

2023

SB 148 - Amendments to the Nonprofit Code

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CORPORATIONS, PARTNERSHIPS, AND ASSOCIATIONS

Nonprofit Corporations: Amend Chapter 3 of Title 14 of the Official Code of Georgia Annotated, Relating to Nonprofit Corporations, so as to Comprehensively Revise, Simplify, and Modernize Said Chapter; Provide for Construction of Said Chapter; Provide Definitions that Clarify, Shorten, and Simplify the Chapter and Allow Corporations Flexibility in their Articles and Bylaws; Effect an Order of Bankruptcy Relief Upon the Powers and Duties of the Corporation; Change Certain Provisions Relating to Forms, Document Filings, and Fees; Provide that the Articles of Correction Shall Not State a Delayed Effective Date; Clarify Certain Duties of the Secretary of State Related to Filings; Clarify the Process for Filing an Appeal Related to the Secretary of State's Refusal to File Certain Documents; Clarify Provisions Related to the Correction of Filed Documents; Provide for the Signing of Certain Documents by an Attorney in Fact; Modernize and Clarify Certain Provisions Relating to Notice, Meetings, Articles of Incorporation, and Emergency Powers; Clarify the Criteria and Procedures for Membership; Change and Clarify Certain Provisions Relating to Liability for Dues, Assessments, or Fees; Change Certain Provisions Relating to How a Corporation Provides for Delegates; Change, Modernize, and Clarify Provisions Relating to Holding of, Notice of, Actions Taken at Membership Lists for, Quorum to Act at, and Voting at Membership Meetings; Change and Clarify Certain Provisions Relating to Agreements among Members and Derivative Proceedings; Revise Standing Requirements for Derivative Actions; Change and Clarify the Number, Election, Resignation, Removal, Vacancies, Meetings, and Quorum of the Board of Directors; Clarify the Process for Appointment of Committee Members by the Board of Directors;

Provide for Directors' Rights of Access to Corporate Books and Records; Change Certain Provisions Relating to the Standards of Conduct for Directors and Officers; Clarify the Types, Duties, Resignation, and Removal of Officers of a Corporation; Change Certain Provisions Related to Indemnification and Reimbursement of Legal Fees; Change Certain Provisions Relating to Conflicts of Interest; Specify that Members of Corporations do not Have Certain Property Rights; Reorganize and Clarify Certain Provisions Relating to Mergers; Change Certain Provisions Relating to Disposition of Assets, Distributions, and Dissolution; Change Certain Provisions Related to Certificates of Authority, Foreign Corporations, and Inspection Rights; Amend Section 42 of Chapter 2 of Title 8 of the Official Code of Georgia Annotated, Relating to Bribery of Property or Association Managers Regarding Claims for Damages Arising out of Construction Defects Prohibited and Procedure for Bringing Action to Remedy Construction Defects, so as to Conform a Cross-Reference; Amend Section 40 of Chapter 5 of Title 14 of the Official Code of Georgia Annotated, Relating to Applicability of Chapter 3 of Title 14, so as to Conform a Cross-Reference; Provide for Related Matters; Repeal Conflicting Laws; and for Other Purposes

CODE SECTIONS:

O.C.G.A. §§ 14-3-102 (amended), -103, -104 (new); 14-3-120, -121, -122, -124, -125, -126, -128, -129, -140, -141, -160, -170, -202, -303, -304, -305, -401, -501, -502, -503, -510, -601, -610, -612, -621, -630, -701, -702, -703, -704, -705, -706, -707 (amended); 14-3-708 (new); 14-3-720, -722, -723, -725, -726, -730, -740, -741, -742, -746, -747, -803, -804, -807, -808, -809, -810, -811, -812, -813, -820, -821, -822, -823, -824, -825, -830, -840, -841, -842, -843, -845, -846, -850, -853, -854, -855, -856, -857, -858, -859,

2023]

LEGISLATIVE REVIEW

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-863, -864, -865 (amended); 14-3-870 (new); 14-3-1001, -1003, -1006, -1020, -1021, -1041, -1101, -1102, -1103, -1104, -1104.1, -1105, -1106, -1108, -1121, -1201, -1202, -1301, -1302, -1401, -1402, -1403, -1404.1, -1406, -1409, -1410, -1411, -1420, -1421, -1422, -1423, -1430, -1432, -1433, -1501, -1503, -1504, -1506, -1509, -1510, -1520, -1531, -1602, -1603, -1604 (amended); 14-3-1606 (new); 14-3-1620, -1622, -1703 (amended)

BILL NUMBER:

SB 148

ACT NUMBER:

260

GEORGIA LAWS:

2023 Ga. Laws 419

EFFECTIVE DATE:

July 1, 2023

SUMMARY:

The Act revises, simplifies, and modernizes the Georgia Nonprofit Corporation Code, allowing more flexibility in forming and running such organizations.

History

In 1991, House Bill 226 completely rewrote the Georgia Nonprofit Corporation Code (Nonprofit Code).¹ The drafters of that legislation designed the Nonprofit Code to operate similarly to the Georgia Business Corporation Code (Business Code).² Yet, while the Business Code underwent multiple revisions over the past three decades, the Nonprofit Code remained largely unchanged.³ Provisions of the Nonprofit Code became outdated, failing to keep pace with advances in technology, communication, and modern practices of corporate

1. 1991 Ga. Laws 465.

2. *Id.*; *see also* Video Recording of Senate Judiciary Committee Hearing at 2 hr., 1 min., 36 sec. (Feb. 23, 2023) [hereinafter Senate Judiciary Committee Video] (remarks by Sen. John F. Kennedy (R-18th)), <https://vimeo.com/showcase/8821960/video/801738918> [<https://perma.cc/5JG8-MCGK>].

3. Senate Judiciary Committee Video, *supra* note 2, at 2 hr., 1 min., 36 sec.

governance.⁴ Meanwhile, nonprofits and their attorneys identified errors and ambiguities in the Nonprofit Code.⁵

To address these issues, the Nonprofit Law Section of the State Bar of Georgia established the Nonprofit Law Section Code Revision Committee (the Revision Committee) in the fall of 2019.⁶ The Revision Committee's objective was to review all sections of the Nonprofit Code and propose any necessary changes.⁷ The Revision Committee included attorneys who, as a group, represented most types of nonprofits.⁸ The Revision Committee's members also included representatives from the offices of the Secretary of State and Attorney General.⁹

Revision Committee members met at least once a month over a two-year period, holding more than eighty committee and subcommittee meetings.¹⁰ The Revision Committee not only addressed prevalent issues in the Nonprofit Code,¹¹ but also went "through the Code line-by-line and tried to figure out what needed to be changed."¹² Their recommendations followed five guiding principles:

- (1) To compare all provisions of the [Nonprofit Code] to similar provisions of the Georgia Business Corporation Code and the ABA's recently released Model Nonprofit Corporation Act, 4th edition;

4. *Id.*

5. *See id.*; *see also* Interview with Cassady Brewer, Professor of Law, Georgia State University College of Law, Past Chair of Nonprofit Law Section, State Bar of Georgia (May 25, 2023) [hereinafter First Brewer Interview] (on file with the Georgia State University Law Review).

6. Nonprofit Law Section Code Revision Committee, Advisory Committee on Legislation (ACL) Legislative Proposal Form: Revisions to Title 14, Chapter 3, Georgia Nonprofit Corporation Code, and Related Code Sections, at 1 [hereinafter Legislative Proposal] (on file with Georgia State University Law Review).

7. *Id.*

8. *Id.* at 2.

9. *Id.*

10. *See id.*; Senate Judiciary Committee Video, *supra* note 2, at 2 hr., 6 min., 52 sec. (remarks by Robyn Miller, Senior Corporate and Tax Counsel, Pro Bono Partnership of Atlanta); First Brewer Interview, *supra* note 5.

11. Senate Judiciary Committee Video, *supra* note 2, at 2 hr., 1 min., 59 sec. (remarks by Sen. John F. Kennedy (R-18th)).

12. First Brewer Interview, *supra* note 5.

(2) To modernize the [Nonprofit Code] consistent with changes in technology and corresponding changes in the norms of communication between and among nonprofits, their constituents, and the attorneys advising those nonprofits;

(3) To improve and clarify the [Nonprofit Code] based upon the experience and recommendations of members of the Committee and other attorneys advising nonprofit organizations in Georgia in order to make the Nonprofit Corporation Code more consistent with current practice realities;

(4) To consider the decisions of the Supreme Court of Georgia and the Court of Appeals of Georgia that have interpreted and applied the [Nonprofit Code] in litigation; and

(5) To amend certain provisions of the [Nonprofit Code] to correspond to current administrative practices and procedures of the Secretary of State and the Attorney General of Georgia.¹³

Despite the Revision Committee's extensive work, significant portions of the Nonprofit Code remain unchanged.¹⁴ The changes that the Revision Committee proposed fall into three categories.¹⁵ The first category involved cleaning up typographical and grammatical errors in the prior Nonprofit Code.¹⁶ Although not its initial focus, after working alongside Legislative Counsel, the Revision Committee addressed these errors to make the Nonprofit Code more

13. Legislative Proposal, *supra* note 6, at 2–3.

14. *Id.* at 3 (“[I]n its review, the Committee determined that significant portions of the [Nonprofit Code] needed no revision.”).

15. Senate Judiciary Committee, *supra* note 2, at 2 hr., 3 min., 49 sec. (remarks by Sen. John F. Kennedy (R-18th)); *id.* at 2 hr., 6 min., 43 sec. (remarks by Robyn Miller, Senior Corporate and Tax Counsel, Pro Bono Partnership of Atlanta).

16. *Id.*; *see also* Video Recording of House Judiciary Committee Hearing at 28 min., 14 sec. (Mar. 14, 2023) [hereinafter House Judiciary Committee Video] (remarks by Robyn Miller, Senior Corporate and Tax Counsel, Pro Bono Partnership of Atlanta), <https://www.youtube.com/watch?v=Pg4WLjptJqQ&t=891s> [<https://perma.cc/V22F-4NCR>].

understandable.¹⁷ The second category involved modernizing the Nonprofit Code, clarifying the current law, and conforming the law with the Business Code.¹⁸ Finally, the Revision Committee proposed approximately thirty-two substantive updates to the Nonprofit Code, mostly with the aim of promoting good corporate governance.¹⁹

The Revision Committee submitted its recommendations to the State Bar of Georgia's Advisory Committee on Legislation.²⁰ The Bar endorsed the Nonprofit Law Section's proposed amendments to the Nonprofit Code and lobbied for the amendment's approval.²¹

Bill Tracking of SB 148

Consideration and Passage by the Senate

Senator John F. Kennedy (R-18th) sponsored Senate Bill (SB) 148, with Senator Brian Strickland (R-17th), Senator Steve Gooch (R-51st), Senator Randy Robertson (R-29th), Senator Jason Anavitarte (R-31st), Senator Brandon Beach (R-21st), Senator Shawn Still (R-48th), Senator Ben Watson (R-1st), Senator Kay Kirkpatrick (R-32nd), and Senator Lee Anderson (R-24th) cosponsoring.²² The Senate first read the bill on February 13, 2023.²³ The Senate then committed the bill to the Senate Judiciary Committee, which favorably reported the bill on February 27, 2023.²⁴ The Senate read the bill a second time the next day, February 28, 2023.²⁵ Finally, the Senate voted on the bill on

17. House Judiciary Committee Video, *supra* note 16, at 28 min., 14 sec.

18. *Id.*

19. *Id.*; see also Senate Judiciary Committee Video, *supra* note 2, at 2 hr., 5 min., 53 sec. (remarks by Sen. John F. Kennedy (R-18th)); *id.* at 2 hr., 6 min., 31 sec. (remarks by Robyn Miller, Senior Corporate and Tax Counsel, Pro Bono Partnership of Atlanta).

20. See generally Legislative Proposal, *supra* note 6.

21. First Brewer Interview, *supra* note 5.

22. Georgia General Assembly, SB 148, Bill Tracking [hereinafter SB 148, Bill Tracking], <https://www.legis.ga.gov/legislation/64230> [<https://perma.cc/XBT5-QRU9>].

23. State of Georgia Final Composite Status Sheet, SB 148, May 9, 2023.

24. *Id.*; SB 148, Bill Tracking, *supra* note 22.

25. SB 148, Bill Tracking, *supra* note 22; State of Georgia Final Composite Status Sheet, SB 148, May 9, 2023.

March 2, 2023, adopting the bill without amendment by a vote of 55 to 1.²⁶

Consideration and Passage by the House

Representative Rob Leverett (R-123rd) sponsored SB 148 in the House of Representatives.²⁷ The House read the bill for the first time on March 6, 2023, and the second time the next day on March 7, 2023.²⁸ The House committed the bill to the House Judiciary Committee after the second reading; the Committee reported favorably on the bill, once again with no amendments, on March 15, 2023.²⁹

The House voted on the bill on March 21, 2023.³⁰ The House proposed no amendments and passed the bill by a vote of 163 to 4.³¹ Governor Brian Kemp (R) received the bill from the House and signed the bill into law as Act 260 on May 2, 2023.³² The Act's effective date is July 1, 2023.³³

The Act

Article 1

Part 1 adds Code sections 14-3-103 and 14-3-104, which adopt sections of the Business Code that did not previously exist in the Nonprofit Code.³⁴ Code section 14-3-103 provides that each provision of the Act has “independent legal significance,” and Code section 14-3-104 applies corporate bankruptcy rules to nonprofits.³⁵

26. State of Georgia Final Composite Status Sheet, SB 148, May 9, 2023; Georgia Senate Voting Record, SB 148, #130 (Mar. 2, 2023); SB 148, Bill Tracking, *supra* note 22.

27. SB 148, Bill Tracking, *supra* note 22.

28. State of Georgia Final Composite Status Sheet, SB 148, May 9, 2023.

29. *Id.*

30. *Id.*

31. *Id.*; Georgia House Voting Record, SB 148, #264 (Mar. 21, 2023); SB 148, Bill Tracking, *supra* note 22.

32. SB 148, Bill Tracking, *supra* note 22.

33. *Id.*

34. 2023 Ga. Laws 419, § 1-1, at 420–21; Legislative Proposal, *supra* note 6, at 3–4.

35. O.C.G.A. §§ 14-3-103, -104 (2023).

Part 2 makes grammatical and formatting changes to Code sections 14-3-120, 14-3-122, 14-3-124, and 14-3-125 to create consistency between the Nonprofit Code and the Business Code.³⁶ The amendment to Code section 14-3-121 switches the phrase “certificate of authority to conduct affairs in this state” to a “certificate of authority to transact business in this state,” providing consistency with Article 15.³⁷ Minor amendments to Code sections 14-3-126 and 14-3-129 create consistency with language from the Model Nonprofit Corporation Act.³⁸ Part 2 of the Act also adds subsections (b) and (c) of Code section 14-3-129 to allow documents filed under this chapter to be signed by an attorney in fact.³⁹

There are no amendments to Part 3.⁴⁰ Part 4 amends numerous definitions in Code section 14-3-140.⁴¹ These amendments include “moving definitions from other sections into the main definition section for the Nonprofit Code, adding additional definitions for clarity, and revising some definitions for added clarity.”⁴² Part 4 also adds subsection (m) to Code section 14-3-141 to match the language regarding notice in the Model Nonprofit Corporation Act.⁴³ Now, the Code section reads:

Whenever notice would otherwise be required to be given under any provision of this chapter to a member, the notice need not be given if notice of two consecutive annual meetings, and all notices of meetings during the period between such two consecutive annual meetings, have been returned undeliverable or could not be delivered.⁴⁴

36. 2023 Ga. Laws 419, § 1-1, at 422–25; Legislative Proposal, *supra* note 6, at 4.

37. O.C.G.A. § 14-3-121 (1991); 2023 Ga. Laws 419, § 1-1, at 423 (codified at O.C.G.A. § 14-3-121 (2023)); Legislative Proposal, *supra* note 6, at 4.

38. 2023 Ga. Laws 419, § 1-1, at 425–26; Legislative Proposal, *supra* note 6, at 4.

39. 2023 Ga. Laws 419, § 1-1, at 426.

40. *Id.*

41. *Id.* at 427–30.

42. *See id.*; Legislative Proposal, *supra* note 6, at 4.

43. 2023 Ga. Laws 419, § 1-1, at 432; Legislative Proposal, *supra* note 6, at 4.

44. O.C.G.A. § 14-3-141 (2023).

Part 5 amends Code section 14-3-160 to provide greater consistency with Code section 14-3-703 by expanding who can petition to the superior court to “other person[s] entitled to participate.”⁴⁵ Part 6 makes grammatical and stylistic changes to Code section 14-3-170 for clarity and consistency.⁴⁶

Article 2

Article 2 amends Code section 14-3-202 to provide consistency with the terminology used in the new Code section 14-3-856.⁴⁷

Article 3

The amendments to 14-3-303 fixed grammar and style in the Code section.⁴⁸ The amendment to Code section 14-3-303 clarifies that “[t]hose directors who participate in a meeting of the board of directors shall constitute a quorum.”⁴⁹

Article 4

The amendment to Code section 14-3-401 updates and corrects grammatical and stylistic errors.⁵⁰

Article 5

Part 1 amends the grammar and format of Code section 14-3-501.⁵¹ The amendments to Code section 14-3-502 merely update the style and certain language to reflect “changes in operations of the Secretary of

45. 2023 Ga. Laws 419, § 1-1, at 432; Legislative Proposal, *supra* note 6, at 4.

46. 2023 Ga. Laws 419, § 1-1, at 433; Legislative Proposal, *supra* note 6, at 4 (“The amendments to 14-3-170 are more consistent with the operations of the Georgia Attorney General’s office and provide greater clarity to this Code section.”).

47. 2023 Ga. Laws 419, § 1-1, at 434–37; Legislative Proposal, *supra* note 6, at 4.

48. 2023 Ga. Laws 419, § 1-1, at 438–39.

49. *Id.* at 438 (codified at O.C.G.A. § 14-3-303(b)(2) (2023)); Legislative Proposal, *supra* note 6, at 4.

50. 2023 Ga. Laws 419, § 1-1, at 440–41.

51. *Id.* at 441.

State's office."⁵² Additionally, the Act's amendments to Code section 14-3-503 provide clarity and create consistency with the Model Nonprofit Corporation Act.⁵³ Part 1 also adds subsections (d) and (e) to Code section 14-3-503, which relinquish responsibility from people who resign and allow a registered agent to resign regardless of whether the corporation is "entitled at the time to a certificate of existence or authority under Code [s]ection 14-3-128."⁵⁴

Article 6

The Act's alterations to Article 6 change the rules governing corporate membership, delegates, and related matters within corporate bylaws.⁵⁵ The most significant revisions to the Nonprofit Code can be found in Code sections 14-3-601, 14-3-612, and 14-3-630.⁵⁶ The Act's changes to Code section 14-3-601 add an additional criterion for admitting members of a corporation, now tying membership back into the definition provided in Code section 14-3-140.⁵⁷ Additionally, the Act changes Code section 14-3-630 by requiring corporations to specify any membership rights or authority possessed by delegates in their articles or bylaws.⁵⁸ Although the Act did not change the language describing what provisions those bylaws must include, the Act mandates the inclusion of those provisions in the articles or bylaws for delegates to possess membership rights and authority.⁵⁹

The Act makes another substantial change to Article 6 by overhauling Code section 14-3-612.⁶⁰ This Code section governs how corporations can levy dues, fees, and assessments on their members.⁶¹ The original Code section used a single sentence to establish member liability for fees, dues, or assessments outside of liability created by

52. *Id.* at 442; Legislative Proposal, *supra* note 6, at 4.

53. 2023 Ga. Laws 419, § 1-1, at 442–43; Legislative Proposal, *supra* note 6, at 4.

54. 2023 Ga. Laws 419, § 1-1, at 442–43 (codified at O.C.G.A. § 14-3-503 (2023)).

55. *Id.* at 444–46 (codified at O.C.G.A. §§ 14-3-601, -610, -612, -621, -630 (2023)); Legislative Proposal, *supra* note 6, at 4.

56. 2023 Ga. Laws 419, § 1-1, at 444–46.

57. *Id.* at 444 (codified at § 14-3-601). *See* § O.C.G.A. 14-3-140(30)-(31) (2023).

58. 2023 Ga. Laws 419, § 1-1, at 446 (codified at § 14-3-630).

59. *Id.*

60. *Id.* at 445 (codified at O.C.G.A. § 14-3-612 (2023)).

61. O.C.G.A. § 14-3-612 (2023).

the board in an article, bylaw provision, or resolution passed by the board.⁶² The Act's new language offers a clear, three-prong articulation of the law, authorizing membership corporations to levy dues, assessments, or fees as described in their articles of incorporation or bylaws.⁶³ The new language also describes the enforcement mechanisms corporations may include in their bylaws or articles to collect on membership costs, a feature absent from the original language.⁶⁴ Perhaps most importantly, the Act does not retain the same limiting language in the prior version of the Code.⁶⁵ The new law allows nonprofit corporations to impose levies, dues, and assessment costs on their members through articles, bylaws, or by the authorized acts of the corporation's board or members as described in the corporation's articles or bylaws, without requiring consent to the fees beforehand.⁶⁶

Article 7

Article 7 generally addresses board meetings for nonprofit corporations.⁶⁷ The amendments to Code section 14-3-701 mainly alter grammar and style to match the specific language in the Business Code.⁶⁸ The amended language in Code section 14-3-702 reduces the voting power percentage required to call a meeting; this change ensures “minority voices are heard” and clarifies “the use of remote communication for holding meetings.”⁶⁹ The Act's amendments to Code section 14-3-703 update the definition of “charitable corporation” to match Code section 14-3-140.⁷⁰ The Act's amendments to Code section 14-3-704 organize the section's overall structure and layout by moving this Code section further down Article 7 and adjusting the numbering to reflect this shift.⁷¹ The

62. O.C.G.A. § 14-3-612 (1991).

63. 2023 Ga. Laws 419, § 1-1, at 445 (codified at O.C.G.A. § 14-3-612 (2023)).

64. *Id.* Compare O.C.G.A. § 14-3-612 (2023), with O.C.G.A. § 14-3-612 (1991).

65. Compare O.C.G.A. § 14-3-612 (2023), with O.C.G.A. § 14-3-612 (1991).

66. Compare O.C.G.A. § 14-3-612 (2023), with O.C.G.A. § 14-3-612 (1991).

67. 2023 Ga. Laws 419, § 1-1, at 447–57; Legislative Proposal, *supra* note 6, at 5.

68. 2023 Ga. Laws 419, § 1-1, at 447; Legislative Proposal, *supra* note 6, at 5.

69. 2023 Ga. Laws 419, § 1-1, at 447–48; Legislative Proposal, *supra* note 6, at 5.

70. 2023 Ga. Laws 419, § 1-1, at 448; Legislative Proposal, *supra* note 6, at 5.

71. 2023 Ga. Laws 419, § 1-1, at 449–52; Legislative Proposal, *supra* note 6, at 5.

remaining amendments to Code section 14-3-704 include changing who receives requests from the president of the corporation to the chief executive officer.⁷²

The Act's amendments to 14-3-705, 14-3-706, 14-3-707, and 14-3-708 merely update the numbering to match the downward shift in Article 7.⁷³ The Act also makes minor amendments to the language in Code section 14-3-708 to create greater consistency with the Model Nonprofit Corporation Act.⁷⁴ The Act's amendments to Code section 14-3-720 include minor alterations to specific phrases to create consistency with the Model Nonprofit Corporation Act.⁷⁵ The Act amends subsection (a) of Code section 14-3-722 to entitle members to vote and act on a matter in a meeting "only if a quorum of those members exists with respect to that matter," consistent with both the Model Nonprofit Corporation Act and the Business Code.⁷⁶ The amendments to subsection (c) of Code section 14-3-722 require one-third, rather than twenty percent or more, of the voting power to be present in person or by proxy when voting.⁷⁷ The Act's amendments to Code section 14-3-723 allow the articles or bylaws to "provide for a greater voting requirement for members than is provided for by this chapter" and adds subsection (c) to clarify how this voting requirement may be met.⁷⁸ The Act's amendments to Code sections 14-3-725 and 14-3-726 merely correct grammatical and stylistic errors and omissions.⁷⁹ The amendments to subsection (c) of Code section 14-3-730 prevent the duration of any agreement under this Code section from exceeding twenty years, consistent with the Business Code.⁸⁰

The Act also creates a new Article 7A, where the rules on derivative proceedings from Part 4 were moved.⁸¹ Code sections 14-3-740 through 14-3-747 remain mostly unchanged; these sections comprise

72. 2023 Ga. Laws 419, § 1-1, at 449; *see* O.C.G.A. § 14-3-705 (2004).

73. 2023 Ga. Laws 419, § 1-1, at 449–52; Legislative Proposal, *supra* note 6, at 5.

74. 2023 Ga. Laws 419, § 1-1, at 451–52; Legislative Proposal, *supra* note 6, at 5.

75. 2023 Ga. Laws 419, § 1-1, at 452–53; Legislative Proposal, *supra* note 6, at 5.

76. 2023 Ga. Laws 419, § 1-1, at 453; Legislative Proposal, *supra* note 6, at 5.

77. 2023 Ga. Laws 419, § 1-1, at 454; *see* O.C.G.A. § 14-3-722 (1991).

78. 2023 Ga. Laws 419, § 1-1, at 454.

79. *Id.* at 455–56; Legislative Proposal, *supra* note 6, at 5.

80. 2023 Ga. Laws 419, § 1-1, at 457; Legislative Proposal, *supra* note 6, at 5.

81. 2023 Ga. Laws 419, § 1-1, at 457–59; Legislative Proposal, *supra* note 6, at 5–6.

the newly added Article 7A and even keep their original numbering.⁸² Additionally, the Act's amendments to Code sections 14-3-740 and 14-3-741 update definitions and specific language to create consistency with the Model Nonprofit Corporation Act and the Business Code.⁸³ Lastly, the Act's amendments to Code section 14-3-742 update the language relating to charitable contributions to match the new definition in Code section 14-3-703.⁸⁴

Article 8

The Act's amendments to Article 8, the Article establishing rules for directors and officers of nonprofit corporations, make a host of changes to the text, some merely grammatical and many substantive.⁸⁵ The Act makes grammatical changes to Code sections 14-3-812, 14-3-813, 14-3-823, 14-3-851, and 14-3-861, addressing awkward articles and punctuation for readability and accuracy.⁸⁶ Similarly, the Act amends Code sections 14-3-810 and 14-3-864 to reference the newly categorized charitable corporations under paragraph (5) of Code section 14-3-140.⁸⁷ The Act also updates various Code sections and makes cross-references to account for those alterations.⁸⁸

Substantively, the Act makes numerous changes to Article 8.⁸⁹ First, the Act amends Code section 14-3-803 to mandate that, from the Act's effective date of July 1, 2023, nonprofit corporations without members must have a board of directors of at least three natural persons "with the number specified in . . . the articles or bylaws."⁹⁰ The Act also amends the following section, Code section 14-3-804.⁹¹ The Act inserts clarifying language in subsection (a), using the membership

82. 2023 Ga. Laws 419, § 1-1, at 457–59; Legislative Proposal, *supra* note 6, at 6.

83. 2023 Ga. Laws 419, § 1-1, at 457; Legislative Proposal, *supra* note 6, at 6.

84. 2023 Ga. Laws 419, § 1-1, at 457; Legislative Proposal, *supra* note 6, at 6.

85. 2023 Ga. Laws 419, § 1-1, at 459–84.

86. *Id.* at 463–65, 473, 479–80 (codified at O.C.G.A. §§ 14-3-812, -13, -823, -851, -861 (2023)).

87. *Id.* at 462, 481–82 (codified at O.C.G.A. §§ 14-3-810, -864 (2023)). For the definition of charitable corporation as referred to under Code section § 14-3-140(5), see O.C.G.A. § 14-3-1302(a)(2) (2023).

88. *See* 2023 Ga. Laws 419, § 1-1, at 471–73, 475–78 (codified at O.C.G.A. §§ 14-3-850, -856, -859 (2023)).

89. *Id.* at 459–84.

90. *Id.* at 459 (codified at O.C.G.A. § 14-3-803(a) (2023)).

91. *Id.* at 460 (codified at O.C.G.A. § 14-3-804 (2023)).

corporation language of paragraph (31) of Code section 14-3-140; adds a new subsection (b) describing how class voting may be incorporated into a nonprofit's articles or bylaws as well as stating a default presumption that classes will be viewed as separate voting groups in director elections; and renumbers the previous subsection (b) to subsection (c).⁹² Relating back to the established minimum number of directors under subsection (a) of Code section 14-3-803, the Act adds subsection (e) to Code section 14-3-811 to provide a mechanism to petition the superior court to install the minimum number of directors when a corporation without members has no directors.⁹³

Further, the Act makes changes to Code section 14-3-807, altering the conditions for director resignations.⁹⁴ Code section 14-3-807 now specifies that a director's notice of resignation must be delivered to "the presiding officer of the board of directors, the secretary, or the chief executive officer or in such other manner as the articles or bylaws may provide."⁹⁵ Additionally, the Act modifies subsection (b) and adds subsection (c) to include conditional resignations, allowing for directors to resign upon the occurrence of a predetermined event and making such a resignation irrevocable.⁹⁶ The resignation process included in subsection (a) of Code section 14-3-807 clarifies the removal process for appointed directors in subsection (b) of Code section 14-3-808.⁹⁷ Additionally, Code section 14-3-808 clarifies that the removal processes described in the Code section applies only "to elected directors," diminishing any potential confusion around when those steps may be applicable to director removal.⁹⁸

The Act also adds language to Code section 14-3-820, updating the provisions regarding the default rules for director meetings.⁹⁹ The Code section now provides a standard for regular meetings as those "fixed by bylaws or the board" and establishes "[a]ll other directors' meetings" as special meetings.¹⁰⁰ The addition of subsection (b)

92. *Id.*

93. *Id.* at 463 (codified at O.C.G.A. § 14-3-811(e) (2023)).

94. 2023 Ga. Laws 419, § 1-1, at 461 (codified at O.C.G.A. § 14-3-807 (2023)).

95. § 14-3-807(a).

96. *Id.* § 14-3-807(b)-(c).

97. O.C.G.A. § 14-3-808(b)(2) (2023).

98. *Id.* § 14-3-808.

99. 2023 Ga. Laws 419, § 1-1, at 464.

100. O.C.G.A. § 14-3-820(a) (2023).

further clarifies that, so long as it is not prohibited by the articles or bylaws, the board’s chairperson, the CEO, or at least twenty percent of the in-office directors can call a special meeting of the board.¹⁰¹ The Act amends Code sections 14-3-821, 14-3-822, and 14-3-824 to clarify further meeting rules.¹⁰² Board action taken without holding a meeting no longer becomes effective once the last director signs their consent to the action, but rather “when the last required signed consent is delivered to the corporation, unless the consent specifies a different effective date.”¹⁰³ That signature may also be made electronically or through similar means, and the director’s consent may be revoked so long as a signed revocation is delivered before the last required submission is delivered.¹⁰⁴

Alongside a grammar change, the Act amends Code section 14-3-822, describing when notice is required for board of director meetings, to require notice for meetings contemplating an amendment to the articles or bylaws.¹⁰⁵ This amendment also includes the possibility of oral notice where such notice is authorized by the articles or bylaws.¹⁰⁶ The final alteration to the meeting rules, the addition of subsection (f) to Code section 14-3-824, requires board members to vote for themselves at meetings by removing proxy voting.¹⁰⁷

The final changes to the meeting section pertain to committee meetings for boards of directors.¹⁰⁸ Subsection (a) of Code section 14-3-825 now describes who may serve on committees and how they must be structured to possess the authority of the board, mandating that at least two current or former directors and at least one current director be on a committee for the committee to use the board’s authority.¹⁰⁹ Subsection (b) then streamlines application of the rules, stating that “[a]ll provisions of this article applicable to directors shall apply equally to such individuals serving on committees,” regardless of their

101. *Id.* § 14-3-820(b); 2023 Ga. Laws 419, § 1-1, at 464.

102. 2023 Ga. Laws 419, § 1-1, at 464–66 (codified at O.C.G.A. §§ 14-3-821 to -824 (2023)).

103. § 14-3-821(d).

104. *Id.* § 14-3-821(b)-(f).

105. 2023 Ga. Laws 419, § 1-1, at 465 (codified at § 14-3-822).

106. *Id.* (codified at § 14-3-822(d)).

107. *Id.* at 466 (codified at § 14-3-824(f)).

108. *Id.* (codified at O.C.G.A. § 14-3-825 (2023)).

109. § 14-3-825(a).

board member status.¹¹⁰ Furthermore paragraph (4) of subsection (d) of Code section 14-3-825 now allows for nonprofits to provide a mechanism in their bylaws or articles for committees to elect, appoint, or remove directors on committees that act with the authority of the board.¹¹¹

The Act makes only a few changes to Part 3 of Article 8, clarifying that directors may rely upon individuals in roles similar to that of a rabbi or priest and confirming that Code section 14-3-830 does not remove directors from consideration under Code section 51-1-20.¹¹² The number of changes the Act makes to Part 4, concerning officers in nonprofit corporations, is comparatively much larger.¹¹³ The Act starts by changing the requirements for what officers a nonprofit corporation must have, now requiring a chief executive officer, a secretary, and a chief financial officer at a minimum.¹¹⁴ The Act also specifies that a corporation may have an executive director and that the executive director will be assumed to be an officer if the articles or bylaws do not state otherwise.¹¹⁵ In addition, though officers may generally still hold more than one role, the Act limits a potentially problematic concentration of power by preventing the same person from serving as both chief executive officer and secretary.¹¹⁶ Much like how the Act changes Code section 14-3-830 to allow directors to rely on religious figures similar to a priest or rabbi within its amended text, the Act clarifies the language of Code section 14-3-842 to explicitly allow officers to rely on those individuals as well as other officers.¹¹⁷ In another mirror of Code section 14-3-830, Code section 14-3-842 adds a nonexclusive application clause, clarifying that Code sections 51-1-20 and 51-1-20.1 still apply to officers alongside Code section 14-3-842.¹¹⁸

110. *Id.* § 14-3-825(b).

111. *Compare* O.C.G.A. § 14-3-825(d)(3)-(4) (2023), *with* O.C.G.A. § 14-3-825(e)(3) (1991) (breaking apart the committee text and adding the articles or bylaws exception).

112. 2023 Ga. Laws 419, § 1-1, at 467.

113. *See id.* at 468–71.

114. *Id.* at 468.

115. *Id.*

116. *Id.*

117. *Id.* at 469; *see* O.C.G.A. § 14-3-830(b)(2) (2023).

118. O.C.G.A. § 14-3-842(d)(5) (2023); *see* § 14-3-830(d)(5).

The Act makes several changes to Code section 14-3-843, the section addressing officer replacement, removal, and resignations, expanding the possible role of officers in appointing successor officers after a resignation and also increasing the number of possible methods to remove an officer.¹¹⁹ Officers may now fill the vacancy left by the resigning officer if the bylaws authorize them to do so.¹²⁰ Officers may also be removed with or without cause, not just by the board, but by the officer who appointed them or by any other officer as allowed by the bylaws and board of directors.¹²¹

The next two affected Code sections, Code sections 14-3-845 and 14-3-846, add clarifying language to match the prior changes to the Article and add subsection (b) to Code section 14-3-846.¹²² Subsection (b) adds a requirement that the officer executing, attesting, or authenticating a contract or similar document attest to various formalities of the authorization to ensure its genuineness.¹²³ The Act's changes to Code section 14-3-850 are done in a similar manner, with several formalistic changes to conform to the Act's structural overhaul alongside a substantive change.¹²⁴ The Act introduces and defines the term "disinterested member" in this section, a counterpart to the concept of a disinterested director.¹²⁵ This definition is then used for the first time in subsection (c) of Code section 14-3-853 in the same vein as the disinterested director, allowing disinterested members to authorize the use of funds for directors' litigation expenses under subsections (a) and (b) of Code section 14-3-853.¹²⁶ The term is used once more in subsection (b) of Code section 14-3-855, replacing disinterested directors with a wider scope of individuals allowed to participate in indemnification determinations.¹²⁷

Subsection (b) of Code section 14-3-854 further addresses litigation expenses. This Code section makes compensation for expenses in the pursuit of indemnification mandatory where a court determines

119. 2023 Ga. Laws 419, § 1-1, at 470 (codified at O.C.G.A. § 14-3-843 (2023)).

120. *Id.*

121. *Id.*

122. *Id.* at 470–71.

123. *Id.* at 471 (codified at O.C.G.A. § 14-3-846 (2023)).

124. *Id.* at 471–73.

125. 2023 Ga. Laws 419, § 1-1, at 472 (codified at O.C.G.A. § 14-3-850(4) (2023)).

126. O.C.G.A. § 14-3-853(c)(2) (2023).

127. *Compare* O.C.G.A. § 14-3-855(b)(3) (2023), *with* O.C.G.A. § 14-3-855(b)(3) (1997).

paragraph (1) of subsection (a) applies, though leaving indemnification up to the court's discretion where paragraph (2) of subsection (a) applies.¹²⁸ A further addition, subsection (c), empowers courts to make the determination of whether a corporation is obligated to indemnify one of its directors without a jury.¹²⁹ This change ties into revised Code section 14-3-856, allowing for—where appropriately authorized—“a corporation [to] indemnify or obligate itself to indemnify a director made a party to a proceeding, including a proceeding brought by or in the right of the corporation, without regard to the limitations in other Code sections of this part.”¹³⁰ Finally, Code section 14-3-859 caps off this expansion by stating that the scope of indemnification applies “to the fullest extent permitted by law” unless limiting language is provided in either the bylaws, articles, a resolution of the board or the corporation's members, or an applicable contract.¹³¹

The Act's changes to Code sections 14-3-860 to 14-3-865 are largely formalistic, though several substantive changes were made.¹³² Of note are the changes to Code sections 14-3-863 and 14-3-865. In Code section 14-3-863, the qualified members definition is restricted to discount any members that might be controlled by a director in evaluating their conflict of interest.¹³³ The changes to Code section 14-3-865 match the standard for legal challenges to an officer's conflict of interest with those for a director's conflict of interest, essentially unifying the language and standards for analyzing both claims.¹³⁴

The Act's final change to Article 8 is the creation of Code section 14-3-870.¹³⁵ This section pertains to duties related to corporate opportunities, giving nonprofit corporations the ability to disclaim their interest in business opportunities that their directors or officers may be personally interested in.¹³⁶ The Code section provides procedures that directors must follow to receive board approval for

128. O.C.G.A. § 14-3-854(b) (2023).

129. *Id.* § 14-3-854(c).

130. O.C.G.A. § 14-3-856(a) (2023).

131. O.C.G.A. § 14-3-859(f) (2023).

132. *See* 2023 Ga. Laws 419, § 1-1, at 478–82.

133. *Id.* at 481.

134. *Id.* at 482. *Compare* O.C.G.A. § 14-3-865(c) (2023), *with* O.C.G.A. § 14-3-861(b) (2023).

135. 2023 Ga. Laws 419, § 1-1, at 482–84.

136. *Id.* (codified at O.C.G.A. § 14-3-870 (2023)).

pursuing business opportunities that may be of interest to them.¹³⁷ The Code section also lays out the standard for causes of action following a lost opportunity theory of recovery for directors.¹³⁸

Article 10

Like the other articles, Article 10 underwent several changes.¹³⁹ The changes to Code sections 14-3-1003, 14-3-1006, and 14-3-1021 were formalistic, such as renumbering sections to match their new locations following the Act's amendments.¹⁴⁰ However, the Act substantively amends Code sections 14-3-1001, 14-3-1020, and 14-3-1041.¹⁴¹

First, the Act adds subsections (b) and (c) to Code section 14-3-1001.¹⁴² These new subsections establish that “[e]xcept as provided in the articles of incorporation, a member of a corporation does not have a vested property right resulting from any provision in the articles, including provisions relating to management, control, purpose, or duration of the corporation,” although this does “not apply to vested real property rights of members of a corporation.”¹⁴³ In the same way that Code section 14-3-822 establishes a notice requirement for meetings contemplating amendments to the articles or bylaws, Code section 14-3-1020 now contains a notice requirement for meetings contemplating changes to the bylaws by the incorporators in corporations without members.¹⁴⁴ Lastly, Code section 14-3-1041 now describes when charitable corporations may amend their articles of incorporation and clarifies that no director or officer may acquire or retain anything due to an amendment of the Code section alongside any members of the nonprofit.¹⁴⁵

137. § 14-3-870.

138. *Id.*

139. 2023 Ga. Laws 419, § 1-1, at 484–91.

140. *Id.* at 485–90.

141. *See id.* at 484–85, 489–91.

142. *Id.* at 485.

143. O.C.G.A. § 14-3-1001(b)-(c) (2023).

144. O.C.G.A. § 14-3-1020 (2023); *see* O.C.G.A. § 14-3-822 (2023).

145. O.C.G.A. § 14-3-1041 (2023).

Article 11

Article 11 of the Nonprofit Code establishes the standards for corporate mergers.¹⁴⁶ The Act rewrites the Article to consolidate the language and make the text more readable without changing its requirements.¹⁴⁷

The first amendment to the Article offers a roadmap to guide readers toward the applicable provisions of the Article depending on the parties involved in the merger.¹⁴⁸ If one of the merging corporations is a “charitable corporation,” the parties must adhere to Code section 14-3-1102.¹⁴⁹ If a foreign nonprofit or for-profit corporation is involved, the Act explains that Code section 14-3-1106 applies.¹⁵⁰ If any other type of entity is a party to the merger, Code section 14-3-1108 applies.¹⁵¹ These three sections already governed each of the respective mergers.¹⁵²

The Act then simplifies the Article by cutting out unnecessary cross-references to other Code provisions. For instance, the Code repeatedly referred to a “corporation described in paragraph (2) of subsection (a) of Code Section 14-3-1302.”¹⁵³ The Act replaces each instance of this phrase with its newly defined term: “charitable corporation.”¹⁵⁴ Additionally, Code section 14-3-1106 previously allowed mergers between foreign and domestic corporations “[e]xcept as provided in Code [s]ection 14-3-1102.”¹⁵⁵ The Act deletes this provision without altering the meaning of the law; the Code still demands compliance “with the applicable provisions of Code [s]ections 14-3-1101 through 14-3-1103.”¹⁵⁶ Three sections also cross-referenced subsection (a) of Code section 14-3-1108, which

146. 2023 Ga. Laws 419, § 1-1, at 491–503.

147. See House Judiciary Committee Video, *supra* note 16, at 28 min., 38 sec. (remarks by Robyn Miller, Senior Corporate and Tax Counsel, Pro Bono Partnership of Atlanta).

148. 2023 Ga. Laws 419, § 1-1, at 491.

149. O.C.G.A. § 14-3-1101(a)(1) (2023).

150. 2023 Ga. Laws 419, § 1-1, at 491.

151. *Id.*

152. See O.C.G.A. §§ 14-3-1102, -1106 (2004), O.C.G.A. § 14-3-1108 (2010).

153. O.C.G.A. § 14-3-1102(a)-(b) (2004); O.C.G.A. § 14-3-1121(i) (2017).

154. 2023 Ga. Laws 419, § 1-1, at 492, 501 (codified at O.C.G.A. §§ 14-3-1102(a)-(b), -1121(i) (2023)).

155. O.C.G.A. § 14-3-1106(a) (2004).

156. O.C.G.A. § 14-3-1106(a)(3) (2023).

offers definitions for seven terms used throughout the Article.¹⁵⁷ The Act not only deletes each cross-reference but also removes the definitional subsection from Code section 14-3-1108.¹⁵⁸ The Act migrates the seven definitions previously in Article 11 to Code section 14-3-140.¹⁵⁹

In addition to removing these definitions, the Act cuts out other surplusage from Code section 14-3-1108. The former Code sections 14-3-1101 and 14-3-1108 contained criteria virtually identical to the criteria a merger plan must include.¹⁶⁰ The Act expands the scope of Code section 14-3-1101 to apply to “any merger authorized by this article” and removes the redundant language in Code section 14-3-1108.¹⁶¹

The Act also clarifies ambiguities. By reorganizing the sentence structure in Code section 14-3-1102, the revisions help underscore that certain mergers with charitable corporations do not require the approval of the superior court “so long as notice is provided to the Attorney General.”¹⁶² The Act also closes a loophole in subsection (a) of Code section 14-3-1104. Previously, that subsection indicated that an entity could file articles of merger with the Secretary of State after the board of directors approved the plan.¹⁶³ This could technically result in a corporation filing articles of merger before it obtains the requisite authorization to merge. For example, even if the board approves the plan, before a membership corporation can authorize the merger, the corporation’s members would need to vote to approve the merger.¹⁶⁴ To resolve the discrepancies between the filing and authorization requirements, the Act clarifies that the surviving corporation should file with the Secretary of State not only after its board approves the merger but also after “notices have been provided and approvals obtained in accordance with this article.”¹⁶⁵

157. O.C.G.A. §§ 14-3-1102(d), -1104(d), -1105(b) (2004).

158. 2023 Ga. Laws 419, § 1-1, at 497 (formerly found at O.C.G.A. § 14-3-1108(a) (2010)).

159. *Id.* at 428–29.

160. *Id.* at 497 (formerly found at O.C.G.A. § 14-3-1108(d) (2010)); O.C.G.A. § 14-3-1101(b) (2004).

161. 2023 Ga. Laws 419, § 1-1, at 491, 497 (codified at O.C.G.A. §§ 14-3-1101(b), -1108 (2023)).

162. *Id.* at 492 (codified at O.C.G.A. § 14-3-1102(a), (c) (2023)).

163. O.C.G.A. § 14-3-1104(a) (2004).

164. *Id.* § 14-3-1104(a)(2).

165. 2023 Ga. Laws 419, § 1-1, at 494 (codified at O.C.G.A. § 14-3-1104(a) (2023)).

The final update to Code section 14-3-1108 amends subsection (d) to require that each merging entity comply with Code sections 14-3-1104 and 14-3-1104.1.¹⁶⁶ Those two sections, respectively, require corporations to file articles of merger with the Secretary of State and publish notice in the county newspaper.¹⁶⁷ But subsection (g) of the former Code section 14-3-1108 only demanded that entities comply with the filing requirements of Code section 14-3-1104, without referencing their duty to publish under Code section 14-3-1104.1.¹⁶⁸ The Act clarifies that both sections apply but adds a caveat: only the surviving entity of the merger must comply.¹⁶⁹ This addition is only clerical, considering the filing and publication standards never applied to disappearing entities to begin with.¹⁷⁰ In fact, the only standards for merging that directly refers to the obligations of the “disappearing corporation”—or the “nonsurviving corporation” under the current Act—arise in a separate Code section.¹⁷¹

Article 12

The Act substantively updates Article 12. A board of directors could previously engage in certain transactions without member approval.¹⁷² Such activities were essentially limited to encumbering, leasing, or transferring the corporation’s property.¹⁷³ The Act now affords a board of directors another unilateral right: the right of a subsidiary’s board to transfer “any or all of such corporation’s assets” to a parent corporation.¹⁷⁴

166. O.C.G.A. § 14-3-1108(d) (2023).

167. O.C.G.A. §§ 14-3-1104, -1104.1 (2023).

168. 2023 Ga. Laws 419, § 1-1, at 497 (formerly found at O.C.G.A. § 14-3-1108(g) (2010)).

169. *Id.*

170. O.C.G.A. §§ 14-3-1104, -1104.1 (2004).

171. O.C.G.A. § 14-3-1103(d)-(e) (2023).

172. O.C.G.A. § 14-3-1201 (1991).

173. *Id.* § 14-3-1201(1)-(2).

174. 2023 Ga. Laws 419, § 1-1, at 503 (codified at O.C.G.A. § 14-3-1201(3) (2023)).

Article 13

Article 13 of the Nonprofit Code sets the standards for distributions.¹⁷⁵ The Act makes significant, but not substantive, changes to these provisions.¹⁷⁶ Previously, the Nonprofit Code included a restrictive definition for the term “distribution.”¹⁷⁷ Cassady Brewer, Member of the Georgia Bar Nonprofit Law Section Legislative Drafting Committee and Professor of Law at Georgia State University College of Law, explained that the definition created confusion because the word was used inconsistently in other areas of the Nonprofit Code.¹⁷⁸ The Act gets “rid of the definition of a distribution and move[s] those restrictions on where the money can be distributed to the actual provisions of the sections themselves,” Brewer said.¹⁷⁹ Thus, Code section 14-3-1301 prohibits the same concept that the previous Code defined.¹⁸⁰ And subsection (c) of Code section 14-3-1302 now incorporates the same exception previously embedded in the definition of “distribution.”¹⁸¹

Article 14

Dissolving Georgia nonprofits must follow Article 14 of the Nonprofit Code. The Act significantly revises this Article in three respects. First, the Act makes technical revisions to certain provisions. Second, the Act clarifies ambiguities. Third, and most importantly, the Act makes significant substantive changes to the law.

First, on the technical side, some changes simply correct grammar and semantics. This included correcting for subject-verb agreement, replacing pronouns with referents, and other subtle changes without

175. *Id.* at 504–05.

176. First Brewer Interview, *supra* note 5.

177. *Id.*; O.C.G.A. § 14-3-140(9) (2016).

178. First Brewer Interview, *supra* note 5.

179. *Id.*

180. *See* O.C.G.A. § 14-3-1301 (2023).

181. O.C.G.A. § 14-3-1302(c) (2023).

practical effect.¹⁸² The Act removes all reference to “shareholders” in Code section 14-3-1422 and replaces the word with “member.”¹⁸³

The Act also conforms cross-references with the corresponding Code section. One of these changes accounts for reorganizations made to the preceding sections.¹⁸⁴ Yet, other cross-references were inaccurate to begin with. For instance, Code sections 14-3-1422 and 14-3-1423 previously indicated that the Secretary of State may “serve” notice to a nonprofit under Code section 14-3-504.¹⁸⁵ But that section discusses the general process for serving notice on corporations.¹⁸⁶ Code section 14-3-125 more directly addresses the process by which the Secretary of State may “deliver” filed copies of documents or written refusals to the corporation.¹⁸⁷ Another erroneous cross-reference occurred in Code section 14-3-1422. There, the provisions previously referred to a provision of the Business Code.¹⁸⁸ The Act updates this section to reference the corresponding section of the Nonprofit Code.¹⁸⁹

Second, in a bid to clear up ambiguous areas, other amendments close loopholes. For example, a corporation that has not “commenced activities,” admitted members, or netted assets may rely on the more lenient provisions for dissolution outlined in Code section 14-3-1401.¹⁹⁰ The Act clarifies that a corporation does not “commence activities” by undertaking “routine formation related activities.”¹⁹¹ In effect, if a corporation did nothing more than undertake the ordinary actions that formation necessitates, then it can dissolve according to Code section 14-3-1401.¹⁹²

182. See, e.g., O.C.G.A. §§ 14-3-1421(a), -1423(a) (2023) (substituting the pronouns “he” or “his” with the referent, “Secretary of State”); O.C.G.A. § 14-3-1432(c)(1)(B) (2023) (substituting the pronoun “his” with the referent, “the receiver”); O.C.G.A. §§ 14-3-1403(b)(3), -1411(b)(2), -1432(b) (2023) (adding the word “corporation” to a sentence for clarity). Compare O.C.G.A. § 14-3-1402(b) (2023) (indicating articles or bylaws “require”), with O.C.G.A. § 14-3-1402(b) (2004) (stating articles or bylaws “requires”).

183. 2023 Ga. Laws 419, § 1-1, at 514 (codified at O.C.G.A. § 14-4-1422(a)(3) (2023)).

184. See O.C.G.A. § 14-3-1402 (2023) (cross-referencing Code section 14-3-704 rather than the previous Code section 14-3-705).

185. O.C.G.A. § 14-3-1422(c) (2011); O.C.G.A. § 14-3-1423(a) (1991).

186. O.C.G.A. § 14-3-504 (2023).

187. O.C.G.A. § 14-3-125 (2023).

188. O.C.G.A. § 14-3-1422(b) (2011).

189. 2023 Ga. Laws 419, § 1-1, at 514.

190. O.C.G.A. § 14-3-1401 (2005).

191. 2023 Ga. Laws 419, § 1-1, at 505 (codified at O.C.G.A. § 14-3-1401 (2023)).

192. § 14-3-1401.

The Act also clarifies provisions in Code section 14-3-1430.¹⁹³ If a corporation “obtained its articles of incorporation through fraud,” the superior court had the power to dissolve the corporation.¹⁹⁴ But the Code said nothing if the articles of incorporation were reinstated through fraud.¹⁹⁵ The Act closes this loophole.¹⁹⁶ Simultaneously, the Act clarifies the alternative scenario that could result in a judicial dissolution.¹⁹⁷ For more than thirty years, courts have had the power to dissolve corporations that have “continued to exceed or abuse” their legal authority.¹⁹⁸ The Act clarifies that this type of judicial dissolution may only proceed if a corporation “has exceeded or abused, and is continuing to exceed or abuse” its authority.¹⁹⁹

Lastly, the Act substantively changes the law in at least five ways.²⁰⁰ First, the Act shifts the timeframe for filing the notice of intent to dissolve under Code section 14-3-1404.1.²⁰¹ Instead of requiring the corporation publish its intent to dissolve in the local papers “prior to” filing its notice with the Secretary of State, the corporation may publish its intent “[n]o later than the next business day” after filing notice.²⁰² Second, the Act raises the threshold for members initiating a judicial dissolution.²⁰³ Previously, a superior court could dissolve a corporation in a proceeding initiated by a single member.²⁰⁴ Now, a member-initiated dissolution requires five percent of the voting members or at least fifty members, whichever is less.²⁰⁵

As a third change, the Act revises when a charitable corporation may deliver articles of dissolution to the Secretary of State.²⁰⁶ Previously, a charitable corporation could deliver the articles at the time it

193. 2023 Ga. Laws 419, § 1-1, at 515.

194. O.C.G.A. § 14-3-1430(1)(A) (1991).

195. *See id.*

196. 2023 Ga. Laws 419, § 1-1, at 515.

197. *Id.*

198. O.C.G.A. § 14-3-1430(1)(B) (1991).

199. 2023 Ga. Laws 419, § 1-1, at 515 (codified at O.C.G.A. § 14-3-1430(1)(B) (2023)).

200. *Id.* at 505–17.

201. *Id.* at 508.

202. *Compare* O.C.G.A. § 14-3-1404.1(b) (1991), *with* O.C.G.A. § 14-3-1404.1(b) (2023).

203. 2023 Ga. Laws 419, § 1-1, at 515.

204. O.C.G.A. § 14-3-1430(2) (1991).

205. O.C.G.A. § 14-3-1430(2) (2023).

206. 2023 Ga. Laws 419, § 1-1, at 507.

delivered written notice of its intent to the Attorney General.²⁰⁷ By delivering these articles to the Secretary of State, the charitable corporation could dissolve.²⁰⁸ Yet, the charitable corporation could not transfer its assets until thirty days after giving written notice to the Attorney General.²⁰⁹ Additionally, a charitable corporation needed to include a statement in its articles of dissolution that it notified the Attorney General of its intent to dissolve.²¹⁰ The corporation did not need to state that it has or would offer the Attorney General the requisite thirty days to respond before transferring its assets.²¹¹

The Act amends this process to ensure that a charitable corporation affords the Attorney General that time.²¹² Just as the Code required before, a charitable corporation must wait thirty days after notifying the Attorney General before transferring its assets.²¹³ But instead of permitting the dissolution on the front end and trusting the corporation to hold its assets during that period, the corporation must now wait before filing its articles of dissolution.²¹⁴ That is, a charitable corporation can provide the Secretary of State “notice of its intent to dissolve” at or after the time it gives the Attorney General the same notice.²¹⁵ The corporation can no longer file articles of dissolution before thirty days elapses from the time it sends written notice to the Attorney General.²¹⁶ Additionally, in the articles of dissolution, the charitable corporation must now state that the Attorney General was given the requisite time to respond.²¹⁷

Fourth, in addition to revising when a charitable corporation may file articles of dissolution, subsection (c) of Code section 14-3-1403 updates what must be included in the notice to the Attorney General.²¹⁸ With its notice, a charitable corporation must include the plan for

207. O.C.G.A. § 14-3-1403(c)(1) (1991).

208. O.C.G.A. § 14-3-1409(a) (2010).

209. O.C.G.A. § 14-3-1403(c)(2) (1991).

210. O.C.G.A. § 14-3-1409(a)(6) (2010).

211. *Id.*

212. 2023 Ga. Laws 419, § 1-1, at 507.

213. O.C.G.A. § 14-3-1403(c)(2) (2023).

214. *Id.* § 14-3-1403(c)(1).

215. *Id.*

216. O.C.G.A. § 14-3-1403(c)(1) (1991).

217. O.C.G.A. § 14-3-1409(a)(6) (2023).

218. O.C.G.A. § 14-3-1403(c) (2023).

dissolution, the net value of the corporation's assets, and a list of non-creditors to whom the corporation intends to transfer its assets.²¹⁹ The Act makes this change to align with current practices of the Attorney General.²²⁰

But the most impactful revision to this Article arises from the seemingly modest additions to Code section 14-3-1403. Throughout the 183 pages of SB 148, this section contains the only amendments expressly drafted with the purpose of overturning a decision by the Supreme Court of Georgia.²²¹ The amendment abrogates the holding of *Shorter College v. Baptist Convention of Georgia*.²²² In doing so, the Code now states that a dissolving corporation may transfer its assets, “whether in-kind or otherwise,” to those “who may continue the business and affairs of the dissolving corporation.”²²³ Moreover, the Act authorizes the transfer of assets to recipients with “the same or similar purposes as those of the dissolving corporation.”²²⁴

Article 15

Article 15 of the Nonprofit Code establishes the standards for foreign corporations.²²⁵ The Article is divided into four parts, but the Act primarily amends the first part, which relates to certificates of authority for foreign corporations.²²⁶

The first amendment to the Article clarifies the scope of the chapter. Subsection (a) of Code section 14-3-1501 prohibits foreign corporations from “transact[ing] business” in Georgia without a certificate of authority from the Secretary of State.²²⁷ A foreign corporation that lacks a certificate of authority may still perform certain activities that do not constitute “transacting business” within the meaning of the chapter.²²⁸ Yet, the enumerated exceptions only

219. *Id.* § 14-3-1403(c)(1).

220. *Id.* § 14-3-1403 cmt.

221. Legislative Proposal, *supra* note 6, at 9–10; First Brewer Interview, *supra* note 5.

222. Legislative Proposal, *supra* note 6, at 9–10; First Brewer Interview, *supra* note 5.

223. § 14-3-1403(a).

224. 2023 Ga. Laws 419, § 1-1, at 506 (codified at § 14-4-1403(b)(3)).

225. *Id.* at 518–26.

226. *Id.*

227. O.C.G.A. § 14-3-1501(a) (2023).

228. *Id.* § 14-3-1501(b).

apply to the foreign corporation's obligations under this chapter.²²⁹ A foreign corporation may still be subject to other applicable laws and regulations of the state.²³⁰ Despite the intended scope of the chapter, an omission in subsection (d) of the former Code section 14-3-1501 created some confusion. The subsection previously indicated that the activities of a foreign corporation may still subject it to other state laws relating to taxation or service of process.²³¹ The Act clarifies that the chapter does not establish standards for a foreign corporation's charitable solicitation registrations under Code section 43-17-5 or for its obligations under any state regulation.²³²

The Act also adds requirements for foreign corporations that convert to foreign limited partnerships or foreign limited liability companies.²³³ Within thirty days after conversion, the foreign corporation must file proper notice with the Secretary of State.²³⁴ If the corporation files notice within that timeframe, then it can conduct business without interruption.²³⁵ This amendment is consistent with the Business Code.²³⁶

Finally, foreign limited liability companies are now among the types of entities that must have a distinguishable name from the records of the Secretary of State.²³⁷

Article 16

In Article 16, the Nonprofit Code had begun to show its age. Code section 14-3-1603 referenced making "xerographic" copies of records.²³⁸ The Act modernizes this language, replacing the outmoded technology with a more current practice—making electronic copies.²³⁹

229. *Id.* § 14-3-1501(d).

230. *Id.*

231. O.C.G.A. § 14-3-1501(d) (2004).

232. 2023 Ga. Laws 419, § 1-1, at 518.

233. *Id.* at 519–20.

234. O.C.G.A. § 14-3-1504(b)(1) (2023).

235. *Id.* § 14-3-1504(b)(2).

236. O.C.G.A. § 14-2-1504(c) (2006); Legislative Proposal, *supra* note 6, at 9.

237. O.C.G.A. § 14-3-1506(b)(5) (2023).

238. O.C.G.A. § 14-3-1603(b) (1991).

239. 2023 Ga. Laws 419, § 1-1, at 528.

Code section 14-3-1606 describes a director's inspection rights and is updated in accordance with the Model Nonprofit Corporation Act.²⁴⁰ The Act affords directors the right to inspect corporate records.²⁴¹ A director can do so at any reasonable time if the inspection reasonably relates to the director's duties as director or board committee member, and the purpose or manner of the inspection does not violate any law or fiduciary duty.²⁴² The Act empowers the superior court to decide disputes between corporations and directors who have been refused the right to inspect.²⁴³

Article 17

In Article 17, the Act clarifies that the repeal of a statute does not affect causes of action, penalties, or special proceedings that occurred before repeal.²⁴⁴ This change is consistent with the savings provision of the Business Code.²⁴⁵

Analysis

Ensuring Structural Uniformity and Modernizing Positions

One of the primary motivations behind this legislation was the desire to update and modernize the Nonprofit Code to better reflect the current state of the law and to address the developments in the business world since the Nonprofit Code's introduction.²⁴⁶ Many of the Act's changes, as referenced previously, do not substantively alter the Nonprofit Code's requirements, but update the language to conform with current phrasing and practices.²⁴⁷ Provisions that do substantively change the law, such as the new requirement that charitable

240. O.C.G.A. § 14-3-1606(a) (2023); Legislative Proposal, *supra* note 6, at 9.

241. § 14-3-1606(a).

242. *Id.*

243. 2023 Ga. Laws 419, § 1-1, at 529.

244. *Id.* at 533.

245. O.C.G.A. § 14-2-1703 (1993); *see* Legislative Proposal, *supra* note 6, at 9.

246. First Brewer Interview, *supra* note 5; Virtual Interview with James Beal, General Counsel to Sen. John F. Kennedy, Office of the Senate President Pro Tempore (Aug. 17, 2023) [hereinafter Beal Interview] (on file with the Georgia State University Law Review).

247. *See* Beal Interview, *supra* note 246.

corporations have at least three directors, reflect current best practices and address concerns raised by developments since the Nonprofit Code's creation.²⁴⁸

Alongside the Act's modernization of the terms used in the Nonprofit Code, the Act also removes various barriers to entry that qualified professionals might find too burdensome when considering serving as an officer or board member of a nonprofit corporation.²⁴⁹ For example, the indemnification and disclaimer provisions now provide nonprofit corporations with significant options to limit or reimburse liability of qualified parties who have concerns about personal losses when considering involvement with a nonprofit.²⁵⁰ Instead of feeling restricted by a potential loss of opportunity, involved professionals might be more likely to serve on a nonprofit board or as an officer.²⁵¹ As the disclaimer provision (i.e., Code section 14-3-870) in particular bears substantial similarity to the requisite Business Code provision (i.e., Code section 14-2-870), it is unlikely to be challenged and will provide greater opportunity for nonprofits to attract talented, involved individuals within their professional communities.²⁵² Altogether, the updates to the Act's terminology and substance put Georgia in a good position moving forward as the particulars of the new legislation are put to the test in the real world.²⁵³

To Be or Not to Be: When Dissolution is the Question

In Code section 14-3-1403, the Act overturns the Georgia Supreme Court's holding in *Shorter College v. Baptist Convention of Georgia*.²⁵⁴ The background of the court's holding is essential to understand the full scope of the Act's change.²⁵⁵ In *Shorter College*,

248. See *id.*; First Brewer Interview, *supra* note 5.

249. First Brewer Interview, *supra* note 5.

250. *Id.*; see O.C.G.A. §§ 14-3-860 to -865, -870 (2023).

251. See First Brewer Interview, *supra* note 5; see § 14-3-870.

252. See First Brewer Interview, *supra* note 5. Compare O.C.G.A. § 14-3-870 (2023), with O.C.G.A. § 14-2-870 (2023) (demonstrating similarity of language between for-profit and nonprofit statutes).

253. See Beal Interview, *supra* note 246.

254. 2023 Ga. Laws 419, § 1-1, at 506 (codified at O.C.G.A. § 14-3-1403(a) (2023)); see also Legislative Proposal, *supra* note 6, at 9–10.

255. See First Brewer Interview, *supra* note 5.

the Baptist Convention—a member of Shorter College—had “the exclusive authority to name the school’s Board of Trustees (Board).”²⁵⁶ The Baptist Convention’s power eventually threatened the school’s independence.²⁵⁷ Hoping to avoid the loss of its accreditation, the Board attempted to amend its bylaws to regain some control.²⁵⁸ The Baptist Convention blocked the Board’s efforts.²⁵⁹ The Board then responded with a creative approach; the Board attempted to dissolve Shorter College so it could transfer the school’s assets to the Shorter College Foundation for no consideration.²⁶⁰ The maneuver would divest the Baptist Convention of all power while the Foundation carried on with the same name, assets, and activities of the former school.²⁶¹

However, the court considered this a “reorganization,” rather than a valid dissolution.²⁶² The court looked to paragraph (5) of Code section 14-3-1406, where it interpreted the phrase “wind up and liquidate its business and affairs” to require that the dissolving corporation ceases all activities and liquidate its assets in a manner that prevents it from continuing to operate as a business.²⁶³ According to the court, a dissolution completely terminates the underlying business of the dissolving corporation.²⁶⁴ The court recognized that the Nonprofit Code authorized the transfer of assets to another corporation “engaged in activities substantially similar to those of the dissolving corporation.”²⁶⁵ To the court, however, the Foundation’s activities were not “substantially similar”; they were identical.²⁶⁶ The Court held that, although the Board had the power to dissolve the nonprofit and convey its assets to independent institutions, the school could not

256. *Shorter Coll. v. Baptist Convention of Ga.*, 279 Ga. 466, 466, 614 S.E.2d 37, 37 (2005).

257. *Id.* at 467, 614 S.E.2d at 38.

258. *Id.*

259. *Id.*

260. *Id.*

261. *Id.*

262. *Shorter Coll.*, 279 Ga. at 468–69, 614 S.E.2d at 39.

263. *Id.* at 469–70, 614 S.E.2d at 39–40; *see also* Legislative Proposal, *supra* note 6, at 9.

264. *Shorter Coll.*, 279 Ga. at 471, 614 S.E.2d at 39.

265. *Id.* at 471–72, 614 S.E.2d at 41.

266. *Id.* at 472, 614 S.E.2d at 41.

continue to operate after its dissolution—or as the court framed it—its “extinction and obliteration.”²⁶⁷

Suffice to say, the Georgia Supreme Court took a rather fatal view of a corporate dissolution.²⁶⁸ “Liquidation” and “winding up” were terms that implied a sense of finality to the court—an end from which there can be no return.²⁶⁹ “Bodies corporate are not dead bodies, but living persons. When they die they are annihilated. Among artificial persons there is no resurrection from the dead.”²⁷⁰ Dissolution, in essence, is death.²⁷¹ The underlying business and affairs of a corporation may not continue beyond its legal demise.²⁷²

Stepping back from these broader concerns, what practical issue did the court face? As the drafters of SB 148 recognized, the court considered a “highly contentious dispute” between a nonprofit and its controlling member.²⁷³ The Board sought to dampen the power that it vested in the Baptist Convention.²⁷⁴ Consequently, the Baptist Convention blocked the school’s efforts to amend its bylaws.²⁷⁵ So, the school looked to another area of the Nonprofit Code to excise itself of its member’s influence.²⁷⁶ It settled on the provisions governing a nonprofit’s dissolution.²⁷⁷

To the majority, the Board took advantage of the letter of the law to “fashion its own remedy.”²⁷⁸ The majority recognized, however, that the Board had the unilateral power to dissolve the corporation.²⁷⁹ But to do so in the manner that the Board intended was a step too far.²⁸⁰ Perhaps to the majority, the school ignored the spirit of the law.²⁸¹ The

267. *Id.* at 468–71, 614 S.E.2d at 38–40.

268. *See id.* at 466–67, 614 S.E.2d at 38.

269. *Id.* at 470, 614 S.E.2d at 39.

270. *Shorter Coll.*, 279 Ga. at 469, 614 S.E.2d at 39 (quoting *Ga. v. Atl. & Gulf R.R. Co.*, 60 Ga. 268, 274 (1878)).

271. *Id.*

272. *Id.*

273. Legislative Proposal, *supra* note 6, at 9.

274. *Shorter Coll.*, 279 Ga. at 467, 614 S.E.2d at 38.

275. *Id.*

276. *Id.*

277. *Id.*

278. *Id.* at 472, 614 S.E.2d at 41.

279. *Id.* at 470, 614 S.E.2d at 39.

280. *Shorter Coll.*, 279 Ga. at 470, 614 S.E.2d at 39.

281. *See id.* at 474, 614 S.E.2d at 43 (Fletcher, C.J., dissenting).

court interpreted the letter of the law in a manner that compared the reorganization of the school to the “resurrection” of its spirit.²⁸²

The majority suggested that the holding was textually rooted in the definition of the term “dissolution.”²⁸³ But, as the dissent argued, the definition the majority relied on ignored the context in which the term applied; nothing in the Georgia Code expressly required the cessation of all activity of a dissolving corporation.²⁸⁴

So, why did the court read this precondition into the meaning of “dissolution”? Cassidy Brewer, Member of the Georgia Bar Nonprofit Law Section Legislative Drafting Committee and Professor of Law at the Georgia State University College of Law, suspects that the court was attempting to protect the interests of the Baptist Convention of Georgia—an interest that the Baptist Convention failed to secure for itself in the school’s bylaws.²⁸⁵ “The Supreme Court [of Georgia] filled in the gap for [the Baptist Convention’s] poor drafting by narrowly construing the term liquidation,” Brewer said.²⁸⁶ But the court’s interpretation had far-reaching consequences.²⁸⁷ According to the Revision Committee, the interpretation was not only contrary to a common understanding of the term “dissolution”; the interpretation restricted the restructuring of corporations.²⁸⁸ For instance, under the court’s holding, a subsidiary could not liquidate and distribute its assets and activities to its parent corporation.²⁸⁹ The holding hampered corporations in their ability to reincorporate or distribute assets to other corporations.²⁹⁰

Far from matters of death and resurrection, to the Revision Committee, “dissolution is [a] technical termination.”²⁹¹ The

282. *Id.* at 469, 614 S.E.2d at 39.

283. *Id.* at 470, 614 S.E.2d at 40.

284. *Id.* at 473, 614 S.E.2d at 42 (Fletcher, C.J., dissenting); *see also* Legislative Proposal, *supra* note 6, at 9–10.

285. First Brewer Interview, *supra* note 5; Telephone Interview with Cassidy Brewer, Professor of Law, Georgia State University College of Law, Past Chair of Nonprofit Law Section, State Bar of Georgia (June 29, 2023) [hereinafter Second Brewer Interview] (on file with the Georgia State University Law Review).

286. First Brewer Interview, *supra* note 5.

287. *Id.*

288. Legislative Proposal, *supra* note 6, at 9–10.

289. Second Brewer Interview, *supra* note 285.

290. First Brewer Interview, *supra* note 5; Second Brewer Interview, *supra* note 285.

291. O.C.G.A. § 14-3-1403 cmt. (2023).

provisions of the Nonprofit Code supply and constrain its meaning.²⁹² So, the amendment clarifies that dissolution is not an end, but a process: one that requires only literal compliance with the Code.²⁹³ A dissolving corporation can transfer its assets in-kind or otherwise.²⁹⁴ Those who receive the assets can have similar, or even identical, purposes as the dissolving corporation.²⁹⁵ Simply put, a dissolution no longer requires the cessation of the corporation's activities.²⁹⁶

But the Act only establishes a default rule.²⁹⁷ An incorporator may adopt a more restrictive approach to "dissolution" if it so wishes.²⁹⁸ A member may have good reason to want to do so. For example, consider the amendment to paragraph (3) of Code section 14-3-1201. There, the Act confers upon the board the right to transfer any corporate assets to another corporation, but the power has its limits; the board can only transfer the assets if "all of the memberships or interests are owned or controlled" by the recipient.²⁹⁹ Overturning *Shorter College* gives the board a broader power still. Regardless of what it can transfer while incorporated, the board may have every right to dissolve the corporation.³⁰⁰ Once dissolved, the corporation can transfer its assets to a recipient "who may continue the business and affairs of the dissolving corporation."³⁰¹ That recipient does not need to have the same membership or interests.³⁰² Without a clause to prevent the dissolution, the board could dissolve itself and cut out its members just as Shorter College attempted to do with the Baptist Convention.³⁰³

292. Legislative Proposal, *supra* note 6, at 9–10.

293. *Id.*; 2023 Ga. Laws 419, § 1-1, at 506–07.

294. § 14-3-1403(a).

295. *Id.* § 14-3-1403(b)(3).

296. Second Brewer Interview, *supra* note 285.

297. Legislative Proposal, *supra* note 6, at 10.

298. *Id.*

299. 2023 Ga. Laws 419, § 1-1, at 503 (codified at O.C.G.A. § 14-3-1201(3) (2023)).

300. Compare O.C.G.A. § 14-3-1201(3) (2023) (stating that without member approval, a board may "[t]ransfer any or all of such corporation's assets to one or more other corporations or other entities, of which all of the memberships or interests are owned or controlled by such corporation"), with O.C.G.A. § 14-3-1403(a) (2023) (stating that a "plan of dissolution may provide for the transfer (whether in-kind or otherwise) of any of the assets, business, and affairs of the corporation to one or more persons who may continue the business and affairs of the dissolving corporation").

301. § 14-3-1403(a).

302. See Second Brewer Interview, *supra* note 285.

303. *Id.*

In this respect, the Act may affect the dynamics and the balance of power between a range of nonprofits and their members. At the same time, routine matters of corporate restructuring through dissolution are now within the purview of a nonprofit's board.

Conclusion

Over the past few decades, nonprofits and their lawyers recognized ambiguities and omissions within Georgia's Nonprofit Corporation Code that left nonprofits with little flexibility in forming and running their organizations. The Revision Committee undertook a comprehensive, section-by-section review of the Nonprofit Code to revise and simplify the rules and procedures for nonprofit organizations. With these changes, nonprofits can run their organizations with more ease and uniformity.

Joseph Shafritz & Jonathan Shaw

