

2024 Regular Session

HOUSE BILL NO. 892

BY REPRESENTATIVE WRIGHT

COMMERCIAL REGULATIONS: Provides relative to the formation and administration of decentralized unincorporated nonprofit associations

1 AN ACT

2 To enact Chapter 5-A of Title 12 of the Louisiana Revised Statutes of 1950, to be comprised

3 of R.S. 12:531 through 560, and R.S. 49:222(B)(17), relative to unincorporated

4 nonprofit associations; to create uniform decentralized unincorporated nonprofit

5 associations; to provide for a short title; to provide for definitions; to provide for

6 supplemental general principles; to provide for governing jurisdictions; to prohibit

7 certain distributions and dividends; to provide for compensation; to establish certain

8 property rights of the nonprofit association; to provide for liability; to provide for

9 certain actions, proceedings, and procedures; to provide for filings with the secretary

10 of state's office; to provide for judgments and orders; to provide for agency; to

11 provide for the existence, dissolution, and termination of a nonprofit association; to

12 provide for disciplinary action and resignation of members; to provide for certain

13 duties and powers of members; to provide for the use of distributed ledger

14 technology; to require validation of records and procedures for conducting

15 operations; to provide for the rights and duties of administrators; to provide for

16 record inspection; to provide for indemnification; to provide for mergers and the

17 conversion of entities; to provide for severability; to provide for fees chargeable by

18 the secretary of state; and to provide for related matters.

19 Be it enacted by the Legislature of Louisiana:

1 Section 1. Chapter 5-A of Title 12 of the Louisiana Revised Statutes of 1950,
2 comprised of R.S. 12:531 through 560, is hereby enacted to read as follows:

3 CHAPTER 5-A. LOUISIANA DECENTRALIZED UNINCORPORATED

4 NONPROFIT ASSOCIATION ACT

5 §531. Short title

6 This Chapter may be cited as the "Louisiana Decentralized Unincorporated
7 Nonprofit Association Act".

8 §532. Definitions

9 As used in this Chapter:

10 (1) "Administrator" means a member authorized by vote of the membership
11 to fulfill administrative or operational tasks.

12 (2) "Decentralized unincorporated nonprofit association" or "nonprofit
13 association" means an entity that meets all of the following requirements:

14 (a) Consists of at least one hundred members joined by mutual consent
15 pursuant to an agreement that may be in writing or inferred from conduct for a
16 common nonprofit purpose.

17 (b) Has elected to be formed in accordance with this Chapter.

18 (c) Is not formed in accordance with any other provisions of law governing
19 organization or operation of the nonprofit association.

20 (3) "Digital asset" means virtual currency, cryptocurrencies, native electronic
21 assets, including stablecoins and non-fungible tokens or NFTs, and other digital-only
22 assets that confer economic, proprietary, or access rights or powers.

23 (4) "Distributed ledger technology" means a computational process protocol
24 and supporting infrastructure, including blockchain, that uses a distributed, shared
25 and replicated ledger, whether it is public or private or permissioned or
26 permissionless, and that may include the use of digital assets as a medium of
27 electronic exchange.

1 (5) "Distributed ledger protocol" means a computational process that governs
2 the rules, operation, and communication between intersection and connection points
3 in a telecommunication network.

4 (6) "Distribution" means the payment of a dividend or any part of the income
5 or profit of a decentralized unincorporated nonprofit association to its members or
6 administrators.

7 (7) "Established practices" means the methods and operations used by a
8 decentralized unincorporated nonprofit association without material change during
9 the most recent five years of existence of the nonprofit association, or if the nonprofit
10 association has existed for less than five years, during the entire existence of the
11 nonprofit association.

12 (8) "Governing principles" means all agreements and any amendment or
13 restatement of those agreements including any decentralized unincorporated
14 nonprofit association agreements, consensus formation algorithms, smart contracts,
15 or enacted governance proposals that govern the purpose or operation of a
16 decentralized unincorporated nonprofit association and the rights and obligations of
17 the members and administrators. Governing principles may be contained in a record,
18 implied from the established practices of the nonprofit association, or both.

19 (9) "Member" means a person who, pursuant to the governing principles of
20 a decentralized unincorporated nonprofit association, may participate in the selection
21 of the nonprofit association's administrators or the development of the policies and
22 activities of the nonprofit association.

23 (10) "Membership interest" means a voting right of a member in a
24 decentralized unincorporated nonprofit association determined by the governing
25 principles and includes interests ascertained from decentralized ledger technology
26 on which the nonprofit association relies to determine the voting right of a member.

27 (11) "Person" means an individual, corporation, business trust, estate, trust,
28 partnership, association, agency, joint venture, government, governmental
29 subdivision or instrumentality, or any other legal commercial entity.

1 (12) "Smart contract" means a computational process that executes on
2 distributed ledger technology used to automate transactions and includes but is not
3 limited to any of the following:

4 (a) Facilitating or instructing transfers of assets.

5 (b) Creating and transmitting digital assets.

6 (c) Synchronizing information.

7 (d) Authenticating user rights and conveying access to software applications.

8 (e) Effectuating membership votes within an organization.

9 §533. Supplemental general principles of law; relation to other law

10 A. The provisions of the Louisiana Revised Statutes of 1950 and other
11 principles of law supplement this Chapter unless displaced by a particular provision
12 of this Chapter.

13 B. This Chapter shall not repeal or modify a provision of law or rule for
14 organizations that do not elect to become decentralized unincorporated nonprofit
15 associations.

16 §534. Governing law; jurisdiction

17 A. The law of this state governs any decentralized unincorporated nonprofit
18 association that is formed in this state.

19 B. The governing principles of a decentralized unincorporated nonprofit
20 association shall identify the jurisdiction in which the decentralized unincorporated
21 association is formed.

22 §535. Profits; prohibitions on distributions and dividends; compensation and other
23 permitted payments

24 A. A decentralized unincorporated nonprofit association may engage in
25 profit-making activities, but profits from any activities shall be used in furtherance
26 of or set aside for the common nonprofit purpose of the association.

27 B. Except as provided in Subsection C of this Section, a decentralized
28 unincorporated nonprofit association may not make distributions to its members or
29 administrators.

1 C. A decentralized unincorporated nonprofit association may do all of the
2 following:

3 (1) Pay reasonable compensation or reimburse reasonable expenses to its
4 members, administrators, and persons outside the organization for services rendered,
5 including with respect to the administration and operation of the decentralized
6 unincorporated nonprofit association, which may include the provisions of collateral
7 for the self-insurance of the decentralized unincorporated nonprofit association,
8 voting, or participation in the operations and activities of the association.

9 (2) Confer benefits on its members and administrators in conformity with its
10 common nonprofit purpose.

11 (3) Repurchase membership interests to the extent authorized by its
12 governing principles.

13 (4) Make distributions of property to members upon winding up and
14 termination of the decentralized unincorporated nonprofit association to the extent
15 permitted in accordance with R.S. 12:557.

16 §536. Immovable and movable property; decentralized unincorporated nonprofit
17 association as legatee, devisee, or beneficiary

18 A. A decentralized unincorporated nonprofit association is a legal entity
19 separate from its members for the purposes of acquiring, holding, encumbering,
20 donating, and otherwise transferring immovable and movable property.

21 B. A decentralized unincorporated nonprofit association may, in its name,
22 acquire, hold, mortgage, hypothecate, encumber, donate, or otherwise transfer its
23 interest in immovable or movable property.

24 C. A decentralized unincorporated nonprofit association may be a
25 beneficiary of a trust and has the capacity to receive donations inter vivos and mortis
26 causa.

1 §537. Statement of authority as to immovable property

2 A. A decentralized unincorporated nonprofit association may execute and
3 file a statement of authority in its own name to mortgage, hypothecate, encumber,
4 donate, or otherwise transfer an interest in immovable property.

5 B. An interest in immovable property held in the name of a decentralized
6 unincorporated nonprofit association may be mortgaged, hypothecated, encumbered,
7 donated, or otherwise transferred by a person so authorized in a statement of
8 authority filed in the conveyance records in the parish in which the immovable
9 property is situated.

10 C. A statement of authority shall include all of the following:

11 (1) The name of the decentralized unincorporated nonprofit association.

12 (2) The federal tax identification number, if any, of the decentralized
13 unincorporated nonprofit association.

14 (3) The address in this state, including the street address, if any, of the
15 decentralized unincorporated nonprofit association, or if the nonprofit association
16 does not have an address in this state, its out-of-state address.

17 (4) A statement or attestation that it is a decentralized unincorporated
18 nonprofit association.

19 (5) The name or title of the person authorized to transfer an estate or interest
20 in real property held in the name of the decentralized unincorporated nonprofit
21 association.

22 (6) A written attestation or confirmation that the transaction was duly
23 authorized by membership vote in accordance with R.S. 12:551 or otherwise in
24 conformity with the governing principles of the decentralized unincorporated
25 nonprofit association.

26 D. A statement of authority shall be in the form of an authentic act and shall
27 be executed by a person who is not the person authorized to transfer the interest in
28 immovable property.

1 E. The filing officer may collect a fee for collecting and recording the
2 statement of authority in the amount authorized for recording a transfer of
3 immovable property.

4 F. An amendment of a statement of authority, including a cancellation, shall
5 meet the form requirements and be filed in the same manner as an original statement.
6 Unless canceled earlier, a filed statement of authority or its most recent amendments
7 is canceled by operation of law five years after the most recent filing.

8 G. If the title to immovable property is in the name of a decentralized
9 unincorporated nonprofit association and the statement of authority is filed in the
10 conveyance records in the parish in which the immovable property is situated, the
11 authority of the person named in a statement of authority to transfer is conclusive in
12 favor of a person who gives value without notice that the person lacks authority.

13 §538. Liability in tort or contract

14 A. A decentralized unincorporated nonprofit association is a legal entity
15 separate from its members for the purposes of determining and enforcing rights,
16 duties, and liabilities in contract and tort.

17 B. A person shall not be liable for any of the following acts or omissions
18 merely because the person is a member, administrator, authorized to participate in
19 the management of the affairs of the nonprofit association, considered as a member
20 by the nonprofit association or made the contract or incurred the obligation on behalf
21 of the nonprofit association:

22 (1) A breach of a contract if the fact that the person was acting for the
23 nonprofit association was disclosed to, known by the other party to the contract or
24 to the party owed performance.

25 (2) A tortious act or omission for which a decentralized unincorporated
26 nonprofit association is not liable.

27 (3) A tortious act or omission of a member, administrator, or other person
28 for which a decentralized unincorporated nonprofit association is liable.

1 C. A member, administrator, person authorized to participate in the
2 management of the affairs of the nonprofit association, or person considered as a
3 member by the nonprofit association may assert a claim against the decentralized
4 unincorporated nonprofit association. A decentralized unincorporated nonprofit
5 association may assert a claim against a member, administrator, person authorized
6 to participate in the management of the affairs of the nonprofit association, or person
7 considered as a member by the nonprofit association.

8 §539. Capacity to assert and defend; standing

9 A. A decentralized unincorporated nonprofit association, in its name, may
10 institute, defend, intervene, or participate in a judicial, administrative, or other
11 governmental proceedings or in an arbitration, mediation, or any other form of
12 alternative dispute resolution.

13 B. A decentralized unincorporated nonprofit association may assert a claim
14 on behalf of its members when all of the following are satisfied:

15 (1) One or more members of the nonprofit association have standing to assert
16 a claim in their own right.

17 (2) The interests the nonprofit association seek to protect are germane to its
18 purposes.

19 (3) Neither the claim asserted nor the relief requested requires the
20 participation of a member.

21 §540. Effect of judgment or order

22 A judgment or order against a decentralized unincorporated nonprofit
23 association is not by itself a judgment or order against a member or administrator of
24 the nonprofit association.

25 §541. Appointment of agent to receive service of process

26 A. A decentralized unincorporated nonprofit association may file in the
27 office of the secretary of state a statement appointing an agent authorized to receive
28 service of process.

29 B. A statement appointing an agent shall include all of the following:

1 (1) The name of the decentralized unincorporated nonprofit association.

2 (2) Identification that the entity is a decentralized unincorporated nonprofit
3 association.

4 (3) The federal tax identification number, if any, of the decentralized
5 unincorporated nonprofit association.

6 (4) The address in this state, including the street address, if any, of the
7 decentralized unincorporated nonprofit association. If the nonprofit association does
8 not have an address in this state, the nonprofit association shall provide its out-of-
9 state address.

10 (5) The name and address of the person in this state who is authorized to
11 receive service of process.

12 C. A statement appointing an agent shall be signed and acknowledged by a
13 person authorized to administer the affairs of the decentralized unincorporated
14 nonprofit association. The statement shall also be signed and acknowledged by the
15 person who is appointed agent and accepts the appointment.

16 D. The secretary of state may collect a fee when a nonprofit association files
17 any of the following:

18 (1) A statement appointing an agent to receive service of process.

19 (2) An amendment.

20 (3) A resignation.

21 E. An amendment to a statement appointing an agent to receive service of
22 process shall meet the requirements for execution of an original statement.

23 §542. Summons and complaint; service

24 In an action or proceeding against a decentralized unincorporated nonprofit
25 association, a summons and complaint shall be served on an agent authorized by
26 appointment to receive service of process or a person authorized to administer the
27 affairs of the nonprofit association. If no agent or authorized person is designated
28 for service of process, service may be made on a member of the nonprofit
29 association.

1 §543. Claim not abated by change of members or administrators

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

5 §544. Venue

6 For purposes of venue, a decentralized unincorporated nonprofit association
7 is a resident of either of the following:

8 (1) The parish in which the nonprofit association has an office.

9 (2) The parish in which the agent resides who is authorized to receive service
10 of process pursuant to R.S. 12:541.

11 §545. Perpetual existence, dissolution, continuation of existence

12 A. A decentralized unincorporated nonprofit association shall have perpetual
13 duration unless its governing principles specify otherwise.

14 B. A decentralized unincorporated nonprofit association may be dissolved
15 in accordance with any of the following methods:

16 (1) If the governing principles of the nonprofit association provide a time or
17 method for dissolution.

18 (2) If the governing principles of the nonprofit association do not provide a
19 method for dissolution, by approval of its members in accordance with R.S. 12:551.

20 (3) If membership in the decentralized unincorporated nonprofit association
21 falls below one hundred members and the nonprofit association does not meet the
22 requirements of an unincorporated nonprofit association pursuant to this Chapter.

23 (4) By court order.

24 C. After dissolution, a decentralized unincorporated nonprofit association
25 continues in existence until its activities have been wound up and terminated
26 pursuant to R.S. 12:557.

27 D. If the nonprofit association meets the requirements of an unincorporated
28 nonprofit association pursuant to this Chapter, the entity automatically converts to

1 an unincorporated nonprofit association unless the governing principles specify
2 otherwise.

3 §546. Admission, suspension, dismissal, or expulsion of members

4 A. A person becomes a member of a decentralized unincorporated nonprofit
5 association in accordance with the governing principles of the nonprofit association.
6 If there are no applicable governing principles, a person shall be considered a
7 member upon purchase or assumption of ownership of a membership interest and
8 continue as a member absent the suspension, dismissal, or expulsion of the person
9 pursuant to Subsection B of this Section, resignation pursuant to R.S.12:547, or the
10 dissolution and wind-up of the nonprofit association pursuant to R.S. 12:545 and
11 557.

12 B. Pursuant to the governing principles, a member may be suspended,
13 dismissed, or expelled from a decentralized unincorporated nonprofit association.
14 If there are no applicable governing principles, a member may be suspended,
15 dismissed, by approval of the members of the nonprofit association in accordance
16 with R.S. 12:551.

17 C. Unless otherwise provided for in the governing principles, suspension,
18 dismissal, or expulsion of a member shall not relieve the member of any obligation
19 incurred, or commitment made by the member, before the suspension, dismissal, or
20 expulsion.

21 §547. Member resignation

22 A. A member may resign from a decentralized unincorporated nonprofit
23 association in accordance with the governing principles of the nonprofit association.
24 In the absence of applicable governing principles, a member shall be deemed to have
25 resigned as a member upon the voluntary or involuntary disposal of all membership
26 interests, other property, or instruments that confer upon the person a voting right
27 within the nonprofit association.

28 B. Unless otherwise provided for in the governing principles, resignation of
29 a member shall not relieve the member of any obligation incurred, or commitment
30 made by the member, before the resignation.

1 §548. Duties of members

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

5 B. All members shall be subject to the implied contractual covenant of good
6 faith and fair dealing.

7 §549. Prohibition of agency powers of members

8 A. A member shall not be considered an agent of a decentralized
9 unincorporated nonprofit association merely by reason of being a member.

10 B. Liability may be imposed on a decentralized unincorporated nonprofit
11 association as a result of a member's conduct. A person's status as a member shall
12 not prevent or restrict any liability on the nonprofit association.

13 §550. Transferable member interests

14 Except as otherwise provided in the governing principles of the decentralized
15 unincorporated nonprofit association, a member interest, or any right is freely
16 transferable to another person through conveyance of the membership interest within
17 the nonprofit association.

18 §551. Approval by members

19 A. Except as otherwise provided in the governing principles, a decentralized
20 unincorporated nonprofit association shall have the approval of the majority of
21 membership interests participating in a vote to do each of the following:

22 (1) Suspend, dismiss, or expel a member.

23 (2) Select or dismiss an administrator.

24 (3) Adopt, amend, or repeal the governing principles.

25 (4) Sell, lease, exchange, or otherwise dispose of the property of a nonprofit
26 association.

27 (5) Dissolve the association pursuant to R.S. 12:545.

28 (6) Undertake any other act outside the ordinary course of activities of the
29 nonprofit association.

30 (7) Determine the policy and purpose of the nonprofit association.

1 B. A decentralized unincorporated nonprofit association shall have the
2 approval of its members in accordance with its governing principles to perform any
3 acts or exercise a right that the governing principles require to be approved by
4 members.

5 C. Unless otherwise provided for in the governing principles, membership
6 interest in a decentralized unincorporated nonprofit association shall be calculated
7 in proportion to the voting rights of a member within the nonprofit association.

8 §552. Utilization of distributed ledger technology

9 A. A decentralized unincorporated nonprofit association may provide for its
10 governance, in whole or in part, through distributed ledger technology, including
11 smart contracts.

12 B. The governing principles for a decentralized unincorporated nonprofit
13 association may do both of the following:

14 (1) Specify whether any distributed ledger technology utilized or enabled by
15 the decentralized unincorporated nonprofit association will be fully immutable or
16 subject to change by the nonprofit association and whether any such ledger will be
17 fully or partially public or private, including the extent of a member's access to
18 information.

19 (2) Adopt voting procedures, which may include smart contracts deployed
20 to distributed ledger technology that provide for all of the following:

21 (a) Proposals from members or administrators in the decentralized
22 unincorporated nonprofit association for upgrades, modifications, or additions to
23 software systems or protocols.

24 (b) Other proposed changes to the governing principles.

25 (c) Any other matters of governance or activities within the purpose of the
26 decentralized unincorporated nonprofit association.

27 §553. Consensus formation algorithms and governance process

28 In accordance with its governing principles, a decentralized unincorporated
29 nonprofit association may carry out both of the following:

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

6 (2) In accordance with any procedure specified pursuant to R.S. 12:551,
7 modify the consensus mechanism, as well as the requirements, processes, and
8 procedures or substitute a new consensus mechanism, requirements, processes or
9 procedures that comply with state law and the governing principles of the
10 decentralized unincorporated nonprofit association.

11 §554. Selection of administrators; rights and duties of administrators

12 A. Unless otherwise provided for in the governing principles, the members
13 of an association may select administrators in accordance with R.S. 12:551.

14 B. If no administrators are selected, none of the members would be
15 considered administrators for the decentralized unincorporated nonprofit association.

16 C. No decentralized unincorporated nonprofit association shall be required
17 to have an administrator, and the rights and duties of all administrators shall be
18 established as part of the authorization of authority to act as an administrator.

19 D. If in a record, the governing principles of a decentralized unincorporated
20 nonprofit association may limit or eliminate the liability of an administrator or its
21 members for money damages for an action or inaction except for any of the
22 following:

23 (1) The amount of financial benefit improperly received by an administrator.

24 (2) An intentional infliction of harm on the association or its members.

25 (3) An intentional violation of criminal law.

26 (4) Breach of the duty of loyalty unless, following full disclosure of all
27 material facts to the nonprofit association members, the specific act or transaction
28 that would otherwise violate the duty of loyalty is authorized or ratified by approval
29 of the disinterested members pursuant to R.S. 12:551.

1 (5) Improper distributions.

2 §555. Right to inspect records

3 A. Except as provided by Subsection B of this Section, on reasonable notice,
4 a member or administrator of a decentralized unincorporated nonprofit association
5 is entitled to an electronic record of any record maintained by the association
6 regarding the association's activities, financial condition, and other circumstances to
7 the extent the information is material to the rights and duties of a member or
8 administrator pursuant to the governing principles or this Chapter.

9 B. A decentralized unincorporated nonprofit association shall not be
10 obligated to provide records requested from a member or administrator if access to
11 the information is contained in a record available to the member or administrator on
12 decentralized ledger technology.

13 C. A decentralized unincorporated nonprofit association may impose
14 reasonable restrictions on access to and use of information that may be provided
15 pursuant to this Section, including by designating the information confidential and
16 imposing nondisclosure or other safeguarding obligations on the recipient of the
17 information. In a dispute concerning the reasonableness of a restriction pursuant to
18 this Subsection, the nonprofit association shall have the burden of proving
19 reasonableness.

20 D. A former member or administrator may have access to information to
21 which the member or administrator is entitled when all of the following are satisfied:

22 (1) The information relates to the period of time during which the person was
23 a member or administrator.

24 (2) The former member or administrator seeks the information in good faith.

25 (3) The former member or administrator satisfies the requirements of
26 Subsections A through C of this Section with respect to the information.

27 E. A decentralized unincorporated nonprofit association shall not be
28 obligated to collect and maintain a list of members or individual member
29 information, including the names or addresses of its members.

1 §556. Indemnification; advancement of expenses

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

5 B. A decentralized unincorporated nonprofit association may indemnify a
6 member or administrator for any debt, obligation, or other liability incurred in the
7 course of activities of the member or administrator on behalf of the nonprofit
8 association. To be eligible for indemnification, an administrator shall have complied
9 with the duties stated in R.S. 12:554. If in a record, the governing principles may
10 broaden or limit this right of indemnification.

11 C. If a person is made, or threatened to be made, a party in a proceeding
12 based on that person's conduct of the affairs of a decentralized unincorporated
13 nonprofit association, that person is entitled, upon written request to the nonprofit
14 association including through decentralized ledger technology, to receive payment
15 of or reimbursement by the nonprofit association, of reasonable expenses including
16 attorney's fees and disbursements incurred by that person in advance of the final
17 disposition of the proceeding. To be entitled to these payments or advances, the
18 person making the request shall make a written affirmation that the person has a
19 good faith belief that the criteria for indemnification in Subsections A and B of this
20 Section have been satisfied and that the person shall repay the amounts paid or
21 reimbursed if it is determined that the criteria for reimbursement are not satisfied.

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

27 E. These rights of reimbursement, indemnification, and advancement of
28 expense shall apply to former members or administrators for activities undertaken

1 on behalf of the decentralized unincorporated nonprofit association while they were
2 members or administrators.

3 §557. Wind up; termination

4 A. A dissolved decentralized unincorporated association shall wind up its
5 operations and the nonprofit association continues after dissolution only for the
6 purpose of winding up.

7 B.(1) In winding up a decentralized unincorporated nonprofit association, the
8 members shall discharge debts, obligations, and other liabilities, settle and close the
9 nonprofit association's business, and marshal and distribute any remaining property
10 to either of the following:

11 (a) Another entity or person with similar nonprofit purposes if required by
12 any other provision of law.

13 (b) The current members of the nonprofit association in proportion to their
14 membership interests in accordance with the governing principles and in the absence
15 of applicable governing principles.

16 (2) If neither Subparagraph (1)(a) or (b) of this Subsection applies, members
17 shall apply the law of unclaimed property to discharge debts, obligations, and other
18 liabilities, settle and close the nonprofit association's business, and marshal and
19 distribute any remaining property.

20 (3) Members may also do any of the following:

21 (a) Authorize an administrator to wind up the decentralized unincorporated
22 nonprofit association in accordance with R.S. 12:551. Any administrator or
23 administrators so authorized shall owe the nonprofit association a duty of care in the
24 conduct or winding up of the nonprofit to refrain from grossly negligent or reckless
25 conduct, willful or intentional misconduct or a known violation of the law.

26 (b) Preserve the nonprofit association's operations and property as a going
27 concern for a reasonable time.

28 (c) Prosecute and defend actions and proceedings, whether civil, criminal,
29 or administrative.

1 (d) Transfer the decentralized unincorporated nonprofit association's
2 property.

3 (e) Settle disputes by mediation or arbitration.

4 (f) Transfer the decentralized unincorporated nonprofit association's
5 property.

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

7 (4) If the members of a decentralized unincorporated nonprofit association
8 do not appoint an administrator or administrators to wind up the nonprofit
9 association, the members would owe the association a duty of care in the conduct or
10 winding up of the nonprofit association's operations to refrain from engaging in
11 grossly negligent or reckless conduct, willful or intentional misconduct or a known
12 violation of the law.

13 §558. Mergers

14 A. As used in this Section:

15 (1) "Charitable purpose" means any purpose of an organization that has
16 attained exemption pursuant to Section 501(c)(3) of the Internal Revenue Code or
17 any successor section, or that upon dissolution shall distribute its assets to a public
18 benefit corporation, the United States, or a state or a person that is recognized as
19 exempt pursuant to Section 501(c)(3) of the Internal Revenue Code or any successor
20 section.

21 (2) "Constituent organization" means an organization that is merged with
22 one or more other organizations and includes the surviving organization.

23 (3) "Disappearing organization" means a constituent organization that is not
24 the surviving organization.

25 (4) "Governing statute" means any provision of law that governs the internal
26 affairs of an organization.

27 (5) "Organization" means a decentralized unincorporated nonprofit
28 association, unincorporated nonprofit association, a general partnership, a limited
29 liability partnership, limited partnership, including a limited liability limited

1 partnership, limited liability company, business or statutory trust, corporation, or any
2 other legal or commercial person having a governing statute. The term includes a
3 domestic or foreign organization regardless of whether organized for profit.

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

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

9 B. A decentralized unincorporated association may merge with any
10 organization that is not expressly prohibited by state or federal law.

11 C. A merger involving a decentralized unincorporated nonprofit association
12 is subject to all of the following requirements:

13 (1) Each of the constituent merging organizations shall comply with its
14 governing law.

15 (2) Each party to the merger shall approve a plan of merger in accordance
16 with its governing principles. The plan, which shall be in a record, shall include each
17 of the following provisions:

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

19 (b) The name and form of the surviving organization and, if the surviving
20 organization is to be created by the merger, a statement to that effect.

21 (c) The terms and conditions of the merger, including the manner and basis
22 for converting the interests in each constituent organization into any combination of
23 money, interests in the surviving organization, or other considerations.

24 (d) If the surviving organization is to be created by the merger, the surviving
25 organization's organizational documents that are proposed to be in a record.

26 (e) If the surviving organization is not to be created by the merger, any
27 amendments to be made by the merger to the surviving organization's organizational
28 documents that are, or are proposed to be, in a record.

1 (3) The plan of merger shall be approved by the members of each
2 decentralized unincorporated nonprofit association that is a constituent organization
3 in the merger subject to R.S. 12:551. If a member of an association that is party to
4 a merger will have personal liability with respect to an obligation of a constituent or
5 surviving organization, the consent in a record of that member to the plan of merger
6 shall also be obtained.

7 (4) Subject to the contractual rights of third parties, after a plan of merger
8 is approved and at any time before the merger is effective, a constituent organization
9 may amend the plan or abandon the merger as provided in the plan, or except as
10 otherwise prohibited in the plan, with the same consent as was required to approve
11 the plan.

12 (5) Following approval of the plan, a merger pursuant to this Section shall
13 be effective if the following criteria set forth in either Subparagraph (a) or (b) of this
14 Paragraph are satisfied:

15 (a)(i) A constituent organization is required to give notice to or obtain the
16 approval of a governmental agency or officer in order to be a party to a merger, and
17 the notice has been given and the approval has been obtained.

18 (ii) In addition to the notice and approval provided for in Item (i) of this
19 Subparagraph, the surviving organization is a decentralized unincorporated nonprofit
20 association, as specified in the plan of merger and upon compliance by any
21 constituent organization that is not a nonprofit association with any requirements,
22 including any required filings in the office of the secretary of state, of the
23 organization's governing statute.

24 (b) The surviving organization is not a decentralized unincorporated
25 nonprofit association pursuant to state law governing the surviving organization.

26 D. When a merger becomes effective all of the following are accomplished:

27 (1) The surviving organization continues or comes into existence.

28 (2) Each constituent organization that merges into the surviving organization
29 ceases to exist as a separate entity.

1 (3) All property owned by each constituent organization that ceases to exist
2 vests in the surviving organization.

3 (4) All debts, obligation, or other liabilities of each constituent organization
4 that ceases to exist continue as debts, obligations, or other liabilities of the surviving
5 organization.

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

8 (6) Except as prohibited by other provisions of law, all of the rights,
9 privileges, immunities, powers, and purposes of each constituent organization that
10 ceases to exist vest in the surviving organization.

11 (7) Except as otherwise provided in the plan of merger, the terms and
12 conditions of the plan of merger take effect.

13 (8) The merger shall not affect the personal liability, if any, of a member,
14 administrator, or manager of a constituent association for a debt, liability, or
15 obligation of the nonprofit association incurred before the merger is effective.

16 (9) A surviving organization that is a foreign organization consents to the
17 jurisdiction of the courts of this state to enforce any debt, obligation, or other liability
18 owed by a constituent organization if, before the merger, the constituent organization
19 was subject to suit in this state on the debt, obligation, or other liability. A surviving
20 organization that is a foreign organization and not authorized to transact business in
21 this state may appoint the secretary of state as agent for service of process for the
22 purpose of enforcing a debt, obligation, or other liability pursuant to this Subsection.

23 E. Property held for a charitable purpose by a domestic or foreign
24 organization in accordance with the provisions of law of this state and immediately
25 before a merger pursuant to this Section becomes effective may not, as a result of the
26 merger, be diverted from the objects for which it was donated, granted or devised,
27 unless, to the extent required by or pursuant to the provisions of law of this state
28 concerning nondiversion of charitable assets, the organization obtains an appropriate

1 order of the attorney general or of the district court in a proceeding for which the
2 attorney general has been given notice specifying the disposition of the property.

3 F. A bequest, devise, gift, grant or promise contained in a will, or other
4 instrument of donation, subscription, or conveyance that is made to a disappearing
5 organization and that takes effect or remains payable after the merger inures to the
6 benefit of the surviving organization. A trust obligation that would govern property
7 if transferred to the disappearing entity applies to property that is instead transferred
8 to the surviving organization pursuant to this Section.

9 §559. Conversion of entities

10 A. A decentralized unincorporated nonprofit association may convert to any
11 entity form that is authorized by state law to affect a conversion from a decentralized
12 unincorporated nonprofit association. As used in this Section, "conversion" means
13 a transaction in which an entity of one type is converted in accordance with this
14 Section into an entity of another type.

15 B. A conversion involving a decentralized unincorporated nonprofit
16 association is subject to all of following requirements:

17 (1) Each of the constituent converting organizations complies with its
18 governing law.

19 (2) The decentralized unincorporated organization, as a converting entity,
20 shall approve a plan of conversion in accordance with its governing principles. The
21 plan, which shall be in a record, shall include all of the following provisions:

22 (a) The name of the converting decentralized unincorporated nonprofit
23 association.

24 (b) The name, jurisdiction of formation, and type of entity of the converted
25 entity.

26 (c) The manner of converting the interest in the converting decentralized
27 unincorporated nonprofit association into interests, securities, obligations, money,
28 other property, rights to acquire interests or securities, or any combination of the
29 foregoing.

1 (d) If the converted entity requires a record that is filed publicly to form,
2 organize, incorporate, or otherwise create an entity, the converted entity's
3 organizational documents that are proposed to be in a record.

4 (e) If the converted entity does not require a record that is filed publicly to
5 form, organize, incorporate, or otherwise create an entity, a record of the converted
6 entities governing principles to the extent they exist.

7 (f) The other terms and conditions of the conversion.

8 (g) Any other provision required by the law of this state or the governing
9 principles of the converting decentralized unincorporated nonprofit association.

10 (3) The plan of conversion shall be approved by the members of the
11 converting decentralized unincorporated in accordance with its governing principles.

12 If a member of an association that is a party to a conversion has personal liability
13 with respect to an obligation of a converted entity or converting entity, the consent
14 in a record of that member to the plan of conversion shall also be obtained.

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

20 (5) Following approval of the plan, a conversion pursuant to this Section is
21 effective when either of the following occurs:

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

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

28 C. A conversion becomes effective when the converted entity comes into
29 existence.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 892 Engrossed

2024 Regular Session

Wright

Abstract: Provides for the formation and administration of decentralized unincorporated nonprofit associations.

Proposed law (R.S. 12:531) provides that proposed law may be cited as the "Louisiana Decentralized Unincorporated Nonprofit Association Act".

Proposed law (R.S. 12:532) provides for a short title and defines "administrator", "decentralized unincorporated nonprofit association", "digital asset", "distributed ledger technology", "distributed ledger protocol", "distribution", "established practices", "governing principles", "member", "membership interest", "person", and "smart contract".

Proposed law (R.S. 12:533) provides that proposed law shall not repeal or modify present law for organizations that do not elect to become decentralized unincorporated nonprofit associations.

Proposed law (R.S. 12:534) provides that the governing principles of a nonprofit association shall identify the jurisdiction in which the decentralized unincorporated association is formed.

Proposed law permits a nonprofit association to do all of the following:

- (1) Engage in profit-making activities, pay reasonable compensation confer benefits on its members and administrators repurchase membership interests, and make certain property distributions. (R.S. 12:535)
- (2) Acquire, hold, mortgage, hypothecate, encumber, donate, or otherwise transfer its interest in immovable or movable property in its name. (R.S. 12:536)
- (3) Become beneficiary of a trust and to receive donations inter vivos and mortis causa. (R.S. 12:536)
- (4) Execute and file a statement of authority to mortgage, hypothecate, encumber, donate, or otherwise transfer an interest in immovable property. (R.S. 12:537)
- (5) Institute, defend, intervene, or participate in a judicial, administrative or other proceeding. (R.S. 12:539)
- (6) File with secretary of state a statement appointing an agent authorized to receive service of process. (R.S. 12:541)
- (7) Suspend, dismiss, or expel a member subject to its governing principles or by approval of its active members. (R.S. 12:546)
- (8) Provide for its governance, in whole or in part, through distributed ledger technology. (R.S. 12:552)
- (9) Select administrators in accordance with its governance principles or pursuant to proposed law. (R.S. 12:554)

- (10) Reimburse a member or administrator for authorized expenses reasonably incurred on behalf of the nonprofit association. (R.S. 12:556)
- (11) Merge with any organization when the merger is not expressly prohibited by present law. (R.S. 12:558)
- (12) Convert to any entity form that is authorized to affect a conversion from a decentralized unincorporated nonprofit association. (R.S. 12:559)

Proposed law (R.S. 12:538) provides that a nonprofit association is a legal entity separate from its members for the purposes of determining and enforcing rights, duties, and liabilities in contract and tort. Proposed law further provides for certain rights, duties, and liabilities of members and administrators.

Proposed law (R.S. 12:540) provides that a judgment or order against a decentralized unincorporated nonprofit association is not by itself a judgment or order against a member or administrator.

Proposed law (R.S. 12:542) requires a person or entity to serve a summons and complaint on an agent or member in an action or proceeding against a nonprofit association.

Proposed law (R.S. 12:543) provides that claims against a nonprofit association are not abated by change of members or administrators.

Proposed law (R.S. 12:544) provides for venue of nonprofit associations.

Proposed law (R.S. 12:545 and 557) provides for the dissolution, continuation of existence, and termination of a nonprofit association.

Proposed law (R.S. 12:546) provides that a person becomes a member in accordance with the nonprofit association's governing principles, or a person shall be considered a member upon purchase or assumption of ownership of a membership interest.

Proposed law (R.S. 12:547) permits a member to resign as a member in accordance with the governing principles of a nonprofit association or in accordance with proposed law.

Proposed law (R.S. 12:548) a member shall not have any fiduciary duty to a nonprofit association or to any other member unless otherwise provided for in the governing principles, but all members shall be subject to the implied contractual covenant of good faith and fair dealing.

Proposed law (R.S. 12:549) prohibits members from acting as an agent of the nonprofit association under certain circumstances.

Proposed law (R.S. 12:550) permits a member to transfer his interests in the nonprofit association unless the governing principles provide otherwise.

Proposed law (R.S. 12:551) requires approval by a majority of membership interests to do each of the following:

- (1) Suspend, dismiss, or expel a member.
- (2) Select or dismiss an administrator.
- (3) Adopt, amend, or repeal the governing principles.
- (4) Sell, lease, exchange, or otherwise dispose of the nonprofit association's property.

- (5) Dissolve the association.
- (6) Undertake any other act outside the ordinary course of activities.
- (7) Determine the policy and purpose of the nonprofit association.

Proposed law (R.S. 12:553) provides for consensus formation algorithms and governance processes.

Proposed law (R.S. 12:555) permits a member or administrator to inspect the records of a nonprofit association on reasonable notice and under certain circumstances.

Proposed law (R.S. 12:560) provides that if proposed law is held invalid, the invalidity shall not affect any other provisions proposed law.

Proposed law (R.S. 49:222(B)(17)) authorizes the secretary of state to collect certain fees for documents filed by a decentralized unincorporated nonprofit association.

(Adds R.S. 12:531-560 and R.S. 49:222(B)(17))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Commerce to the original bill:

1. Make technical changes.
2. Require an entity to include identification that it is a decentralized unincorporated nonprofit association in a statement appointing an agent.
3. Change filing officer to the secretary of state in proposed law.
4. Clarify the definition of "conversion" and remove redundancies.
5. Authorize the secretary of state to collect certain fees.