'Unincorporated entity' means a domestic or foreign limited liability
42 ~~company~~ company, as defined in G.S. 57C-1-03, a domestic or foreign

1 ~~limited partnership partnership, as defined in G.S. 59-102, a registered~~
2 ~~limited liability partnership or foreign limited liability partnership as~~
3 ~~defined in G.S. 59-32, or any other partnership as defined in G.S.~~
4 ~~59-36, whether or not formed under the laws of this State, including a~~
5 ~~registered limited liability partnership as defined in G.S. 59-32 and any~~
6 ~~other limited liability partnership formed under a law other than the~~
7 ~~laws of this State."~~

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

9 "**§ 55-1-41. Notice.**

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

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

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

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

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

38 (1) When received;

39 (2) Five days after its deposit in the United States mail, as evidenced by
40 the postmark or otherwise, if mailed with at least first-class postage
41 thereon prepaid and correctly addressed;

- 1 (3) On the date shown on the return receipt, if sent by registered or
2 certified mail, return receipt requested, and the receipt is signed by or
3 on behalf of the addressee.

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

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

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

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

14 "Part 5. Miscellaneous.

15 **"§ 55-1-50. Electronic transactions.**

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

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

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

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

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

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

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

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

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

1 **"§ 55-7-04. Action without meeting.**

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

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

18 (1) If cumulative voting is not authorized, the election of directors at the
19 annual meeting; or

20 (2) If cumulative voting is authorized, the election of directors and the
21 removal of a director unless the entire board of directors is to be
22 removed, and if G.S. 55-7-28(e) applies to the corporation, an
23 amendment to deny or limit the right of shareholders to vote
24 cumulatively and an amendment to the articles of incorporation or
25 bylaws to decrease the number of directors.

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

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

35 (d) ~~If this Chapter requires that notice of proposed action be given to nonvoting~~
36 ~~shareholders and the action is to be taken by unanimous consent of the voting~~
37 ~~shareholders, the corporation must give its nonvoting shareholders written notice of the~~
38 ~~proposed action at least 10 days before the action is taken. Unless the articles of~~
39 ~~incorporation otherwise provide, if shareholder approval is required by this Chapter for~~
40 (i) an amendment to the articles of incorporation pursuant to Article 10 of this Chapter,
41 (ii) a plan of merger or share exchange pursuant to Article 11 of this Chapter, (iii) a plan
42 of conversion pursuant to Part 2 of Article 11A of this Chapter, (iv) the sale, lease,

1 exchange, or other disposition of all, or substantially all, of the corporation's property
2 pursuant to Article 12 of this Chapter, or (v) a proposal for dissolution pursuant to
3 Article 14 of this Chapter, and the approval is to be obtained through action without
4 meeting, the corporation must give its shareholders, other than shareholders who
5 consent to the action, written notice of the proposed action at least 10 days before the
6 action is taken. The notice ~~must~~ shall contain or be accompanied by the same material
7 that, under this Chapter, would have been required to be sent to ~~nonvoting~~-shareholders
8 not entitled to vote on the action in a notice of meeting at which the proposed action
9 would have been submitted to ~~the~~-shareholders for action.

10 (e) If action is taken without a meeting by fewer than all shareholders entitled to
11 vote on the action, the corporation shall give written notice to all shareholders who have
12 not consented to the action and who, if the action had been taken at a meeting, would
13 have been entitled to notice of the meeting with the same record date as the action taken
14 without a meeting, within 10 days after the action is taken. The notice shall describe the
15 action and indicate that the action has been taken without a meeting of shareholders.
16 Failure to comply with the requirements of this subsection shall not invalidate any
17 action taken that otherwise complies with this section."

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

20 "**§ 55-7-08. Attendance.**

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

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

29 "(c) The corporation shall make the shareholders' list available at the meeting, and
30 any shareholder, personally or by or with his representative, is entitled to inspect the list
31 at any time during the meeting or any adjournment. The corporation is not required to
32 make the list available through electronic or other means of remote communication to a
33 shareholder or proxy attending the meeting by remote communication pursuant to G.S.
34 55-7-08."

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

36 "(b) A shareholder may appoint one or more proxies to vote or otherwise act for
37 ~~him~~ the shareholder by signing an appointment form, either personally or by ~~his~~ the
38 shareholder's attorney-in-fact. ~~A photocopy, telegram, cablegram, facsimile~~
39 ~~transmission, or equivalent reproduction of a writing appointing one or more~~
40 ~~proxies.~~ Without limiting G.S. 55-1-50, an appointment in the form of an electronic
41 record that bears the shareholder's electronic signature and that may be directly
42 reproduced in paper form by an automated process shall be deemed a valid appointment

1 form within the meaning of this section. In addition, ~~if and to the extent permitted by the~~
2 ~~corporation, a public corporation may permit~~ a shareholder ~~may to~~ appoint one or more
3 proxies ~~(i) by an electronic mail message or other form of electronic, wire, or wireless~~
4 ~~communication that provides a written statement appearing to have been sent by the~~
5 ~~shareholder, or (ii) in the case of a public corporation, by any kind of electronic or~~
6 telephonic transmission, even if not accompanied by written communication, under
7 circumstances or together with information from which the corporation can reasonably
8 assume that the appointment was made or authorized by the shareholder."

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

10 "(a) Unless the articles of incorporation or bylaws provide otherwise, action
11 required or permitted by this Chapter to be taken at a board of directors' meeting may be
12 taken without a meeting if the action is taken by all members of the board. The action
13 must be evidenced by one or more written consents signed by each director before or
14 after such action, describing the action taken, and included in the minutes or filed with
15 the corporate records. To the extent the corporation has agreed pursuant to G.S. 55-1-
16 50, a director's consent to action taken without meeting may be in electronic form and
17 delivered by electronic means."

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

19 "(1) 'Business combination' includes any ~~merger or consolidation merger,~~
20 consolidation, or conversion of a corporation with or into any other
21 corporation or any unincorporated entity, or the sale or lease of all or
22 any substantial part of the corporation's assets to, or any payment, sale
23 or lease to the corporation or any subsidiary thereof in exchange for
24 securities of the corporation of any assets (except assets having an
25 aggregate fair market value of less than five million dollars
26 (\$5,000,000)) of any other entity."

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

29 "Article 11A.

30 "Conversions.

31 "Part 1. Conversion to Corporation.

32 "§ 55-11A-01. Conversion.

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

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

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

41 "§ 55-11A-02. Plan of conversion.

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

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

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

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

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

22 **"§ 55-11A-03. Filing of articles of incorporation by converting entity.**

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

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

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

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

42 (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

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

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

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

6 (1) The board of directors shall recommend the plan of conversion to the
7 shareholders, unless the board of directors determines that because of
8 conflict of interest or other special circumstances it should make no
9 recommendation, in which event the board of directors shall
10 communicate the basis for its lack of a recommendation to the
11 shareholders with the plan; and

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

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

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

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

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

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

42 "§ 55-11A-12. Articles of conversion.

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

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

6 (2) The name of the resulting business entity, its type of business entity,
7 the state or country whose laws govern its organization and internal
8 affairs, and, if the resulting business entity is not authorized to transact
9 business or conduct affairs in this State, a designation of its mailing
10 address and a commitment to file with the Secretary of State a
11 statement of any subsequent change in its mailing address; and

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

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

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

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

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

26 **"§ 55-11A-13. Effects of conversion.**

27 (a) When the conversion takes effect:

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

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

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

35 (4) A proceeding pending by or against the converting domestic
36 corporation may be continued as if the conversion did not occur;

37 (5) The shares in the converting domestic corporation that are to be
38 converted into interests, obligations, or securities of the resulting
39 business entity or into the right to receive cash or other property are
40 thereupon so converted, and the former shareholders of the converting
41 domestic corporation are entitled only to the rights provided in the plan

1 of conversion or any rights they may have under Article 13 of this
2 Chapter; and

- 3 (6) The resulting business entity is deemed to agree that it will promptly
4 pay to the dissenting former shareholders of the converting domestic
5 corporation the amount, if any, to which they are entitled under Article
6 13 of this Chapter and otherwise to comply with the requirements of
7 Article 13 as if it were a domestic corporation.

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

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

- 17 (1) To agree that it may be served with process in this State for
18 enforcement of (i) any obligation of the converting domestic
19 corporation, (ii) the rights of dissenting shareholders of the converting
20 domestic corporation under Article 13 of this Chapter, and (iii) any
21 obligation of the resulting business entity arising from the conversion;
22 and

- 23 (2) To have appointed the Secretary of State as its agent for service of
24 process in any proceeding described in subdivision (1) of this
25 subsection. Service on the Secretary of State of any such process shall
26 be made by delivering to and leaving with the Secretary of State, or
27 with any clerk authorized by the Secretary of State to accept service of
28 process, duplicate copies of the process and the fee required by G.S.
29 55-1-22(b). Upon receipt of service of process on behalf of a resulting
30 business entity in the manner provided for in this section, the Secretary
31 of State shall immediately mail a copy of the process by registered or
32 certified mail, return receipt requested, to the resulting business entity.
33 If the resulting business entity is authorized to transact business or
34 conduct affairs in this State, the address for mailing shall be its
35 principal office designated in the latest document filed with the
36 Secretary of State that is authorized by law to designate the principal
37 office or, if there is no principal office on file, its registered office. If
38 the resulting business entity is not authorized to transact business or
39 conduct affairs in this State, the address for mailing shall be the
40 mailing address designated pursuant to G.S. 55-11A-12(a)(2)."

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

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

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

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

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

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

33 Service on the Secretary of State of any process authorized by this subsection shall
34 be made by delivering to and leaving with the Secretary of State, or with any clerk
35 authorized by the Secretary of State to accept service of process, duplicate copies of the
36 process and the fee required by G.S. 55-1-22(b). Upon receipt of service of process in
37 the manner provided in this subsection, the Secretary of State shall immediately mail a
38 copy of the process by registered or certified mail, return receipt requested, to the
39 foreign corporation. If the foreign corporation is authorized to transact business in this
40 State, the address for mailing shall be its principal office or, if there is no mailing
41 address for the principal office on file, its registered office. If the foreign corporation is

1 not authorized to transact business in this State, the address for mailing shall be the
2 mailing address designated pursuant to subdivision (3) of subsection (a) of this section."

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

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

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

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

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

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

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

1 conduct affairs in this State, the address for mailing shall be the mailing address
2 designated pursuant to subdivision (3) of subsection (a) of this section."

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

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

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

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

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

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

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

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

- 37 "(2) To have appointed the Secretary of State as its agent for service of
38 process in any such proceeding. Service on the Secretary of State of
39 any such process shall be made by delivering to and leaving with the
40 Secretary of ~~State~~ State, or with any clerk authorized by the Secretary
41 of State to accept service of process, duplicate copies of such process
42 and the fee required by G.S. 55-1-22(b). Upon receipt of service of

1 process on behalf of a surviving business entity in the manner provided
2 for in this section, the Secretary of State shall immediately mail a copy
3 of the process by registered or certified mail, return receipt requested,
4 to the surviving business entity. If the surviving business entity is
5 authorized to transact business or conduct affairs in this State, the
6 address for mailing shall be its principal office designated in the latest
7 document filed with the Secretary of State that is authorized by law to
8 designate the principal office or, if there is no principal office on file,
9 its registered office. If the surviving business entity is not authorized to
10 transact business or conduct affairs in this State, the address for
11 mailing shall be the mailing address designated pursuant to
12 subdivision (3) of subsection (d) of this section."

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

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

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

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

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

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

39 "(2a) Consummation of a plan of conversion pursuant to Part 2 of Article
40 11A of this Chapter;".

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

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

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

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

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

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

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

1 corporation at its principal office ~~shown in its most recent annual report or in any~~
2 ~~subsequent communication received from the corporation stating the current mailing~~
3 ~~address of its principal office~~ or, if there is no mailing address for the principal office on
4 file, to the corporation at its registered office. Service on a foreign corporation under
5 this subsection shall be effective for all purposes from and after the date of ~~such~~the
6 service on the Secretary of State."

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

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

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

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

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

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

38 "**§ 55-15-21. Withdrawal of foreign corporation by reason of a merger,**
39 **consolidation, or conversion.**

40 (a) Whenever a foreign corporation authorized to transact business in this State
41 ceases its separate existence as a result of a statutory merger or consolidation permitted
42 by the laws of the state or country under which it was incorporated, or converts into

1 another entity as permitted by those laws, the surviving or resulting entity shall apply
2 for a certificate of withdrawal for the foreign corporation by delivering to the Secretary
3 of State for filing a copy of the articles of merger, consolidation, or conversion or a
4 certificate reciting the facts of the merger, consolidation, or conversion, duly
5 authenticated by the Secretary of State or other official having custody of corporate
6 records in the state or country under the laws of which such foreign corporation was
7 incorporated. If the surviving or resulting entity is not authorized to transact business or
8 conduct affairs in this State the articles or certificate must be accompanied by an
9 application ~~which must set that sets~~ forth:

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

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

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

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

1 **PART II. AMENDMENTS TO THE NORTH CAROLINA NONPROFIT**
2 **CORPORATION ACT.**

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

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

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

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

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

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

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

32 **"§ 55A-1-40. Chapter definitions.**

33 In this Chapter unless otherwise specifically provided:

34 ...

35 (2a) 'Business corporation' or 'domestic business corporation' means a
36 corporation as defined in G.S. 55-1-40.

37 ...

38 (8a) 'Domestic limited liability company' has the same meaning as in G.S.
39 57C-1-03.

40 (8b) 'Domestic limited partnership' has the same meaning as in G.S. 59-
41 102.

42 ...

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

3 ...

4 (11a) 'Foreign limited liability company' has the same meaning as in G.S.
5 57C-1-03.

6 (11b) 'Foreign limited partnership' has the same meaning as in G.S. 59-102.

7 "

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

9 "(24a) 'Unincorporated entity' means a domestic or foreign limited liability
10 ~~company as defined in G.S. 57C-1-03, company,~~ a domestic or foreign
11 ~~limited partnership as defined in G.S. 59-102, partnership,~~ a registered
12 limited liability partnership or foreign limited liability partnership as
13 defined in G.S. 59-32, or any other partnership as defined in G.S.
14 59-36, whether or not formed under the laws of this State, including a
15 ~~registered limited liability partnership as defined in G.S. 59-32 and any~~
16 ~~other limited liability partnership formed under a law other than the~~
17 ~~laws of this State.State."~~

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

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

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

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

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

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

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

1 22(b). Upon receipt of service of process in the manner provided in this subsection, the
2 Secretary of State shall immediately mail a copy of the process by registered or certified
3 mail, return receipt requested, to the foreign corporation. If the foreign corporation is
4 authorized to conduct affairs in this State, the address for mailing shall be its principal
5 office or, if there is no mailing address for the principal office on file, its registered
6 office. If the foreign corporation is not authorized to conduct affairs in this State, the
7 address for mailing shall be the mailing address designated pursuant to subdivision (2)
8 of subsection (a) of this section."

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

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

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

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

29 "(b) Upon the merger taking effect, if the surviving corporation ~~does not have a~~
30 ~~registered agent in this State, is a foreign business corporation,~~ it shall be deemed to
31 have appointed the Secretary of State as its ~~registered agent~~ for service of process in a
32 proceeding to enforce any obligation of a domestic nonprofit corporation party to the
33 ~~merger, until such time as it appoints a registered agent in this State.~~ merger. Service on
34 the Secretary of State of any such process shall be made by delivering to and leaving
35 with the Secretary of State, or with any clerk authorized by the Secretary of State to
36 accept service of process, duplicate copies of the process and the fee required by G.S.
37 55A-1-22(b). Upon receipt of service of process in the manner provided in this
38 subsection, the Secretary of State shall immediately mail a copy of the process by
39 registered or certified mail, return receipt requested, to the foreign business corporation.
40 If the foreign business corporation is authorized to transact business in this State, the
41 address for mailing shall be its principal office as defined in G.S. 55-1-40(17) or, if
42 there is no mailing address for the principal office on file, its registered office. If the

1 foreign business corporation is not authorized to transact business in this State, the
2 address for mailing shall be the mailing address designated pursuant to subdivision (3)
3 of subsection (a) of this section."

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

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

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

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

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

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

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

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

40 "(2) To have appointed the Secretary of State as its agent for service of
41 process in any such proceeding. Service on the Secretary of State of
42 any such process shall be made by delivering to and leaving with the

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

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

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

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

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

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

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

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

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

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

37 **SECTION 47.** G.S. 55A-15-21 is amended by adding a new subsection to
38 read:

39 "(c) After the withdrawal of the foreign corporation is effective, service of process
40 on the Secretary of State in accordance with subsection (a) of this section shall be made
41 by delivering to and leaving with the Secretary of State, or any clerk authorized by the
42 Secretary of State to accept service of process, duplicate copies of the process and the

1 fee required by G.S. 55A-1-22(b). Upon receipt of process in the manner provided in
2 this subsection, the Secretary of State shall immediately mail a copy of the process by
3 registered or certified mail, return receipt requested, to the foreign corporation at the
4 mailing address designated pursuant to subsection (a) of this section."

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

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

9 "**§ 57C-1-03. Definitions.**

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

12 ...

13 (5a) Director. – For any limited liability company the management of
14 whose affairs is vested in whole or in part in persons other than its
15 managers pursuant to G.S. 57C-3-20(b), any person who is so vested
16 with, or is one of a group of persons so vested with, the authority to
17 direct the management of the limited liability company's affairs.

18 ...

19 (6a) Domestic nonprofit corporation. – A corporation as defined in G.S.
20 55A-1-40(5).

21 (6b) Executive. – For any limited liability company the management of
22 whose affairs is vested in whole or in part in persons other than its
23 managers pursuant to G.S. 57C-3-20(b), any person who is so vested
24 with authority to participate in the management of the limited liability
25 company's affairs under the direction of the limited liability company's
26 managers or directors.

27 ...

28 (9a) Foreign nonprofit corporation. – A foreign corporation as defined in
29 G.S. 55A-1-40(11).

30 ...

31 (12a) Management of the affairs. – In respect of an entity, unless the context
32 indicates otherwise, the authority to direct and participate in the
33 management of the entity.

34 ...

35 (17a) Principal office. – The office, in or out of this State, where the
36 principal executive offices of a domestic or foreign limited liability
37 company are located, as designated in its most recent annual report
38 filed with the Secretary of State or, in the case of a domestic or foreign
39 limited liability company that has not yet filed an annual report, in its
40 articles of organization or application for a certificate of authority,
41 respectively.

42"

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

2 "(3a) Business entity. – A corporation (including a professional corporation
3 as defined in G.S. 55B-2), a foreign corporation (including a foreign
4 professional corporation defined in G.S. 55B-16), a domestic or
5 foreign nonprofit ~~corporation~~ corporation, ~~as defined in G.S. 55A 1-~~
6 40, a domestic or foreign limited liability company, a domestic or
7 foreign limited ~~partnership~~ partnership, ~~as defined in G.S. 59-102, a~~
8 registered limited liability partnership or foreign limited liability
9 partnership as defined in G.S. 59-32, or any other partnership as
10 defined in G.S. 59-36 whether or not formed under the laws of this
11 State ~~(including a registered limited liability partnership as defined in~~
12 ~~G.S. 59-32 and any other limited liability partnership formed under a~~
13 ~~law other than the laws of this State).~~State."

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

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

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

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

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

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

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

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

38 (1) By a manager of the limited liability company;

39 (2) ~~If managers have not been selected, or if the limited liability company~~
40 ~~does not have a manager other than a member, by any member;~~

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

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

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

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

| <u>Document</u> | <u>Fee</u> |
|---|--------------|
| 17 (1) Articles of organization | \$125.00 |
| 18 (2) Application for reserved name | 10.00 |
| 19 (3) Notice of transfer of reserved name | 10.00 |
| 20 (4) Application for registered name | 10.00 |
| 21 (5) Application for renewal of registered name | 10.00 |
| 22 (6) Limited liability company's statement of change of | |
| 23 registered agent or registered office or both | 5.00 |
| 24 (7) Agent's statement of change of registered office for | |
| 25 each affected limited liability company | 5.00 |
| 26 (8) Agent's statement of resignation | No fee |
| 27 (9) Designation of registered agent or registered | |
| 28 office or both | 5.00 |
| 29 (10) Amendment of articles of organization | 50.00 |
| 30 (11) Restated articles of organization without amendment of | |
| 31 articles | 10.00 |
| 32 (12) Restated articles of organization with amendment of | |
| 33 articles | 50.00 |
| 34 (12a) <u>Articles of conversion (other than articles of conversion</u> | |
| 35 <u>included as part of another document)</u> | <u>50.00</u> |
| 36 (13) Articles of merger | 50.00 |
| 37 (14) Articles of dissolution | 30.00 |
| 38 (15) Cancellation of articles of dissolution | 10.00 |
| 39 (16) Certificate of administrative dissolution | No fee |
| 40 (16a) Application for reinstatement following administrative | |
| 41 dissolution | 100.00 |
| 42 | |

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

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

16 **"§ 57C-2-01. Purposes.**

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

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

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

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

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

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

24 **"§ 57C-2-02. Powers of the limited liability company.**

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

- 28 (1) To sue and be sued, complain, and defend in its own name;
- 29 (2) To make and amend operating agreements, not inconsistent with its
30 articles of organization or with the laws of this State, for managing the
31 business and regulating the affairs of the limited liability company;
- 32 (3) To purchase, receive, lease, or otherwise acquire, and own, hold,
33 improve, use, and otherwise deal with, real or personal property, or
34 any legal or equitable interest in property, wherever located;
- 35 (4) To sell, convey, mortgage, pledge, lease, exchange, and otherwise
36 dispose of all or any part of its property;
- 37 (5) To purchase, receive, subscribe for, or otherwise acquire; own, hold,
38 vote, use, sell, mortgage, lend, pledge, or otherwise dispose of; and
39 deal in and with shares or other interests in, or obligations of, any other
40 entity;
- 41 (6) To make contracts and guarantees, incur liabilities, borrow money,
42 issue its notes, bonds, and other obligations (which may be convertible

1 into or include the option to purchase other interests in the limited
2 liability company), and secure any of its obligations by mortgage or
3 pledge of any of its property, franchises, or income;

4 (7) To lend money, invest and reinvest its funds, and receive and hold real
5 and personal property as security for repayment;

6 (8) To be a promoter, partner, member, associate, or manager of any
7 partnership, joint venture, trust, or other entity;

8 (9) To conduct its business, locate offices, and exercise the powers
9 granted by this Chapter within or without this State;

10 (10) To elect or appoint managers, directors, executives, officers,
11 employees, and agents of the limited liability company, define their
12 duties, fix their compensation, and lend them money and credit;

13 (11) To pay pensions and establish pension plans, pension trusts,
14 profit-sharing plans, and other benefit or incentive plans for any or all
15 of its current or former managers, directors, executives, officers,
16 employees, and agents;

17 (12) To make donations for the public welfare or for charitable, religious,
18 cultural, scientific, or educational purposes;

19 (13) To transact any lawful business that will aid governmental policy;

20 (14) To make payments or donations, or do any other act, not inconsistent
21 with law, that furthers the business and affairs of the limited liability
22 company;

23 (15) To provide insurance for its benefit on the life or physical or mental
24 ability of any of its managers, directors, executives, officers, or
25 employees or on the life or physical or mental ability of any owner of
26 any interest in the limited liability company for the purpose of
27 acquiring the interest owned by him at the time of his death or
28 disability, and for these purposes the limited liability company is
29 deemed to have an insurable interest in its managers, directors,
30 executives, officers, employees, or members and other interest owners;
31 and to provide insurance for its benefit on the life or physical or mental
32 ability of any other person in whom it has an insurable interest; and

33 (16) To render professional services, subject to G.S. 57C-2-01(c)."

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

35 "(c) Organization of a limited liability company requires one or more initial
36 members and any further action as may be determined by the initial member or
37 members. If initial members are not identified in the articles of organization of a limited
38 liability company in the manner provided in G.S. 57C-3-01(a), the organizers shall hold
39 one or more meetings at the call of a majority of the organizers to identify the initial
40 members of the limited liability company. Unless otherwise provided in this Chapter or
41 in the articles of organization of the limited liability company, all decisions to be made
42 by the organizers at such meetings shall require the approval, consent, agreement, or

1 ratification of a majority of the organizers. Unless otherwise provided in the articles of
2 organization, the organizers may, in lieu of a meeting, take action as described in this
3 subsection by written consent signed by all of the organizers. The written consent may
4 be incorporated in, or otherwise made part of, the initial written operating agreement of
5 the limited liability company."

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

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

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

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

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

- 35 (1) The name of the limited liability or foreign limited liability company
36 and the state or country under whose law it is ~~organized~~ formed.
- 37 (2) The street address, and the mailing address if different from the street
38 address, of the registered office, the county in which the registered
39 office is located, and the name of its registered agent at that office in
40 this State, and a statement of any change of the registered office or
41 registered agent, or both.
- 42 (3) The address and telephone number of its principal office.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 "**§ 57C-3-30. Liability to third parties of ~~members and managers; members,~~**
35 **managers, directors, and executives; parties to actions; governing law.**

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

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

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

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

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

15 "**§ 57C-3-31. Mandatory indemnification of managers, managers, directors,**
16 **executives, and members.**

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

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

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

30 "**§ 57C-3-32. Limitation of liability of managers, managers, directors, executives,**
31 **and members and permissive indemnification of managers, managers,**
32 **directors, executives, and members; insurance.**

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

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

39 (2) Provide for indemnification of a ~~manager or member~~ manager,
40 member, director, or executive for judgments, settlements, penalties,
41 fines, or expenses incurred in a proceeding to which the ~~member or~~
42 manager member, manager, director, or executive is a party because he

1 the person is or was a ~~manager or member~~ manager, member, director,
2 or executive. For purposes of this subdivision, the words "expenses",
3 "proceeding", and "party" shall have the meanings set forth in G.S.
4 55-8-50(b).

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

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

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

29 "**§ 57C-4-07. Liability upon wrongful distribution.**

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

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

- 37 (1) Contribution from each other manager or director who could be held
38 liable under subsection (a) of this section for the wrongful distribution;
39 and
40 (2) Reimbursement from each member for the amount the member
41 received knowing that the distribution was made in violation of G.S.
42 57C-4-06 or the operating agreement.

1 (c) A proceeding under this section is barred unless it is commenced within three
2 years after the date on which the effect of the distribution is measured under G.S.
3 57C-4-06(c)."

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

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

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

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

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

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

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

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

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

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

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

1 **"§ 57C-7-01. Law governing.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 the surviving or resulting entity is not authorized to transact business in this State, the
2 articles or certificate must be accompanied by an application which must set forth:

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

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

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

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

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

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

38 "(c) Upon motion of the limited liability company, the court may appoint a
39 committee composed of two or more disinterested ~~managers~~ managers, directors, or
40 other disinterested persons, acceptable to the limited liability company, to determine
41 whether it is in the best interest of the limited liability company to pursue a particular
42 legal right or remedy. The committee shall report its findings to the court. After

1 considering the report and any other relevant evidence, the court shall determine
2 whether the proceeding should be continued or not."

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

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

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

7 "**§ 57C-9A-01. Conversion.**

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

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

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

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

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

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

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

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

34 "**§ 57C-9A-02. Plan of conversion.**

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

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

39 (1a) The name of the converting business entity, its type of business entity,
40 and the state or country whose laws govern its organization and
41 internal affairs;

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

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

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

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

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

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

22 "**§ 57C-9A-03. Filing of articles of organization by converting business entity.**

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

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

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

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

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

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

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

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

9 **"§ 57C-9A-10. Conversion.**

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

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

14 (2) The converting domestic limited liability company complies with the
15 requirements of this Part and, to the extent applicable, the laws
16 referred to in subdivision (1) of this section.

17 **"§ 57C-9A-11. Plan of conversion.**

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

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

21 (2) The name of the resulting business entity into which the domestic
22 limited liability company shall convert, its type of business entity, and
23 the state or country whose laws govern its organization and internal
24 affairs;

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

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

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

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

1 operating agreement or, if there is no such provision, prior to its approval of the plan of
2 conversion.

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

10 **"§ 57C-9A-12. Articles of conversion.**

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

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

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

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

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

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

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

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

36 **"§ 57C-9A-13. Effects of conversion.**

37 (a) When the conversion takes effect:

38 (1) The converting domestic limited liability company ceases its prior
39 form of organization and continues in existence as the resulting
40 business entity;

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

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

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

- 25 (1) To agree that it may be served with process in this State for
26 enforcement of (i) any obligation of the converting domestic limited
27 liability company and (ii) any obligation of the resulting business
28 entity arising from the conversion; and
29 (2) To have appointed the Secretary of State as its agent for service of
30 process in any such proceeding. Service on the Secretary of State of
31 any such process shall be made by delivering to and leaving with the
32 Secretary of State, or with any clerk authorized by the Secretary of
33 State to accept service of process, duplicate copies of the process and
34 the fee required by G.S. 57C-1-22(b). Upon receipt of service of
35 process on behalf of a resulting business entity in the manner provided
36 for in this section, the Secretary of State shall immediately mail a copy
37 of the process by registered or certified mail, return receipt requested,
38 to the resulting business entity. If the resulting business entity is
39 authorized to transact business or conduct affairs in this State, the
40 address for mailing shall be its principal office designated in the latest
41 document filed with the Secretary of State that is authorized by law to
42 designate the principal office or, if there is no principal office on file,

1 its registered office. If the resulting business entity is not authorized to
2 transact business or conduct affairs in this State, the address for
3 mailing shall be the mailing address designated pursuant to G.S. 57C-
4 9A-12(a)(2)."

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

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

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

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

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

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

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

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

5 (1) To agree that it may be served with process in this State in any
6 proceeding for enforcement of (i) any obligation of any merging
7 domestic limited liability company, domestic corporation, domestic
8 nonprofit corporation, domestic limited partnership, or other
9 partnership as defined in G.S. 59-36 that is formed under the laws of
10 this State, (ii) the rights of dissenting shareholders of any merging
11 domestic corporation under Article 13 of Chapter 55 of the General
12 Statutes, and (iii) any obligation of the surviving business entity
13 arising from the merger; and

14 (2) To have appointed the Secretary of State as its registered agent for
15 service of process in any such proceeding. Service on the Secretary of
16 State of any such process shall be made by delivering to and leaving
17 with the Secretary of ~~State~~ State, or with any clerk authorized by the
18 Secretary of State to accept service of process, duplicate copies of such
19 process and the fee required by G.S. 57C-1-22(b). Upon receipt of
20 service of process on behalf of a surviving business entity in the
21 manner provided for in this section, the Secretary of State shall
22 immediately mail a copy of the process by registered or certified mail,
23 return receipt requested, to the surviving business entity. If the
24 surviving business entity is authorized to transact business or conduct
25 affairs in this State, the address for mailing shall be its principal office
26 designated in the latest document filed with the Secretary of State that
27 is authorized by law to designate the principal office or, if there is no
28 principal office on file, its registered office. If the surviving business
29 entity is not authorized to transact business or conduct affairs in this
30 State, the address for mailing shall be the mailing address designated
31 pursuant to ~~subdivision (3) of subsection (d) of this section~~. G.S. 57C-
32 9A-22(a)(3)."

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

34 "**§ 57C-10-02. Applicability of provisions to foreign and interstate commerce.**

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

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

39 "**§ 57C-10-06. Income taxation.**

40 A limited liability company, a foreign limited liability company authorized to
41 transact business in this State, and a member of one of these companies are subject to
42 taxation under Article 4 of Chapter 105 of the General Statutes in accordance with their

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

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

20 "**§ 57C-10-07. Intent.**

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

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

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

28 "**§ 59-32. Definition of terms.**

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

- 31 (01) 'Act' means the North Carolina Uniform Partnership Act and refers to
32 all provisions therein.
- 33 (1) 'Bankrupt' means bankrupt under the Federal Bankruptcy Act or
34 insolvent under any State insolvent act.
- 35 (2) 'Business' means every trade, occupation, or profession.
- 36 (3) 'Conveyance' means every assignment, lease, mortgage, or
37 encumbrance.
- 38 (4) 'Court' means every court and judge having jurisdiction in the case.
- 39 (4a) 'Domestic corporation' has the same meaning as in G.S. 55-1-40.
- 40 (4b) 'Domestic limited liability company' has the same meaning as in G.S.
41 57C-1-03.

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

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

29 **"§ 59-35.1. Filing of documents.**

- 30 (a) To be entitled to filing by the Secretary of State, a document submitted
31 pursuant to this act shall meet all of the following requirements:
- 32 (1) The document shall contain the information required by this act. It
33 may contain other information as well.
- 34 (2) The document shall be typewritten or printed.
- 35 (3) The document shall be in the English language.
- 36 (4) A document submitted by a partnership other than a domestic or
37 foreign limited partnership shall be executed by a general partner of
38 the partnership. A document submitted by any other type of entity
39 shall be executed by a person authorized to execute documents (i)
40 pursuant to G.S. 55-1-20(f) if the entity is a domestic or foreign
41 corporation, (ii) pursuant to G.S. 55A-1-20(f) if the entity is a
42 domestic or foreign nonprofit corporation, (iii) pursuant to G.S. 57C-1-

1 20(f) if the entity is a domestic or foreign limited liability company, or
 2 (iv) pursuant to G.S. 59-204 if the entity is a domestic or foreign
 3 limited partnership.

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

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

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

16 A document is corrected by:

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

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

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

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

30 (1) An application for registration as a registered limited liability
 31 partnership;

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

33 (3) Application for registration as a foreign limited liability partnership;
 34 and

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

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

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

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

42 Document

Fee

| | | | |
|----|------|---|---------------|
| 1 | | | |
| 2 | (1) | <u>Registered limited liability partnership's or</u> | <u>\$5.00</u> |
| 3 | | <u>foreign limited liability partnership's statement</u> | |
| 4 | | <u>of change of registered agent or registered office</u> | |
| 5 | | <u>or both</u> | |
| 6 | (2) | <u>Agent's statement of change of registered</u> | <u>5.00</u> |
| 7 | | <u>office for each affected registered limited</u> | |
| 8 | | <u>liability partnership or foreign limited</u> | |
| 9 | | <u>liability partnership</u> | |
| 10 | (3) | <u>Agent's statement of resignation</u> | <u>No Fee</u> |
| 11 | (4) | <u>Designation of registered agent or</u> | <u>5.00</u> |
| 12 | | <u>registered office or both</u> | |
| 13 | (5) | <u>Articles of conversion (other than articles</u> | <u>50.00</u> |
| 14 | | <u>of conversion included as part of another</u> | |
| 15 | | <u>document)</u> | |
| 16 | (6) | <u>Articles of merger</u> | <u>50.00</u> |
| 17 | (7) | <u>Application for registration as a</u> | <u>125.00</u> |
| 18 | | <u>registered limited liability partnership</u> | |
| 19 | (8) | <u>Certificate of amendment of registration</u> | <u>25.00</u> |
| 20 | | <u>as a registered limited liability partnership</u> | |
| 21 | (9) | <u>Cancellation of registration as a registered</u> | <u>25.00</u> |
| 22 | | <u>limited liability partnership</u> | |
| 23 | (10) | <u>Application for registration as a foreign</u> | <u>125.00</u> |
| 24 | | <u>limited liability partnership</u> | |
| 25 | (11) | <u>Certificate of amendment of registration</u> | <u>25.00</u> |
| 26 | | <u>as a foreign limited liability partnership</u> | |
| 27 | (12) | <u>Cancellation of registration as a foreign</u> | <u>25.00</u> |
| 28 | | <u>limited liability partnership</u> | |
| 29 | (13) | <u>Application for certificate of withdrawal</u> | <u>10.00</u> |
| 30 | | <u>by reason of merger, consolidation, or</u> | |
| 31 | | <u>conversion</u> | |
| 32 | (14) | <u>Annual report</u> | <u>200.00</u> |
| 33 | (15) | <u>Articles of correction</u> | <u>10.00</u> |
| 34 | (16) | <u>Any other document required or permitted</u> | <u>10.00</u> |
| 35 | | <u>to be filed pursuant to this act</u> | |
| 36 | (17) | <u>Advisory review of a document</u> | <u>200.00</u> |
| 37 | (f) | <u>The Secretary of State shall collect a fee of ten dollars (\$10.00) each time</u> | |
| 38 | | <u>process is served on the Secretary of State under this act. The party to the proceeding</u> | |
| 39 | | <u>causing service of process is entitled to recover this fee as costs if the party prevails in</u> | |
| 40 | | <u>the proceeding.</u> | |
| 41 | (g) | <u>The Secretary of State shall collect the following fees for copying,</u> | |
| 42 | | <u>comparing, and certifying a copy of a document filed pursuant to this act:</u> | |

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 "Article 2A.

33 "Conversion and Merger."

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

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

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

41 "Part 1. General Provisions."

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

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

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

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

19 **"§ 59-73.12. Filing of articles of conversion by converting business entity.**

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

- 23 (1) That the domestic partnership is being formed pursuant to a conversion
24 of another business entity;
- 25 (2) The name of the resulting domestic partnership, a designation of its
26 mailing address, and a commitment to file with the Secretary of State a
27 statement of any subsequent change in its mailing address;
- 28 (3) The name of the converting business entity, its type of business entity,
29 and the state or country whose laws govern its organization and
30 internal affairs; and
- 31 (4) That a plan of conversion has been approved by the converting
32 business entity as required by law.

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

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

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

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

3 "**§ 59-73.13. Effects of conversion.**

4 **(a)** When the conversion takes effect:

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

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

10 **(3)** All liabilities of the converting business entity continue as liabilities of
11 the resulting domestic partnership;

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

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

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

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

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

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

1 mailing shall be its principal office or, if there is no principal office on
2 file, its registered office. If the resulting domestic partnership is not a
3 registered limited liability partnership, the address for mailing shall be
4 the mailing address designated pursuant to G.S. 59-73.12(a)(2)."

5 **SECTION 109.** Article 2A of Chapter 59 of the General Statutes, as enacted
6 by this act, is amended by adding a new Part to read as follows and to include G.S.
7 59-73.20, as recodified in Section 105 of this act, as the first section in Part 3:

8 "Part 3. Conversion of Domestic Partnership."

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

11 **"§ 59-73.20. Conversion.**

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

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

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

25 **"§ 59-73.21. Plan of conversion.**

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

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

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

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

1 preceding sentence, approval of the plan of conversion by the domestic partnership shall
2 require the consent of that partner. The converting domestic partnership shall provide a
3 copy of the plan of conversion to each partner of the converting domestic partnership at
4 the time provided in a written partnership agreement or, if there is no such provision,
5 prior to its approval of the plan of conversion.

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

12 **"§ 59-73.22. Articles of conversion.**

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

17 (1) The name of the converting domestic partnership;

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

24 (3) That a plan of conversion has been approved by the domestic
25 partnership as required by law.

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

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

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

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

38 **"§ 59-73.23. Effects of conversion.**

39 (a) When the conversion takes effect:

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

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

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

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

- 23 (1) To agree that it may be served with process in this State for
24 enforcement of (i) any obligation of the converting domestic
25 partnership and (ii) any obligation of the resulting business entity
26 arising from the conversion; and
27 (2) To have appointed the Secretary of State as its agent for service of
28 process in any such proceeding. Service on the Secretary of State of
29 any such process shall be made by delivering to and leaving with the
30 Secretary of State, or with any clerk authorized by the Secretary of
31 State to accept service of process, duplicate copies of the process and
32 the fee required by G.S. 59-35.1(f). Upon receipt of service of process
33 on behalf of a resulting business entity in the manner provided for in
34 this section, the Secretary of State shall immediately mail a copy of the
35 process by registered or certified mail, return receipt requested, to the
36 resulting business entity. If the resulting business entity is authorized
37 to transact business or conduct affairs in this State, the address for
38 mailing shall be its principal office designated in the latest document
39 filed with the Secretary of State that is authorized by law to designate
40 the principal office or, if there is no principal office on file, its
41 registered office. If the resulting business entity is not authorized to
42 transact business or conduct affairs in this State, the address for

1 mailing shall be the mailing address designated pursuant to G.S. 59-
2 73.12(a)(2)."

3 **SECTION 112.** Article 2A of Chapter 59 of the General Statutes, as enacted
4 by this act, is amended by adding a new Part to read as follows and to include G.S.
5 59-73.30, 59-73.31, 59-73.32, 59-73.33, each as recodified in Section 105 of this act, in
6 Part 4:

7 "Part 4. Merger."

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

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

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

24 "(a) After a plan of merger has been approved by each merging domestic
25 partnership and each other merging business entity as provided in ~~G.S. 59-73.4~~, G.S.
26 59-73.31, the surviving business entity shall deliver articles of merger to the Secretary
27 of State for filing. The articles of merger shall set forth:

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

41 If the plan of merger is amended or abandoned after the articles of merger have been
42 filed but before the articles of merger become effective, the surviving business entity

1 ~~promptly~~ shall deliver to the Secretary of State for filing prior to the time the articles of
2 merger become effective an amendment to the articles of merger reflecting the
3 amendment or abandonment of the plan of merger."

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

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

- 10 (1) To agree that it may be served with process in this State in any
11 proceeding for enforcement of (i) any obligation of any merging
12 domestic limited liability company, domestic corporation, domestic
13 nonprofit corporation, domestic limited partnership, or other
14 partnership as defined in G.S. 59-36 that is formed under the laws of
15 this State, (ii) the rights of dissenting shareholders of any merging
16 domestic corporation under Article 13 of Chapter 55 of the General
17 Statutes, and (iii) any obligation of the surviving business entity
18 arising from the merger; and
- 19 (2) To have appointed the Secretary of State as its registered agent for
20 service of process in any such proceeding. Service on the Secretary of
21 State of any such process shall be made by delivering to and leaving
22 with the Secretary of ~~State~~State, or with any clerk authorized by the
23 Secretary of State to accept service of process, duplicate copies of such
24 process and the ~~fees~~fee required by ~~G.S. 59-73.7(e)~~G.S. 59-35.1(f).
25 Upon receipt of service of process on behalf of a surviving business
26 entity in the manner provided for in this section, the Secretary of State
27 shall immediately mail a copy of the process by registered or certified
28 mail, return receipt requested, to the surviving business entity. If the
29 surviving business entity is authorized to transact business or conduct
30 affairs in this State, the address for mailing shall be its principal office
31 designated in the latest document filed with the Secretary of State that
32 is authorized by law to designate the principal office or, if there is no
33 principal office on file, its registered office. If the surviving business
34 entity is not authorized to transact business or conduct affairs in this
35 State, the address for mailing shall be the mailing address designated
36 pursuant to ~~subdivision (3) of subsection (d) of this section~~G.S. 59-
37 73.32(a)(3)."

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

39 "**§ 59-77. When personal representative may take inventory; receiver.**

40 If the surviving partner should neglect or refuse to have such inventory made, the
41 personal representative of the deceased partner may have the same made in accordance
42 with the provisions of G.S. 59-76. Should any surviving partner fail to take such an

1 inventory or refuse to allow the personal representative of the deceased partner's estate
2 to do so, such personal representative of the deceased partner's estate may forthwith
3 apply to a court of competent jurisdiction for the appointment of a receiver for such
4 partnership, who shall thereupon proceed to wind up the same and dispose of the assets
5 thereof in accordance with law."

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

7 "**§ 59-84.1. Partnership to comply with "assumed name" ~~statute~~statute; income**
8 **taxation.**

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

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

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

31 "**§ 59-84.2. Registered limited liability partnerships.**

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

- 36 (1) The name of the partnership.
37 (2) The street ~~address~~address, and the mailing address if different from the
38 street address, of its principal ~~office~~office and the county in which the
39 principal office is located.
40 (3) The name and street address, and the mailing address if different from
41 the street address, ~~for~~of the partnership's registered agent and
42 registered office for service of process.

1 (4) The county in this State in which the registered office is located.

2 ~~(5) A brief statement of the business in which the partnership engages.~~

3 ~~(6) A deferred effective date, if any.~~

4 (7) The fiscal year end of the partnership.

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

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

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

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

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

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

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

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

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

34 (1) The name of the ~~partnership~~ partnership as reflected on the application
35 for registration.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 "**§ 59-91. Statement of foreign registration.**

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

36 (1) The name of the foreign limited liability partnership that satisfies the
37 requirements of the State or other jurisdiction under whose law it is
38 formed and ends with the words "registered limited liability
39 partnership" or "limited liability partnership" or the abbreviation
40 "R.L.L.P.", "L.L.P.", "RLLP", or "LLP".

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (3) Issue a certificate of withdrawal; and

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

40 (u) After the withdrawal of the foreign limited liability partnership is effective,
41 service of process on the Secretary of State in accordance with subsection (s) of this
42 section shall be made by delivering to and leaving with the Secretary of State, or with

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

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

8 **"§ 59-102. Definitions.**

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

- 10 (1) "Business" means any lawful trade, investment, or other purpose or
11 activity, whether or not the trade, investment, purpose, or activity is
12 carried on for profit.
- 13 (1a) "Business entity" means a domestic corporation ~~as defined in G.S. 55-~~
14 ~~1-40 (including, without limitation, (including~~ a professional
15 corporation as defined in G.S. 55B-2), a foreign corporation ~~as defined~~
16 ~~in G.S. 55-1-40 (including, without limitation, (including~~ a foreign
17 professional corporation as defined in G.S. 55B-16), a domestic or
18 foreign nonprofit corporation ~~as defined in G.S. 55A-1-40,~~
19 ~~corporation,~~ a domestic limited liability company as defined in G.S.
20 ~~57C-1-03, a or foreign limited liability company as defined in G.S.~~
21 ~~57C-1-03, company,~~ a domestic limited partnership, a foreign limited
22 partnership, a registered limited liability partnership, a foreign limited
23 liability partnership, or any other partnership as defined in G.S. 59-36
24 whether or not formed under the laws of this State ~~(including a~~
25 ~~registered limited liability partnership as defined in G.S. 59-32 and any~~
26 ~~other limited liability partnership formed under a law other than the~~
27 ~~laws of this State).~~State.
- 28 (1b) "Certificate of limited partnership" means the certificate referred to in
29 G.S. 59-201, and the certificate as amended.
- 30 (2) "Conformed copy" shall include a photostatic or other photographic
31 copy of the original document.
- 32 (3) "Contribution" means any cash, property, services rendered, or a
33 promissory note or other binding obligation to contribute cash or
34 property or to perform services, which a partner contributes to a
35 limited partnership in his capacity as a partner.
- 36 (3a) "Domestic corporation" has the same meaning as in G.S. 55-1-40.
- 37 (3b) "Domestic limited liability company" has the same meaning as in G.S.
38 57C-1-03.
- 39 (3c) "Domestic nonprofit corporation" means a corporation as defined in
40 G.S. 55A-1-40.
- 41 (4) "Event of withdrawal of a general partner" means an event that causes
42 a person to cease to be a general partner as provided in G.S. 59-402.

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

1 (12) "Person" means a natural person, domestic or foreign partnership,
2 domestic or foreign limited partnership—(domestic or
3 foreign), partnership, domestic or foreign limited liability company,
4 trust, estate, unincorporated association, or corporation domestic or
5 foreign corporation, or another entity.

6 (12a) "Principal office" means the office (in or out of this State) where the
7 principal executive offices of a limited liability limited partnership are
8 located, as designated in its most recent annual report filed with the
9 Secretary of State or, if no annual report has yet been filed, in its
10 application for registration as limited liability limited partnership.

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

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

14 **"§ 59-103. Name.**

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

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

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

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

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

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

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

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

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

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

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

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

11 (1) The name of the limited partnership;

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

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

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

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

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

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

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

1 mail, ~~addressed to the limited partnership at its partnership.~~ If the limited partnership is
2 a limited liability limited partnership, the address for mailing shall be its principal office
3 or, if there is no principal office on file, its registered office. If the limited partnership is
4 not a limited liability limited partnership, the address for mailing shall be the limited
5 partnership's registered office. Any such Service on a limited partnership so served
6 under this subsection shall be in-court-effective for all purposes from and after the date
7 of such service on the Secretary of State.

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

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

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

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

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

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

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

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

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

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

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

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

4 (1) An original certificate of limited partnership must be signed by all
5 general partners;

6 (2) A certificate of amendment must be signed by at least one general
7 partner and by each other partner designated in the certificate as a new
8 general partner; and

9 (3) A certificate of cancellation must be signed by all general partners.

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

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

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

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

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

37 (1) Affect the validity or invalidity of the document in whole or in part;

38 (2) Relate to the correctness or incorrectness of information contained in
39 the document; or

40 (3) Create a presumption that the document is valid or invalid or that
41 information contained in the document is correct or incorrect.

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

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

7 **"§ 59-209. Certificate of existence.**

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

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

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

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

19 (3) If the limited partnership has registered as a limited liability limited
20 partnership, that the registration has not been cancelled or revoked;

21 (4) That a certificate of cancellation of the certificate of limited
22 partnership has not been filed; and

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

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

32 **"§ 59-210. Limited liability limited partnerships.**

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

35 (1) The name of the limited liability limited partnership, which shall
36 contain the words 'registered limited liability limited partnership' or
37 'limited liability limited partnership' or the abbreviation 'L.L.L.P.',
38 'R.L.L.L.P.', 'LLLP', or 'RLLLP' as the last words or letters of its name.

39 (2) The street address, and mailing address if different from the street
40 address, of its principal office, and the county in which the principal
41 office is located.

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

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

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

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

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

18 **(1)** The name of the limited liability limited partnership as reflected on the
19 application for registration;

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

21 **(3)** The amendment to the application for registration.

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

25 **(1)** The name of the limited liability limited partnership as reflected on the
26 application for registration;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 **"§ 59-902. Registration.**

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

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

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

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

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

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

- 38 (1) A registered office that may be the same as any of its places of
39 business; and
40 (2) A registered agent, who shall be (i) an individual who resides in this
41 State and whose business office is identical with the registered office;
42 (ii) a domestic corporation, nonprofit corporation, or limited liability

1 company whose business office is identical with the registered office,
2 or (iii) a foreign corporation, nonprofit corporation, or limited liability
3 company authorized to transact business or conduct affairs in this State
4 whose business office is identical with the registered office.

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

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

11 (1) Its name;

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

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

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

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

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

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

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

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

1 (2) After filing the statement, the Secretary of State shall mail one copy to
2 the registered office, if not discontinued, and the other copy to the
3 foreign limited partnership at the address certified in the statement of
4 resignation.

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

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

12 (c) Whenever a foreign limited partnership shall fail to appoint or maintain a
13 registered agent in this State, or whenever its registered agent cannot with due diligence
14 be found at the registered office, then the Secretary of State shall be an agent of such
15 foreign limited partnership upon whom any such process, notice, or demand may be
16 served. Service on the Secretary of State of any such process, notice, or demand shall be
17 made by delivering to and leaving with ~~him, the Secretary of State,~~ or with any clerk
18 ~~having charge of the limited partnership department of his office, authorized by the~~
19 Secretary of State to accept service of process, duplicate copies of such the process,
20 notice or demand, demand and the fee required by G.S. 59-1106(b). In the event any
21 such process, notice or demand is served on the Secretary of State, ~~he~~ the Secretary of
22 State shall immediately cause one of the copies thereof to be forwarded by registered or
23 certified mail, addressed mail to the foreign limited partnership at its registered office.
24 ~~Any such Service on a foreign limited partnership so served under this subsection shall~~
25 ~~be in court effective~~ for all purposes from and after the date of ~~such~~ the service on the
26 Secretary of State.

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

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

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

35 "**§ 59-904. Name.**

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

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

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

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

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

28 "(c) After the withdrawal of the foreign limited partnership is effective, service of
29 process on the Secretary of State in accordance with subsection (a) of this section shall
30 be made by delivering to and leaving with the Secretary of State, or with any clerk
31 authorized by the Secretary of State to accept service of process, duplicate copies of the
32 process and the fee required by G.S. 59-1106(b). Upon receipt of process in the manner
33 provided in this subsection, the Secretary of State shall immediately mail a copy of the
34 process by registered or certified mail, return receipt requested, to the surviving or
35 resulting entity at the mailing address designated pursuant to subsection (a) of this
36 section."

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

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

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

41 "**§ 59-1050. ~~Conversions.~~ Conversion.**"

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

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

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

12 ~~(2) If the converting business entity is a foreign limited liability company,~~
13 ~~a foreign limited partnership, or other partnership as defined in G.S.~~
14 ~~59-36 whose organization and internal affairs are governed by a law~~
15 ~~other than the laws of this State, the conversion is permitted by laws of~~
16 ~~the state or country governing the organization and internal affairs of~~
17 ~~the converting business entity, and the converting business entity~~
18 ~~complies with the laws.~~

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

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

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

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

28 **"§ 59-1051. Plan of conversion.**

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

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

34 ~~(1)(2) The name of the resulting domestic limited partnership into which the~~
35 ~~converting business entity shall convert;~~

36 ~~(2)(3) The terms and conditions of the conversion; and~~

37 ~~(3)(4) The manner and basis for converting the interests in the converting~~
38 ~~business entity into interests, obligations, or securities of the resulting~~
39 ~~domestic limited partnership or into cash or other property in whole or~~
40 ~~in part.~~

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

1 (b) ~~In the case of a domestic limited liability company, the plan of conversion~~
2 ~~must be approved in the manner provided for approval of such a conversion in its~~
3 ~~articles of organization or a written operating agreement or, if there is no such~~
4 ~~provision, by the unanimous consent of its members. In the case of a partnership as~~
5 ~~defined in G.S. 59-36 whose organization and internal affairs are governed by the laws~~
6 ~~of this State, the plan of conversion must be approved in the manner provided for the~~
7 ~~approval of such a conversion in a written partnership agreement that is binding on all~~
8 ~~the partners or, if there is no such provision, by the unanimous consent of all the~~
9 ~~partners. In the case of a foreign limited liability company, a foreign limited partnership,~~
10 ~~or other partnership as defined in G.S. 59-36 whose organization and internal affairs are~~
11 ~~governed by a law other than the laws of this State, the~~ The plan of conversion must
12 shall be approved in accordance with the laws of the state or country governing the
13 organization and internal affairs of the converting business entity.

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

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

20 "**§ 59-1052. Filing of certificate of limited partnership by converting business**
21 **entity.**

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

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

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

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

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

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

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

8 "Part 10B. Conversion of Limited Partnership.

9 **"§ 59-1060. Conversion.**

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

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

14 (2) The converting domestic limited partnership complies with the
15 requirements of this Part and, to the extent applicable, the laws
16 referred to in subdivision (1) of this section.

17 **"§ 59-1061. Plan of conversion.**

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

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

21 (2) The name of the resulting business entity into which the domestic
22 limited partnership shall convert, its type of business entity, and the
23 state or country whose laws govern its organization and internal
24 affairs;

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

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

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

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

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

7 **"§ 59-1062. Articles of conversion.**

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

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

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

19 (3) That a plan of conversion has been approved by the domestic limited
20 partnership as required by law.

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

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

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

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

33 **"§ 59-1063. Effects of conversion.**

34 (a) When the conversion takes effect:

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

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

40 (3) All liabilities of the converting domestic limited partnership continue
41 as liabilities of the resulting business entity;

1 (4) A proceeding pending by or against the converting domestic limited
2 partnership may be continued as if the conversion did not occur; and

3 (5) The interests in the converting domestic limited partnership that are to
4 be converted into interests, obligations, or securities of the resulting
5 business entity or into the right to receive cash or other property are
6 thereupon so converted, and the former holders of interests in the
7 converting domestic limited partnership are entitled only to the rights
8 provided in the plan of conversion.

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

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

19 (1) To agree that it may be served with process in this State for
20 enforcement of (i) any obligation of the converting domestic limited
21 partnership, and (ii) any obligation of the resulting business entity
22 arising from the conversion; and

23 (2) To have appointed the Secretary of State as its agent for service of
24 process in any such proceeding. Service on the Secretary of State of
25 any such process shall be made by delivering to and leaving with the
26 Secretary of State, or with any clerk authorized by the Secretary of
27 State to accept service of process, duplicate copies of the process and
28 the fee required by G.S. 59-1106(b). Upon receipt of service of process
29 on behalf of a resulting business entity in the manner provided for in
30 this section, the Secretary of State shall immediately mail a copy of the
31 process by registered or certified mail, return receipt requested, to the
32 resulting business entity. If the resulting business entity is authorized
33 to transact business or conduct affairs in this State, the address for
34 mailing shall be its principal office designated in the latest document
35 filed with the Secretary of State that is authorized by law to designate
36 the principal office or, if there is no principal office on file, its
37 registered office. If the resulting business entity is not authorized to
38 transact business or conduct affairs in this State, the address for
39 mailing shall be the mailing address designated pursuant to G.S.
40 59-1062(a)(2)."

41 **SECTION 143.** Article 5 of Chapter 59 of the General Statutes is amended
42 by adding a new Part with the heading set forth below and containing G.S. 59-1054,

1 59-1055, 59-1056, and 59-1057, recodified as G.S. 59-1070, 59-1071, 59-1072, and
2 59-1073, respectively.

3 "Part 10C. Merger."

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

6 "**§ 59-1070. Merger.**

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

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

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

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

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

32 "(a) After a plan of merger has been approved by each merging domestic limited
33 partnership and each other merging business entity as provided in G.S. ~~59-1055,~~
34 ~~59-1071,~~ the surviving business entity shall deliver articles of merger to the Secretary of
35 State for filing. The articles of merger shall set forth:

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

1 commitment to file with the Secretary of State a statement of any
2 subsequent change in its mailing address;

3 (4) A statement that the plan of merger has been approved by each
4 merging business entity in the manner required by law; and

5 (5) The effective date and time of the merger if it is not to be effective at
6 the time of filing of the articles of merger.

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

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

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

16 (1) To agree that it may be served with process in this State in any
17 proceeding for enforcement of (i) any obligation of any merging
18 domestic limited liability company, domestic corporation, domestic
19 nonprofit corporation, domestic limited partnership or other
20 partnership as defined in G.S. 59-36 that is formed under the laws of
21 this State, (ii) the rights of dissenting shareholders of any merging
22 domestic corporation under Article 13 of Chapter 55 of the General
23 Statutes, and (iii) any obligation of the surviving business entity
24 arising from the merger; and

25 (2) ~~If the surviving business entity does not have a registered agent in this~~
26 ~~State, to~~ To have appointed the Secretary of State as its registered
27 agent for service of process in any such ~~proceeding~~ proceeding until
28 ~~such time as the surviving business entity appoints a registered agent~~
29 ~~in this State.~~ Service on the Secretary of State of any such process
30 shall be made by delivering to and leaving with the Secretary of State
31 State, or with any clerk authorized by the Secretary of State to accept
32 service of process, duplicate copies of such process, the process and the
33 fee required by G.S. 59-1106(b). Upon receipt of service of process on
34 behalf of a surviving business entity, entity in the manner provided for
35 in this section, the Secretary of State shall immediately mail a copy of
36 the process by registered or certified mail, return receipt requested, to
37 the surviving business entity at its address shown in the articles of
38 merger or, if an application for a certificate of withdrawal by reason of
39 merger has been filed, at the address for service of process contained
40 in that application. If the surviving business entity is authorized
41 to transact business or conduct affairs in this State, the address for
42 mailing shall be its principal office designated in the latest document

1 filed with the Secretary of State that is authorized by law to designate
 2 the principal office or, if there is no principal office on file, its
 3 registered office. If the surviving business entity is not authorized to
 4 transact business or conduct affairs in this State, the address for
 5 mailing shall be the mailing address designated pursuant to G.S.
 6 59-1072(a)(3)."

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

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

9 "**§ 59-1106. Filing, service, and copying Fees; fees; expedited filings.**

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

| | <u>Document</u> | <u>Fee</u> |
|----|--|---------------|
| 15 | (1) For filing a certificate <u>Certificate</u> of limited partnership (G.S. 59-201) which does not include an application for 17 <u>registration as a limited liability limited</u> 18 <u>partnership</u> | \$50.00 |
| 20 | (1a) <u>Certificate of limited partnership which includes</u> 21 <u>an application for registration as a limited</u> 22 <u>liability limited partnership</u> | <u>125.00</u> |
| 23 | (2) For filing a certificate <u>Certificate</u> of 24 amendment (G.S. 59-202; 59-905) | 25.00 |
| 25 | (3) For filing a certificate <u>Certificate</u> of 26 cancellation (G.S. 59-203; 59-906) | 25.00 |
| 27 | (4) For filing an application <u>Application</u> 28 for reservation of name (G.S. 59-104(a)) | 10.00 |
| 29 | (5) For filing a <u>Notice of transfer</u> 30 of name (G.S. 59-104(d)) | 10.00 |
| 31 | (5a) <u>Limited partnership's or foreign limited</u> 32 <u>partnership's statement of</u> 33 <u>change of registered agent or registered</u> 34 <u>office or both</u> | <u>5.00</u> |
| 35 | (5b) <u>Agent's statement of change of registered</u> 36 <u>office for each affected</u> 37 <u>partnership</u> | <u>5.00</u> |
| 38 | (5c) <u>Agent's statement of resignation</u> | <u>No Fee</u> |
| 39 | (5d) <u>Designation of registered agent or</u> 40 <u>registered office or both</u> | <u>5.00</u> |
| 41 | (6) For filing an application <u>Application</u> 42 for registration as foreign limited | |

| | | | |
|----|------|---|--------------------------|
| 1 | | partnership (G.S. 59-502) | 50.00 |
| 2 | (7) | For preparing and furnishing a copy of | |
| 3 | | any document, instrument or | |
| 4 | | paper filed or recorded relating to a limited | |
| 5 | | partnership (G.S. 59-206(c)) | |
| 6 | | For each page | 1.00 |
| 7 | | For affixing the certificate and official seal | |
| 8 | | thereto | 5.00 |
| 9 | (8) | For comparing a copy furnished to him | |
| 10 | | of any document instrument or | |
| 11 | | paper filed or recorded relating to a limited partnership. | |
| 12 | | For each page | 1.00 |
| 13 | (9) | For filing any other document | |
| 14 | | not herein specifically provided for | 10.00 |
| 15 | (10) | For the expedited filing by the end of the | |
| 16 | | same business day of a document received in good | |
| 17 | | order by 12:00 noon Eastern Standard Time | 200.00 |
| 18 | | | additional fee |
| 19 | (11) | For the expedited filing of a document received | |
| 20 | | in good order within 24 hours after receipt, | |
| 21 | | excluding weekends and holidays | 100.00 |
| 22 | | | additional fee |
| 23 | (12) | Advisory review of a document | 200.00 200.00 |
| 24 | (13) | <u>Certificate of amendment of</u> | |
| 25 | | <u>registration as foreign limited partnership</u> | <u>25.00</u> |
| 26 | (14) | <u>Cancellation of registration as foreign</u> | |
| 27 | | <u>limited partnership</u> | <u>25.00</u> |
| 28 | (15) | <u>Application for certificate of withdrawal</u> | |
| 29 | | <u>by reason of merger, consolidation, or conversion</u> | <u>10.00</u> |
| 30 | (16) | <u>Articles of merger</u> | <u>50.00</u> |
| 31 | (17) | <u>Articles of conversion (other than articles of</u> | |
| 32 | | <u>conversion included</u> | |
| 33 | | <u>as part of another document)</u> | <u>50.00</u> |
| 34 | (18) | <u>Application for registration as a limited</u> | |
| 35 | | <u>liability limited partnership (other than an</u> | |
| 36 | | <u>application included in the certificate of</u> | |
| 37 | | <u>limited partnership)</u> | <u>125.00</u> |
| 38 | (19) | <u>Certificate of amendment of registration</u> | |
| 39 | | <u>as a limited liability limited partnership</u> | <u>25.00</u> |
| 40 | (20) | <u>Certificate of cancellation of registration</u> | |
| 41 | | <u>as a limited liability limited partnership</u> | <u>25.00</u> |
| 42 | (21) | <u>Annual report for a limited liability</u> | |

1 to tax under Article 4 of Chapter 105 of the General Statutes accordingly. If a limited
2 partnership or a foreign limited partnership authorized to transact business in this State
3 is classified for federal income tax purposes as other than a corporation or a partnership,
4 the partnership and its partners are subject to tax under Article 4 of Chapter 105 of the
5 General Statutes in a manner consistent with that classification. This section does not
6 require a limited partnership or a foreign limited partnership to obtain an administrative
7 ruling from the Internal Revenue Service on its classification under the Internal
8 Revenue Code."

9 **PART V. AMENDMENTS TO CHAPTER 105.**

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

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

- 13 (1) To a secured party who has a perfected security interest in the motor
14 vehicle.
- 15 (2) To a partnership, limited liability company, ~~or corporation as an~~
16 ~~incident to the formation of the partnership, limited liability company,~~
17 ~~or corporation, and trust, or other person where~~ no gain or loss arises
18 on the transfer of the motor vehicle under section 351 or section 721 of
19 the Code, or because the transfer is treated under the Code as being to
20 an entity that is not a separate entity from its owner or whose separate
21 existence is otherwise disregarded, or to a partnership, limited liability
22 company, or corporation by merger, conversion, or consolidation in
23 accordance with applicable law."

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

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

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

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

1 any person who reasonably relied on that person's prejudice on the suspension. The
2 Secretary of State shall immediately notify by mail the corporation or limited liability
3 company of the reinstatement."

4 **PART VI. MISCELLANEOUS PROVISIONS.**

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

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

11 **PART VII. CONTINGENT CONFORMING CHANGES.**

12 **SECTION 155.** Sections 1, 28, 32, 43, 53, 60, 61, 62, 63, 83, 84, 104,
13 105(c), 122, 123, 125, 126, and 135 of this act are repealed.

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

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

17 "**§ 59-84.2. Registered limited liability partnerships.**

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

22 (1) The name of the partnership.

23 (2) The street ~~address~~ address, and the mailing address if different from the
24 street address, of its principal office ~~office and the county in which the~~
25 principal office is located.

26 (3) The name and street address, and the mailing address if different from
27 the street address, ~~for~~ of the partnership's registered agent and
28 registered office for service of process.

29 (4) The county in this State in which the registered office is located.

30 ~~(5) A brief statement of the business in which the partnership engages.~~

31 ~~(6) A deferred effective date, if any.~~

32 (7) The fiscal year end of the partnership.

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

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

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

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

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

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

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

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

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

20 (1) The name of the partnership as reflected on the application
21 for registration.

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

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

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

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

29 (1) The name of the partnership as reflected on the application for
30 registration;

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

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

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

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

38 Cancellation of registration terminates the authority of the partnership's registered
39 agent to accept service of process, notice, or demand, and appoints the Secretary of
40 State as agent to accept service on behalf of the partnership with respect to any action or
41 proceeding based upon any cause of action arising in this State, or arising out of
42 business transacted in this State, during the time the partnership was registered as a

1 registered limited liability partnership. Service on the Secretary of State of any such
2 process, notice, or demand shall be made by delivering to and leaving with the Secretary
3 of State, or with any clerk authorized by the Secretary of State to accept service of
4 process, duplicate copies of such process, notice, or demand and the fee required by
5 G.S. 59-35.2. Upon receipt of process, notice, or demand in the manner provided in this
6 section, the Secretary of State shall immediately mail a copy of the process, notice, or
7 demand by registered or certified mail, return receipt requested, to the partnership at the
8 mailing address designated pursuant to this subsection."

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

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

12 **"§ 59-91. Statement of foreign registration.**

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

16 (1) The name of the foreign limited liability partnership that satisfies the
17 requirements of the state or other jurisdiction under whose law it is
18 formed and meets the requirements of Article 3 of Chapter 55D of the
19 General Statutes.

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

23 (3) The name and street address, and the mailing address if different from
24 the street address, for the partnership's registered agent and registered
25 office for service of process, and the county in which the registered
26 office is located.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (1) The name of the foreign liability limited partnership authorized to
29 transact business in this State, the type of entity and name of the
30 surviving or resulting entity, and a statement that the surviving or
31 resulting entity is not authorized to transact business or conduct affairs
32 in this State;

33 (2) A statement that the surviving or resulting entity consents that service
34 of process based on any cause of action arising in this State, or arising
35 out of business transacted in this State, during the time the foreign
36 limited liability partnership was authorized to transact business in this
37 State, may thereafter be made by service thereof on the Secretary of
38 State;

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

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

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

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

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

9 (3) Issue a certificate of withdrawal; and

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

13 (n) After the withdrawal of the foreign limited liability partnership is effective,
14 service of process on the Secretary of State in accordance with subsection (l) of this
15 section shall be made by delivering to and leaving with the Secretary of State, or with
16 any clerk authorized by the Secretary of State to accept service of process, duplicate
17 copies of such process and the fee required by G.S. 59-35.2. Upon receipt of process in
18 the manner herein provided, the Secretary of State shall immediately mail a copy of the
19 process by registered or certified mail, return receipt requested, to the surviving or
20 resulting entity at the mailing address designated pursuant to subsection (l) of this
21 section."

22 **SECTION 158.** G.S. 59-210(a)(1), as enacted by this act, reads as rewritten:

23 "(1) The name of the limited liability limited partnership, which shall
24 ~~contain the words 'registered limited liability limited partnership' or~~
25 ~~'limited liability limited partnership' or the abbreviation 'L.L.L.P.';~~
26 ~~'R.L.L.L.P.', 'LLLP', or 'RLLLP' as the last words or letters of its~~
27 ~~name, must satisfy the requirements of Article 3 of Chapter 55D of the~~
28 ~~General Statutes."~~

29 **SECTION 159.(a)** Section 134 of this act is repealed.

30 **SECTION 159.(b)** G.S. 59-902, as amended by House Bill 385, 2001
31 Regular Session of the General Assembly, reads as rewritten:

32 "**§ 59-902. Registration.**

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

40 (1) The name of the foreign limited partnership and, if different, the name
41 under which it proposes to register and transact business in this State;

42 (2) The jurisdiction and date of its formation;

- 1 (3) The date of formation and the period of duration;
- 2 (4) The street address, including county and city or town, and street and
3 number, if any, and the mailing address if different from the street
4 address, of the principal office of the foreign limited partnership;
- 5 (5) The street address, including county and city or town, and street and
6 number, if any, and the mailing address if different from the street
7 address, of the ~~proposed~~ registered office of the foreign limited
8 partnership in this State, the county in which the registered office is
9 located, and the name of its proposed registered agent in this ~~State at~~
10 ~~such address; State;~~
- 11 (6) If the certificate of limited partnership filed in the foreign limited
12 partnership's state of organization is not required to include the names
13 and addresses of the partners, a list of the names and addresses or, at
14 the election of the foreign limited partnership, a list of the names and
15 addresses of the general partners and the address, including county and
16 city or town, and street and number, of the office at which is kept a list
17 of the names and addresses of the limited partners and their capital
18 contributions, together with an undertaking by the foreign limited
19 partnership to keep such records until such foreign limited
20 partnership's registration in this State is cancelled;
- 21 (7) A statement that in consideration of the issuance of a certificate of
22 authority to transact business in this State, the foreign limited
23 partnership appoints the Secretary of State of North Carolina as the
24 agent to receive service of process, notice, or demand, whenever the
25 foreign limited partnership fails to appoint or maintain a registered
26 agent in this State or whenever any such registered agent cannot with
27 reasonable diligence be found at the registered office;
- 28 (8) The names and addresses including county and city or town, and street
29 and number, if any, of all of the general partners; and
- 30 (9) The ~~execution of a certificate or amendment by a general partner~~
31 ~~constitutes an affirmation under the penalties of perjury that the facts~~
32 ~~stated therein are true-effective date and time of the registration if it is~~
33 not to be effective at the time of filing of the application.
- 34 (b) Without excluding other activities which ~~may~~shall not constitute transacting
35 business in this State, a foreign limited partnership shall not be considered to be
36 transacting business in this State, for the purpose of this Article, by reason of carrying
37 on in this State any one or more of the following activities:
- 38 (1) Maintaining or defending any action or suit or any administrative or
39 arbitration proceeding, or effecting the settlement thereof or the
40 settlement of claims or disputes;
- 41 (2) Holding meetings of its partners or carrying on other activities
42 concerning its internal affairs;

- 1 (3) Maintaining bank accounts or borrowing money in this State, with or
2 without security, even if such borrowings are repeated and continuous
3 transactions;
- 4 (4) Maintaining offices or agencies for the transfer, exchange, and
5 registration of its securities, or appointing and maintaining trustees or
6 depositaries with relation to its securities;
- 7 (5) Soliciting or procuring orders, whether by mail or through employees
8 or agents or otherwise, where such orders require acceptance without
9 this State before becoming binding contracts;
- 10 (6) Making or investing in loans with or without security including
11 servicing of mortgages or deeds of trust through independent agencies
12 within the State, the conducting of foreclosure proceedings and ~~sale,~~
13 sales, the acquiring of property at foreclosure sale and the management
14 and rental of such property for a reasonable time while liquidating its
15 investment, provided no office or agency therefor is maintained in this
16 State;
- 17 (7) Taking security for or collecting debts due to it or enforcing any rights
18 in property securing the same;
- 19 (8) Transacting business in interstate commerce; and
- 20 (9) Conducting an isolated transaction completed within a period of six
21 months and not in the course of a number of repeated transactions of
22 like nature.

23 (c) Each foreign limited partnership authorized to transact business in this State
24 must maintain a registered agent as required by Article 4 of Chapter 55D of the General
25 Statutes and is subject to service on the Secretary of State under that Article.

26 (d) Repealed.

27 (e) Repealed."

28 **SECTION 160.** The title of Chapter 55D of the General Statutes, as enacted
29 by Section 1 and amended by Sections 12 and 42 of House Bill 385, 2001 Regular
30 Session of the General Assembly, reads as rewritten:

31 "Chapter 55D.

32 "Filings, Names, and Registered Agents for Corporations, Nonprofit Corporations,
33 ~~Limited Liability Companies, Limited partnerships, and Limited Liability Partnerships."~~

34 **SECTION 161.** G.S. 55D-1, as enacted by House Bill 385, 2001 Regular
35 Session of the General Assembly, reads as rewritten:

36 "**§ 55D-1. Applicable definitions.**

37 The following definitions apply in this Chapter:

- 38 (1) 'Corporation' or 'domestic corporation' is defined in G.S. 55-1-40(4).
- 39 (2) 'Deliver' is defined in G.S. 55-1-40(5).
- 40 (3) 'Entity' is defined in G.S. 55-1-40(9).
- 41 (4) 'Foreign corporation' is defined in G.S. 55-1-40(10).
- 42 (5) 'Foreign limited liability company' is defined in G.S. 57C-1-03(8).

1 (6) 'Foreign limited liability partnership' is defined in G.S.
2 ~~59-32(4a).~~ 59-32(4g).

3 (7) 'Foreign limited partnership' is defined in G.S. 59-102(5).

4 (8) 'Foreign nonprofit corporation' means a foreign corporation as defined
5 in G.S. 55A-1-40(11).

6 (9) 'Individual' is defined in G.S. 55-1-40(13).

7 (10) 'Limited liability company' or 'domestic limited liability company' is
8 defined in G.S. 57C-1-03(11).

9 (11) 'Limited liability limited partnership' is defined in G.S. 59-102(6a).

10 ~~(11)~~(12) 'Limited liability partnership' or 'registered limited liability partnership'
11 means a registered limited liability partnership as defined in G.S.
12 59-32(7).

13 ~~(12)~~(13) 'Limited partnership' or 'domestic limited partnership' is defined in
14 G.S. 59-102(8).

15 ~~(13)~~(14) 'Nonprofit corporation' or 'domestic nonprofit corporation' means a
16 corporation as defined in G.S. 55A-1-40(5).

17 ~~(14)~~(15) 'Person' is defined in G.S. 55-1-40(16)."

18 **SECTION 162.** G.S. 55D-20, as recodified and amended by House Bill 385,
19 2001 Regular Session of the General Assembly, reads as rewritten:

20 "**§ 55D-20. Name requirements.**

21 (a) In addition to the requirements of any other applicable section of the General
22 Statutes:

23 (1) The name of ~~the~~a corporation must contain the word 'corporation',
24 'incorporated', 'company', or 'limited', or the abbreviation 'corp.', 'inc.',
25 'co.', or 'Ltd.'.

26 (2) The name of a limited liability company must contain the words
27 'limited liability company' or the abbreviation 'L.L.C.' or 'LLC', or the
28 combination 'Ltd. liability co.', 'limited liability co.', or 'Ltd. liability
29 company'.

30 (3) The name of a limited ~~partnership~~:

31 a. ~~Must~~partnership that is not a limited liability limited
32 partnership must contain the words 'limited partnership', the
33 abbreviation 'L.P.' or 'LP', or the combination 'Ltd. ~~partnership~~;
34 ~~and partnership~~'.

35 b. ~~Shall not contain the name of a limited partner unless (i) it is~~
36 ~~also the name of a general partner or the corporate name of a~~
37 ~~corporate general partner, or (ii) the business of the limited~~
38 ~~partnership has been carried on under that name before the~~
39 ~~admission of that limited partner.~~

40 (4) The name of a limited liability limited partnership must contain the
41 words 'registered limited liability limited partnership' or 'limited

1 liability limited partnership' or the abbreviation 'L.L.L.P.', 'R.L.L.L.P.',
2 'LLLP', or 'RLLLP'.

3 (5) A registered limited liability partnership's name must contain the
4 words 'registered limited liability partnership' or 'limited liability
5 partnership' or the abbreviation 'L.L.P.', 'R.L.L.P.', 'LLP' or ~~'RLLP'~~ as
6 ~~the last words or letters of its name.~~ 'RLLP'.

7 (b) In addition to the requirements of subsection (a) of this section, the name of a
8 limited partnership shall not contain the name of a limited partner unless (i) it is also the
9 name of a general partner or the corporate name of a corporate general partner, or (ii)
10 the business of the limited partnership has been carried on under that name before the
11 admission of that limited partner.

12 ~~(b)(c)~~ (c) The name of a corporation, nonprofit corporation, or limited liability
13 company shall not contain language stating or implying that the entity is organized for a
14 purpose other than that permitted by G.S. 55-3-01, 55A-3-01, or 57C-2-01 and by its
15 articles of incorporation or organization.

16 ~~(e)(d)~~ (d) The use of assumed names or fictitious names, as provided for in Chapter 66,
17 is not affected by this Chapter or by Chapter 55, 55A, 57C, or 59 of the General
18 Statutes.

19 ~~(d)(e)~~ (e) The filing of any document, the reservation or registration of any name under
20 this Chapter or under Chapter 55, 55A, 55B, 57C, or 59 of the General Statutes, or the
21 issuance of a certificate of authority to transact business or conduct affairs or a
22 statement ~~or~~ of foreign registration does not authorize the use in this State of a name in
23 violation of the rights of any third party under the federal trademark act, the trademark
24 act of this State, or other statutory or common law, and is not a defense to an action for
25 violation of any of those rights."

26 **SECTION 163.** G.S. 55D-21(d), as recodified by Section 14 and amended
27 by Section 15 of House Bill 385, 2001 Regular Session of the General Assembly, reads
28 as rewritten:

29 "(d) Except as otherwise provided in this subsection, the name of a corporation
30 dissolved under Article 14 of Chapter 55 of the General Statutes, of a nonprofit
31 corporation dissolved under Article 14 of Chapter 55A of the General Statutes, of a
32 limited liability company dissolved under Article 6 of Chapter 57C of the General
33 Statutes, ~~or~~ of a limited partnership dissolved under Part 8 of Article 5 of Chapter 59 of
34 the General Statutes, or of a limited liability partnership whose registration as a limited
35 liability partnership has been cancelled under G.S. 59-84.2 or revoked under G.S.
36 59-84.4, may not be used by another entity until:

37 (1) In the case of a nonjudicial dissolution other than an administrative
38 ~~dissolution,~~ dissolution or cancellation of registration as a limited
39 liability partnership, 120 days after the effective date of the
40 ~~dissolution.~~ dissolution or cancellation.

1 (2) In the case of an administrative ~~dissolution~~, dissolution or revocation
2 of registration as a limited liability partnership, the expiration of the
3 period within which the entity or its registration may be reinstated.

4 (3) In the case of a judicial dissolution, 120 days after the later of the date
5 the judgment has become final or the effective date of the dissolution.
6 The person applying for the name must certify to the Secretary of State
7 that no appeal or other judicial review of the judgment directing
8 dissolution is pending.

9 The name of a dissolved entity may be used at any time if the entity changes its
10 name to a name that is distinguishable upon the records of the Secretary of State from
11 the names of other domestic corporations, nonprofit corporations, limited liability
12 companies, limited partnerships, or registered limited liability partnerships or foreign
13 corporations, foreign nonprofit corporations, foreign limited liability companies, or
14 foreign limited partnerships authorized to transact business or conduct affairs in this
15 State, or foreign limited liability partnerships maintaining a statement of foreign
16 registration, in this State."

17 **SECTION 164.** G.S. 55D-22(a), as enacted by Section 15 of House Bill 385,
18 2001 Regular Session of the General Assembly, reads as rewritten:

19 "(a) If the name of a foreign corporation, foreign nonprofit corporation, foreign
20 limited liability company, foreign limited partnership, or foreign limited liability
21 partnership does not satisfy the requirements of G.S. 55D-20 and G.S. 55D-21, then to
22 obtain or maintain a certificate of authority to transact business or conduct affairs in this
23 State or a statement of foreign registration in this State, the entity may:

24 (1) If a foreign corporation or foreign nonprofit corporation, add the word
25 'corporation', 'incorporated', 'company', or 'limited', or the abbreviation
26 'corp.', 'inc.', 'co.', or 'ltd.' to its corporate name for use in this State;

27 (2) If a foreign limited liability company, add the words 'limited liability
28 company', or the abbreviation 'L.L.C.', or 'LLC', or the combination
29 'ltd. liability co.', 'limited liability co.', or 'ltd. liability company' to its
30 name for use in this State if the addition will cause the name to satisfy
31 the requirements of G.S. 55D-20 and G.S. 55D-21;

32 (3) If a foreign limited ~~partnership~~, partnership that does not have limited
33 liability limited partnership status, add the words 'limited partnership'
34 or the abbreviation 'L.P.' or 'LP', or the combination 'ltd. partnership';

35 (4) If a foreign limited partnership that has limited liability limited
36 partnership status, add the words 'registered limited liability limited
37 partnership' or 'limited liability limited partnership' or the abbreviation
38 'L.L.L.P.', 'R.L.L.L.P.', 'LLLP', or 'RLLLP'.

39 (5) If a foreign limited liability partnership, add the words 'registered
40 limited liability partnership', or 'limited liability partnership' or the
41 abbreviation 'L.L.P.', 'R.L.L.P.', 'LLP', or ~~'RLLP' as the last words or~~
42 ~~letters of its name; or~~ 'RLLP'; or

1 ~~(5)~~(6) Use a fictitious name, which includes one or more of the words,
2 abbreviations, or combinations in subdivisions (1) through ~~(4)~~-(5) of
3 this subsection if applicable, to transact business or conduct affairs in
4 this State if its real name is unavailable and it delivers to the Secretary
5 of State for filing a copy of the resolution adopting the fictitious
6 name."

7 **SECTION 165.(a)** G.S. 55D-24(b), as recodified by Section 14 and
8 amended by Section 15 of House Bill 385, 2001 Regular Session of the General
9 Assembly, reads as rewritten:

10 "(b) An entity described in subsection (a) of this section registers its name, or its
11 name with any addition required by G.S. 55D-22, by filing with the Secretary of State
12 an application:

- 13 (1) Setting forth its name, or its name with any addition required by G.S.
14 55D-22, the state or country and date of its ~~incorporation, organization,~~
15 incorporation or formation, and a brief description of the nature of the
16 business or activities in which it is engaged; and
- 17 (2) Accompanied by a certificate of existence (or a document of a similar
18 import) from the state or country of ~~incorporation, organization,~~
19 incorporation or formation."

20 **SECTION 165.(b)** G.S. 55D-24(e), as recodified by Section 14 and
21 amended by Section 15 of House Bill 385, 2001 Regular Session of the General
22 Assembly, reads as rewritten:

23 "(e) An entity whose registration is effective may thereafter become authorized to
24 transact business or conduct affairs under that name or consent in writing to the use of
25 that name by:

- 26 (1) A domestic corporation, nonprofit corporation, limited liability
27 company, limited partnership, or registered limited liability partnership
28 thereafter ~~incorporated, organized, or formed~~ incorporated, formed, or
29 registered in this State under that name;
- 30 (2) A domestic corporation, nonprofit corporation, limited liability
31 company, limited partnership, or registered limited liability partnership
32 that changes its name to that name; or
- 33 (3) Another foreign corporation, foreign nonprofit corporation, foreign
34 limited liability company, foreign limited partnership, or foreign
35 limited liability partnership that becomes authorized to transact
36 business or conduct affairs in this State under that name.

37 The registration terminates when the domestic corporation, nonprofit corporation,
38 limited liability company, limited partnership, or registered limited liability partnership
39 is ~~incorporated, organized, formed,~~ registered, or changes its name or the foreign
40 corporation, foreign nonprofit corporation, foreign limited liability company, foreign
41 limited partnership, or foreign limited liability partnership qualifies or registers or
42 consents to the qualification or registration of another entity under the registered name."

1 **SECTION 166.** G.S. 55D-26(a)(1), as recodified by Section 14 and
2 amended by Section 15 of House Bill 385, 2001 Regular Session of the General
3 Assembly, reads as rewritten:

4 "(1) The name of any domestic corporation, nonprofit corporation, limited
5 liability company, limited partnership, or registered limited liability
6 partnership or foreign corporation, foreign nonprofit corporation,
7 foreign limited liability company, foreign limited partnership, or
8 foreign limited liability partnership that holds title to real property in
9 this State is changed upon amendment to its articles of incorporation or
10 organization, its certificate of limited partnership, or its ~~application for~~
11 registration as a limited liability ~~partnership~~; partnership or foreign
12 limited liability partnership; or".

13 **SECTION 167.** G.S. 55D-31(c), as recodified by Section 44 and amended
14 by Section 45 of House Bill 385, 2001 Regular Session of the General Assembly, reads
15 as rewritten:

16 "(c) A domestic corporation, limited liability company, limited liability limited
17 partnership, registered limited liability partnership, foreign corporation, foreign limited
18 liability company, or foreign limited liability partnership may change its registered
19 office or registered agent by including in its annual report required by G.S. 55-16-22,
20 57C-2-23, ~~or 59-84.4-59-84.4~~, or 59-210 the information and any written consent
21 required by subsection (a) of this section."

22 **SECTION 168.** G.S. 55D-32(b), as recodified by Section 44 and amended
23 by Section 45 of House Bill 385, 2001 Regular Session of the General Assembly, reads
24 as rewritten:

25 "(b) After filing the statement the Secretary of State shall mail a copy to the
26 registered office (if not discontinued) and a copy to the entity at its principal office
27 address on file with the Secretary of State or, if none is on file, at the address contained
28 in the certification included in or accompanying the statement of resignation or, if
29 different, at the address indicated in the latest document filed by the Secretary of State
30 stating the entity's current mailing address; resignation."

31 **SECTION 169.(a)** G.S. 55-15-03(a)(1), as amended by Section 17 of House
32 Bill 385, 2001 Regular Session of the General Assembly, reads as rewritten:

33 "(1) The name of the foreign corporation or, if its name is unavailable for
34 use in this State, a corporate name that satisfies the requirements of
35 G.S. 55D-22; Article 3 of Chapter 55D of the General Statutes;".

36 **SECTION 169.(b)** G.S. 55A-15-03(a)(1), as amended by Section 21 of
37 House Bill 385, 2001 Regular Session of the General Assembly, reads as rewritten:

38 "(1) The name of the foreign corporation or, if its name is unavailable for
39 use in this State, a corporate name that satisfies the requirements of
40 G.S. 55D-22; Article 3 of Chapter 55D of the General Statutes;".

1 **SECTION 170.(a)** G.S. 59-35.1, as recodified by Section 9 and amended by
 2 Sections 9, 38, and 51(c) of House Bill 385, 2001 Regular Session of the General
 3 Assembly, reads as rewritten:

4 **"§ 59-35.1. Filing of documents.**

5 (a) A document required or permitted by this act to be filed by the Secretary of
 6 State must be filed under Chapter 55D of the General Statutes.

7 (b) A document submitted under this act for filing by the Secretary of State must
 8 be executed by a general partner of the partnership.

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

10 (1) An application for registration as a registered limited liability
 11 partnership;

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

13 (3) Application for registration as a foreign limited liability partnership;

14 and

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

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

17 ~~The Secretary of State shall collect the following fees when the documents described~~
 18 ~~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 |

26 ~~Whenever the Secretary of State is deemed appointed as a registered agent under this~~
 27 ~~Act or under Chapter 55D of the General Statutes, the Secretary of State shall collect a~~
 28 ~~fee of ten dollars (\$10.00) each time process is served on the Secretary of State under~~
 29 ~~this Act. The party to the proceeding causing service of process is entitled to recover~~
 30 ~~this fee as costs if the party prevails in the proceeding.~~

31 ~~The Secretary of State shall collect the following fees for copying, comparing, and~~
 32 ~~certifying a copy of a document filed by a partnership pursuant to this Part:~~

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

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

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

38 **SECTION 170.(b)** Part 1 of Article 2 of Chapter 59 of the General Statutes
 39 is amended by adding a new section to read:

40 **"§ 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> |
|----|---|----------------|
| 6 | (1) <u>Application for reserved name</u> | <u>\$10.00</u> |
| 7 | (2) <u>Notice of transfer of reserved name</u> | <u>10.00</u> |
| 8 | (3) <u>Application for registered name</u> | <u>10.00</u> |
| 9 | (4) <u>Application for renewal of registered name</u> | <u>10.00</u> |
| 10 | (5) <u>Registered limited liability partnership's or</u> | <u>5.00</u> |
| 11 | <u>foreign limited liability partnership's statement</u> | |
| 12 | <u>of change of registered agent or registered office</u> | |
| 13 | <u>or both</u> | |
| 14 | (6) <u>Agent's statement of change of registered</u> | <u>5.00</u> |
| 15 | <u>office for each affected registered limited</u> | |
| 16 | <u>liability partnership or foreign limited</u> | |
| 17 | <u>liability partnership</u> | |
| 18 | (7) <u>Agent's statement of resignation</u> | <u>No Fee</u> |
| 19 | (8) <u>Designation of registered agent or</u> | <u>5.00</u> |
| 20 | <u>registered office or both</u> | |
| 21 | (9) <u>Articles of conversion (other than articles</u> | <u>50.00</u> |
| 22 | <u>of conversion included as part of another</u> | |
| 23 | <u>document)</u> | |
| 24 | (10) <u>Articles of merger</u> | <u>50.00</u> |
| 25 | (11) <u>Application for registration as a</u> | <u>125.00</u> |
| 26 | <u>registered limited liability partnership</u> | |
| 27 | (12) <u>Certificate of amendment of registration</u> | <u>25.00</u> |
| 28 | <u>as a registered limited liability partnership</u> | |
| 29 | (13) <u>Cancellation of registration as a registered</u> | <u>25.00</u> |
| 30 | <u>limited liability partnership</u> | |
| 31 | (14) <u>Application for registration as a foreign</u> | <u>125.00</u> |
| 32 | <u>limited liability partnership</u> | |
| 33 | (15) <u>Certificate of amendment of registration</u> | <u>25.00</u> |
| 34 | <u>as a foreign limited liability partnership</u> | |
| 35 | (16) <u>Cancellation of registration as a foreign</u> | <u>25.00</u> |
| 36 | <u>limited liability partnership</u> | |
| 37 | (17) <u>Application for certificate of withdrawal</u> | <u>10.00</u> |
| 38 | <u>by reason of merger, consolidation, or</u> | |
| 39 | <u>conversion</u> | |
| 40 | (18) <u>Annual report</u> | <u>200.00</u> |
| 41 | (19) <u>Articles of correction</u> | <u>10.00</u> |
| 42 | (20) <u>Any other document required or permitted</u> | <u>10.00</u> |

1 to be filed pursuant to this act

2 (b) Whenever the Secretary of State is deemed appointed as a resisted agent
 3 under this act or under Chapter 55D of the General Statutes, the Secretary of State shall
 4 collect a fee of ten dollars (\$10.00) each time process is served on the Secretary of State
 5 under this act. The party to the proceeding causing service of process is entitled to
 6 recover this fee as costs if the party prevails in the proceeding.

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

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

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

12 **SECTION 170.(c)** G.S. 59-73.13(b)(2), 59-73.23(b)(2), and 59-73.33(b)(2),
 13 as enacted in this act, are amended by deleting "G.S. 59-35.1(f)" and substituting in lieu
 14 thereof "G.S. 59-35.2".

15 **SECTION 171.(a)** Sections 10(f) and 37 of House Bill 385, 2001 Regular
 16 Session of the General Assembly, are repealed.

17 **SECTION 171.(b)** G.S. 59-1106, as amended by Section 149 of this act,
 18 reads as rewritten:

19 "**§ 59-1106. Filing, service, and copying fees; ~~expedited filings fees.~~**"

20 (a) The Secretary of State shall collect the following fees when the documents
 21 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 <u>reserved</u> 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 |
| (5e) (11) Agent's statement of resignation | No Fee |

| | | | |
|----|----------------------|--|-------------------|
| 1 | (5d) (12) | Designation of registered agent or | |
| 2 | | registered office or both | 5.00 |
| 3 | (6) (13) | Application for registration as foreign limited | |
| 4 | | partnership | 50.00 |
| 5 | | | additional fee |
| 6 | (12) | Advisory review of a document | 200.00 |
| 7 | (13) (14) | Certificate of amendment of | |
| 8 | | registration as foreign limited partnership | 25.00 |
| 9 | (14) (15) | Cancellation of registration as foreign | |
| 10 | | limited partnership | 25.00 |
| 11 | (15) (16) | Application for certificate of withdrawal by | |
| 12 | | reason of merger, consolidation, or conversion | 10.00 |
| 13 | (16) (17) | Articles of merger | 50.00 |
| 14 | (17) (18) | Articles of conversion (other than articles of | |
| 15 | | conversion included as part of another document) | 50.00 |
| 16 | (18) (19) | Application for registration as a limited | |
| 17 | | liability limited partnership (other than an | |
| 18 | | application included in the certificate of | |
| 19 | | limited partnership) | 125.00 |
| 20 | (19) (20) | Certificate of amendment of registration | |
| 21 | | as a limited liability limited partnership | 25.00 |
| 22 | (20) (21) | Certificate of cancellation of registration | |
| 23 | | as a limited liability limited partnership | 25.00 |
| 24 | (21) (22) | Annual report for a limited liability | |
| 25 | | limited partnership | 200.00 |
| 26 | (22) (23) | Any other document required or | |
| 27 | | 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 (1) ~~Two hundred dollars (\$200.00) for the filing by the end of the same~~
2 ~~business day of a document received by 12:00 noon Eastern Standard~~
3 ~~Time; and~~

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

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

9 **SECTION 172.** G.S. 59-103, as amended by Section 32 of House Bill 385,
10 2001 Regular Session of the General Assembly, reads as rewritten:

11 "**§ 59-103. Name.**

12 The name of the limited partnership must meet any requirements of Article 3 of
13 Chapter 55D of the General Statutes."

14 **SECTION 173.** Section 53 of House Bill 385, 2001 Regular Session of the
15 General Assembly, reads as rewritten:

16 "**SECTION 53.** This act becomes effective ~~October 1, 2001,~~ January 1, 2002, and
17 applies to documents submitted for filing on or after that date."

18 **SECTION 174.** This Part becomes effective if House Bill 385, 2001 Regular
19 Session of the General Assembly, becomes law.

20 **PART VIII. EFFECTIVE DATE.**

21 **SECTION 175.(a)** Section 59A of this act becomes effective September 1,
22 2001. The remainder of this act becomes effective January 1, 2002.

23 **SECTION 175.(b)** The amendment to G.S. 105-232 set forth in Section 153
24 of this act is intended to be retroactive. Accordingly, any act performed or attempted to
25 be performed during the period of suspension of any corporation or limited liability
26 company reinstated pursuant to G.S. 105-232(a) prior to January 1, 2002, shall not be
27 deemed to be invalid and of no effect under G.S. 105-230, subject to the rights of any
28 person who reasonably relied on that person's prejudice on the suspension.