

LEGISLATURE UPDATES LOUISIANA UNINCORPORATED ASSOCIATION LAW

Act No. 877 of the 2008 Louisiana legislative session amended and reenacted the Louisiana Unincorporated Association Act (“Act”), which now addresses those situations in which unincorporated associations can acquire, encumber, and transfer interest in property; the liability of unincorporated association members; and the unincorporated association’s capacity to be involved in legal proceedings.

Pursuant to the Act, an unincorporated association is an unincorporated association (other than one created by trust) consisting of two or more members joined by mutual consent for a common, non-profit purpose. An unincorporated association is a legal entity separate and apart from its members with respect to determining rights, duties, and liabilities in both contract and tort. Accordingly, a person is not liable for an unincorporated association’s

breach of contract simply because the person is a member, or participates in the management of the unincorporated association affairs. Likewise, a person is not liable for an unincorporated association’s tortious acts or omissions because that person holds membership status or participates in the unincorporated association’s management.

Moreover, a judgment or order against an unincorporated association is “not by itself” a judgment or order against its membership or those participating in the management. The tortious acts of members or other persons that creates liability for the unincorporated association is not imputed to another person because of membership in the unincorporated association or the management of that entity. Unincorporated association members can assert claims against the association, and the

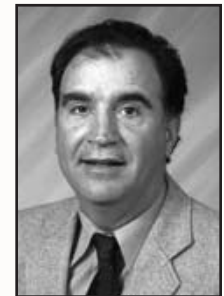
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association has the authority to assert claims against its members.

An unincorporated association can file suit, be a defendant, intervene, or participate in judicial, administrative, mediation or arbitration proceedings in its own name. Claims against unincorporated associations are not affected simply because its membership or management changes. Under the Act, the unincorporated association can also assert a claim in its name on behalf of its members if such members had standing to assert a claim in their own right, the interest sought to be protected or germane to the unincorporated association's purposes, and the claim asserted and relief sought do not require the member to participate.

Under the Act, the unincorporated association is authorized to acquire, hold, encumber, and transfer property in Louisiana. As a legal entity separate and apart from its members, the unincorporated association may

also be a trust beneficiary and has the legal capacity to receive donations. To mortgage, hypothecate, encumber, donate, or otherwise transfer an interest in immovable property in its name, the unincorporated association may execute and file a statement of authority. That statement includes the name of the incorporated association, the federal tax i.d. number, the unincorporated association's address, the name or title of the person authorized to transfer an interest in immovable property, and a declaration that the transaction was duly authorized by a majority of its membership. The statement of authority must be executed by an authentic act and must be executed by a person who is not the person authorized to transfer the interest in the immovable property.



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