

The following summary is quoted from the March 2023 issue of *The Alabama Lawyer*:

Nonprofit Entities Code Revisions

FEATURES

- Effective January 1, 2024.
- Applies to all nonprofit corporations incorporated on or after that date.
- Applies to nonprofit corporations incorporated before that date which elect to be governed by the new law.
- Applies to all nonprofit corporations on and after January 1, 2025.
- Harmonizes the Alabama Nonprofit Corporation Law with the provisions of Chapters 1 (the “Hub”), 2A (the Alabama Business Corporation Law), 5A (the Alabama Limited Liability Company Law), 8A (the Alabama Partnership Law), and 9A (the Alabama Limited Partnership Law) of the Alabama Business and Nonprofit Entity Code.

MAJOR CHANGES

- The addition of certain procedures providing for the ratification of defective corporate actions.
- The addition of a requirement that electronic transmission of notices or other communications must be consented to by the recipient under certain circumstances.
- The addition of a provision that authorizes the certificate of incorporation to limit or eliminate the duty of a director or other person to bring a business opportunity to the corporation.
- The addition of a provision that authorizes the certificate of incorporation or bylaws to create an exclusive forum for the adjudication of internal corporate claims.
- The elimination of the requirement that special meetings of members may be called by holders of one-twentieth of the votes entitled to be cast at any such special meeting.
- Action may be taken by members by written consent without a meeting if the consents are signed by members having not less than the minimum number of votes that would be required to take action at a meeting.
- The addition of a provision authorizing the appointment in advance of a members’ meeting, of one or more inspectors of election.
- The addition of provisions allowing for the designation, appointment, or approval of directors.
- The elimination of prior restrictions on the power of the board of directors to fix or change the number of directors.
- Revision of the requirements regarding a “classified” or “staggered” board of directors.
- Revision of the methods of removing directors.
- Revisions to the standard of conduct for directors and the addition of provisions regarding the standard of liability for directors.
- The addition of a new Article 13, providing for the conversion of another organization to a nonprofit corporation or a conversion of a nonprofit corporation to another organization.

- The addition of a provision allowing the board of directors to adopt certain amendments to the certificate of incorporation without member approval.
- The reduction in the required member vote on approval of a plan of merger or on certain dispositions of the nonprofit corporation's assets, from two-thirds to a majority.
- The addition of provisions that allow for the certificate of incorporation to provide for a person or group of persons to approve certain nonprofit transactions, such as amendment of the certificate of incorporation, certain dispositions of the nonprofit corporation's assets, and the dissolution, merger, and conversion of the nonprofit corporation.