

BUSINESS ORGANIZATIONS CODE

TITLE 6. ASSOCIATIONS

CHAPTER 252. UNINCORPORATED NONPROFIT ASSOCIATIONS

Sec. 252.001. DEFINITIONS. In this chapter:

(1) "Member" means a person who, under the rules or practices of a nonprofit association, may participate in the selection of persons authorized to manage the affairs of the nonprofit association or in the development of policy of the nonprofit association.

(2) "Nonprofit association" means an unincorporated organization, other than one created by a trust, consisting of three or more members joined by mutual consent for a common, nonprofit purpose. A form of joint tenancy, tenancy in common, or tenancy by the entirety does not by itself establish a nonprofit association, regardless of whether the co-owners share use of the property for a nonprofit purpose.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 252.002. SUPPLEMENTARY GENERAL PRINCIPLES OF LAW AND EQUITY. Principles of law and equity supplement this chapter unless displaced by a particular provision of this chapter.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 252.003. TERRITORIAL APPLICATION. Real and personal property in this state may be acquired, held, encumbered, and transferred by a nonprofit association, regardless of whether the nonprofit association or a member has any other relationship to this state.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 252.004. REAL AND PERSONAL PROPERTY; NONPROFIT ASSOCIATION AS BENEFICIARY. (a) A nonprofit association in its name may acquire, hold, encumber, or transfer an estate or interest in real or personal property.

(b) A nonprofit association may be a beneficiary of a trust, contract, or will.

Sec. 252.005. STATEMENT OF AUTHORITY AS TO REAL PROPERTY.

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

(b) An estate or interest in real property in the name of a nonprofit association may be transferred by a person so authorized in a statement of authority recorded in the county clerk's office in the county in which a transfer of the property would be recorded.

(c) A statement of authority must contain:

(1) the name of the nonprofit association;

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

(3) the name or title of a person authorized to transfer an estate or interest in real property held in the name of the nonprofit association.

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

(e) The county clerk may collect a fee for recording a statement of authority in the amount authorized for recording a transfer of real property.

(f) An amendment, including a cancellation, of a statement of authority must meet the requirements for execution and recording of an original statement. Unless canceled earlier, a recorded statement of authority or its most recent amendment is canceled by operation of law on the fifth anniversary of the date of the most recent recording.

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

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 252.006. LIABILITY IN TORT AND CONTRACT. (a) 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.

(b) A person is not liable for a breach of a nonprofit association's contract or for a tortious act or omission for which a nonprofit association is liable merely because the person is a member, is authorized to participate in the management of the affairs of the nonprofit association, or is a person considered as a member by the nonprofit association.

(c) A tortious act or omission of a member or other person for which a nonprofit association is liable is not imputed to a person merely because the person is a member of the nonprofit association, is authorized to participate in the management of the affairs of the nonprofit association, or is a person considered as a member by the nonprofit association.

(d) A member of, or a person considered as a member by, a nonprofit association may assert a claim against the nonprofit association. A nonprofit association may assert a claim against a member or a person considered as a member by the nonprofit association.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 252.007. CAPACITY TO ASSERT AND DEFEND; STANDING. (a) A nonprofit association, in its 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) A nonprofit association may assert a claim in its name on behalf of members of the nonprofit association if:

(1) one or more of the nonprofit association's members have standing to assert a claim in their own right;

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

(3) neither the claim asserted nor the relief

requested requires the participation of a member.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 252.008. EFFECT OF JUDGMENT OR ORDER. A judgment or order against a nonprofit association is not by itself a judgment or order against a member or a person considered as a member by the nonprofit association.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 252.009. DISPOSITION OF PERSONAL PROPERTY OF INACTIVE NONPROFIT ASSOCIATION. (a) If a nonprofit association has been inactive for three years or longer, or a shorter period as specified in a document of the nonprofit association, a person in possession or control of personal property of the nonprofit association may transfer the custody of the property:

(1) if a document of a nonprofit association specifies a person to whom transfer is to be made under these circumstances, to that person; or

(2) if no person is specified, to a nonprofit association or nonprofit corporation pursuing broadly similar purposes, or to a government or governmental subdivision, agency, or instrumentality.

(b) Notwithstanding the above, if a nonprofit association is classified under the Internal Revenue Code as a 501(c)(3) organization or is or holds itself out to be established or operating for a charitable, religious, or educational purpose, as defined by Section 501(c)(3), Internal Revenue Code, then any distribution must be made to another nonprofit association or nonprofit corporation with similar charitable, religious, or educational purposes.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 252.010. BOOKS AND RECORDS. (a) A nonprofit association shall keep correct and complete books and records of account for at least three years after the end of each fiscal year and shall make the books and records available on request to members of the association for inspection and copying.

(b) The attorney general may inspect, examine, and make copies of the books, records, and other documents the attorney general considers necessary and may investigate the association to determine if a violation of any law of this state has occurred. Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 252.011. APPOINTMENT OF AGENT TO RECEIVE SERVICE OF PROCESS. (a) A 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 must contain:

(1) the name of the nonprofit association;

(2) the federal tax identification number of the nonprofit association, if applicable;

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

(4) 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.

(c) A statement appointing an agent must be signed by a person authorized to manage the affairs of the nonprofit association. The statement must also be signed by the person appointed agent, who by signing accepts the appointment. The appointed agent may resign by filing a resignation in the office of the secretary of state and giving notice to the nonprofit association.

(d) The secretary of state may collect a fee for filing a statement appointing an agent to receive service of process, an amendment, a cancellation, or a resignation in the amount charged for filing similar documents.

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

(f) A statement appointing an agent may be canceled by filing with the secretary of state a written notice of cancellation

executed by a person authorized to manage the affairs of the nonprofit association. A notice of cancellation must contain:

- (1) the name of the nonprofit association;
- (2) the federal tax identification number of the nonprofit association, if applicable;
- (3) the date of filing of the nonprofit association's statement appointing the agent; and
- (4) a current street address, if any, of the nonprofit association in this state or, if the nonprofit association does not have an address in this state, its address out of state.

(g) The secretary of state may adopt forms and procedural rules for filing documents under this section.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 252.012. CLAIM NOT ABATED BY CHANGE. A claim for relief against a nonprofit association does not abate merely because of a change in the members or persons authorized to manage the affairs of the nonprofit association.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 252.013. SUMMONS AND COMPLAINT; SERVICE. (a) In an action or proceeding against a nonprofit association, a summons and complaint must be served on an agent authorized by appointment to receive service of process, an officer, a managing or general agent, or a person authorized to participate in the management of its affairs, in accordance with the Civil Practice and Remedies Code.

(b) Not later than the 10th day after the date of a request by the attorney general to an officer or board member of a nonprofit association or to the nonprofit association, the nonprofit association shall provide to the attorney general the names, current addresses, and telephone numbers of:

- (1) each agent authorized to receive service of process on behalf of the nonprofit association; and
- (2) each officer, managing or general agent, and other person authorized to participate in the management of the affairs of the nonprofit association.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 252.014. UNIFORMITY OF APPLICATION AND CONSTRUCTION. This chapter shall be applied and construed to make uniform the law with respect to the subject of this chapter among states enacting it.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 252.015. TRANSITION CONCERNING REAL AND PERSONAL PROPERTY. If, before September 1, 1995, an estate or interest in real or personal property was by the terms of the transfer purportedly transferred to a nonprofit association, but under the law the estate or interest was vested in a fiduciary such as officers of the nonprofit association to hold the estate or interest for members of the nonprofit association, on or after September 1, 1995, the fiduciary may transfer the estate or interest to the nonprofit association in its name, or the nonprofit association, by appropriate proceedings, may require that the estate or interest be transferred to it in its name.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 252.016. EFFECT ON OTHER LAW. This chapter replaces existing law with respect to matters covered by this chapter but does not affect other law covering unincorporated nonprofit associations.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 252.017. CHAPTER CONTROLLING. (a) Except as provided by Subsection (b), the only provisions of this code that apply to or govern a nonprofit association are the provisions of this chapter.

(b) Chapters 1 and 4 and, if a nonprofit association designates an agent for service of process, Subchapter E, Chapter 5, apply to a nonprofit association.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.