

CHAPTER.....

AN ACT relating to nonprofit associations; adopting the Revised Uniform Unincorporated Nonprofit Association Act of 2008; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

The Uniform Unincorporated Nonprofit Association Act was promulgated by the National Conference of Commissioners on Uniform State Laws in 1996 and provides a basic statutory scheme governing unincorporated nonprofit associations. Since 1996, 12 states have adopted the Uniform Act. States such as Nevada, which have not adopted the Uniform Act, are generally governed by common law principles. In 2005, the National Conference of Commissioners on Uniform State Laws began to update and revise the existing Uniform Act.

This bill adopts the Revised Uniform Unincorporated Nonprofit Association Act of 2008. An unincorporated nonprofit association is a nonprofit organization that is not a charitable trust or a nonprofit corporation or any other type of association organized under statutory law that is authorized to engage in nonprofit activities. Unincorporated nonprofit associations are often classified as public benefit, mutual benefit or religious organizations and may or may not be tax-exempt.

The provisions of the Revised Uniform Unincorporated Nonprofit Association Act of 2008 address the following basic issues concerning unincorporated nonprofit associations: (1) definition of the types of organizations to which the Uniform Act applies; (2) the relation of the Uniform Act to other existing laws; (3) the recognition that an unincorporated nonprofit association is a legal entity and the legal implications flowing from this status, including the ability of an unincorporated nonprofit association to own and dispose of property and to sue and be sued in its own name; (4) the contractual and tort liability of an unincorporated nonprofit association and its members and managers; (5) internal governance, fiduciary duties and agency authority; and (6) dissolution and merger.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 81 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 40, inclusive, of this act.

Sec. 2. *Sections 2 to 40, inclusive, of this act may be cited as the Revised Uniform Unincorporated Nonprofit Association Act of 2008.*

Sec. 3. *As used in sections 2 to 40, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 4 to 10, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 4. *“Established practices” means the practices used by an unincorporated nonprofit association without material change*



during the most recent 5 years of its existence or, if it has existed for less than 5 years, during its entire existence.

Sec. 5. *“Governing principles” means the agreements, whether oral, in a record or implied from its established practices, that govern the purpose or operation of an unincorporated nonprofit association and the rights and obligations of its members and managers. The term includes any amendment or restatement of the agreements constituting the governing principles.*

Sec. 6. *“Manager” means a person that is responsible, alone or in concert with others, for the management of an unincorporated nonprofit association.*

Sec. 7. *“Member” means a person that, under the governing principles, may participate in the selection of persons authorized to manage the affairs of the unincorporated nonprofit association or in the development of the policies and activities of the association.*

Sec. 8. *“Person” means an individual, corporation, business trust, statutory entity trust, estate, trust, partnership, limited-liability company, cooperative, association, joint venture, public corporation, government or governmental subdivision, agency or instrumentality, or any other legal or commercial entity.*

Sec. 9. *“State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.*

Sec. 10. *“Unincorporated nonprofit association” means an unincorporated organization consisting of two or more members joined under an agreement that is oral, in a record or implied from conduct, for one or more common nonprofit purposes. The term does not include:*

- 1. A trust;*
- 2. A marriage, domestic partnership, common law domestic relationship, civil union or other domestic living arrangement;*
- 3. An organization formed under any other statute that governs the organization and operation of unincorporated associations;*
- 4. A joint tenancy, tenancy in common or tenancy by the entireties, even if the co-owners share use of the property for a nonprofit purpose; or*
- 5. A relationship under an agreement in a record which expressly provides that the relationship between the parties does not create an unincorporated nonprofit association.*



Sec. 11. *1. Unless displaced by particular provisions of sections 2 to 40, inclusive, of this act, the principles of law and equity supplement the provisions of sections 2 to 40, inclusive, of this act.*

2. A statute governing a specific type of unincorporated nonprofit association prevails over an inconsistent provision in sections 2 to 40, inclusive, of this act, to the extent of the inconsistency.

3. The provisions of sections 2 to 40, inclusive, of this act supplement the laws of this State that apply to nonprofit associations operating in this State. If a conflict exists, such law applies.

Sec. 12. *1. Except as otherwise provided in subsection 2, the law of this State governs the operation in this State of all unincorporated nonprofit associations formed or operating in this State.*

2. Unless the governing principles specify a different jurisdiction, the law of the jurisdiction in which an unincorporated nonprofit association has its main place of activities governs the internal affairs of the association.

Sec. 13. *1. An unincorporated nonprofit association is a legal entity distinct from its members and managers.*

2. An unincorporated nonprofit association has perpetual duration unless the governing principles specify otherwise.

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

4. An unincorporated nonprofit association may engage in profit-making activities but profits from any activities must be used or set aside for the association's nonprofit purposes.

Sec. 14. *1. An unincorporated nonprofit association may acquire, hold, encumber or transfer in its name an interest in real or personal property.*

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

Sec. 15. *1. An interest in real property held in the name of an unincorporated nonprofit association may be transferred by a person authorized to do so in a statement of authority recorded by the association in the office of the county recorder in which a transfer of the property would be recorded.*

2. A statement of authority must set forth:

(a) The name of the unincorporated nonprofit association;



(b) The address in this State, including the street address, if any, of the association or, if the association does not have an address in this State, its out-of-state address;

(c) That the association is an unincorporated nonprofit association; and

(d) The name, title or position of a person authorized to transfer an estate or interest in real property held in the name of the association.

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

4. A county recorder may collect a fee for recording a statement of authority in the amount authorized for recording a transfer of real property.

5. A document amending, revoking or cancelling a statement of authority or stating that the statement is unauthorized or erroneous must meet the requirements for executing and recording an original statement.

6. Unless cancelled earlier, a recorded statement of authority and its most recent amendment expire 5 years after the date of the most recent recording.

7. If the record title to real property is in the name of an unincorporated nonprofit association and the statement of authority is recorded in the office of the county recorder in which a transfer of the property would be recorded, the authority of the person named in the statement to transfer is conclusive in favor of a person that gives value without notice that the person lacks authority.

8. As used in this section, "statement of authority" means a statement authorizing a person to transfer an interest in real property held in the name of an unincorporated nonprofit association.

Sec. 16. *1. A debt, obligation or other liability of an unincorporated nonprofit association, whether arising in contract, tort or otherwise:*

(a) Is solely the debt, obligation or other liability of the association; and

(b) Does not become a debt, obligation or other liability of a member or manager solely because the member acts as a member or the manager acts as a manager.

2. A person's status as a member or manager does not prevent or restrict law other than the provisions of sections 2 to 40,



inclusive, of this act from imposing liability on the person or the association because of the person's conduct.

Sec. 17. *1. An unincorporated nonprofit association may sue or be sued in its own name.*

2. A member or manager may assert a claim the member or manager has against the unincorporated nonprofit association. An association may assert a claim it has against a member or manager.

Sec. 18. *A judgment or order against an unincorporated nonprofit association is not by itself a judgment or order against a member or manager.*

Sec. 19. *1. An unincorporated nonprofit association may, in the manner provided pursuant to chapter 77 of NRS, appoint a registered agent who is authorized to receive any process, notice or demand required or permitted by law to be served upon the association.*

2. In an action or proceeding against an unincorporated nonprofit association, any process, notice or demand may be served:

(a) On a registered agent appointed pursuant to subsection 1;

(b) On a manager of the association; or

(c) In any other manner authorized by law.

3. This section does not limit or affect the right to serve any process, notice or demand required or permitted by law to be served upon an unincorporated nonprofit association in any other manner permitted by law.

4. As used in this section, "registered agent" has the meaning ascribed to it in NRS 77.230.

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

Sec. 21. *Unless otherwise provided by law other than the provisions of sections 2 to 40, inclusive, of this act, venue of an action against an unincorporated nonprofit association brought in this State is determined under the statutes applicable to an action brought in this State against a corporation.*

Sec. 22. *A member is not an agent of the association solely by reason of being a member.*

Sec. 23. *1. Except as otherwise provided in the governing principles, an unincorporated nonprofit association must have the approval of its members to:*

(a) Admit, suspend, dismiss or expel a member;

(b) Select or dismiss a manager;



- (c) *Adopt, amend or repeal the governing principles;*
- (d) *Sell, lease, exchange or otherwise dispose of all or substantially all of the association's property, with or without the association's goodwill, outside the ordinary course of its activities;*
- (e) *Dissolve under paragraph (b) of subsection 1 of section 35 of this act or merge under section 37 of this act;*
- (f) *Undertake any other act outside the ordinary course of the association's activities; or*
- (g) *Determine the policy and purposes of the association.*

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

Sec. 24. 1. *Unless the governing principles provide otherwise:*

(a) *Approval of a matter by members requires an affirmative majority of the votes cast at a meeting of members; and*

(b) *Each member is entitled to one vote on each matter that is submitted for approval by members.*

2. *Notice and quorum requirements for member meetings and the conduct of meetings of members are determined by the governing principles.*

Sec. 25. 1. *A member does not have a fiduciary duty to an unincorporated nonprofit association or to another member solely by being a member.*

2. *A member shall discharge the duties to the unincorporated nonprofit association and the other members and exercise any rights under the provisions of sections 2 to 40, inclusive, of this act consistent with the governing principles and the obligation of good faith and fair dealing.*

Sec. 26. 1. *A person becomes a member and may be suspended, dismissed or expelled in accordance with the association's governing principles. If there are no applicable governing principles, a person may become a member or be suspended, dismissed or expelled from an association only by a vote of its members. A person may not be admitted as a member without the person's consent.*

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



Sec. 27. *1. A member may resign as a member in accordance with the governing principles. In the absence of applicable governing principles, a member may resign at any time.*

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

Sec. 28. *Except as otherwise provided in the governing principles, a member's interest or any right under the governing principles is not transferable.*

Sec. 29. *Except as otherwise provided in sections 2 to 40, inclusive, of this act or the governing principles:*

- 1. Only the members may select a manager or managers;*
- 2. A manager may be a member or a nonmember;*
- 3. If a manager is not selected, all members are managers;*
- 4. Each manager has equal rights in the management and conduct of the association's activities;*
- 5. All matters relating to the association's activities are decided by its managers except for matters reserved for approval by members in section 23 of this act; and*
- 6. A difference among managers is decided by a majority of the managers.*

Sec. 30. *1. A manager owes to the unincorporated nonprofit association and to its members the fiduciary duties of loyalty and care.*

2. A manager shall manage the unincorporated nonprofit association in good faith, in a manner the manager reasonably believes to be in the best interests of the association, and with such care, including reasonable inquiry, as a prudent person would reasonably exercise in a similar position and under similar circumstances. A manager may rely in good faith upon any opinion, report, statement or other information provided by another person that the manager reasonably believes is a competent and reliable source for the information.

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

4. A manager that makes a business judgment in good faith satisfies the duties specified in subsection 1 if the manager:



(a) Is not interested, directly or indirectly, in the subject of the business judgment and is otherwise able to exercise independent judgment;

(b) Is informed with respect to the subject of the business judgment to the extent the manager reasonably believes to be appropriate under the circumstances; and

(c) Believes that the business judgment is in the best interests of the unincorporated nonprofit association and in accordance with its purposes.

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

(a) The amount of financial benefit improperly received by a manager;

(b) An intentional infliction of harm on the association or one or more of its members;

(c) An intentional violation of criminal law;

(d) Breach of the duty of loyalty; or

(e) Improper distributions.

Sec. 31. *Notice and quorum requirements for meetings of managers and the conduct of meetings of managers are determined by the governing principles.*

Sec. 32. *1. On reasonable notice, a member or manager of an unincorporated nonprofit association may inspect and copy during the regular operating hours of the unincorporated nonprofit association, at a reasonable location specified by the association, any record maintained by the association regarding its activities, financial condition and other circumstances, to the extent the information is material to the member's or manager's rights and duties under the governing principles.*

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

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

4. A former member or manager is entitled to information to which the member or manager was entitled while a member or manager if the information pertains to the period during which the person was a member or manager, the former member or



manager seeks the information in good faith and the former member or manager satisfies subsections 1, 2 and 3.

Sec. 33. *1. Except as otherwise provided in subsection 2, an unincorporated nonprofit association may not pay dividends or make distributions to a member or manager.*

2. An unincorporated nonprofit association may:

(a) Pay reasonable compensation or reimburse reasonable expenses to a member or manager for services rendered;

(b) Confer benefits on a member or manager in conformity with its nonprofit purposes;

(c) Repurchase a membership and repay a capital contribution made by a member to the extent authorized by its governing principles; or

(d) Make distributions of property to members upon winding up and termination to the extent permitted by section 36 of this act.

Sec. 34. *1. Except as otherwise provided in the governing principles, an unincorporated nonprofit association shall reimburse a member or manager for authorized expenses reasonably incurred in the course of the member's or manager's activities on behalf of the association.*

2. An unincorporated nonprofit association may indemnify a member or manager for any debt, obligation or other liability incurred in the course of the member's or manager's activities on behalf of the association if the member or manager seeking indemnification has complied with sections 25 and 30 of this act. Governing principles in a record may broaden or limit indemnification.

3. If a person is made or threatened to be made a party in an action based on that person's activities on behalf of an unincorporated nonprofit association and the person makes a request in a record to the association, a majority of the disinterested managers may approve in a record advance payment or reimbursement by the association of all or a part of the reasonable expenses, including attorney's fees and costs, incurred by the person before the final disposition of the proceeding. To be entitled to an advance payment or reimbursement, the person must state in a record that the person has a good faith belief that the criteria for indemnification in subsection 2 have been satisfied and that the person will repay the amounts advanced or reimbursed if the criteria for payment have not been satisfied. The governing principles in a record may broaden or limit the advance payments or reimbursements.



4. *An unincorporated nonprofit association may purchase insurance on behalf of a member or manager for liability asserted against or incurred by the member or manager in the capacity of a member or manager, whether or not the association has authority under the provisions of sections 2 to 40, inclusive, of this act to reimburse, indemnify or advance expenses to the member or manager against the liability.*

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

Sec. 35. *1. An unincorporated nonprofit association may be dissolved as follows:*

(a) If the governing principles provide a time or method for dissolution, at that time or by that method;

(b) If the governing principles do not provide a time or method for dissolution, upon approval by the members;

(c) If no member can be located and the association's operations have been discontinued for at least 3 years, by the managers or, if the association has no current manager, by its last manager;

(d) By court order; or

(e) Under law other than sections 2 to 40, inclusive, of this act.

2. *After dissolution, an unincorporated nonprofit association continues in existence until its activities have been wound up and it is terminated pursuant to section 36 of this act.*

Sec. 36. *Winding up and termination of an unincorporated nonprofit association must proceed in accordance with the following rules:*

1. *All known debts and liabilities must be paid or adequately provided for.*

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

3. *Any property subject to a trust must be distributed in accordance with the trust agreement.*

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

(a) As required by law other than sections 2 to 40, inclusive, of this act that requires assets of an association to be distributed to another person with similar nonprofit purposes;

(b) In accordance with the association's governing principles or, in the absence of applicable governing principles, to the members of the association per capita or as the members direct; or



(c) If neither paragraph (a) nor (b) applies, pursuant to chapter 120A of NRS.

Sec. 37. *1. An unincorporated nonprofit association may merge with any organization that is authorized by law to merge with an unincorporated nonprofit association.*

2. A merger involving an unincorporated nonprofit association is subject to the following rules:

(a) Each constituent organization shall comply with its governing law.

(b) Each party to the merger shall approve a plan of merger. The plan, which must be in a record, must include the following provisions:

(1) The name and form of each organization that is a party to the merger;

(2) The name and form of the surviving organization and, if the surviving organization is to be created by the merger, a statement to that effect;

(3) If the surviving organization is to be created by the merger, the surviving organization's organizational documents that are proposed to be in a record;

(4) If the surviving organization is not to be created by the merger, any amendments to be made by the merger to the surviving organization's organizational documents that are, or are proposed to be, in a record; and

(5) The terms and conditions of the merger, including the manner and basis for converting the interests in each constituent organization into any combination of money, interests in the surviving organization, and other consideration except that the plan of merger may not permit members of an unincorporated nonprofit association to receive merger consideration if a distribution of such consideration would not be permitted in the absence of a merger under sections 33 and 36 of this act.

(c) The plan of merger must be approved by the members of each unincorporated nonprofit association that is a constituent organization in the merger. If a plan of merger would impose personal liability for an obligation of a constituent or surviving organization on a member of an association that is a party to the merger, the plan may not take effect unless it is approved in a record by the member.

(d) Subject to the contractual rights of third parties, after a plan of merger is approved and at any time before the merger is effective, a constituent organization may amend the plan or abandon the merger as provided in the plan, or except as



otherwise prohibited in the plan, with the same consent as was required to approve the plan.

(e) Following approval of the plan, a merger under this section is effective:

(1) If a constituent organization is required to give notice to or obtain the approval of a governmental agency or officer in order to be a party to a merger, when the notice has been given and the approval has been obtained; and

(2) If the surviving organization:

(I) Is an unincorporated nonprofit association, as specified in the plan of merger and upon compliance by any constituent organization that is not an association with any requirements, including any required filings in the Office of the Secretary of State, of the organization's governing statute; or

(II) Is not an unincorporated nonprofit association, as provided by the statutes governing the surviving organization.

3. When a merger becomes effective:

(a) The surviving organization continues or comes into existence;

(b) Each constituent organization that merges into the surviving organization ceases to exist as a separate entity;

(c) All property owned by each constituent organization that ceases to exist vests in the surviving organization;

(d) All debts, obligations or other liabilities of each nonsurviving organization continue as debts, obligations or other liabilities of the surviving organization;

(e) An action or proceeding pending by or against any nonsurviving organization may be continued as if the merger had not occurred;

(f) Except as prohibited by law other than sections 2 to 40, inclusive, of this act, all of the rights, privileges, immunities, powers and purposes of each constituent organization that ceases to exist vest in the surviving organization;

(g) Except as otherwise provided in the plan of merger, the terms and conditions of the plan of merger take effect;

(h) The merger does not affect the personal liability, if any, of a member or manager of a constituent organization for a debt, obligation or other liability incurred before the merger is effective; and

(i) A surviving organization that is not organized in this State is subject to the jurisdiction of the courts of this State to enforce any debt, obligation or other liability owed by a constituent organization if, before the merger, the constituent organization



was subject to suit in this State for the debt, obligation or other liability.

4. Property held for a charitable purpose under the laws of this State by a constituent organization immediately before a merger under this section becomes effective may not, as a result of the merger, be diverted from the objects for which it was given, unless, to the extent required by or pursuant to the laws of this State concerning cy-pres or other law dealing with nondiversion of charitable assets, the organization obtains an appropriate order of the court specifying the disposition of the property.

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

6. As used in this section:

(a) “Constituent organization” means an organization that is merged with one or more other organizations, including the surviving organization.

(b) “Nonsurviving organization” means a constituent organization that is not the surviving organization.

(c) “Organization” means an unincorporated nonprofit association, a general partnership, including a limited-liability partnership, limited partnership, including a limited-liability limited partnership, limited-liability company, business or statutory trust, corporation, or any other legal or commercial entity having a statute governing its formation and operation. The term includes a for-profit or nonprofit organization.

(d) “Surviving organization” means an organization into which one or more other organizations are merged.

Sec. 38. *1. If, before October 1, 2009, an interest in property was, by terms of a transfer, purportedly transferred to an unincorporated nonprofit association, but under the laws of this State, the interest did not vest in the association, or in one or more persons on behalf of the association under subsection 2, on October 1, 2009, the interest vests in the association, unless the parties to the transfer have treated the transfer as ineffective.*

2. If, before October 1, 2009, an interest in property was, by terms of a transfer, purportedly transferred to an unincorporated nonprofit association, but the interest was vested in one or more persons to hold the interest for members of the association, on or



after October 1, 2009, the persons, or their successors in interest, may transfer the interest to the association in its name, or the association may require that the interest be transferred to it in its name.

Sec. 39. *In applying and construing the provisions of sections 2 to 40, inclusive, of this act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.*

Sec. 40. *The provisions of sections 2 to 40, inclusive, of this act modify, limit and supersede the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. §§ 7001 et seq., but do not modify, limit or supersede Section 101(c) of that Act, 15 U.S.C. § 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that Act, 15 U.S.C. § 7003(b).*

Sec. 41. The provisions of sections 2 to 40, inclusive, of this act do not affect an action or proceeding commenced or right accrued before October 1, 2009.

