

INTERIM STUDY PROPOSAL 2025-046

State of Arkansas
95th General Assembly
Regular Session, 2025

As Engrossed: H3/4/25

A Bill

HOUSE BILL 1533

By: Representative Gramlich
By: Senator J. Boyd

Filed with: House Committee on Insurance and Commerce
pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

AN ACT TO CREATE THE DECENTRALIZED UNINCORPORATED
NONPROFIT ASSOCIATION ACT; AND FOR OTHER PURPOSES.

Subtitle

TO CREATE THE DECENTRALIZED
UNINCORPORATED NONPROFIT ASSOCIATION
ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 4, Chapter 28, is amended to add an additional
subchapter to read as follows:

Subchapter 7 — Decentralized Unincorporated Nonprofit Association Act

4-28-701. Title.

This subchapter shall be known and may be cited as the “Decentralized Unincorporated
Nonprofit Association Act”.

4-28-702. Definitions.

As used in this subchapter:

(1) “Administrator” means a member of a decentralized unincorporated nonprofit
association authorized by vote of the membership to fulfill administrative or operational tasks;

(2) “Decentralized unincorporated nonprofit association” means an unincorporated
nonprofit association:

(A) Consisting of at least one hundred (100) members joined by mutual consent under an agreement which may be in writing or implied from conduct, for a common nonprofit purpose;

(B) That has elected to be organized under this subchapter; and

(C) That is not formed under any other statute that governs its organization and operation;

(3)(A) “Digital asset” means a representation of economic, proprietary, or access rights stored in a computer readable format.

(B) “Digital asset” does not include any underlying asset unless the asset itself is an electronic record;

(4) “Distributed ledger technology” means a software protocol that:

(A) Governs the rules, operations, and communications between intersection and connection points in a telecommunications network and its supporting infrastructure;

(B) Includes the computer software, hardware, or collection of computer software and hardware, which use or enable distributed ledger technologies, including blockchain; and

(C) Uses a distributed, shared, and replicated ledger, which may:
 (i) Be public or private;
 (ii) Be permissioned or permissionless; or
 (iii) Include the use of a digital asset as a medium of electronic exchange;

(5) “Distribution” means the payment of a dividend or any part of the income or profit of a decentralized unincorporated nonprofit association to its members or administrators;

(6) “Established practices” means the practices used by a decentralized unincorporated nonprofit association without material change during the most recent five (5) years of its existence, or if it has existed for less than five (5) years, during its entire existence;

(7)(A) “Governing principles” means all agreements, including without limitation articles of association, consensus formation algorithms, or enacted governance proposals, whether in a record, implied from its established practices, or in any combination thereof, that govern the purpose or operation of a decentralized unincorporated nonprofit association and the rights and obligations of its members and administrators.

(B) “Governing principles” includes any amendment or restatement of the agreements constituting the governing principles of a decentralized unincorporated nonprofit association;

(8) “Member” means a person that, under the governing principles of a

1 decentralized unincorporated nonprofit association, may participate in the development of the
 2 policies and activities of the decentralized unincorporated nonprofit association or the selection of
 3 administrators;

4 (9) “Membership interest” means a member’s voting right in a decentralized
 5 unincorporated nonprofit association as determined by the decentralized unincorporated nonprofit
 6 association’s governing principles;

7 (10) “Person” means a natural person, a partnership, whether general or limited, a
 8 limited liability company, a trust, including without limitation a common-law trust, business trust,
 9 statutory trust, voting trust, or any other form of trust, an estate, an association, including without
 10 limitation any group, organization, cotenancy, plan, board, council or committee, a corporation, a
 11 government, including without limitation a country, state, county, or any other governmental
 12 subdivision, agency, or instrumentality, a custodian, a nominee, or any other individual or entity, or
 13 series thereof, in its own capacity or any representative capacity, in each case, whether domestic or
 14 foreign;

15 (11) “Record” means information that is inscribed on a tangible medium or that is
 16 stored in an electronic or other medium and is retrievable in a perceivable form;

17 (12) “Smart contract” means a computational process that executes on distributed
 18 ledger technology used to automate transactions, including without limitation:

19 (A) Facilitating or instructing transfers of assets;

20 (B) Creating and transmitting digital assets;

21 (C) Synchronizing information;

22 (D) Authenticating user rights and conveying access to software
 23 applications; or

24 (E) Effectuating membership votes within an organization; and

25 (13) “State” means a state of the United States, the District of Columbia, Puerto
 26 Rico, the United States Virgin Islands, or any territory or insular possession subject to the
 27 jurisdiction of the United States.

29 4-28-703. Relation to other law.

30 (a) Principles of law and equity supplement this subchapter unless displaced by a
 31 particular provision of the subchapter.

32 (b) This subchapter does not repeal or modify a statute or rule for organizations that do not
 33 elect to become decentralized unincorporated nonprofit associations.

35 4-28-704. Governing law.

36 (a) The law of this state governs any decentralized unincorporated nonprofit association

1 that is formed in this state.

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

4
5 4-28-705. Legal entity — Perpetual existence — Powers.

6 A decentralized unincorporated nonprofit association:

7 (1) Is a legal entity distinct from its members and administrators;

8 (2) Has perpetual duration unless its governing principles otherwise specify; and

9 (3)(A) May engage in profit-making activities.

10 (B) Any profits under subdivision (3)(A) of this section shall be used in
11 furtherance of, or set aside for, the decentralized unincorporated nonprofit association's common
12 nonprofit purpose.

13
14 4-28-706. Distributions prohibited — Compensation and other permitted payments.

15 (a) Except as otherwise provided in subsection (b) of this section, a decentralized
16 unincorporated nonprofit association shall not pay dividends or distribute any part of its income or
17 profits to its members or administrators.

18 (b) A decentralized unincorporated nonprofit association may:

19 (1) Pay reasonable compensation or reimburse reasonable expenses to its
20 members, administrators, and persons outside the organization for services rendered, including
21 with respect to the administration and operation of the decentralized unincorporated nonprofit
22 association, which may include without limitation the provision of collateral for the self-insurance
23 of the decentralized unincorporated nonprofit association, voting and participation;

24 (2) Confer benefits on its members or administrators in conformity with its common
25 nonprofit purpose or purposes;

26 (3) Repurchase membership interests to the extent authorized by its governing
27 principles; and

28 (4) Make distributions of property to members upon winding up and termination to
29 the extent permitted by § 4-28-728.

30
31 4-28-707. Ownership and transfer of property.

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

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

1 4-28-708. Statement of authority as to real property — Definition.

2 (a) As used in this section, “statement of authority” means a statement authorizing a
3 person to transfer an interest in real property held in the name of a decentralized unincorporated
4 nonprofit association.

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

9 (c) A statement of authority shall state:

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

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

14 (3) That the decentralized unincorporated nonprofit association is a decentralized
15 unincorporated nonprofit association; and

16 (4) The action, procedure or vote of the decentralized unincorporated nonprofit
17 association that authorizes the person to transfer the real property of the decentralized
18 unincorporated nonprofit association and that authorizes the person to execute the statement of
19 authority.

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

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

24 (f) A record amending, revoking, or canceling a statement of authority or stating that the
25 statement is unauthorized for recording an original statement may be filed.

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

28 (h) If the record title to real property is in the name of a decentralized unincorporated
29 nonprofit association and the statement of authority is recorded in the office of the county in which
30 a transfer of real property would be recorded, the authority of the person named in a statement of
31 authority under subdivision (c)(4) of this section is conclusive in favor of a person who gives value
32 without notice that the person lacks authority.

33
34 4-28-709. Liability.

35 (a)(1) A debt, obligation, or other liability of a decentralized unincorporated nonprofit
36 association is solely the debt, obligation, or other liability of the decentralized unincorporated

nonprofit association.

(2) A member or administrator is not personally liable, directly or indirectly, by way of contribution or otherwise for a debt, obligation, or other liability of the decentralized unincorporated nonprofit association solely by reason of being or acting as a member or administrator.

(3) Subdivisions (a)(1) and (a)(2) of this subsection apply regardless of the dissolution of the decentralized unincorporated nonprofit association.

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

(c) The failure of a decentralized unincorporated nonprofit association to observe formalities relating to the exercise of its powers or administration of its activities and affairs is not grounds for imposing liability on a member or administrator of the decentralized unincorporated nonprofit association for a debt, obligation, or other liability of the decentralized unincorporated nonprofit association.

4-28-710. Assertion and defense of claims.

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

(b)(1) A member or administrator may assert a claim the member or administrator has against the decentralized unincorporated nonprofit association.

(2) A decentralized unincorporated nonprofit association may assert a claim it has against a member or administrator.

4-28-711. Effect of judgment or order.

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

4-28-712. Appointment of agent to receive service of process.

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

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

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

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

1 (c)(1) A statement appointing an agent shall be signed and acknowledged by a person
2 authorized by the decentralized unincorporated nonprofit association.

3 (2) The statement required under subdivision (c)(1) of this section shall be signed
4 and acknowledged by the person appointed agent, who thereby accepts the appointment.

5 (3) The appointed agent may resign by filing a resignation in the office of the
6 Secretary of State and giving notice to the decentralized unincorporated nonprofit association.

7 (d) The Secretary of State may collect a fee for filing a statement appointing an agent to
8 receive service of process, an amendment, or a resignation in the amount charged for filing similar
9 documents.

10 (e) An amendment to or cancellation of a statement appointing an agent to receive service
11 of process shall meet the requirements for execution of an original statement.

12 (f) An amendment shall be filed to update the office of the Secretary of State as to any
13 change regarding an agent authorized to receive service of process within thirty (30) days of a
14 change being made.

15
16 4-28-713. Service of process.

17 In an action or proceeding against a decentralized unincorporated nonprofit association, a
18 summons and complaint or other process shall be served on an agent authorized by appointment
19 to receive service of process, any appointed administrator of the decentralized unincorporated
20 nonprofit association, or in any other manner authorized by the law of this state.

21
22 4-28-714. Claim not abated by change of members or other persons.

23 A claim for relief against a decentralized unincorporated nonprofit association does not
24 abate because of a change in its members or persons authorized to administer the affairs of the
25 decentralized unincorporated nonprofit association.

26
27 4-28-715. Venue.

28 In addition to any other applicable state laws providing venue, venue of an action against a
29 decentralized unincorporated nonprofit association may be brought in this state in the county in
30 which the decentralized unincorporated nonprofit association has appointed an agent for services
31 under § 4-28-712.

32
33 4-28-716. Member has no agency power.

34 A member of a decentralized unincorporated nonprofit association is not an agent of the
35 decentralized unincorporated nonprofit association solely by reason of being a member.

1 4-28-717. Member approval.

2 (a) Except as otherwise provided in the governing principles, a decentralized
 3 unincorporated nonprofit association shall have the approval of its members according to its
 4 governing principles to:

5 (1) Suspend, dismiss, or expel a member;

6 (2) Select or dismiss an administrator;

7 (3) Adopt, amend, or repeal the governing principles;

8 (4) Sell, lease, exchange, or otherwise dispose of all, or substantially all, of the
 9 decentralized unincorporated nonprofit association's property, with or without the decentralized
 10 unincorporated nonprofit association's goodwill, outside the ordinary course of its activities;

11 (5) Dissolve under § 4-28-727, merge under § 4-28-729, or convert under § 4-28-730;

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

14 (7) Determine the policy and purposes of the decentralized unincorporated
 15 nonprofit association.

16 (b) A decentralized unincorporated nonprofit association shall have the approval of the
 17 members according to its governing principles to do any other acts or exercise a right that the
 18 governing principles require to be approved by members.

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

22
 23 4-28-718. Utilization of distributed ledger technology.

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

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

27 (1) Specify whether any distributed ledger technology utilized or enabled by the
 28 decentralized unincorporated nonprofit association shall be fully immutable or subject to change
 29 and whether any such ledger shall be fully or partially public or private, including the extent of
 30 members' access to information; and

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

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

36 (B) Other proposed changes to the decentralized unincorporated nonprofit

1 association's governing principles; and

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

4
5 4-28-719. Consensus formation algorithms and governance process.

6 According to its governing principles, a decentralized unincorporated nonprofit association
7 may:

8 (1) Adopt any reasonable algorithm for establishing consensus for the validation of
9 records, as well as for establishing requirements, processes, and procedures for conducting
10 operations, or making organizational decisions with respect to the distributed ledger technology
11 used by the decentralized unincorporated nonprofit association; and

12 (2) According to any procedure specified under § 4-28-718, modify the consensus
13 mechanism as well as the requirements, processes, and procedures, or substitute a new
14 consensus mechanism, requirement, processes, or procedures that comply with the requirements
15 of law and the governing principles of the decentralized unincorporated nonprofit association.

16
17 4-28-720. Duties to members.

18 (a) A member does not have any fiduciary duty to a decentralized unincorporated nonprofit
19 association or to any other member of the decentralized unincorporated nonprofit association
20 solely by being a member.

21 (b) A member shall discharge the duties and obligations under this subchapter or under the
22 governing principles and exercise any rights consistent with the contractual obligation of good faith
23 and fair dealing.

24
25 4-28-721. Admission, suspension, dismissal, or expulsion of members.

26 (a)(1) A person becomes a member according to the governing principles of the
27 decentralized unincorporated nonprofit association.

28 (2) If there are no applicable governing principles, a person shall:

29 (A) Be considered a member upon such person's purchase or assumption of
30 a right of ownership of a membership interest or other property or instruments that confers upon a
31 person a voting right within the decentralized unincorporated nonprofit association; and

32 (B) Continue as a member until the earlier of the person's resignation under
33 § 4-28-722 or expulsion under subsection (b) of this section.

34 (b)(1) A member may be suspended or expelled according to the governing principles of the
35 decentralized unincorporated nonprofit association.

36 (2) If there are no applicable governing principles, a person may be suspended or

1 expelled from a decentralized unincorporated nonprofit association only by a vote of its members.

2 (c) Unless the governing principles provide otherwise, the suspension or expulsion of a
3 member does not relieve the member from any obligation incurred or commitment made by the
4 member before suspension or expulsion.

5
6 4-28-722. Member's resignation.

7 (a)(1) A member may resign as a member of a decentralized unincorporated nonprofit
8 association according to the governing principles.

9 (2) In the absence of applicable governing principles, a member shall be deemed to
10 have resigned as a member upon the disposal, voluntary or involuntary, of all membership interest
11 or other property or instruments that confers upon the person a voting right within the decentralized
12 unincorporated nonprofit association.

13 (b) Unless a decentralized unincorporated nonprofit association's governing principles
14 provide otherwise, resignation of a member does not relieve the member from any unpaid capital
15 contribution, dues, assessments, fees, or other obligation incurred or commitment made by the
16 member before resignation.

17
18 4-28-723. Membership interest transferable.

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

22
23 4-28-724. Selection of administrators — Rights and duties of administrators.

24 (a) Except as otherwise provided in this subchapter or a decentralized unincorporated
25 nonprofit association's governing principles, the members may select the decentralized
26 unincorporated nonprofit association's administrators according to § 4-28-717.

27 (b) If an administrator is not selected, then no member of the association is an
28 administrator.

29 (c) As there is no requirement that a decentralized unincorporated nonprofit association
30 should have administrators, there are no default obligations, and the rights and duties of an
31 administrator or administrators are a result of the specific authority authorized by the decentralized
32 unincorporated nonprofit association through approval of its members according to § 4-28-717 and
33 contractual agreement with its administrator or administrators.

34 (d) An administrator has no authority to act on behalf of the decentralized unincorporated
35 nonprofit association beyond the specific authorization granted in the selection process.

36 (e) If in a record, the governing principles of a decentralized unincorporated nonprofit

1 association may limit or eliminate the liability of an administrator to the decentralized
 2 unincorporated nonprofit association or its members for money damages for any action taken, or
 3 for failure to take any action, as an administrator except liability for:

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

5 (2) An intentional infliction of harm on the decentralized unincorporated nonprofit
 6 association or its members;

7 (3) An intentional violation of criminal law;

8 (4) A breach of the duty of loyalty should one exist, unless a full disclosure of all
 9 material facts, a specific act or transaction that would otherwise violate the duty of loyalty by an
 10 agent be authorized by approval of the disinterested members under § 4-28-717; or

11 (5) Improper distributions.

13 4-28-725. Rights of members and administrators to information.

14 (a) On reasonable notice, a member or administrator of a decentralized unincorporated
 15 nonprofit association is entitled to an electronic record of any record maintained by the
 16 decentralized unincorporated nonprofit association regarding its activities, financial condition, and
 17 other circumstances, to the extent the information exists and is material to the member's or
 18 administrator's rights and duties under the decentralized unincorporated nonprofit association's
 19 governing principles of this subchapter, subject to subsection (b) of this section.

20 (b) A decentralized unincorporated nonprofit association has no obligation to furnish any
 21 record maintained by the decentralized unincorporated nonprofit association for record requests
 22 which the member or administrator has access, including through records made available on
 23 distributed ledger technology.

24 (c) A decentralized unincorporated nonprofit association may impose reasonable
 25 restrictions on access to and use of information to be furnished under this section, including
 26 designating the information confidential and imposing nondisclosure and safeguarding obligations
 27 on the recipient.

28 (d) A former member or administrator may have access to information to which the
 29 member or administrator was entitled while a member or administrator if the information pertains
 30 to the period during which the person was a member or administrator, the former member or
 31 administrator seeks the information in good faith, and the former member or administrator satisfies
 32 the requirements of subsections (a)—(c) of this section.

33 (e) A decentralized unincorporated nonprofit association has no obligation to collect and
 34 maintain member listings.

36 4-28-726. Reimbursement — Indemnification — Advancement of expenses — Insurance.

1 (a) Except as otherwise provided in a decentralized unincorporated nonprofit association's
2 governing principles, members or administrators may be reimbursed for authorized expenses
3 reasonably incurred on behalf of the decentralized unincorporated nonprofit association.

4 (b)(1) A decentralized unincorporated nonprofit association may indemnify a member or
5 manager for any debt, obligation, or other liability incurred during the member or administrator's
6 activities on behalf of the decentralized unincorporated nonprofit association.

7 (2) To be eligible for indemnification, an administrator shall have complied with the
8 duties stated in § 4-28-724.

9 (3) If in a record, a decentralized unincorporated nonprofit association's governing
10 principles may broaden or limit this right of indemnification.

11 (c)(1) If a person is made or threatened to be made a party in a proceeding based on that
12 person's conduct of the affairs of a decentralized unincorporated nonprofit association, that person
13 is entitled, upon written request to the decentralized unincorporated nonprofit association, and
14 approval, in a record, of the disinterested members under § 4-28-717 of this subchapter, to receive
15 payment of or reimbursement by the decentralized unincorporated nonprofit association of
16 reasonable expenses, including attorney's fees and disbursements, incurred by that person in
17 advance of the final disposition of the proceeding.

18 (2) To be entitled to the advance payments or reimbursements under subdivision
19 (c)(1) of this section, the person making the request shall make a written affirmation that the person
20 has a good faith belief that the criteria for indemnification in subsection (a) of this section have
21 been satisfied and that the person will repay the amounts paid or reimbursed if it is determined that
22 the criteria for reimbursement have not been satisfied.

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

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

31
32 4-28-727. Dissolution — Continuation of existence.

33 (a) A decentralized unincorporated nonprofit association may be dissolved by any of the
34 following methods:

35 (1) If the governing principles of the association provide a time or method for
36 dissolution by that method;

(2) If the governing principles of the association do not provide a method for dissolution, upon approval of the members according to § 4-28-717;

(3) If membership in the organization falls below one hundred (100) members; or

(4) By court order.

(b) After dissolution, a decentralized unincorporated nonprofit association shall continue in existence until its activities have been wound up and it is terminated under § 4-28-728.

4-28-728. Winding up and termination.

(a) A dissolved decentralized unincorporated nonprofit association shall wind up its business and the decentralized unincorporated nonprofit association continues after dissolution only for the purpose of winding up.

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

(1) Discharge the decentralized unincorporated nonprofit association's debts, obligations, and other liabilities;

(2) Settle and close the decentralized unincorporated nonprofit association's business; and

(3) Marshal and distribute any remaining property:

(i) As required by law other than this subchapter that requires assets of a decentralized unincorporated nonprofit association to be distributed to another entity or person with similar nonprofit purposes;

(ii) According to the decentralized unincorporated nonprofit association's governing principles and in the absence of applicable governing principles, to the current members of the association in proportion to their membership interests; or

(iii) If neither subdivisions (b)(3)(i) or (b)(3)(ii) of this section applies, then under the Unclaimed Property Act, § 18-28-201 et seq.

(c) In winding up a decentralized unincorporated nonprofit association, the members may:

(1) Appoint an administrator or administrators authorized to wind up the decentralized unincorporated nonprofit association according to § 4-28-717;

(2) Preserve the decentralized unincorporated nonprofit association operations and property as a going concern for a reasonable time;

(3) Prosecute and defend actions and proceedings, whether civil, criminal, or administrative;

(4) Transfer the decentralized unincorporated nonprofit association's property;

(5) Settle disputes by mediation or arbitration;

(6) Receive reasonable compensation for services rendered in winding up the decentralized unincorporated nonprofit association; and

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

(d) If the members of decentralized unincorporated nonprofit association do not appoint an administrator or administrators to wind up the decentralized unincorporated nonprofit association, the members themselves shall each owe the decentralized unincorporated nonprofit association a duty of care in the conduct or winding up of the decentralized unincorporated nonprofit association operations to refrain from engaging in grossly negligent or reckless conduct, willful or intentional misconduct, or a knowing violation of the law.

4-28-729. Mergers — Definitions.

(a) As used in this section:

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

(2) "Disappearing organization" means a constituent organization that is not the surviving organization;

(3)(A) "Organization" means a decentralized unincorporated nonprofit association, an unincorporated nonprofit association, a general partnership, including a limited liability partnership, a limited partnership, including a limited liability limited partnership, limited liability company, business, or statutory trust, a corporation, or any other legal or commercial entity having a statute governing its formation and operation.

(B) "Organization" includes a domestic or foreign organization regardless of whether the organization is a for profit organization; and

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

(b) A decentralized unincorporated nonprofit association may merge with any organization that is authorized by law to effect a merger with a decentralized unincorporated nonprofit association.

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

(1) Each of the constituent organizations complies with its governing law;

(2)(A) Each party to the merger shall approve a plan of merger according to its governing principles.

(B) The plan shall be in a record.

(C) The plan shall include the following provisions:

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

(ii) The name and form of the surviving organization and, if the

1 surviving organization is to be created by the merger, a statement to that effect;

2 (iii) The terms and conditions of the merger, including the manner
3 and basis for converting the interests in each constituent organization into any combination of
4 money, interests in the surviving organization, and other consideration;

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

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

10 (3)(A) The plan of merger shall be approved by the members of each decentralized
11 unincorporated nonprofit association that is a constituent organization in the merger.

12 (B) If a member of a decentralized unincorporated nonprofit association that
13 is a party to a merger has personal liability with respect to an obligation of a constituent or a
14 surviving organization, the consent in a record of that member to the plan of merger shall also be
15 obtained;

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

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

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

24 (B) If the surviving organization is a decentralized unincorporated nonprofit
25 association, as specified in the plan of merger and upon compliance by any constituent
26 organization that is not a decentralized unincorporated nonprofit association with any requirements
27 of the organization's governing statute, including any required filings in the office of the Secretary of
28 State; or

29 (C) If the surviving organization is not a decentralized unincorporated
30 nonprofit association, as provided by the statute governing the surviving organization.

31 (d) When a merger becomes effective:

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

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

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

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

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

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

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

10 (8) The merger does not affect the personal liability, if any, of a member,
 11 administrator, or manager of a constituent association for a debt, liability, or obligation of the
 12 association incurred before the merger is effective; and

13 (9)(A) A surviving organization that is a foreign organization consents to the
 14 jurisdiction of the courts of this state to enforce any debt, obligation, or other liability owed by a
 15 constituent organization, if before the merger the constituent organization was subject to suit in
 16 this state on the debt, obligation, or other liability.

17 (B) A surviving organization that is a foreign organization and not authorized
 18 to transact business in this state shall appoint the Secretary of State as its agent for service of
 19 process for the purposes of enforcing a debt, obligation, or other liability under subdivision (d)(9)(A)
 20 of this section.

21 (e) Property held for a charitable purpose under the law of this state by a domestic or
 22 foreign organization immediately before a merger under this section becomes effective may not, as
 23 a result of the merger, be diverted from the objects for which it was donated, granted, or devised,
 24 unless, to the extent required under the law of this state concerning cy pres or other law dealing
 25 with nondiversion of charitable assets, the organization shall obtain an appropriate order of the
 26 Pulaski County Circuit Court specifying the disposition of the property.

27 (f)(1) A bequest, devise, gift, grant, or promise contained in a will or other instrument of
 28 donation, subscription, or conveyance that is made to a disappearing organization and that takes
 29 effect or remains payable after the merger inures to the benefit of the surviving organization.

30 (2) A trust obligation that would govern property if transferred to the disappearing
 31 entity applies to property that is instead transferred to the surviving organization under this section.

33 4-28-730. Conversions — Definitions.

34 (a) As used in this section:

35 (1) "Conversion" means a transaction authorized by this section under which an
 36 entity of one (1) type is converted into an entity of another type;

(2) "Converted entity" means the entity that results from a conversion; and

(3) "Converting entity" means the entity that becomes the converted entity through a conversion.

(b) A decentralized unincorporated nonprofit association may convert to any form of entity that is authorized by law to affect a conversion from a decentralized unincorporated nonprofit association.

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

(1) Each of the constituent converting organizations complies with its governing principles;

(2)(A) The decentralized unincorporated organization, as a converting entity, shall approve a plan of conversion according to its governing principles.

(B) The plan shall be in a record and include the following provisions:

(i) The name of the converting decentralized unincorporated nonprofit association;

(ii) The name, jurisdiction of formation, and type of entity of the converted entity;

(iii) The manner of converting the interest in the converting decentralized unincorporated nonprofit association into interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the requirements under this section;

(iv) If the converted entity requires a record that is filed publicly to form, organize, incorporate, or otherwise create a converted entity, the converted entity's organizational documents that are proposed to be in a record;

(v) If the converted entity does not require a record that is filed publicly to form, organize, incorporate, or otherwise create a converted entity, a record of the converted entities' governing principles to the extent they exist;

(vi) The other terms and conditions of the conversion; and

(vii) Any other provision required by the law of this state or the governing principles of the converting decentralized unincorporated nonprofit association;

(3)(A) The plan of conversion shall be approved by the members of the converting decentralized unincorporated according to its governing principles.

(B) If a member of decentralized unincorporated nonprofit association that is a party to a conversion shall have personal liability with respect to an obligation of a converted entity or converting entity, the consent in a record of that member to the plan of conversion shall also be obtained;

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

(5) Following approval of the plan, a conversion under this section is effective:

(A) If a converted entity is required to give notice to or obtain the approval of a governmental agency or officer in order to form an entity, the notice has been given and the approval has been obtained; and

(B) If a converted entity is not required to give notice or obtain the approval of a governmental agency or officer in order to form an entity, as provided by the statute governing the converted entity.

(d) A conversion becomes effective when the converted entity comes into existence.

(e) When a conversion becomes effective:

(1) The converted entity is:

(A) Organized under and subject to the laws of the converted entity; and

(B) The same entity without interruption as the converting entity;

(2) All property of the converting entity continues to be vested in the converted entity without transfer, reversion, or impairment;

(3) All debts, obligations, and other liabilities of the converting entity continue as debts, obligations, and other liabilities of the converted entity; and

(4) The name of the converted entity may be substituted for the name of the converting entity in any pending action or proceeding.

(f) A conversion does not require the entity to wind up its affairs and does not constitute or cause the dissolution of the entity.

4-28-731. Uniformity of application and construction.

In applying and construing this subchapter, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

4-28-732. Effective date.

This subchapter takes effect on January 1, 2026.

/s/Gramlich

Referred requested by the Arkansas House of Representatives

- 1 Prepared by: ANS/AMS
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