

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

ENGROSSED

Committee Substitute

for

House Bill 5060

By Delegates Leavitt, J. Cannon, B. Smith, Green,

Dean, and D. Cannon

[Originating in the Committee on the Judiciary;

reported on February 26, 2026]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new article,
2 designated §36-13-1, §36-13-2, §36-13-3, §36-13-4, §36-13-5, §36-13-6, §36-13-7, §36-
3 13-8, §36-13-9, §36-13-10, §36-13-11, §36-13-12, §36-13-13, §36-13-14, §36-13-15, §36-
4 13-16, §36-13-17, §36-13-18, §36-13-19, §36-13-20, §36-13-21, §36-13-22, §36-13-23,
5 §36-13-24, §36-13-25, §36-13-26, §36-13-27, §36-13-28, §36-13-29, §36-13-30, and §36-
6 13-31, relating generally to making unincorporated nonprofit associations a recognized
7 legal entity in the state; creating the Decentralized Unincorporated Nonprofit Association
8 Act; providing a short title; defining terms; providing for the governing law; using profits;
9 holding certain property; providing for who is liable; creating standing; allowing
10 appointment of service agent; setting the proper venue; addressing dissolution, member
11 removal, member duties, member powers, and member interests; setting permissible
12 governance processes; creating right to inspect records; outlining termination process,
13 mergers, and conversion to another entity; providing the Secretary of State with
14 rulemaking authority; and setting an effective date.

Be it enacted by the Legislature of West Virginia:

ARTICLE 13. DECENTRALIZED UNINCORPORATED NONPROFIT ASSOCIATION

ACT.

§36-13-1. Short title.

1 This article may be cited as the "Decentralized Unincorporated Nonprofit Association Act."

§36-13-2. Definitions.

1 As used in this article:

2 "Administrator" means a person authorized by the members of a decentralized
3 unincorporated nonprofit association to fulfill administrative or operational tasks at the direction of
4 the membership.

5 "Decentralized unincorporated nonprofit association" means an unincorporated nonprofit
6 association that meets the following requirements:

7 (1) Consists of at least 100 members joined by mutual consent under an agreement, that
8 may be in writing or inferred from conduct, for a common nonprofit purpose;

9 (2) Has elected to be formed under this act; and

10 (3) Is not formed under any other law governing the nonprofit association's organization or
11 operation.

12 "Digital asset" means a representation of economic, proprietary or access rights that is
13 stored in a computer readable format and is either a digital consumer asset, digital security or
14 virtual currency.

15 "Distributed ledger technology" means a distributed ledger protocol and supporting
16 infrastructure, including blockchain, that uses a distributed, shared and replicated ledger, whether
17 it be public or private, permissioned or permissionless, and that may include the use of digital
18 assets as a medium of electronic exchange.

19 "Established practices" means the practices used by a decentralized unincorporated
20 nonprofit association without material change during the most recent five years of the
21 association's existence, or if the association has existed for less than five years, during the
22 nonprofit association's entire existence.

23 "Governing principles" means all agreements and any amendment or restatement of those
24 agreements, including any decentralized unincorporated nonprofit association agreements,
25 consensus formation algorithms, smart contracts or enacted governance proposals, that govern
26 the purpose or operation of a decentralized unincorporated nonprofit association and the rights
27 and obligations of the nonprofit association's members and administrators, whether contained in a
28 record, implied from the nonprofit association's established practices or both.

29 "Member" means a person who, under the governing principles of a decentralized
30 unincorporated nonprofit association, may participate in the selection of the nonprofit association's
31 administrators or the development of the policies and activities of the nonprofit association.

32 "Membership interest" means a member's voting right in a decentralized unincorporated
33 nonprofit association determined by the nonprofit association's governing principles, including as
34 ascertained from decentralized ledger technology on which the nonprofit association relies to
35 determine a member's voting right.

36 "Person" means an individual, corporation, business trust, estate, trust, partnership,
37 association, agency, joint venture, government, governmental subdivision or instrumentality or
38 any other legal commercial entity.

39 "Record" means information that is inscribed on a tangible medium or that is stored in an
40 electronic or other medium and is retrievable in perceivable form.

41 "Smart contract" means an automated transaction, as defined in any substantially similar
42 analogue or code, script or programming language relying on distributed ledger technology,
43 including blockchain, which may include facilitating and instructing transfers of an asset,
44 administering membership interest votes with respect to a decentralized unincorporated nonprofit
45 association or issuing executable instructions for these actions based on the occurrence or
46 nonoccurrence of specified conditions.

47 "State" means a state of the United States, the District of Columbia, the commonwealth of
48 Puerto Rico or any territory or insular possession subject to the jurisdiction of the United States.

§36-13-3. Governing law; territorial application.

1 (a) The law of this state governs any decentralized unincorporated nonprofit association
2 that is formed in this state.

3 (b) A decentralized unincorporated nonprofit association's governing principles shall
4 identify the jurisdiction in which the decentralized unincorporated nonprofit association is formed.

§36-13-4. Profits; prohibitions on distributions and dividends; compensation and other permitted payments.

1 (a) A decentralized unincorporated nonprofit association may engage in profit-making
2 activities, but profits from any activities shall be used in furtherance of, or set aside for, the
3 nonprofit association's common nonprofit purpose.

4 (b) Except as provided in subsection (c) of this section, a decentralized unincorporated
5 nonprofit association may not make distributions to its members or administrators.

6 (c) A decentralized unincorporated nonprofit association may:

7 (1) Pay reasonable compensation or reimburse reasonable expenses to its members,
8 administrators and persons outside the nonprofit association for services rendered, including with
9 respect to the administration and operation of the nonprofit association, which may include the
10 provisions of collateral for the self-insurance of the nonprofit association, voting or participation in
11 the nonprofit association's operations and activities;

12 (2) Confer benefits on its members and administrators in conformity with its common
13 nonprofit purpose;

14 (3) Repurchase membership interests to the extent authorized by the nonprofit
15 association's governing principles; and

16 (4) Make distributions of property to members upon winding up and termination of the
17 decentralized unincorporated nonprofit association to the extent permitted by §36-13-26 of this
18 code.

§36-13-5. Real and personal property; decentralized unincorporated nonprofit association as beneficiary, legatee, or devisee.

1 (a) A decentralized unincorporated nonprofit association in its name may acquire, hold,
2 encumber or transfer an estate or interest in real or personal property.

3 (b) A decentralized unincorporated nonprofit association may be a legatee, devisee, or
4 beneficiary of a trust or contract.

§36-13-6. Statement of authority as to real property.

1 (a) A decentralized unincorporated nonprofit association may execute and record a
2 statement of authority to transfer an estate or interest in real property in the name of the nonprofit
3 association.

4 (b) An estate or interest in real property in the name of a decentralized unincorporated
5 nonprofit association may be transferred by a person so authorized in a statement of authority
6 recorded in the office of the county clerk in which a transfer of the property will be recorded.

7 (c) A statement of authority shall set forth:

8 (1) The name of the decentralized unincorporated nonprofit association;

9 (2) The address in this state, including the street address, if any, of the nonprofit
10 association, or if the nonprofit association does not have an address in this state, its out of state
11 address;

12 (3) The name or title of a person authorized to transfer an estate or interest in real property
13 held in the name of the nonprofit association; and

14 (4) The action, procedure or vote of the decentralized unincorporated nonprofit association
15 which authorizes the person to transfer the real property of the nonprofit association and which
16 authorizes the person to execute the statement of authority.

17 (d) A statement of authority shall be executed in the same manner as a deed by a person
18 who is not the person authorized to transfer the estate or interest.

19 (e) A filing officer may collect a fee for recording the statement of authority in the amount
20 authorized for recording a transfer of real property.

21 (f) An amendment, including cancellation, of a statement of authority shall meet the
22 requirements for execution and recording of an original statement. Unless canceled earlier, a
23 recorded statement of authority or its most recent amendment is canceled by operation of law five
24 years after the date of the most recent recording.

25 (g) If the record title to the real property is in the name of a decentralized unincorporated
26 nonprofit association and the statement of authority is recorded in the office of the county in which
27 a transfer of real property would be recorded, the authority of the person named in a statement of
28 authority is conclusive in favor of a person who gives value without notice that the person lacks
29 authority.

§36-13-7. Liability in tort or contract.

1 (a) A decentralized unincorporated nonprofit association is a legal entity separate from its
2 members for the purposes of determining and enforcing rights, duties and liabilities in contract and
3 tort.

4 (b) A person is not liable for a breach of a decentralized unincorporated nonprofit
5 association's contract merely because the person is a member, administrator, authorized to
6 participate in the management of the affairs of the nonprofit association or considered as a
7 member by the nonprofit association.

8 (c) A person is not liable for a tortious act or omission for which a decentralized
9 unincorporated nonprofit association is liable merely because the person is a member or
10 administrator of the nonprofit association, or is a person authorized to participate in the
11 management of the affairs of the nonprofit association or considered as a member by the nonprofit
12 association.

13 (d) A tortious act or omission of a member, administrator or other person for which a
14 decentralized unincorporated nonprofit association is liable is not imputed to a person merely
15 because the person is a member or administrator of the nonprofit association, or is a person
16 authorized to participate in the management of the affairs of the nonprofit association or
17 considered as a member by the nonprofit association.

18 (e) A member, administrator, person authorized to participate in the management of the
19 affairs of the nonprofit association, or person considered as a member by the nonprofit association
20 may assert a claim against the decentralized unincorporated nonprofit association. A

21 decentralized unincorporated nonprofit association may assert a claim against a member,
22 administrator, person authorized to participate in the management of the affairs of the nonprofit
23 association or person considered as a member by the nonprofit association.

§36-13-8. Capacity to assert and defend; standing.

1 (a) A decentralized unincorporated nonprofit association, in its name, may institute,
2 defend, intervene or participate in a judicial, administrative or other governmental proceeding or in
3 an arbitration, mediation or any other form of alternative dispute resolution.

4 (b) A decentralized unincorporated nonprofit association may assert a claim on behalf of its
5 members if:

6 (1) One or more members of the nonprofit association have standing to assert a claim in
7 their own right;

8 (2) The interests the nonprofit association seeks to protect are germane to its purposes;
9 and

10 (3) Neither the claim asserted, nor the relief requested requires the participation of a
11 member.

§36-13-9. Effect of judgment or order.

1 A judgment or order against a decentralized unincorporated nonprofit association is not by
2 itself a judgment or order against a member or administrator of the nonprofit association.

§36-13-10. Appointment of agent to receive service of process.

1 (a) A decentralized unincorporated nonprofit association shall file in the Office of the
2 Secretary of State a statement appointing an agent authorized to receive service of process.

3 (b) A statement appointing an agent shall set forth:

4 (1) The name of the decentralized unincorporated nonprofit association;

5 (2) The address in this state, including the street address, if any, of the nonprofit
6 association, or if the nonprofit association does not have an address in this state, its out of state
7 address; and

8 (3) The name of the person in this state authorized to receive service of process and the
9 person's address, including the state address in this state.

10 (c) A statement appointing an agent shall be signed and acknowledged by a person
11 authorized to administer the affairs of the decentralized unincorporated nonprofit association. The
12 statement shall also be signed and acknowledged by the person appointed agent, who thereby
13 accepts the appointment. The appointed agent may resign by filing a resignation in the office of the
14 Secretary of State and giving notice to the nonprofit association. Within 10 business days of the
15 resignation, the decentralized unincorporated nonprofit association shall appoint and file a
16 statement appointing a new agent authorized to receive service of process.

17 (d) A filing officer may collect a fee for filing a statement appointing an agent to receive
18 service of process, an amendment or a resignation in an amount as prescribed by the Secretary of
19 State.

20 (e) An amendment to a statement appointing an agent to receive service of process shall
21 meet the requirements for execution of an original statement.

22 (f) If the Secretary of State refuses to file a statement appointing an agent, the Secretary of
23 State shall return the statement to the decentralized unincorporated nonprofit association or its
24 representative within 15 days after the statement was received by the Secretary of State, together
25 with a brief, written explanation of the reason for the refusal.

§36-13-11. Summons and complaint; service on whom.

1 In an action or proceeding against a decentralized unincorporated nonprofit association a
2 summons and complaint shall be served on an agent authorized by appointment to receive service
3 of process, an officer, managing or general agent, or a person authorized to administer the affairs
4 of the nonprofit association. If none of them can be served, service may be made on a member of
5 the nonprofit association.

§36-13-12. Claim not abated by change of members, administrators or persons authorized.

2 A claim for relief against a decentralized unincorporated nonprofit association shall not
3 abate merely because of a change in its members or persons authorized to administer the affairs
4 of the nonprofit association.

§36-13-13. Venue.

1 (a) For purposes of venue, a decentralized unincorporated nonprofit association is a
2 resident of a county in which:

3 (1) The decentralized unincorporated nonprofit association has an office;

4 (2) The decentralized unincorporated nonprofit association conducts its business or
5 activities; or

6 (3) The agent authorized to receive service of process under §36-13-10 of this code
7 resides.

§36-13-14. Perpetual existence, dissolution, continuation of existence.

1 (a) A decentralized unincorporated nonprofit association shall have perpetual existence
2 unless its governing principles otherwise specify.

3 (b) A decentralized unincorporated nonprofit association may be dissolved by any of the
4 following methods:

5 (1) If the governing principles of the nonprofit association provide a time or method for
6 dissolution, by that method;

7 (2) If the governing principles of the nonprofit association do not provide a method for
8 dissolution, by approval of its members in accordance with §36-13-20 of this code;

9 (3) If membership in the decentralized unincorporated nonprofit association falls below 100
10 members and the decentralized unincorporated nonprofit association does not meet the
11 requirements of a West Virginia unincorporated nonprofit association under this article; or

12 (4) By court order.

13 (c) After dissolution, a decentralized unincorporated nonprofit association continues in
14 existence until its activities have been wound up and terminated pursuant to §36-13-26 of this
15 code.

§36-13-15. Admission, suspension, dismissal or expulsion of members.

1 (a) A person becomes a member in accordance with the governing principles of the
2 decentralized unincorporated nonprofit association. If there are no applicable governing
3 principles, a person shall be considered a member upon purchase or assumption of ownership of
4 a membership interest and the person shall continue as a member absent the person's
5 suspension, dismissal or expulsion pursuant to subsection (b) of this section, resignation pursuant
6 to §36-13-26 of this code or the nonprofit association's dissolution and wind-up pursuant to §36-
7 13-14 to §36-13-26 of this code.

8 (b) Subject to the governing principles, a member may be suspended, dismissed or
9 expelled from a decentralized unincorporated nonprofit association. If there are no applicable
10 governing principles, a member may be suspended, dismissed or expelled by approval of its
11 members in accordance with §36-13-20 of this code.

12 (c) Unless otherwise provided for in the governing principles, suspension, dismissal or
13 expulsion of a member does not relieve the member of any obligation incurred, or commitment
14 made by the member, before the suspension, dismissal or expulsion.

§36-13-16. Member resignation.

1 (a) A member may resign as a member of a decentralized unincorporated nonprofit
2 association in accordance with the governing principles of the nonprofit association. If there are no
3 applicable governing principles, a member shall be deemed to have resigned as a member upon
4 the disposal, whether voluntary or involuntary, of all membership interests or other property or
5 instruments that confer upon the person a voting right within the nonprofit association.

6 (b) Unless otherwise provided for in the governing principles, resignation of a member
7 does not relieve the member of any obligation incurred, or commitment made by the member,
8 before the resignation.

§36-13-17. Duties of members.

1 (a) Unless otherwise provided for in the governing principles, a member shall not have any
2 fiduciary duty to a decentralized unincorporated nonprofit association or to any other member of
3 the nonprofit association merely by reason of being a member.

4 (b) A member acting on behalf of the association shall discharge his or her duties in the
5 best interest of the association.

§36-13-18. Member has no agency powers.

1 (a) A member is not an agent of a decentralized unincorporated nonprofit association
2 merely by reason of being a member.

3 (b) A person's status as a member does not prevent or restrict laws other than this act from
4 imposing liability on a decentralized unincorporated nonprofit association because of the
5 member's conduct.

§36-13-19. Member interests transferable.

1 Except as otherwise provided in the decentralized unincorporated nonprofit association's
2 governing principles, a member interest or any right thereunder is freely transferable to another
3 person through conveyance of the membership interest.

§36-13-20. Approval by members.

1 (a) Except as otherwise provided in the governing principles, a decentralized
2 unincorporated nonprofit association shall have the approval of the majority of membership
3 interests participating in a vote to:

- 4 (1) Suspend, dismiss or expel a member;
5 (2) Select or dismiss an administrator;
6 (3) Adopt, amend, or repeal the governing principles;

7 (4) Sell, lease, exchange or otherwise dispose of the decentralized unincorporated
8 nonprofit association's property;

9 (5) Dissolve the decentralized unincorporated nonprofit association under §36-13-14 of
10 this code;

11 (6) Undertake any other act outside the ordinary course of the decentralized
12 unincorporated nonprofit association's activities;

13 (7) Determine the policy and purpose of the decentralized unincorporated nonprofit
14 association.

15 (b) A decentralized unincorporated nonprofit association shall have the approval of its
16 members in accordance with its governing principles to perform any acts or exercise a right that
17 the governing principles require to be approved by members.

18 (c) Unless otherwise provided for in the governing principles, membership interest in a
19 decentralized unincorporated nonprofit association shall be calculated in proportion to a member's
20 voting rights within the nonprofit association.

§36-13-21. Utilization of distributed ledger technology.

1 (a) A decentralized unincorporated nonprofit association may provide for its governance, in
2 whole or in part, through distributed ledger technology, including smart contracts.

3 (b) The governing principles for a decentralized unincorporated nonprofit association may:

4 (1) Specify whether any distributed ledger technology utilized or enabled by the
5 decentralized unincorporated nonprofit association will be fully immutable or subject to change by
6 the nonprofit association and whether any distributed ledger will be fully or partially public or
7 private, including the extent of a member's access to information;

8 (2) Adopt voting procedures, which may include smart contracts deployed to distributed
9 ledger technology that provide for the following:

10 (A) Proposals from members or administrators in the decentralized unincorporated
11 nonprofit association for upgrades, modifications or additions to software systems or protocols;

12 (B) Other proposed changes to the decentralized unincorporated nonprofit association's
13 governing principles; and

14 (C) Any other matters of governance or activities within the purpose of the decentralized
15 unincorporated nonprofit association.

§36-13-22. Consensus formation algorithms and governance process.

1 In accordance with its governing principles, a decentralized unincorporated nonprofit
2 association may:

3 (1) Adopt any reasonable algorithmic means for establishing consensus for the validation
4 of records, as well as for establishing requirements, processes and procedures for conducting
5 operations or making organizational decisions with respect to the distributed ledger technology
6 used by the decentralized unincorporated nonprofit association; and

7 (2) In accordance with any procedure specified pursuant to §36-13-21 of this code, modify
8 the consensus mechanism, as well as the requirements, processes and procedures or substitute a
9 new consensus mechanism, requirements, processes or procedures that comply with this state's
10 law and the governing principles of the nonprofit association.

§36-13-23. Selection of administrators; rights and duties of administrators.

1 (a) Unless otherwise provided for in the decentralized unincorporated nonprofit
2 association's governing principles, the members of a nonprofit association may select the
3 nonprofit association's administrators in accordance with §36-13-20 of this code.

4 (b) If no administrators are selected, none of the members shall be considered
5 administrators for the decentralized unincorporated nonprofit association.

6 (c) No decentralized unincorporated nonprofit association shall be required to have an
7 administrator, and the rights and duties of all administrators shall be established as part of the
8 authorization of authority to act as an administrator.

9 (d) If in a record, the governing principles of a decentralized unincorporated nonprofit
10 association may limit or eliminate the liability of an administrator to the nonprofit association or its

11 members for money damages for any action taken, or failure to take any action, as an
12 administrator except liability for:

13 (1) The amount of financial benefit improperly received by an administrator;

14 (2) An intentional infliction of harm on the nonprofit association or its members;

15 (3) An intentional violation of criminal law;

16 (4) Breach of the duty of loyalty should one exist, unless, following full disclosure of all
17 material facts to the nonprofit association members, the specific act or transaction that would
18 otherwise breach the duty of loyalty is authorized or ratified by approval of the disinterested
19 members pursuant to §36-13-20 of this code; or

20 (5) Improper distributions.

§36-13-24. Right to inspect records.

1 (a) Except as provided by subsection (b), on reasonable notice, a member or administrator
2 of a decentralized unincorporated nonprofit association is entitled to an electronic record of any
3 record maintained by the nonprofit association regarding the nonprofit association's activities,
4 financial condition, and other circumstances, to the extent the information is material to the
5 member's or administrator's rights and duties under the decentralized unincorporated nonprofit
6 association's governing principles or this act.

7 (b) A decentralized unincorporated nonprofit association is not obligated to provide records
8 requested from a member or administrator if access to the information is contained in a record
9 available to the member or administrator in a medium available to the member, including
10 distributed ledger technology.

11 (c) A decentralized unincorporated nonprofit association may impose reasonable
12 restrictions on access to and use of information that may be provided under this section, including
13 by designating the information confidential and imposing nondisclosure or other safeguarding
14 obligations on the recipient of the information. In a dispute concerning the reasonableness of a

15 restriction under this subsection, the nonprofit association shall have the burden of proving
16 reasonableness.

17 (d) A former member or administrator may have access to information to which the former
18 member or administrator was entitled to as a member or administrator if:

19 (1) The information relates to the period of time during which the former member or
20 administrator was a member or administrator;

21 (2) The former member or administrator seeks the information in good faith; and

22 (3) The former member or administrator satisfies the requirements of subsection (a)
23 through (c) of this section with respect to the information.

24 (e) A decentralized unincorporated nonprofit association shall not be obligated to collect
25 and maintain a list of members or individual member information, including the names or
26 addresses of its members.

§36-13-25. Indemnification; advancement of expenses.

1 (a) Unless otherwise provided in its governing principles, a decentralized unincorporated
2 nonprofit association may reimburse a member or administrator for authorized expenses
3 reasonably incurred on behalf of the nonprofit association.

4 (b) A decentralized unincorporated nonprofit association may indemnify a member or
5 administrator for any debt, obligation or other liability incurred in the course of the member or
6 administrator's activities on behalf of the nonprofit association. To be eligible for indemnification,
7 an administrator shall have complied with the duties stated in §36-13-23 of this code. If in a record,
8 a nonprofit association's governing principles may broaden or limit this right of indemnification.

9 (c) If a person is made, or threatened to be made, a party in a proceeding based on that
10 person's conduct in the affairs of a decentralized unincorporated nonprofit association, that person
11 is entitled, upon written request to the nonprofit association, including through decentralized
12 ledger technology, to receive payment of or reimbursement by the nonprofit association, of
13 reasonable expenses, including attorney's fees and disbursements, incurred by that person in

14 advance of the final disposition of the proceeding. To be entitled to these payments or advances
15 the person making the request shall make a written affirmation that the person has a good faith
16 belief that the criteria for indemnification in subsection (a) of this section have been satisfied and
17 that the person will repay the amounts paid or reimbursed if it is determined that the criteria for
18 reimbursement have not been satisfied. No payment or reimbursement under this subsection shall
19 be made without prior approval, in a record, of the disinterested members under §36-13-2 of this
20 code.

21 (d) A decentralized unincorporated nonprofit association may purchase and maintain
22 insurance on behalf of a member or administrator for liability asserted against or incurred by the
23 member or administrator in that capacity, whether or not the nonprofit association would have the
24 power to indemnify or advance expenses to the member or administrator against the same liability
25 under this section.

26 (e) These rights of reimbursement, indemnification and advancement of expense apply to
27 former members or administrators for activities undertaken on behalf of the decentralized
28 unincorporated nonprofit association while they were members or administrators.

§36-13-26. Winding up; termination.

1 (a) A dissolved decentralized unincorporated nonprofit association shall wind up its
2 operations and the nonprofit association shall continue after dissolution only for the purpose of
3 winding up.

4 (b) In winding up a decentralized unincorporated nonprofit association, the members:

5 (1) Shall discharge the nonprofit association's debts, obligations and other liabilities, settle
6 and close the nonprofit association's business and distribute any remaining property:

7 (A) To another entity or person with similar nonprofit purposes, if required by law other than
8 this article;

9 (B) In accordance with the nonprofit association's governing principles. In the absence of
10 applicable governing principles, to the current members of the nonprofit association in proportion
11 to their membership interests; or

12 (C) If neither subdivision (A) or (B) of this paragraph applies, in accordance with the law of
13 unclaimed property contained in §36-8-1 et seq. of this code.

14 (2) May:

15 (A) Authorize an administrator to wind up the nonprofit association in accordance with §36-
16 13-20 of this code. Any administrator so authorized shall owe the nonprofit association a duty of
17 care in the conduct or winding up of the nonprofit to refrain from grossly negligent or reckless
18 conduct, willful or intentional misconduct or a knowing violation of the law;

19 (B) Preserve the nonprofit association's operations and property as a going concern for a
20 reasonable time;

21 (C) Prosecute and defend actions and proceedings, whether civil, criminal or
22 administrative;

23 (D) Transfer the nonprofit association's property;

24 (E) Settle disputes by mediation or arbitration;

25 (F) Perform other acts necessary or appropriate to the winding up.

26 (3) If the members of a nonprofit association do not appoint an administrator or
27 administrators to wind up the nonprofit association, the members shall owe the nonprofit
28 association a duty of care in the conduct or winding up of the nonprofit association's operations to
29 refrain from engaging in grossly negligent or reckless conduct, willful or intentional misconduct or a
30 knowing violation of the law.

§36-13-27. Mergers.

1 (a) As used in this section:

2 (1) "Constituent organization" means an organization that is merged with one or more
3 other organizations and includes the surviving organization;

4 (2) "Charitable purpose" means any purpose of an organization that has attained
5 exemption under section 501(c)(3) of the Internal Revenue Code or any successor section, or that
6 upon dissolution shall distribute its assets to a public benefit corporation, the United States, a state
7 or a person that is recognized as exempt under section 501(c)(3) of the Internal Revenue Code or
8 any successor section;

9 (3) "Disappearing organization" means a constituent organization that is not the surviving
10 organization;

11 (4) "Governing statute" means the statute that governs an organization's internal affairs;

12 (5) "Organization" means a decentralized unincorporated nonprofit association, an
13 unincorporated nonprofit association, a general partnership, including a limited liability
14 partnership, a limited partnership, including a limited liability limited partnership, a limited liability
15 company, a business or statutory trust, a corporation or any other legal or commercial person
16 having a governing statute. The term includes a domestic or foreign organization regardless of
17 whether the organization is organized for profit;

18 (6) "Organizational document" means the basic records that create the organization and
19 determine its internal governance and the relations among the persons that own it, have an
20 interest in it or are members of it;

21 (7) "Surviving organization" means an organization into which one or more other
22 organizations are merged.

23 (b) A decentralized unincorporated nonprofit association may merge with any organization
24 that is not expressly prohibited by the law.

25 (c) A merger involving a decentralized unincorporated nonprofit association is subject to
26 the following requirements:

27 (1) Each of the constituent merging organizations shall comply with its governing law;

28 (2) Each party to the merger shall approve a plan of merger in accordance with its
29 governing principles. The plan shall be in a record and shall include the following provisions:

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

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

33 (C) The terms and conditions of the merger, including the manner and basis for converting
34 the interests in each constituent organization into any combination of money, interests in the
35 surviving organization or other considerations;

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

38 (E) If the surviving organization is not to be created by the merger, any amendments to be
39 made by the merger to the surviving organization's organizational documents that are, or are
40 proposed to be, in a record.

41 (3) The plan of merger shall be approved by the members of each decentralized
42 unincorporated nonprofit association that is a constituent organization in the merger, subject to
43 §36-13-20 of this code. If a member of a nonprofit association that is party to a merger will have
44 personal liability with respect to an obligation of a constituent or surviving organization, the
45 consent in a record of that member to the plan of merger shall also be obtained;

46 (4) Subject to the contractual rights of third parties, after a plan of merger is approved and
47 at any time before the merger is effective, a constituent organization may amend the plan or
48 abandon the merger as provided in the plan, or except as otherwise prohibited in the plan, with the
49 same consent as was required to approve the plan;

50 (5) Following approval of the plan, a merger under this section shall be effective if:

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

54 (B) The surviving organization is a decentralized unincorporated nonprofit association, as
55 specified in the plan of merger and upon compliance by any constituent organization that is not a

56 nonprofit association with any requirements, including any required filings in the office of the
57 Secretary of State, of the organization's governing statute; or

58 (C) The surviving organization is not a decentralized unincorporated nonprofit association
59 under the state law governing the surviving organization.

60 (d) When a merger becomes effective:

61 (1) The surviving organization continues or comes into existence;

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

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

66 (4) All debts, obligations or other liabilities of each constituent organization that ceases to
67 exist continue as debts, obligations or other liabilities of the surviving organization;

68 (5) An action or proceeding pending by or against any constituent organization that ceases
69 to exist may be continued as if the merger had not occurred;

70 (6) Except as prohibited by other law, all of the rights, privileges, immunities, powers and
71 purposes of each constituent organization that ceases to exist vest in the surviving organization;

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

74 (8) The merger shall not affect the personal liability, if any, of a member, administrator or
75 manager of a constituent association for a debt, liability or obligation of the nonprofit association
76 incurred before the merger is effective; and

77 (9) A surviving organization that is a foreign organization consents to the jurisdiction of the
78 courts of this state to enforce any debt, obligation or other liability owed by a constituent
79 organization, if before the merger the constituent organization was subject to suit in this state on
80 the debt, obligation or other liability. A surviving organization that is a foreign organization and not

81 authorized to transact business in this state appoints the Secretary of State as agent for service of
82 process for the purpose of enforcing a debt, obligation or other liability under this subsection.

83 (e) Property held for a charitable purpose under the law of this state by a domestic or
84 foreign organization immediately before a merger under this section becomes effective shall not,
85 as a result of the merger, be diverted from the objects for which it was donated, granted or devised,
86 unless, to the extent required by or pursuant to the law of this state concerning nondiversion of
87 charitable assets, the organization obtains an appropriate order of the attorney general or of the
88 district court in a proceeding for which the attorney general has been given notice specifying the
89 disposition of the property.

90 (f) A bequest, devise, gift, grant or promise contained in a will or other instrument of
91 donation, subscription or conveyance that is made to a disappearing organization and that takes
92 effect or remains payable after the merger inures to the benefit of the surviving organization. A
93 trust obligation that would govern property if transferred to the disappearing entity applies to
94 property that is instead transferred to the surviving organization under this section.

§36-13-28. Conversion of entities.

1 (a) An unincorporated nonprofit association formed under §36-11-1 et seq. of this code that
2 meets the requirements of §36-13-2 of this code may elect to be governed by this act by approval
3 of its members. If the unincorporated nonprofit association's governing principles provide a
4 method for approving the election, the election shall be approved by that method. If the governing
5 principles do not provide a method for approving the election, the election shall be approved by a
6 majority of the members of the unincorporated nonprofit association.

7 (b) An election under subsection (a) of this section takes effect upon approval by the
8 members of the unincorporated nonprofit association. Upon the effective date of the election, the
9 unincorporated nonprofit association shall be governed by this act and shall be a decentralized
10 unincorporated nonprofit association for all purposes of the laws of this state.

11 (c) A decentralized unincorporated nonprofit association may elect to cease being
12 governed by this act by approval of its members in accordance with §36-13-20 of this code. Upon
13 the effective date of the cessation, the entity shall continue as an unincorporated nonprofit
14 association under §36-11-1 et seq. of this code.

15 (d) A decentralized unincorporated nonprofit association that transitions to an
16 unincorporated nonprofit association under §36-13-14 of this code by reason of its membership
17 falling below one hundred members shall be governed by §36-11-1 et seq. of this code from the
18 date of the transition.

19 (e) An unincorporated nonprofit association that elects to be governed by this act under
20 subsection (a) of this section, or a decentralized unincorporated nonprofit association that ceases
21 to be governed by this act under subsection (c) or (d) of this section, is for all purposes the same
22 entity that existed before the election, cessation or transition. All property owned by, all debts,
23 obligations and other liabilities of, and all actions and proceedings pending by or against the entity
24 shall continue unaffected by the election, cessation or transition. The election, cessation or
25 transition shall not constitute a dissolution of the entity and shall not require the entity to wind up its
26 affairs.

27 (f) The governing principles of an entity that makes an election under subsection (a) of this
28 section or that ceases to be governed by this act under subsection (c) or (d) of this section shall
29 continue in effect to the extent they are not inconsistent with the law governing the entity after the
30 election, cessation or transition.

§36-13-29. Supplemental principles of law.

1 Principles of law and equity supplement this article unless displaced by a specific provision
2 of this article.

§36-13-30. Rulemaking authority.

2 The Secretary of State may propose rules for legislative approval in accordance with
3 §29A-3-1 et seq. of this code as may be necessary to implement and administer the provisions of
4 this article.

§36-13-31. Effective Date.

1 This article is effective July 1, 2026.