



## **Uniform Unincorporated Nonprofit Association Act (2008) (Last Amended 2011)**

### *- A Summary -*

There are thousands of unincorporated nonprofit associations in the United States. They range from local neighborhood associations to national associations with large memberships. Their members may be individuals, corporations, other legal entities or a combination thereof. They are all associations that for one reason or another cannot or have not chosen to become a nonprofit corporation.

Under the traditional common law aggregate theory, these associations are not viewed as legal entities but merely as an aggregate of individuals. In the United States, unincorporated nonprofit associations are governed by a hodgepodge of common law principles and statutes governing some of their legal aspects. The Uniform Unincorporated Nonprofit Association Act (UUNAA) addresses the most significant legal problems that arose under the common law's treatment of such associations.

UUNAA governs all unincorporated nonprofit associations that are formed and operate in a state that adopts the Act. An unincorporated nonprofit association is a nonprofit organization that is not a charitable trust or a nonprofit corporation or any other type of association organized under statutory law that is authorized to engage in nonprofit activities. The Act provides examples of other laws that apply to unincorporated nonprofit associations, such as general principles of contracts, agency, fraud, estoppel, the priority of written provisions of an agreement over prior inconsistent oral provisions or subsequent oral amendments (and any exceptions), civil and criminal procedural rules, and rules for enforcing judgments. UUNAA supplements the applicable state laws and if a conflict exists, the other state law applies.

Furthermore, UUNAA recognizes an unincorporated nonprofit association as a legal entity distinct from its members and managers. It has the same powers as an individual to do all things necessary or convenient to carry on its purposes including ownership and transfer of property. It may sue or be sued in its own name. An unincorporated nonprofit association may also engage in profit-making activities with restrictions on how those profits are used and how it may exist in perpetuity.

The Act clarifies the contract and tort liability of an unincorporated nonprofit association and its members and managers. A debt, obligation, or other liability of an unincorporated nonprofit association whether arising from a contract or tort is solely that of the association and does not become that of its members solely by virtue of their status as members. Members have the same vicarious liability protection as shareholders of a corporation whereas under traditional common law principles, the members have joint and several liability for the debts, liabilities and obligations of an unincorporated nonprofit association.

UUNAA makes it clear that a person's status as a member does not by itself make that person an agent of the unincorporated nonprofit association. The Act establishes default rules, which govern the relation of the members and managers to each other and to the unincorporated nonprofit

association. Members of an unincorporated nonprofit association do not have fiduciary duties to the unincorporated nonprofit association or other members by virtue of their status as members. They do however have an obligation of good faith and fair dealing. Only individuals exercising managerial duties in an unincorporated nonprofit association have fiduciary duties.

The Act also provides default rules for dissolution of the unincorporated nonprofit association either by a majority vote of the members or the managers. The Act further sets out rules for distribution of assets after its affairs have been wound up. UUNAA authorizes an unincorporated nonprofit association to merge into another organization, assuming the law governing the other organization authorizes a merger with an unincorporated nonprofit association.

Moreover, UUNAA contains an optional section pertaining to the transfer of property. The initial common law rule was that a purported transfer of property to an unincorporated nonprofit association totally failed as the association was not a legal entity. If a state has that rule, it should adopt this optional section in whole or in part.

The basic framework of the Act is not intended to be a substitute for organizing as a nonprofit corporation under state law. UUNAA will supplement existing legislation to the extent an enacting jurisdiction decides to retain statutes dealing with specific kinds of nonprofit associations.

This Act will principally benefit the many millions of people who aggregate into thousands of unincorporated nonprofit associations. UUNAA creates a harmonized legal framework that overcomes the inadequacies of the common law and inconsistent and incomplete legal structure for unincorporated nonprofit associations. UUNAA also comports with the reasonable expectations of creditors and other persons engaged in transactions with these associations.

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