

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 55

BY BUSINESS COMMITTEE

AN ACT

1 RELATING TO THE REVISED UNIFORM UNINCORPORATED NONPROFIT ASSOCIATION ACT;
2 AMENDING SECTION 30-402, IDAHO CODE, TO PROVIDE A CORRECT CODE REFER-
3 ENCE AND TO MAKE TECHNICAL CORRECTIONS; REPEALING CHAPTER 7, TITLE 53,
4 IDAHO CODE, REGARDING THE UNIFORM UNINCORPORATED NONPROFIT ASSOCIATION
5 ACT; AMENDING TITLE 53, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER
6 7, TITLE 53, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO DEFINE TERMS, TO
7 PROVIDE FOR RELATION TO OTHER LAW, TO PROVIDE FOR GOVERNING LAW, TO
8 PROVIDE AN UNINCORPORATED NONPROFIT ASSOCIATION AS A LEGAL ENTITY, TO
9 PROVIDE FOR PERPETUAL EXISTENCE, TO PROVIDE FOR PROFIT MAKING WITH LIM-
10 ITATIONS, TO PROVIDE FOR OWNERSHIP AND TRANSFER OF PROPERTY, TO PROVIDE
11 FOR STATEMENTS OF AUTHORITY AS TO REAL PROPERTY, TO PROVIDE FOR LIA-
12 BILITY, TO PROVIDE FOR THE ASSERTION AND DEFENSE OF CLAIMS, TO PROVIDE
13 FOR THE EFFECT OF A JUDGMENT OR AN ORDER, TO PROVIDE FOR THE APPOINT-
14 MENT OF AN AGENT TO RECEIVE SERVICE OF PROCESS, TO PROVIDE FOR SERVICE
15 OF PROCESS, TO PROVIDE FOR NONABATEMENT OF AN ACTION OR PROCEEDING BY
16 CHANGE IN MEMBERS OR MANAGERS, TO PROVIDE FOR VENUE, TO PROVIDE THAT A
17 MEMBER IS NOT AN AGENT, TO PROVIDE FOR APPROVAL BY MEMBERS FOR CERTAIN
18 ACTIONS, TO PROVIDE FOR MEETINGS BY MEMBERS, TO PROVIDE FOR VOTING, NO-
19 TICE AND QUORUM REQUIREMENTS, TO PROVIDE DUTIES OF MEMBERS, TO PROVIDE
20 FOR THE ADMISSION, SUSPENSION, DISMISSAL OR EXPULSION OF MEMBERS, TO
21 PROVIDE FOR RESIGNATION OF MEMBERS, TO PROVIDE FOR THE NONTRANSFERENCE
22 OF MEMBERSHIP INTEREST WITH AN EXCEPTION, TO PROVIDE FOR THE SELECTION
23 OF MANAGERS, TO PROVIDE FOR MANAGEMENT RIGHTS OF MANAGERS, TO PROVIDE
24 DUTIES OF MANAGERS, TO PROVIDE NOTICE AND QUORUM REQUIREMENTS FOR MEET-
25 INGS OF MANAGERS, TO PROVIDE FOR THE RIGHT OF MEMBERS OR MANAGERS TO
26 INFORMATION, TO PROVIDE A PROHIBITION ON DISTRIBUTIONS WITH EXCEP-
27 TIONS, TO PROVIDE FOR REIMBURSEMENT, INDEMNIFICATION AND ADVANCEMENT
28 OF EXPENSES FOR MEMBERS AND MANAGERS, TO PROVIDE FOR DISSOLUTION, TO
29 PROVIDE FOR WINDING UP AND TERMINATION, TO PROVIDE FOR MERGERS, TO PRO-
30 VIDE FOR TRANSITION CONCERNING REAL AND PERSONAL PROPERTY, TO PROVIDE
31 FOR UNIFORMITY OF APPLICATION AND CONSTRUCTION, TO PROVIDE FOR THE RE-
32 LATION TO THE ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT
33 AND TO PROVIDE A SAVINGS CLAUSE.
34

35 Be It Enacted by the Legislature of the State of Idaho:

36 SECTION 1. That Section 30-402, Idaho Code, be, and the same is hereby
37 amended to read as follows:

38 30-402. DEFINITIONS. As used in this chapter:

39 (1) "Appointment of agent" means a statement appointing an agent for
40 service of process filed by:

41 (a) A domestic or foreign unincorporated nonprofit association ~~under~~
42 pursuant to section 53-7101, Idaho Code; or

- 1 (b) A domestic entity that is not a filing entity or a nonqualified for-
2 eign entity ~~under~~ pursuant to section 30-412, Idaho Code.
- 3 (2) "Commercial registered agent" means an individual or a domestic or
4 foreign entity listed ~~under~~ pursuant to section 30-406, Idaho Code.
- 5 (3) "Domestic entity" means an entity whose internal affairs are gov-
6 erned by the law of this state.
- 7 (4) "Entity" means a person that has a separate legal existence or has
8 the power to acquire an interest in real property in its own name other than:
9 (a) An individual;
10 (b) A testamentary, inter vivos, or charitable trust, with the excep-
11 tion of a business trust, statutory trust, or similar trust;
12 (c) An association or relationship that is not a partnership by reason
13 of section 53-3-202(c), Idaho Code, or a similar provision of the law of
14 any other jurisdiction;
15 (d) A decedent's estate; or
16 (e) A public corporation, government or governmental subdivision,
17 agency, or instrumentality, or quasi-governmental instrumentality.
- 18 (5) "Filing entity" means an entity that is created by the filing of a
19 public organic document.
- 20 (6) "Foreign entity" means an entity other than a domestic entity.
- 21 (7) "Foreign qualification document" means an application for a cer-
22 tificate of authority or other foreign qualification filing with the secre-
23 tary of state by a foreign entity.
- 24 (8) "Governance interest" means the right under the organic law or
25 organic rules of an entity, other than as a governor, agent, assignee, or
26 proxy, to:
27 (a) Receive or demand access to information concerning, or the books
28 and records of, the entity;
29 (b) Vote for the election of the governors of the entity; or
30 (c) Receive notice of or vote on any or all issues involving the inter-
31 nal affairs of the entity.
- 32 (9) "Governor" means a person by or under whose authority the powers of
33 an entity are exercised and under whose direction the business and affairs of
34 the entity are managed pursuant to the organic law and organic rules of the
35 entity.
- 36 (10) "Interest" means:
37 (a) A governance interest in an unincorporated entity;
38 (b) A transferable interest in an unincorporated entity; or
39 (c) A share or membership in a corporation.
- 40 (11) "Interest holder" means a direct holder of an interest.
- 41 (12) "Jurisdiction of organization," with respect to an entity, means
42 the jurisdiction whose law includes the organic law of the entity.
- 43 (13) "Noncommercial registered agent" means a person that is not listed
44 as a commercial registered agent ~~under~~ pursuant to section 30-406, Idaho
45 Code, and that is:
46 (a) An individual or a domestic or foreign entity that serves in this
47 state as the agent for service of process of an entity; or
48 (b) The individual who holds the office or other position in an entity
49 that is designated as the agent for service of process pursuant to sec-
50 tion 3-405(1)(b)(ii), Idaho Code.

1 (14) "Nonqualified foreign entity" means a foreign entity that is not
2 authorized to transact business in this state pursuant to a filing with the
3 secretary of state.

4 (15) "Nonresident LLP statement" means:

5 (a) A statement of qualification of a domestic limited liability part-
6 nership that does not have an office in this state; or

7 (b) A statement of foreign qualification of a foreign limited liability
8 partnership that does not have an office in this state.

9 (16) "Organic law" means the statutes, if any, other than this chapter,
10 governing the internal affairs of an entity.

11 (17) "Organic rules" means the public organic document and private or-
12 ganic rules of an entity.

13 (18) "Person" means an individual, corporation, estate, trust, part-
14 nership, limited liability company, business or similar trust, association,
15 joint venture, public corporation, government or governmental subdivision,
16 agency, or instrumentality, or any other legal or commercial entity.

17 (19) "Private organic rules" means the rules, whether or not in a
18 record, that govern the internal affairs of an entity, are binding on all of
19 its interest holders, and are not part of its public organic document, if
20 any.

21 (20) "Public organic document" means the public record, the filing of
22 which creates an entity, and any amendment to or restatement of that record.

23 (21) "Qualified foreign entity" means a foreign entity that is autho-
24 rized to transact business in this state pursuant to a filing with the secre-
25 tary of state.

26 (22) "Record" means information that is inscribed on a tangible medium
27 or that is stored in an electronic or other medium and is retrievable in per-
28 ceivable form.

29 (23) "Registered agent" means a commercial registered agent or a non-
30 commercial registered agent.

31 (24) "Registered agent filing" means:

32 (a) The public organic document of a domestic filing entity;

33 (b) A nonresident LLP statement;

34 (c) A foreign qualification document; or

35 (d) An appointment of agent.

36 (25) "Represented entity" means:

37 (a) A domestic filing entity;

38 (b) A domestic or qualified foreign limited liability partnership that
39 does not have an office in this state;

40 (c) A qualified foreign entity;

41 (d) A domestic or foreign unincorporated nonprofit association for
42 which an appointment of agent has been filed;

43 (e) A domestic entity that is not a filing entity for which an appoint-
44 ment of agent has been filed; or

45 (f) A nonqualified foreign entity for which an appointment of agent has
46 been filed.

47 (26) "Sign" means, with present intent to authenticate or adopt a
48 record:

49 (a) To execute or adopt a tangible symbol; or

1 (b) To attach to or logically associate with the record an electronic
2 sound, symbol, or process.

3 (27) "Transferable interest" means the right under an entity's organic
4 law to receive distributions from the entity.

5 (28) "Type," with respect to an entity, means a generic form of entity:

6 (a) Recognized at common law; or

7 (b) Organized under an organic law, whether or not some entities orga-
8 nized under that organic law are subject to provisions of that law that
9 create different categories of the form of entity.

10 SECTION 2. That Chapter 7, Title 53, Idaho Code, be, and the same is
11 hereby repealed.

12 SECTION 3. That Title 53, Idaho Code, be, and the same is hereby amended
13 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-
14 ter 7, Title 53, Idaho Code, and to read as follows:

15 CHAPTER 7

16 REVISED UNIFORM UNINCORPORATED NONPROFIT ASSOCIATION ACT

17 53-701. SHORT TITLE. This chapter may be cited as the "Revised Uniform
18 Unincorporated Nonprofit Association Act."

19 53-702. DEFINITIONS. In this chapter:

20 (1) "Established practices" means the practices used by an unincorpo-
21 rated nonprofit association without material change during the most recent
22 five (5) years of its existence, or if it has existed for less than five (5)
23 years, during its entire existence.

24 (2) "Governing principles" means the agreements, whether oral, in a
25 record, or implied from its established practices, that govern the purpose
26 or operation of an unincorporated nonprofit association and the rights and
27 obligations of its members and managers. The term includes any amendment or
28 restatement of the agreements constituting the governing principles.

29 (3) "Manager" means a person that is responsible, alone or in concert
30 with others, for the management of an unincorporated nonprofit association.

31 (4) "Member" means a person that, under the governing principles, may
32 participate in the selection of persons authorized to manage the affairs of
33 the unincorporated nonprofit association or in the development of the poli-
34 cies and activities of the association.

35 (5) "Person" means an individual, corporation, business trust, statu-
36 tory entity trust, estate, trust, partnership, limited liability company,
37 cooperative, association, joint venture, public corporation, government or
38 governmental subdivision, agency, or instrumentality, or any other legal or
39 commercial entity.

40 (6) "Record" means information that is inscribed on a tangible medium
41 or that is stored in an electronic or other medium and is retrievable in per-
42 ceivable form.

43 (7) "State" means a state of the United States, the District of Colum-
44 bia, Puerto Rico, United States Virgin Islands or any territory or insular
45 possession subject to the jurisdiction of the United States.

1 (8) "Unincorporated nonprofit association" means an unincorporated
2 organization consisting of two (2) or more members joined under an agreement
3 that is oral, in a record, or implied from conduct, for one (1) or more com-
4 mon, nonprofit purposes. The term does not include:

5 (a) A trust;

6 (b) A marriage, domestic partnership, common law domestic relation-
7 ship, civil union or other domestic living arrangement;

8 (c) An organization formed under any other statute that governs the or-
9 ganization and operation of unincorporated associations;

10 (d) A joint tenancy, tenancy in common or tenancy by the entireties even
11 if the co-owners share use of the property for a nonprofit purpose; or

12 (e) A relationship under an agreement in a record that expressly pro-
13 vides that the relationship between the parties does not create an unin-
14 corporated nonprofit association.

15 53-703. RELATION TO OTHER LAW. (1) Principles of law and equity sup-
16 plement this chapter unless displaced by a particular provision of it.

17 (2) A statute governing a specific type of unincorporated nonprofit as-
18 sociation prevails over an inconsistent provision in this chapter, to the
19 extent of the inconsistency.

20 (3) This chapter supplements the law of this state that applies to non-
21 profit associations operating in this state. If a conflict exists, that law
22 applies.

23 53-704. GOVERNING LAW. (1) Except as otherwise provided in subsection
24 (2) of this section, the law of this state governs the operation in this state
25 of all unincorporated nonprofit associations formed or operating in this
26 state.

27 (2) Unless the governing principles specify a different jurisdiction,
28 the law of the jurisdiction in which an unincorporated nonprofit association
29 has its main place of activities governs the internal affairs of the associa-
30 tion.

31 53-705. LEGAL ENTITY -- PERPETUAL EXISTENCE -- POWERS. (1) An unincor-
32 porated nonprofit association is a legal entity distinct from its members
33 and managers.

34 (2) An unincorporated nonprofit association has perpetual duration un-
35 less the governing principles specify otherwise.

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

38 (4) An unincorporated nonprofit association may engage in profit-mak-
39 ing activities but profits from any activities must be used or set aside for
40 the association's nonprofit purposes.

41 53-706. OWNERSHIP AND TRANSFER OF PROPERTY. (1) An unincorporated
42 nonprofit association may acquire, hold, encumber, or transfer in its name
43 an interest in real or personal property.

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

1 53-707. STATEMENT OF AUTHORITY AS TO REAL PROPERTY. (1) In this sec-
2 tion, "statement of authority" means a statement authorizing a person to
3 transfer an interest in real property held in the name of an unincorporated
4 nonprofit association.

5 (2) An interest in real property held in the name of an unincorporated
6 nonprofit association may be transferred by a person authorized to do so in
7 a statement of authority recorded by the association in the office in the
8 county in which a transfer of the property would be recorded.

9 (3) A statement of authority must set forth:

10 (a) The name of the unincorporated nonprofit association;

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

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

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

18 (4) A statement of authority must be executed in the same manner as a
19 deed by a person other than the person authorized in the statement to trans-
20 fer the interest.

21 (5) A filing officer may collect a fee for recording a statement of au-
22 thority in the amount authorized for recording a transfer of real property.

23 (6) A document amending, revoking or canceling a statement of authority
24 or stating that the statement is unauthorized or erroneous must meet the re-
25 quirements for executing and recording an original statement.

26 (7) Unless canceled earlier, a recorded statement of authority and its
27 most recent amendment expire five (5) years after the date of the most recent
28 recording.

29 (8) If the record title to real property is in the name of an unincor-
30 porated nonprofit association and the statement of authority is recorded
31 in the office of the county in which a transfer of the property would be
32 recorded, the authority of the person named in the statement to transfer
33 is conclusive in favor of a person that gives value without notice that the
34 person lacks authority.

35 53-708. LIABILITY. (1) A debt, obligation, or other liability of an
36 unincorporated nonprofit association, whether arising in contract, tort or
37 otherwise:

38 (a) Is solely the debt, obligation or other liability of the associa-
39 tion; and

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

43 (2) A person's status as a member or manager does not prevent or re-
44 strict law other than this chapter from imposing liability on the person or
45 the association because of the person's conduct.

46 53-709. ASSERTION AND DEFENSE OF CLAIMS. (1) An unincorporated non-
47 profit association may sue or be sued in its own name.

1 (2) A member or manager may assert a claim the member or manager has
2 against the unincorporated nonprofit association. An association may as-
3 sert a claim it has against a member or manager.

4 53-710. EFFECT OF JUDGMENT OR ORDER. A judgment or order against an
5 unincorporated nonprofit association is not by itself a judgment or order
6 against a member or manager.

7 53-711. APPOINTMENT OF AGENT TO RECEIVE SERVICE OF PROCESS. (1) An un-
8 incorporated nonprofit association may file in the office of the secretary
9 of state a statement appointing an agent authorized to receive service of
10 process.

11 (2) A statement appointing an agent must set forth:

12 (a) The name of the unincorporated nonprofit association; and

13 (b) The name of the person in this state authorized to receive service
14 of process and the person's address, including the street address, in
15 this state.

16 (3) A statement appointing an agent must be signed and acknowledged by a
17 person authorized to manage the affairs of the unincorporated nonprofit as-
18 sociation and by the person appointed as the agent. By signing and acknowl-
19 edging the statement the person becomes the agent.

20 (4) An amendment to or cancellation of a statement appointing an agent
21 to receive service of process must meet the requirements for executing of an
22 original statement. An agent may resign by filing a resignation in the of-
23 fice of the secretary of state and giving notice to the association.

24 (5) The secretary of state may collect a fee for filing a statement ap-
25 pointing an agent to receive service of process, an amendment, a cancella-
26 tion or a resignation in the amount charged for filing similar documents.

27 53-712. SERVICE OF PROCESS. In an action or proceeding against an un-
28 incorporated nonprofit association, process may be served on an agent autho-
29 rized by appointment to receive service of process, on a manager of the asso-
30 ciation, or in any other manner authorized by the law of this state.

31 53-713. ACTION OR PROCEEDING NOT ABATED BY CHANGE. An action or pro-
32 ceeding against an unincorporated nonprofit association does not abate
33 merely because of a change in its members or managers.

34 53-714. VENUE. Unless otherwise provided by law other than this chap-
35 ter, venue of an action against an unincorporated nonprofit association
36 brought in this state is determined under the statutes applicable to an ac-
37 tion brought in this state against a corporation.

38 53-715. MEMBER NOT AGENT. A member is not an agent of the association
39 solely by reason of being a member.

40 53-716. APPROVAL BY MEMBERS. (1) Except as otherwise provided in the
41 governing principles, an unincorporated nonprofit association must have the
42 approval of its members to:

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

- 1 (b) Select or dismiss a manager;
2 (c) Adopt, amend or repeal the governing principles;
3 (d) Sell, lease, exchange or otherwise dispose of all, or substantially
4 all, of the association's property, with or without the association's
5 goodwill, outside the ordinary course of its activities;
6 (e) Dissolve under section 53-728, Idaho Code, or merge under section
7 53-730, Idaho Code;
8 (f) Undertake any other act outside the ordinary course of the associa-
9 tion's activities; or
10 (g) Determine the policy and purposes of the association.
11 (2) An unincorporated nonprofit association must have the approval of
12 the members to do any other act or exercise a right that the governing princi-
13 ples require to be approved by members.

- 14 53-717. MEETINGS OF MEMBERS -- VOTING, NOTICE AND QUORUM REQUIRE-
15 MENTS. (1) Unless the governing principles provide otherwise:
16 (a) Approval of a matter by members requires an affirmative majority of
17 the votes cast at a meeting of members; and
18 (b) Each member is entitled to one (1) vote on each matter that is sub-
19 mitted for approval by members.
20 (2) Notice and quorum requirements for member meetings and the conduct
21 of meetings of members are determined by the governing principles.

- 22 53-718. DUTIES OF MEMBER. (1) A member does not have a fiduciary duty
23 to an unincorporated nonprofit association or to another member solely by
24 being a member.
25 (2) A member shall discharge the duties to the unincorporated nonprofit
26 association and the other members and exercise any rights under this chapter
27 consistent with the governing principles and the obligation of good faith
28 and fair dealing.

- 29 53-719. ADMISSION, SUSPENSION, DISMISSAL OR EXPULSION OF MEMBERS. (1)
30 A person becomes a member and may be suspended, dismissed or expelled in ac-
31 cordance with the association's governing principles. If there are no ap-
32 plicable governing principles, a person may become a member or be suspended,
33 dismissed or expelled from an association only by a vote of its members. A
34 person may not be admitted as a member without the person's consent.
35 (2) Unless the governing principles provide otherwise, the suspension,
36 dismissal or expulsion of a member does not relieve the member from any un-
37 paid capital contribution, dues, assessments, fees or other obligation in-
38 curred or commitment made by the member before the suspension, dismissal or
39 expulsion.

- 40 53-720. MEMBER'S RESIGNATION. (1) A member may resign as a member in
41 accordance with the governing principles. In the absence of applicable gov-
42 erning principles, a member may resign at any time.
43 (2) Unless the governing principles provide otherwise, resignation of
44 a member does not relieve the member from any unpaid capital contribution,
45 dues, assessments, fees or other obligation incurred or commitment made by
46 the member before resignation.

1 53-721. MEMBERSHIP INTEREST NOT TRANSFERABLE. Except as otherwise
2 provided in the governing principles, a member's interest or any right under
3 the governing principles is not transferable.

4 53-722. SELECTION OF MANAGERS -- MANAGEMENT RIGHTS OF MANAGERS. Ex-
5 cept as otherwise provided in this chapter or the governing principles:

- 6 (1) Only the members may select a manager or managers;
- 7 (2) A manager may be a member or a nonmember;
- 8 (3) If a manager is not selected, all members are managers;
- 9 (4) Each manager has equal rights in the management and conduct of the
10 association's activities;
- 11 (5) All matters relating to the association's activities are decided by
12 its managers except for matters reserved for approval by members in section
13 53-716, Idaho Code; and
- 14 (6) A difference among managers is decided by a majority of the man-
15 agers.

16 53-723. DUTIES OF MANAGERS. (1) A manager owes to the unincorporated
17 nonprofit association and to its members the fiduciary duties of loyalty and
18 care.

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

27 (3) After full disclosure of all material facts, a specific act or
28 transaction that would otherwise violate the duty of loyalty by a manager may
29 be authorized or ratified by a majority of the members that are not inter-
30 ested directly or indirectly in the act or transaction.

31 (4) A manager that makes a business judgment in good faith satisfies the
32 duties specified in subsection (1) of this section if the manager:

- 33 (a) Is not interested, directly or indirectly, in the subject of the
34 business judgment and is otherwise able to exercise independent judg-
35 ment;
- 36 (b) Is informed with respect to the subject of the business judgment to
37 the extent the manager reasonably believes to be appropriate under the
38 circumstances; and
- 39 (c) Believes that the business judgment is in the best interests of the
40 unincorporated nonprofit association and in accordance with its pur-
41 poses.

42 (5) The governing principles in a record may limit or eliminate the li-
43 ability of a manager to the unincorporated nonprofit association or its mem-
44 bers for damages for any action taken, or for failure to take any action, as a
45 manager, except liability for:

- 46 (a) The amount of financial benefit improperly received by a manager;
- 47 (b) An intentional infliction of harm on the association or one (1) or
48 more of its members;

- 1 (c) An intentional violation of criminal law;
2 (d) Breach of the duty of loyalty; or
3 (e) Improper distributions.

4 53-724. NOTICE AND QUORUM REQUIREMENTS FOR MEETINGS OF MANAGERS. No-
5 tice and quorum requirements for meetings of managers and the conduct of
6 meetings of managers are determined by the governing principles.

7 53-725. RIGHT OF MEMBER OR MANAGER TO INFORMATION. (1) On reasonable
8 notice, a member or manager of an unincorporated nonprofit association may
9 inspect and copy during the unincorporated nonprofit association's regular
10 operating hours, at a reasonable location specified by the association, any
11 record maintained by the association regarding its activities, financial
12 condition and other circumstances, to the extent the information is material
13 to the member's or manager's rights and duties under the governing princi-
14 ples.

15 (2) An unincorporated nonprofit association may impose reasonable re-
16 strictions on access to and use of information to be furnished under this
17 section, including designating the information confidential and imposing
18 obligations of nondisclosure and safeguarding on the recipient.

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

22 (4) A former member or manager is entitled to information to which the
23 member or manager was entitled while a member or manager if the information
24 pertains to the period during which the person was a member or manager, the
25 former member or manager seeks the information in good faith, and the former
26 member or manager satisfies subsections (1) through (3) of this section.

27 53-726. DISTRIBUTIONS PROHIBITED -- COMPENSATION AND OTHER PERMITTED
28 PAYMENTS. (1) Except as otherwise provided in subsection (2) of this sec-
29 tion, an unincorporated nonprofit association may not pay dividends or make
30 distributions to a member or manager.

31 (2) An unincorporated nonprofit association may:

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

34 (b) Confer benefits on a member or manager in conformity with its non-
35 profit purposes;

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

38 (d) Make distributions of property to members upon winding up and ter-
39 mination to the extent permitted by section 53-729, Idaho Code.

40 53-727. REIMBURSEMENT -- INDEMNIFICATION -- ADVANCEMENT OF EX-
41 PENSES. (1) Except as otherwise provided in the governing principles, an
42 unincorporated nonprofit association shall reimburse a member or manager
43 for authorized expenses reasonably incurred in the course of the member's or
44 manager's activities on behalf of the association.

45 (2) An unincorporated nonprofit association may indemnify a member or
46 manager for any debt, obligation or other liability incurred in the course of

1 the member's or manager's activities on behalf of the association if the per-
2 son seeking indemnification has complied with sections 53-718 and 53-723,
3 Idaho Code. Governing principles in a record may broaden or limit indemnifi-
4 cation.

5 (3) If a person is made or threatened to be made a party in an action
6 based on that person's activities on behalf of an unincorporated nonprofit
7 association and the person makes a request in a record to the association, a
8 majority of the disinterested managers may approve in a record advance pay-
9 ment, or reimbursement, by the association, of all or a part of the reason-
10 able expenses, including attorney's fees and costs, incurred by the person
11 before the final disposition of the proceeding. To be entitled to an advance
12 payment or reimbursement, the person must state in a record that the person
13 has a good faith belief that the criteria for indemnification in subsection
14 (2) of this section have been satisfied and that the person will repay the
15 amounts advanced or reimbursed if the criteria for payment have not been sat-
16 isfied. The governing principles in a record may broaden or limit the ad-
17 vance payments or reimbursements.

18 (4) An unincorporated nonprofit association may purchase insurance on
19 behalf of a member or manager for liability asserted against or incurred by
20 the member or manager in the capacity of a member or manager, whether or not
21 the association has authority under this chapter to reimburse, indemnify or
22 advance expenses to the member or manager against the liability.

23 (5) The rights of reimbursement, indemnification and advancement of
24 expenses under this section apply to a former member or manager for an activ-
25 ity undertaken on behalf of the unincorporated nonprofit association while
26 a member or manager.

27 53-728. DISSOLUTION. (1) An unincorporated nonprofit association may
28 be dissolved as follows:

29 (a) If the governing principles provide a time or method for dissolu-
30 tion, at that time or by that method;

31 (b) If the governing principles do not provide a time or method for dis-
32 solution, upon approval by the members;

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

36 (d) By court order; or

37 (e) Under law other than this chapter.

38 (2) After dissolution, an unincorporated nonprofit association con-
39 tinues in existence until its activities have been wound up and it is termi-
40 nated pursuant to section 53-729, Idaho Code.

41 53-729. WINDING UP AND TERMINATION. Winding up and termination of an
42 unincorporated nonprofit association must proceed in accordance with the
43 following rules:

44 (1) All known debts and liabilities must be paid or adequately provided
45 for.

46 (2) Any property subject to a condition requiring return to the person
47 designated by the donor must be transferred to that person.

1 (3) Any property subject to a trust must be distributed in accordance
2 with the trust agreement.

3 (4) Any remaining property must be distributed as follows:

4 (a) As required by law other than this chapter that requires assets of
5 an association to be distributed to another person with similar non-
6 profit purposes;

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

10 (c) If neither paragraph (a) nor (b) applies, under chapter 5, title 14,
11 Idaho Code.

12 53-730. MERGERS. (1) In this section:

13 (a) "Constituent organization" means an organization that is merged
14 with one (1) or more other organizations including the surviving organ-
15 ization.

16 (b) "Nonsurviving organization" means a constituent organization that
17 is not the surviving organization.

18 (c) "Organization" means an unincorporated nonprofit association, a
19 general partnership, including a limited liability partnership, lim-
20 ited partnership, including a limited liability limited partnership,
21 limited liability company, business or statutory trust, corporation or
22 any other legal or commercial entity having a statute governing its for-
23 mation and operation. The term includes a for-profit or nonprofit or-
24 ganization.

25 (d) "Surviving organization" means an organization into which one (1)
26 or more other organizations are merged.

27 (2) An unincorporated nonprofit association may merge with any organ-
28 ization that is authorized by law to merge with an unincorporated nonprofit
29 association.

30 (3) A merger involving an unincorporated nonprofit association is sub-
31 ject to the following rules:

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

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

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

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

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

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

47 (v) The terms and conditions of the merger, including the man-
48 ner and basis for converting the interests in each constituent or-
49 ganization into any combination of money, interests in the surviv-

1 ing organization and other consideration except that the plan of
2 merger may not permit members of an unincorporated nonprofit asso-
3 ciation to receive merger consideration if a distribution of such
4 consideration would not be permitted in the absence of a merger un-
5 der sections 53-726 and 53-729, Idaho Code.

6 (c) The plan of merger must be approved by the members of each unincor-
7 porated nonprofit association that is a constituent organization in the
8 merger. If a plan of merger would impose personal liability for an obli-
9 gation of a constituent or surviving organization on a member of an as-
10 sociation that is a party to the merger, the plan may not take effect un-
11 less it is approved in a record by the member.

12 (d) Subject to the contractual rights of third parties, after a plan of
13 merger is approved and at any time before the merger is effective, a con-
14 stituent organization may amend the plan or abandon the merger as pro-
15 vided in the plan, or except as otherwise prohibited in the plan, with
16 the same consent as was required to approve the plan.

17 (e) Following approval of the plan, a merger under this section is ef-
18 fective:

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

23 (ii) If the surviving organization:

24 1. Is an unincorporated nonprofit association, as speci-
25 fied in the plan of merger and upon compliance by any con-
26 stituent organization that is not an association with any
27 requirements, including any required filings in the office
28 of the secretary of state, of the organization's governing
29 statute; or

30 2. Is not an unincorporated nonprofit association, as pro-
31 vided by the statute governing the surviving organization.

32 (4) When a merger becomes effective:

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

34 (b) Each constituent organization that merges into the surviving or-
35 ganization ceases to exist as a separate entity;

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

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

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

43 (f) Except as prohibited by law other than this chapter, all of the
44 rights, privileges, immunities, powers and purposes of each con-
45 stituent organization that ceases to exist vest in the surviving orga-
46 nization;

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

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

4 (i) A surviving organization that is not organized in this state is sub-
5 ject to the jurisdiction of the courts of this state to enforce any debt,
6 obligation or other liability owed by a constituent organization, if
7 before the merger the constituent organization was subject to suit in
8 this state for the debt, obligation or other liability.

9 (5) Property held for a charitable purpose under the law of this state
10 by a constituent organization immediately before a merger under this section
11 becomes effective may not, as a result of the merger, be diverted from the ob-
12 jects for which it was given, unless, to the extent required by or pursuant to
13 the law of this state concerning cy pres or other law dealing with nondiver-
14 sion of charitable assets, the organization obtains an appropriate order of
15 the attorney general specifying the disposition of the property.

16 (6) A bequest, devise, gift, grant or promise contained in a will or
17 other instrument of donation, subscription or conveyance that is made to a
18 nonsurviving organization and that takes effect or remains payable after the
19 merger inures to the surviving organization. A trust obligation that would
20 govern property if transferred to the nonsurviving organization applies to
21 property that is transferred to the surviving organization under this sec-
22 tion.

23 53-731. TRANSITION CONCERNING REAL AND PERSONAL PROPERTY. (1) If, be-
24 fore July 1, 2011, an interest in property was by terms of a transfer purport-
25 edly transferred to an unincorporated nonprofit association but under the
26 law of this state the interest did not vest in the association, or in one (1)
27 or more persons on behalf of the association as provided in subsection (2) of
28 this section, on July 1, 2011, the interest vests in the association, unless
29 the parties to the transfer have treated the transfer as ineffective.

30 (2) If, before July 1, 2011, an interest in property was by terms of
31 a transfer purportedly transferred to an unincorporated nonprofit associa-
32 tion but the interest was vested in one (1) or more persons to hold the inter-
33 est for members of the association, on or after July 1, 2011, the persons, or
34 their successors in interest, may transfer the interest to the association
35 in its name, or the association may require that the interest be transferred
36 to it in its name.

37 53-732. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and
38 construing the uniform law under this chapter, consideration must be given
39 to the need to promote uniformity of the law with respect to its subject mat-
40 ter among states that enact it.

41 53-733. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COM-
42 MERCE ACT. This chapter modifies, limits and supersedes the federal elec-
43 tronic signatures in the global and national commerce act, 15 U.S.C. sec-
44 tion 7001, et seq., but does not modify, limit, or supersede section 101(c)
45 of that act, 15 U.S.C. section 7001(c), or authorize electronic delivery of
46 any of the notices described in section 103(b) of that act, 15 U.S.C. section
47 7003(b).

1 53-734. SAVINGS CLAUSE. This chapter does not affect an action or pro-
2 ceeding commenced or right accrued before this chapter takes effect.