

By: Senator(s) Ross

To: Judiciary, Division A

SENATE BILL NO. 2504

1 AN ACT TO CREATE THE UNIFORM PARTNERSHIP ACT (1997); TO ENACT
2 DEFINITIONS FOR THE ACT; TO SPECIFICALLY DEFINE KNOWLEDGE AND
3 NOTICE; TO MAKE PROVISION CONCERNING THE EFFECT OF A PARTNERSHIP
4 AGREEMENT AND NONWAIVABLE PROVISIONS THEREIN; TO PROVIDE FOR
5 SUPPLEMENTAL LAW; TO ENACT PROVISIONS CONCERNING THE EXECUTION,
6 FILING AND RECORDING OF STATEMENTS; TO MAKE PROVISION AS TO WHAT
7 LAW GOVERNS A PARTNERSHIP AGREEMENT; TO PROVIDE THAT PARTNERSHIPS
8 GOVERNED BY THE ACT ARE SUBJECT TO SUBSEQUENT AMENDMENT OR REPEAL
9 OF THE ACT; TO ENACT CERTAIN PROVISIONS CONCERNING THE NATURE AND
10 FORMATION OF A PARTNERSHIP AND WHEN PROPERTY BELONGS TO A
11 PARTNERSHIP; TO MAKE CERTAIN PROVISIONS CONCERNING THE
12 RELATIONSHIP OF PARTNERS TO PERSONS DEALING WITH A PARTNERSHIP,
13 THE TRANSFER OF PARTNERSHIP PROPERTY, EXERCISE OF PARTNERSHIP
14 AUTHORITY, THE PARTNERSHIP'S LIABILITY FOR A PARTNER'S CONDUCT, A
15 PARTNER'S LIABILITY AND ACTIONS BY AND AGAINST PARTNERSHIPS; TO
16 ENACT PROVISIONS TO GOVERN THE RELATIONS OF PARTNERS TO EACH OTHER
17 AND TO THE PARTNERSHIP, INCLUDING A PARTNER'S RIGHTS AND STANDARDS
18 OF CONDUCT AND THE TERM OF CONTINUATION OF A PARTNERSHIP; TO ENACT
19 PROVISIONS CONCERNING TRANSFEREES AND CREDITORS OF A PARTNER AND
20 TRANSFERABILITY OF A PARTNERSHIP INTEREST; TO PROVIDE WHAT EVENTS
21 CAUSE A PARTNER'S DISSOCIATION AND THE EFFECT THEREOF; TO PROVIDE
22 FOR THE PURCHASE OF A DISSOCIATED PARTNER'S INTEREST AND THE
23 RIGHTS AND DUTIES OF A DISSOCIATED PARTNER; TO PROVIDE FOR THE
24 WINDING UP OF PARTNERSHIP BUSINESS; TO PROVIDE FOR CONVERSIONS AND
25 MERGERS; TO ENACT SPECIFIC PROVISIONS FOR LIMITED LIABILITY
26 PARTNERSHIPS AND FOREIGN LIMITED LIABILITY PARTNERSHIPS; TO MAKE
27 TRANSITIONAL PROVISIONS FOR IMPLEMENTATION OF THE ACT; TO REPEAL
28 SECTIONS 79-12-1, 79-12-3, 79-12-5, 79-12-7, 79-12-9, 79-12-11,
29 79-12-13, 79-12-15, 79-12-17, 79-12-19, 79-12-21, 79-12-23,
30 79-12-25, 79-12-27, 79-12-29, 79-12-31, 79-12-33, 79-12-35,
31 79-12-37, 79-12-39, 79-12-41, 79-12-43, 79-12-45, 79-12-47,
32 79-12-49, 79-12-51, 79-12-53, 79-12-55, 79-12-57, 79-12-59,
33 79-12-61, 79-12-63, 79-12-65, 79-12-67, 79-12-69, 79-12-71,
34 79-12-73, 79-12-75, 79-12-77, 79-12-79, 79-12-81, 79-12-83,
35 79-12-85, 79-12-87, 79-12-89, 79-12-91, 79-12-93, 79-12-95,
36 79-12-97, 79-12-99, 79-12-101, 79-12-103, 79-12-105, 79-12-107,
37 79-12-109, 79-12-111, 79-12-113, 79-12-115, 79-12-117 AND
38 79-12-119, MISSISSIPPI CODE OF 1972, WHICH CONSTITUTE THE
39 MISSISSIPPI UNIFORM PARTNERSHIP LAW, AS OF JANUARY 1, 2007; AND
40 FOR RELATED PURPOSES.

41 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

42 **ARTICLE 1**

43 **GENERAL PROVISIONS**

44 **SECTION 101. Definitions.** In this act:

45 (1) "Business" includes every trade, occupation, and
46 profession.

47 (2) "Debtor in bankruptcy" means a person who is the
48 subject of:

49 (i) An order for relief under Title 11 of the
50 United States Code or a comparable order under a successor statute
51 of general application; or

52 (ii) A comparable order under federal, state, or
53 foreign law governing insolvency.

54 (3) "Distribution" means a transfer of money or other
55 property from a partnership to a partner in the partner's capacity
56 as a partner or to the partner's transferee.

57 (4) "Foreign limited liability partnership" means a
58 partnership that:

59 (i) Is formed under laws other than the laws of
60 this state; and

61 (ii) Has the status of a limited liability
62 partnership under those laws.

63 (5) "Limited liability partnership" means a partnership
64 that has filed a statement of qualification under Section 1001 and
65 does not have a similar statement in effect in any other
66 jurisdiction.

67 (6) "Partnership" means an association of two (2) or
68 more persons to carry on as co-owners a business for profit formed
69 under Section 202, predecessor law, or comparable law of another
70 jurisdiction.

71 (7) "Partnership agreement" means the agreement,
72 whether written, oral, or implied, among the partners concerning
73 the partnership, including amendments to the partnership
74 agreement.

75 (8) "Partnership at will" means a partnership in which
76 the partners have not agreed to remain partners until the
77 expiration of a definite term or the completion of a particular
78 undertaking.

79 (9) "Partnership interest" or "partner's interest in
80 the partnership" means all of a partner's interests in the
81 partnership, including the partner's transferable interest and all
82 management and other rights.

83 (10) "Person" means an individual, corporation,
84 business trust, estate, trust, partnership, association, joint
85 venture, government, governmental subdivision, agency, or
86 instrumentality, or any other legal or commercial entity.

87 (11) "Property" means all property, real, personal, or
88 mixed, tangible or intangible, or any interest therein.

89 (12) "State" means a state of the United States, the
90 District of Columbia, the Commonwealth of Puerto Rico, or any
91 territory or insular possession subject to the jurisdiction of the
92 United States.

93 (13) "Statement" means a statement of partnership
94 authority under Section 303, a statement of denial under Section
95 304, a statement of dissociation under Section 704, a statement of
96 dissolution under Section 805, a statement of merger under Section
97 907, a statement of qualification under Section 1001, a statement
98 of foreign qualification under Section 1102, or an amendment or
99 cancellation of any of the foregoing.

100 (14) "Transfer" includes an assignment, conveyance,
101 lease, mortgage, deed, and encumbrance.

102 **SECTION 102. Knowledge and notice.**

103 (a) A person knows a fact if the person has actual knowledge
104 of it.

105 (b) A person has notice of a fact if the person:

106 (1) Knows of it;

107 (2) Has received a notification of it; or

108 (3) Has reason to know it exists from all of the facts
109 known to the person at the time in question.

110 (c) A person notifies or gives a notification to another by
111 taking steps reasonably required to inform the other person in
112 ordinary course, whether or not the other person learns of it.

113 (d) A person receives a notification when the notification:

114 (1) Comes to the person's attention; or

115 (2) Is duly delivered at the person's place of business
116 or at any other place held out by the person as a place for
117 receiving communications.

118 (e) Except as otherwise provided in subsection (f), a person
119 other than an individual knows, has notice, or receives a
120 notification of a fact for purposes of a particular transaction
121 when the individual conducting the transaction knows, has notice,
122 or receives a notification of the fact, or in any event when the
123 fact would have been brought to the individual's attention if the
124 person had exercised reasonable diligence. The person exercises
125 reasonable diligence if it maintains reasonable routines for
126 communicating significant information to the individual conducting
127 the transaction and there is reasonable compliance with the
128 routines. Reasonable diligence does not require an individual
129 acting for the person to communicate information unless the
130 communication is part of the individual's regular duties or the
131 individual has reason to know of the transaction and that the
132 transaction would be materially affected by the information.

133 (f) A partner's knowledge, notice, or receipt of a
134 notification of a fact relating to the partnership is effective
135 immediately as knowledge by, notice to, or receipt of a
136 notification by the partnership, except in the case of a fraud on
137 the partnership committed by or with the consent of that partner.

138 **SECTION 103. Effect of partnership agreement; nonwaivable**
139 **provisions.**

140 (a) Except as otherwise provided in subsection (b),
141 relations among the partners and between the partners and the
142 partnership are governed by the partnership agreement. To the

143 extent the partnership agreement does not otherwise provide, this
144 act governs relations among the partners and between the partners
145 and the partnership.

146 (b) The partnership agreement may not:

147 (1) Vary the rights and duties under Section 105 except
148 to eliminate the duty to provide copies of statements to all of
149 the partners;

150 (2) Unreasonably restrict the right of access to books
151 and records under Section 403(b);

152 (3) Eliminate the duty of loyalty under Section 404(b)
153 or 603(b)(3), but:

154 (i) The partnership agreement may identify
155 specific types or categories of activities that do not violate the
156 duty of loyalty, if not manifestly unreasonable; or

157 (ii) All of the partners or a number or percentage
158 specified in the partnership agreement may authorize or ratify,
159 after full disclosure of all material facts, a specific act or
160 transaction that otherwise would violate the duty of loyalty;

161 (4) Unreasonably reduce the duty of care under Section
162 404(c) or 603(b)(3);

163 (5) Eliminate the obligation of good faith and fair
164 dealing under Section 404(d), but the partnership agreement may
165 prescribe the standards by which the performance of the obligation
166 is to be measured, if the standards are not manifestly
167 unreasonable;

168 (6) Vary the power to dissociate as a partner under
169 Section 602(a), except to require the notice under Section 601(1)
170 to be in writing;

171 (7) Vary the right of a court to expel a partner in the
172 events specified in Section 601(5);

173 (8) Vary the requirement to wind up the partnership
174 business in cases specified in Section 801(4), (5), or (6);

175 (9) Vary the law applicable to a limited liability
176 partnership under Section 106(b); or

177 (10) Restrict rights of third parties under this act.

178 **SECTION 104. Supplemental principles of law.**

179 (a) Unless displaced by particular provisions of this act,
180 the principles of law and equity supplement this act.

181 (b) If an obligation to pay interest arises under this act
182 and the rate is not specified, the rate is that specified in
183 Section 75-17-1(1), Mississippi Code of 1972.

184 **SECTION 105. Execution, filing, and recording of statements.**

185 (a) A statement may be filed in the Office of the Secretary
186 of State. A certified copy of a statement that is filed in an
187 office in another state may be filed in the Office of the
188 Secretary of State. Either filing has the effect provided in this
189 act with respect to partnership property located in or
190 transactions that occur in this state.

191 (b) A certified copy of a statement that has been filed in
192 the Office of the Secretary of State and recorded in the office
193 for recording transfers of real property has the effect provided
194 for recorded statements in this act. A recorded statement that is
195 not a certified copy of a statement filed in the Office of the
196 Secretary of State does not have the effect provided for recorded
197 statements in this act.

198 (c) A statement filed by a partnership must be executed by
199 at least two partners. Other statements must be executed by a
200 partner or other person authorized by this act. An individual who
201 executes a statement as, or on behalf of, a partner or other
202 person named as a partner in a statement shall personally declare
203 under penalty of perjury that the contents of the statement are
204 accurate.

205 (d) A person authorized by this act to file a statement may
206 amend or cancel the statement by filing an amendment or

207 cancellation that names the partnership, identifies the statement,
208 and states the substance of the amendment or cancellation.

209 (e) A person who files a statement pursuant to this section
210 shall promptly send a copy of the statement to every nonfiling
211 partner and to any other person named as a partner in the
212 statement. Failure to send a copy of a statement to a partner or
213 other person does not limit the effectiveness of the statement as
214 to a person not a partner.

215 (f) The Secretary of State shall charge and collect fees in
216 the amounts specified for the following purposes:

217 (i) Filing of Certificate of Registration of Domestic
218 or Foreign Limited Liability Partnership - Two Hundred Fifty
219 Dollars (\$250.00).

220 (ii) Filing of Certificate Correcting or Amending a
221 Certificate of Registration of Domestic or Foreign Limited
222 Liability Partnership - Fifty Dollars (\$50.00).

223 (iii) Filing of Certificate of Cancellation of
224 Registration of Domestic or Foreign Limited Liability Partnership
225 - Twenty-five Dollars (\$25.00).

226 (iv) Any other document required or permitted to be
227 filed by this act - Twenty-five Dollars (\$25.00).

228 (g) The Secretary of State shall have the powers reasonably
229 necessary to perform the duties required of him under the
230 provisions of this act.

231 **SECTION 106. Governing law.**

232 (a) Except as otherwise provided in subsection (b), the law
233 of the jurisdiction in which a partnership has its chief executive
234 office governs relations among the partners and between the
235 partners and the partnership.

236 (b) The law of this state governs relations among the
237 partners and between the partners and the partnership and the
238 liability of partners for an obligation of a limited liability
239 partnership.

272 (ii) For services as an independent contractor or
273 of wages or other compensation to an employee;

274 (iii) Of rent;

275 (iv) Of an annuity or other retirement or health
276 benefit to a beneficiary, representative, or designee of a
277 deceased or retired partner;

278 (v) Of interest or other charge on a loan, even if
279 the amount of payment varies with the profits of the business,
280 including a direct or indirect present or future ownership of the
281 collateral, or rights to income, proceeds, or increase in value
282 derived from the collateral; or

283 (vi) For the sale of the goodwill of a business or
284 other property by installments or otherwise.

285 **SECTION 203. Partnership property.** Property acquired by a
286 partnership is property of the partnership and not of the partners
287 individually.

288 **SECTION 204. When property is partnership property.**

289 (a) Property is partnership property if acquired in the name
290 of:

291 (1) The partnership; or

292 (2) One or more partners with an indication in the
293 instrument transferring title to the property of the person's
294 capacity as a partner or of the existence of a partnership but
295 without an indication of the name of the partnership.

296 (b) Property is acquired in the name of the partnership by a
297 transfer to:

298 (1) The partnership in its name; or

299 (2) One or more partners in their capacity as partners
300 in the partnership, if the name of the partnership is indicated in
301 the instrument transferring title to the property.

302 (c) Property is presumed to be partnership property if
303 purchased with partnership assets, even if not acquired in the
304 name of the partnership or of one or more partners with an

305 indication in the instrument transferring title to the property of
306 the person's capacity as a partner or of the existence of a
307 partnership.

308 (d) Property acquired in the name of one or more of the
309 partners, without an indication in the instrument transferring
310 title to the property of the person's capacity as a partner or of
311 the existence of a partnership and without use of partnership
312 assets, is presumed to be separate property, even if used for
313 partnership purposes.

314 **ARTICLE 3**

315 **RELATIONS OF PARTNERS TO**

316 **PERSONS DEALING WITH PARTNERSHIP**

317 **SECTION 301. Partner agent of partnership.** Subject to the
318 effect of a statement of partnership authority under Section 303:

319 (1) Each partner is an agent of the partnership for the
320 purpose of its business. An act of a partner, including the
321 execution of an instrument in the partnership name, for apparently
322 carrying on in the ordinary course the partnership business or
323 business of the kind carried on by the partnership binds the
324 partnership, unless the partner had no authority to act for the
325 partnership in the particular matter and the person with whom the
326 partner was dealing knew or had received a notification that the
327 partner lacked authority.

328 (2) An act of a partner which is not apparently for
329 carrying on in the ordinary course the partnership business or
330 business of the kind carried on by the partnership binds the
331 partnership only if the act was authorized by the other partners.

332 **SECTION 302. Transfer of partnership property.**

333 (a) Partnership property may be transferred as follows:

334 (1) Subject to the effect of a statement of partnership
335 authority under Section 303, partnership property held in the name
336 of the partnership may be transferred by an instrument of transfer
337 executed by a partner in the partnership name.

338 (2) Partnership property held in the name of one or
339 more partners with an indication in the instrument transferring
340 the property to them of their capacity as partners or of the
341 existence of a partnership, but without an indication of the name
342 of the partnership, may be transferred by an instrument of
343 transfer executed by the persons in whose name the property is
344 held.

345 (3) Partnership property held in the name of one or
346 more persons other than the partnership, without an indication in
347 the instrument transferring the property to them of their capacity
348 as partners or of the existence of a partnership, may be
349 transferred by an instrument of transfer executed by the persons
350 in whose name the property is held.

351 (b) A partnership may recover partnership property from a
352 transferee only if it proves that execution of the instrument of
353 initial transfer did not bind the partnership under Section 301
354 and:

355 (1) As to a subsequent transferee who gave value for
356 property transferred under subsection (a)(1) and (2), proves that
357 the subsequent transferee knew or had received a notification that
358 the person who executed the instrument of initial transfer lacked
359 authority to bind the partnership; or

360 (2) As to a transferee who gave value for property
361 transferred under subsection (a)(3), proves that the transferee
362 knew or had received a notification that the property was
363 partnership property and that the person who executed the
364 instrument of initial transfer lacked authority to bind the
365 partnership.

366 (c) A partnership may not recover partnership property from
367 a subsequent transferee if the partnership would not have been
368 entitled to recover the property, under subsection (b), from any
369 earlier transferee of the property.

370 (d) If a person holds all of the partners' interests in the
371 partnership, all of the partnership property vests in that person.
372 The person may execute a document in the name of the partnership
373 to evidence vesting of the property in that person and may file or
374 record the document.

375 **SECTION 303. Statement of partnership authority.**

376 (a) A partnership may file a statement of partnership
377 authority, which:

378 (1) Must include:

379 (i) The name of the partnership;

380 (ii) The street address of its chief executive
381 office and of one office in this state, if there is one;

382 (iii) The names and mailing addresses of all of
383 the partners or of an agent appointed and maintained by the
384 partnership for the purpose of subsection (b); and

385 (iv) The names of the partners authorized to
386 execute an instrument transferring real property held in the name
387 of the partnership; and

388 (2) May state the authority, or limitations on the
389 authority, of some or all of the partners to enter into other
390 transactions on behalf of the partnership and any other matter.

391 (b) If a statement of partnership authority names an agent,
392 the agent shall maintain a list of the names and mailing addresses
393 of all of the partners and make it available to any person on
394 request for good cause shown.

395 (c) If a filed statement of partnership authority is
396 executed pursuant to Section 105(c) and states the name of the
397 partnership but does not contain all of the other information
398 required by subsection (a), the statement nevertheless operates
399 with respect to a person not a partner as provided in subsections
400 (d) and (e).

401 (d) Except as otherwise provided in subsection (g), a filed
402 statement of partnership authority supplements the authority of a

403 partner to enter into transactions on behalf of the partnership as
404 follows:

405 (1) Except for transfers of real property, a grant of
406 authority contained in a filed statement of partnership authority
407 is conclusive in favor of a person who gives value without
408 knowledge to the contrary, so long as and to the extent that a
409 limitation on that authority is not then contained in another
410 filed statement. A filed cancellation of a limitation on
411 authority revives the previous grant of authority.

412 (2) A grant of authority to transfer real property held
413 in the name of the partnership contained in a certified copy of a
414 filed statement of partnership authority recorded in the office
415 for recording transfers of that real property is conclusive in
416 favor of a person who gives value without knowledge to the
417 contrary, so long as and to the extent that a certified copy of a
418 filed statement containing a limitation on that authority is not
419 then of record in the office for recording transfers of that real
420 property. The recording in the office for recording transfers of
421 that real property of a certified copy of a filed cancellation of
422 a limitation on authority revives the previous grant of authority.

423 (e) A person not a partner is deemed to know of a limitation
424 on the authority of a partner to transfer real property held in
425 the name of the partnership if a certified copy of the filed
426 statement containing the limitation on authority is of record in
427 the office for recording transfers of that real property.

428 (f) Except as otherwise provided in subsections (d) and (e)
429 and Sections 704 and 805, a person not a partner is not deemed to
430 know of a limitation on the authority of a partner merely because
431 the limitation is contained in a filed statement.

432 (g) Unless earlier canceled, a filed statement of
433 partnership authority is canceled by operation of law five (5)
434 years after the date on which the statement, or the most recent
435 amendment, was filed with the Secretary of State.

436 **SECTION 304. Statement of denial.** A partner or other person
437 named as a partner in a filed statement of partnership authority
438 or in a list maintained by an agent pursuant to Section 303(b) may
439 file a statement of denial stating the name of the partnership and
440 the fact that is being denied, which may include denial of a
441 person's authority or status as a partner. A statement of denial
442 is a limitation on authority as provided in Section 303(d) and
443 (e).

444 **SECTION 305. Partnership liable for partner's actionable**
445 **conduct.**

446 (a) A partnership is liable for loss or injury caused to a
447 person, or for a penalty incurred, as a result of a wrongful act
448 or omission, or other actionable conduct, of a partner acting in
449 the ordinary course of business of the partnership or with
450 authority of the partnership.

451 (b) If, in the course of the partnership's business or while
452 acting with authority of the partnership, a partner receives or
453 causes the partnership to receive money or property of a person
454 not a partner, and the money or property is misapplied by a
455 partner, the partnership is liable for the loss.

456 **SECTION 306. Partner's liability.**

457 (a) Except as otherwise provided in subsections (b) and (c),
458 all partners are liable jointly and severally for all obligations
459 of the partnership unless otherwise agreed by the claimant or
460 provided by law.

461 (b) A person admitted as a partner into an existing
462 partnership is not personally liable for any partnership
463 obligation incurred before the person's admission as a partner.

464 (c) An obligation of a partnership incurred while the
465 partnership is a limited liability partnership, whether arising in
466 contract, tort, or otherwise, is solely the obligation of the
467 partnership. A partner is not personally liable, directly or
468 indirectly, by way of contribution or otherwise, for such an

469 obligation solely by reason of being or so acting as a partner.
470 This subsection applies notwithstanding anything inconsistent in
471 the partnership agreement that existed immediately before the vote
472 required to become a limited liability partnership under Section
473 1001(b).

474 **SECTION 307. Actions by and against partnership and**
475 **partners.**

476 (a) A partnership may sue and be sued in the name of the
477 partnership.

478 (b) An action may be brought against the partnership and, to
479 the extent not inconsistent with Section 306, any or all of the
480 partners in the same action or in separate actions.

481 (c) A judgment against a partnership is not by itself a
482 judgment against a partner. A judgment against a partnership may
483 not be satisfied from a partner's assets unless there is also a
484 judgment against the partner.

485 (d) A judgment creditor of a partner may not levy execution
486 against the assets of the partner to satisfy a judgment based on a
487 claim against the partnership unless the partner is personally
488 liable for the claim under Section 306 and:

489 (1) A judgment based on the same claim has been
490 obtained against the partnership and a writ of execution on the
491 judgment has been returned unsatisfied in whole or in part;

492 (2) The partnership is a debtor in bankruptcy;

493 (3) The partner has agreed that the creditor need not
494 exhaust partnership assets;

495 (4) A court grants permission to the judgment creditor
496 to levy execution against the assets of a partner based on a
497 finding that partnership assets subject to execution are clearly
498 insufficient to satisfy the judgment, that exhaustion of
499 partnership assets is excessively burdensome, or that the grant of
500 permission is an appropriate exercise of the court's equitable
501 powers; or

502 (5) Liability is imposed on the partner by law or
503 contract independent of the existence of the partnership.

504 (e) This section applies to any partnership liability or
505 obligation resulting from a representation by a partner or
506 purported partner under Section 308.

507 **SECTION 308. Liability of purported partner.**

508 (a) If a person, by words or conduct, purports to be a
509 partner, or consents to being represented by another as a partner,
510 in a partnership or with one or more persons not partners, the
511 purported partner is liable to a person to whom the representation
512 is made, if that person, relying on the representation, enters
513 into a transaction with the actual or purported partnership. If
514 the representation, either by the purported partner or by a person
515 with the purported partner's consent, is made in a public manner,
516 the purported partner is liable to a person who relies upon the
517 purported partnership even if the purported partner is not aware
518 of being held out as a partner to the claimant. If partnership
519 liability results, the purported partner is liable with respect to
520 that liability as if the purported partner were a partner. If no
521 partnership liability results, the purported partner is liable
522 with respect to that liability jointly and severally with any
523 other person consenting to the representation.

524 (b) If a person is thus represented to be a partner in an
525 existing partnership, or with one or more persons not partners,
526 the purported partner is an agent of persons consenting to the
527 representation to bind them to the same extent and in the same
528 manner as if the purported partner were a partner, with respect to
529 persons who enter into transactions in reliance upon the
530 representation. If all of the partners of the existing
531 partnership consent to the representation, a partnership act or
532 obligation results. If fewer than all of the partners of the
533 existing partnership consent to the representation, the person

534 acting and the partners consenting to the representation are
535 jointly and severally liable.

536 (c) A person is not liable as a partner merely because the
537 person is named by another in a statement of partnership
538 authority.

539 (d) A person does not continue to be liable as a partner
540 merely because of a failure to file a statement of dissociation or
541 to amend a statement of partnership authority to indicate the
542 partner's dissociation from the partnership.

543 (e) Except as otherwise provided in subsections (a) and (b),
544 persons who are not partners as to each other are not liable as
545 partners to other persons.

546 **ARTICLE 4**

547 **RELATIONS OF PARTNERS TO EACH OTHER**

548 **AND TO PARTNERSHIP**

549 **SECTION 401. Partner's rights and duties.**

550 (a) Each partner is deemed to have an account that is:

551 (1) Credited with an amount equal to the money plus the
552 value of any other property, net of the amount of any liabilities,
553 the partner contributes to the partnership and the partner's share
554 of the partnership profits; and

555 (2) Charged with an amount equal to the money plus the
556 value of any other property, net of the amount of any liabilities,
557 distributed by the partnership to the partner and the partner's
558 share of the partnership losses.

559 (b) Each partner is entitled to an equal share of the
560 partnership profits and is chargeable with a share of the
561 partnership losses in proportion to the partner's share of the
562 profits.

563 (c) A partnership shall reimburse a partner for payments
564 made and indemnify a partner for liabilities incurred by the
565 partner in the ordinary course of the business of the partnership
566 or for the preservation of its business or property.

567 (d) A partnership shall reimburse a partner for an advance
568 to the partnership beyond the amount of capital the partner agreed
569 to contribute.

570 (e) A payment or advance made by a partner which gives rise
571 to a partnership obligation under subsection (c) or (d)
572 constitutes a loan to the partnership which accrues interest from
573 the date of the payment or advance.

574 (f) Each partner has equal rights in the management and
575 conduct of the partnership business.

576 (g) A partner may use or possess partnership property only
577 on behalf of the partnership.

578 (h) A partner is not entitled to remuneration for services
579 performed for the partnership, except for reasonable compensation
580 for services rendered in winding up the business of the
581 partnership.

582 (i) A person may become a partner only with the consent of
583 all of the partners.

584 (j) A difference arising as to a matter in the ordinary
585 course of business of a partnership may be decided by a majority
586 of the partners. An act outside the ordinary course of business
587 of a partnership and an amendment to the partnership agreement may
588 be undertaken only with the consent of all of the partners.

589 (k) This section does not affect the obligations of a
590 partnership to other persons under Section 301.

591 **SECTION 402. Distributions in kind.** A partner has no right
592 to receive, and may not be required to accept, a distribution in
593 kind.

594 **SECTION 403. Partner's rights and duties with respect to**
595 **information.**

596 (a) A partnership shall keep its books and records, if any,
597 at its chief executive office.

598 (b) A partnership shall provide partners and their agents
599 and attorneys access to its books and records. It shall provide

600 former partners and their agents and attorneys access to books and
601 records pertaining to the period during which they were partners.
602 The right of access provides the opportunity to inspect and copy
603 books and records during ordinary business hours. A partnership
604 may impose a reasonable charge, covering the costs of labor and
605 material, for copies of documents furnished.

606 (c) Each partner and the partnership shall furnish to a
607 partner, and to the legal representative of a deceased partner or
608 partner under legal disability:

609 (1) Without demand, any information concerning the
610 partnership's business and affairs reasonably required for the
611 proper exercise of the partner's rights and duties under the
612 partnership agreement or this act; and

613 (2) On demand, any other information concerning the
614 partnership's business and affairs, except to the extent the
615 demand or the information demanded is unreasonable or otherwise
616 improper under the circumstances.

617 **SECTION 404. General standards of partner's conduct.**

618 (a) The only fiduciary duties a partner owes to the
619 partnership and the other partners are the duty of loyalty and the
620 duty of care set forth in subsections (b) and (c).

621 (b) A partner's duty of loyalty to the partnership and the
622 other partners is limited to the following:

623 (1) To account to the partnership and hold as trustee
624 for it any property, profit, or benefit derived by the partner in
625 the conduct and winding up of the partnership business or derived
626 from a use by the partner of partnership property, including the
627 appropriation of a partnership opportunity;

628 (2) To refrain from dealing with the partnership in the
629 conduct or winding up of the partnership business as or on behalf
630 of a party having an interest adverse to the partnership; and

631 (3) To refrain from competing with the partnership in
632 the conduct of the partnership business before the dissolution of
633 the partnership.

634 (c) A partner's duty of care to the partnership and the
635 other partners in the conduct and winding up of the partnership
636 business is limited to refraining from engaging in grossly
637 negligent or reckless conduct, intentional misconduct, or a
638 knowing violation of law.

639 (d) A partner shall discharge the duties to the partnership
640 and the other partners under this act or under the partnership
641 agreement and exercise any rights consistently with the obligation
642 of good faith and fair dealing.

643 (e) A partner does not violate a duty or obligation under
644 this act or under the partnership agreement merely because the
645 partner's conduct furthers the partner's own interest.

646 (f) A partner may lend money to and transact other business
647 with the partnership, and as to each loan or transaction the
648 rights and obligations of the partner are the same as those of a
649 person who is not a partner, subject to other applicable law.

650 (g) This section applies to a person winding up the
651 partnership business as the personal or legal representative of
652 the last surviving partner as if the person were a partner.

653 **SECTION 405. Actions by partnership and partners.**

654 (a) A partnership may maintain an action against a partner
655 for a breach of the partnership agreement, or for the violation of
656 a duty to the partnership, causing harm to the partnership.

657 (b) A partner may maintain an action against the partnership
658 or another partner for legal or equitable relief, with or without
659 an accounting as to partnership business, to:

660 (1) Enforce the partner's rights under the partnership
661 agreement;

662 (2) Enforce the partner's rights under this act,
663 including:

664 (i) The partner's rights under Sections 401, 403,
665 or 404;

666 (ii) The partner's right on dissociation to have
667 the partner's interest in the partnership purchased pursuant to
668 Section 701 or enforce any other right under Article 6 or 7; or

669 (iii) The partner's right to compel a dissolution
670 and winding up of the partnership business under or enforce any
671 other right under Article 8; or

672 (3) Enforce the rights and otherwise protect the
673 interests of the partner, including rights and interests arising
674 independently of the partnership relationship.

675 (c) The accrual of, and any time limitation on, a right of
676 action for a remedy under this section is governed by other law.
677 A right to an accounting upon a dissolution and winding up does
678 not revive a claim barred by law.

679 **SECTION 406. Continuation of partnership beyond definite**
680 **term or particular undertaking.**

681 (a) If a partnership for a definite term or particular
682 undertaking is continued, without an express agreement, after the
683 expiration of the term or completion of the undertaking, the
684 rights and duties of the partners remain the same as they were at
685 the expiration or completion, so far as is consistent with a
686 partnership at will.

687 (b) If the partners, or those of them who habitually acted
688 in the business during the term or undertaking, continue the
689 business without any settlement or liquidation of the partnership,
690 they are presumed to have agreed that the partnership will
691 continue.

692 **ARTICLE 5**

693 **TRANSFEREES AND CREDITORS OF PARTNER**

694 **SECTION 501. Partner not co-owner of partnership property.**

695 A partner is not a co-owner of partnership property and has no

696 interest in partnership property which can be transferred, either
697 voluntarily or involuntarily.

698 **SECTION 502. Partner's transferable interest in partnership.**

699 The only transferable interest of a partner in the partnership is
700 the partner's share of the profits and losses of the partnership
701 and the partner's right to receive distributions. The interest is
702 personal property.

703 **SECTION 503. Transfer of partner's transferable interest.**

704 (a) A transfer, in whole or in part, of a partner's
705 transferable interest in the partnership:

706 (1) Is permissible;

707 (2) Does not by itself cause the partner's dissociation
708 or a dissolution and winding up of the partnership business; and

709 (3) Does not, as against the other partners or the
710 partnership, entitle the transferee, during the continuance of the
711 partnership, to participate in the management or conduct of the
712 partnership business, to require access to information concerning
713 partnership transactions, or to inspect or copy the partnership
714 books or records.

715 (b) A transferee of a partner's transferable interest in the
716 partnership has a right:

717 (1) To receive, in accordance with the transfer,
718 distributions to which the transferor would otherwise be entitled;

719 (2) To receive upon the dissolution and winding up of
720 the partnership business, in accordance with the transfer, the net
721 amount otherwise distributable to the transferor; and

722 (3) To seek under Section 801(6) a judicial
723 determination that it is equitable to wind up the partnership
724 business.

725 (c) In a dissolution and winding up, a transferee is
726 entitled to an account of partnership transactions only from the
727 date of the latest account agreed to by all of the partners.

728 (d) Upon transfer, the transferor retains the rights and
729 duties of a partner other than the interest in distributions
730 transferred.

731 (e) A partnership need not give effect to a transferee's
732 rights under this section until it has notice of the transfer.

733 (f) A transfer of a partner's transferable interest in the
734 partnership in violation of a restriction on transfer contained in
735 the partnership agreement is ineffective as to a person having
736 notice of the restriction at the time of transfer.

737 **SECTION 504. Partner's transferable interest subject to**
738 **charging order.**

739 (a) On application by a judgment creditor of a partner or of
740 a partner's transferee, a court having jurisdiction may charge the
741 transferable interest of the judgment debtor to satisfy the
742 judgment. The court may appoint a receiver of the share of the
743 distributions due or to become due to the judgment debtor in
744 respect of the partnership and make all other orders, directions,
745 accounts, and inquiries the judgment debtor might have made or
746 which the circumstances of the case may require.

747 (b) A charging order constitutes a lien on the judgment
748 debtor's transferable interest in the partnership. The court may
749 order a foreclosure of the interest subject to the charging order
750 at any time. The purchaser at the foreclosure sale has the rights
751 of a transferee.

752 (c) At any time before foreclosure, an interest charged may
753 be redeemed:

754 (1) By the judgment debtor;

755 (2) With property other than partnership property, by
756 one or more of the other partners; or

757 (3) With partnership property, by one or more of the
758 other partners with the consent of all of the partners whose
759 interests are not so charged.

760 (d) This act does not deprive a partner of a right under
761 exemption laws with respect to the partner's interest in the
762 partnership.

763 (e) This section provides the exclusive remedy by which a
764 judgment creditor of a partner or partner's transferee may satisfy
765 a judgment out of the judgment debtor's transferable interest in
766 the partnership.

767 **ARTICLE 6**

768 **PARTNER'S DISSOCIATION**

769 **SECTION 601. Events causing partner's dissociation.** A

770 partner is dissociated from a partnership upon the occurrence of
771 any of the following events:

772 (1) The partnership's having notice of the partner's
773 express will to withdraw as a partner or on a later date specified
774 by the partner;

775 (2) An event agreed to in the partnership agreement as
776 causing the partner's dissociation;

777 (3) The partner's expulsion pursuant to the partnership
778 agreement;

779 (4) The partner's expulsion by the unanimous vote of
780 the other partners if:

781 (i) It is unlawful to carry on the partnership
782 business with that partner;

783 (ii) There has been a transfer of all or
784 substantially all of that partner's transferable interest in the
785 partnership, other than a transfer for security purposes, or a
786 court order charging the partner's interest, which has not been
787 foreclosed;

788 (iii) Within ninety (90) days after the
789 partnership notifies a corporate partner that it will be expelled
790 because it has filed a certificate of dissolution or the
791 equivalent, its charter has been revoked, or its right to conduct
792 business has been suspended by the jurisdiction of its

793 incorporation, there is no revocation of the certificate of
794 dissolution or no reinstatement of its charter or its right to
795 conduct business; or

796 (iv) A partnership that is a partner has been
797 dissolved and its business is being wound up;

798 (5) On application by the partnership or another
799 partner, the partner's expulsion by judicial determination
800 because:

801 (i) The partner engaged in wrongful conduct that
802 adversely and materially affected the partnership business;

803 (ii) The partner willfully or persistently
804 committed a material breach of the partnership agreement or of a
805 duty owed to the partnership or the other partners under Section
806 404; or

807 (iii) The partner engaged in conduct relating to
808 the partnership business which makes it not reasonably practicable
809 to carry on the business in partnership with the partner;

810 (6) The partner's:

811 (i) Becoming a debtor in bankruptcy;

812 (ii) Executing an assignment for the benefit of
813 creditors;

814 (iii) Seeking, consenting to, or acquiescing in
815 the appointment of a trustee, receiver, or liquidator of that
816 partner or of all or substantially all of that partner's property;
817 or

818 (iv) Failing, within ninety (90) days after the
819 appointment, to have vacated or stayed the appointment of a
820 trustee, receiver, or liquidator of the partner or of all or
821 substantially all of the partner's property obtained without the
822 partner's consent or acquiescence, or failing within ninety (90)
823 days after the expiration of a stay to have the appointment
824 vacated;

825 (7) In the case of a partner who is an individual:

826 (i) The partner's death;
827 (ii) The appointment of a guardian or general
828 conservator for the partner; or
829 (iii) A judicial determination that the partner
830 has otherwise become incapable of performing the partner's duties
831 under the partnership agreement;
832 (8) In the case of a partner that is a trust or is
833 acting as a partner by virtue of being a trustee of a trust,
834 distribution of the trust's entire transferable interest in the
835 partnership, but not merely by reason of the substitution of a
836 successor trustee;
837 (9) In the case of a partner that is an estate or is
838 acting as a partner by virtue of being a personal representative
839 of an estate, distribution of the estate's entire transferable
840 interest in the partnership, but not merely by reason of the
841 substitution of a successor personal representative; or
842 (10) Termination of a partner who is not an individual,
843 partnership, corporation, trust, or estate.

844 **SECTION 602. Partner's power to dissociate; wrongful**
845 **dissociation.**

846 (a) A partner has the power to dissociate at any time,
847 rightfully or wrongfully, by express will pursuant to Section
848 601(1).

849 (b) A partner's dissociation is wrongful only if:

850 (1) It is in breach of an express provision of the
851 partnership agreement; or

852 (2) In the case of a partnership for a definite term or
853 particular undertaking, before the expiration of the term or the
854 completion of the undertaking:

855 (i) The partner withdraws by express will, unless
856 the withdrawal follows within ninety (90) days after another
857 partner's dissociation by death or otherwise under Section 601(6)
858 through (10) or wrongful dissociation under this subsection;

859 (ii) The partner is expelled by judicial
860 determination under Section 601(5);
861 (iii) The partner is dissociated by becoming a
862 debtor in bankruptcy; or
863 (iv) In the case of a partner who is not an
864 individual, trust other than a business trust, or estate, the
865 partner is expelled or otherwise dissociated because it willfully
866 dissolved or terminated.

867 (c) A partner who wrongfully dissociates is liable to the
868 partnership and to the other partners for damages caused by the
869 dissociation. The liability is in addition to any other
870 obligation of the partner to the partnership or to the other
871 partners.

872 **SECTION 603. Effect of partner's dissociation.**

873 (a) If a partner's dissociation results in a dissolution and
874 winding up of the partnership business, Article 8 applies;
875 otherwise, Article 7 applies.

876 (b) Upon a partner's dissociation:

877 (1) The partner's right to participate in the
878 management and conduct of the partnership business terminates,
879 except as otherwise provided in Section 803;

880 (2) The partner's duty of loyalty under Section
881 404(b)(3) terminates; and

882 (3) The partner's duty of loyalty under Section
883 404(b)(1) and (2) and duty of care under Section 404(c) continue
884 only with regard to matters arising and events occurring before
885 the partner's dissociation, unless the partner participates in
886 winding up the partnership's business pursuant to Section 803.

887 **ARTICLE 7**

888 **PARTNER'S DISSOCIATION WHEN**

889 **BUSINESS NOT WOUND UP**

890 **SECTION 701. Purchase of dissociated partner's interest.**

891 (a) If a partner is dissociated from a partnership without
892 resulting in a dissolution and winding up of the partnership
893 business under Section 801, the partnership shall cause the
894 dissociated partner's interest in the partnership to be purchased
895 for a buyout price determined pursuant to subsection (b).

896 (b) The buyout price of a dissociated partner's interest is
897 the amount that would have been distributable to the dissociating
898 partner under Section 807(b) if, on the date of dissociation, the
899 assets of the partnership were sold at a price equal to the
900 greater of the liquidation value or the value based on a sale of
901 the entire business as a going concern without the dissociated
902 partner and the partnership were wound up as of that date.
903 Interest must be paid from the date of dissociation to the date of
904 payment.

905 (c) Damages for wrongful dissociation under Section 602(b),
906 and all other amounts owing, whether or not presently due, from
907 the dissociated partner to the partnership, must be offset against
908 the buyout price. Interest must be paid from the date the amount
909 owed becomes due to the date of payment.

910 (d) A partnership shall indemnify a dissociated partner
911 whose interest is being purchased against all partnership
912 liabilities, whether incurred before or after the dissociation,
913 except liabilities incurred by an act of the dissociated partner
914 under Section 702.

915 (e) If no agreement for the purchase of a dissociated
916 partner's interest is reached within one hundred twenty (120) days
917 after a written demand for payment, the partnership shall pay, or
918 cause to be paid, in cash to the dissociated partner the amount
919 the partnership estimates to be the buyout price and accrued
920 interest, reduced by any offsets and accrued interest under
921 subsection (c).

922 (f) If a deferred payment is authorized under subsection
923 (h), the partnership may tender a written offer to pay the amount

924 it estimates to be the buyout price and accrued interest, reduced
925 by any offsets under subsection (c), stating the time of payment,
926 the amount and type of security for payment, and the other terms
927 and conditions of the obligation.

928 (g) The payment or tender required by subsection (e) or (f)
929 must be accompanied by the following:

930 (1) A statement of partnership assets and liabilities
931 as of the date of dissociation;

932 (2) The latest available partnership balance sheet and
933 income statement, if any;

934 (3) An explanation of how the estimated amount of the
935 payment was calculated; and

936 (4) Written notice that the payment is in full
937 satisfaction of the obligation to purchase unless, within one
938 hundred twenty (120) days after the written notice, the
939 dissociated partner commences an action to determine the buyout
940 price, any offsets under subsection (c), or other terms of the
941 obligation to purchase.

942 (h) A partner who wrongfully dissociates before the
943 expiration of a definite term or the completion of a particular
944 undertaking is not entitled to payment of any portion of the
945 buyout price until the expiration of the term or completion of the
946 undertaking, unless the partner establishes to the satisfaction of
947 the court that earlier payment will not cause undue hardship to
948 the business of the partnership. A deferred payment must be
949 adequately secured and bear interest.

950 (i) A dissociated partner may maintain an action against the
951 partnership, pursuant to Section 405(b)(2)(ii), to determine the
952 buyout price of that partner's interest, any offsets under
953 subsection (c), or other terms of the obligation to purchase. The
954 action must be commenced within one hundred twenty (120) days
955 after the partnership has tendered payment or an offer to pay or
956 within one (1) year after written demand for payment if no payment

957 or offer to pay is tendered. The court shall determine the buyout
958 price of the dissociated partner's interest, any offset due under
959 subsection (c), and accrued interest, and enter judgment for any
960 additional payment or refund. If deferred payment is authorized
961 under subsection (h), the court shall also determine the security
962 for payment and other terms of the obligation to purchase. The
963 court may assess reasonable attorney's fees and the fees and
964 expenses of appraisers or other experts for a party to the action,
965 in amounts the court finds equitable, against a party that the
966 court finds acted arbitrarily, vexatiously, or not in good faith.
967 The finding may be based on the partnership's failure to tender
968 payment or an offer to pay or to comply with subsection (g).

969 **SECTION 702. Dissociated partner's power to bind and**
970 **liability to partnership.**

971 (a) For one (1) year after a partner dissociates without
972 resulting in a dissolution and winding up of the partnership
973 business, the partnership, including a surviving partnership under
974 Article 9, is bound by an act of the dissociated partner which
975 would have bound the partnership under Section 301 before
976 dissociation only if at the time of entering into the transaction
977 the other party:

978 (1) Reasonably believed that the dissociated partner
979 was then a partner;

980 (2) Did not have notice of the partner's dissociation;
981 and

982 (3) Is not deemed to have had knowledge under Section
983 303(e) or notice under Section 704(c).

984 (b) A dissociated partner is liable to the partnership for
985 any damage caused to the partnership arising from an obligation
986 incurred by the dissociated partner after dissociation for which
987 the partnership is liable under subsection (a).

988 **SECTION 703. Dissociated partner's liability to other**
989 **persons.**

990 (a) A partner's dissociation does not of itself discharge
991 the partner's liability for a partnership obligation incurred
992 before dissociation. A dissociated partner is not liable for a
993 partnership obligation incurred after dissociation, except as
994 otherwise provided in subsection (b).

995 (b) A partner who dissociates without resulting in a
996 dissolution and winding up of the partnership business is liable
997 as a partner to the other party in a transaction entered into by
998 the partnership, or a surviving partnership under Article 9,
999 within one (1) year after the partner's dissociation, only if the
1000 partner is liable for the obligation under Section 306 and at the
1001 time of entering into the transaction the other party:

1002 (1) Reasonably believed that the dissociated partner
1003 was then a partner;

1004 (2) Did not have notice of the partner's dissociation;
1005 and

1006 (3) Is not deemed to have had knowledge under Section
1007 303(e) or notice under Section 704(c).

1008 (c) By agreement with the partnership creditor and the
1009 partners continuing the business, a dissociated partner may be
1010 released from liability for a partnership obligation.

1011 (d) A dissociated partner is released from liability for a
1012 partnership obligation if a partnership creditor, with notice of
1013 the partner's dissociation but without the partner's consent,
1014 agrees to a material alteration in the nature or time of payment
1015 of a partnership obligation.

1016 **SECTION 704. Statement of dissociation.**

1017 (a) A dissociated partner or the partnership may file a
1018 statement of dissociation stating the name of the partnership and
1019 that the partner is dissociated from the partnership.

1020 (b) A statement of dissociation is a limitation on the
1021 authority of a dissociated partner for the purposes of Section
1022 303(d) and (e).

1023 (c) For the purposes of Sections 702(a)(3) and 703(b)(3), a
1024 person not a partner is deemed to have notice of the dissociation
1025 thirty (30) days after the statement of dissociation is filed.

1026 **SECTION 705. Continued use of partnership name.** Continued
1027 use of a partnership name, or a dissociated partner's name as part
1028 thereof, by partners continuing the business does not of itself
1029 make the dissociated partner liable for an obligation of the
1030 partners or the partnership continuing the business.

1031 **ARTICLE 8**

1032 **WINDING UP PARTNERSHIP BUSINESS**

1033 **SECTION 801. Events causing dissolution and winding up of**
1034 **partnership business.** A partnership is dissolved, and its
1035 business must be wound up, only upon the occurrence of any of the
1036 following events:

1037 (1) In a partnership at will, the partnership's having
1038 notice from a partner, other than a partner who is dissociated
1039 under Section 601(2) through (10), of that partner's express will
1040 to withdraw as a partner, or on a later date specified by the
1041 partner;

1042 (2) In a partnership for a definite term or particular
1043 undertaking:

1044 (i) Within ninety (90) days after a partner's
1045 dissociation by death or otherwise under Section 601(6) through
1046 (10) or wrongful dissociation under Section 602(b), the express
1047 will of at least half of the remaining partners to wind up the
1048 partnership business, for which purpose a partner's rightful
1049 dissociation pursuant to Section 602(b)(2)(i) constitutes the
1050 expression of that partner's will to wind up the partnership
1051 business;

1052 (ii) The express will of all of the partners to
1053 wind up the partnership business; or

1054 (iii) The expiration of the term or the completion
1055 of the undertaking;

1056 (3) An event agreed to in the partnership agreement
1057 resulting in the winding up of the partnership business;

1058 (4) An event that makes it unlawful for all or
1059 substantially all of the business of the partnership to be
1060 continued, but a cure of illegality within ninety (90) days after
1061 notice to the partnership of the event is effective retroactively
1062 to the date of the event for purposes of this section;

1063 (5) On application by a partner, a judicial
1064 determination that:

1065 (i) The economic purpose of the partnership is
1066 likely to be unreasonably frustrated;

1067 (ii) Another partner has engaged in conduct
1068 relating to the partnership business which makes it not reasonably
1069 practicable to carry on the business in partnership with that
1070 partner; or

1071 (iii) It is not otherwise reasonably practicable
1072 to carry on the partnership business in conformity with the
1073 partnership agreement; or

1074 (6) On application by a transferee of a partner's
1075 transferable interest, a judicial determination that it is
1076 equitable to wind up the partnership business:

1077 (i) After the expiration of the term or completion
1078 of the undertaking, if the partnership was for a definite term or
1079 particular undertaking at the time of the transfer or entry of the
1080 charging order that gave rise to the transfer; or

1081 (ii) At any time, if the partnership was a
1082 partnership at will at the time of the transfer or entry of the
1083 charging order that gave rise to the transfer.

1084 **SECTION 802. Partnership continues after dissolution.**

1085 (a) Subject to subsection (b), a partnership continues after
1086 dissolution only for the purpose of winding up its business. The
1087 partnership is terminated when the winding up of its business is
1088 completed.

1089 (b) At any time after the dissolution of a partnership and
1090 before the winding up of its business is completed, all of the
1091 partners, including any dissociating partner other than a
1092 wrongfully dissociating partner, may waive the right to have the
1093 partnership's business wound up and the partnership terminated.
1094 In that event:

1095 (1) The partnership resumes carrying on its business as
1096 if dissolution had never occurred, and any liability incurred by
1097 the partnership or a partner after the dissolution and before the
1098 waiver is determined as if dissolution had never occurred; and

1099 (2) The rights of a third party accruing under Section
1100 804(1) or arising out of conduct in reliance on the dissolution
1101 before the third party knew or received a notification of the
1102 waiver may not be adversely affected.

1103 **SECTION 803. Right to wind up partnership business.**

1104 (a) After dissolution, a partner who has not wrongfully
1105 dissociated may participate in winding up the partnership's
1106 business, but on application of any partner, partner's legal
1107 representative, or transferee, the chancery court of the county in
1108 which the partnership's chief executive office is located, for
1109 good cause shown, may order judicial supervision of the winding
1110 up.

1111 (b) The legal representative of the last surviving partner
1112 may wind up a partnership's business.

1113 (c) A person winding up a partnership's business may
1114 preserve the partnership business or property as a going concern
1115 for a reasonable time, prosecute and defend actions and
1116 proceedings, whether civil, criminal, or administrative, settle
1117 and close the partnership's business, dispose of and transfer the
1118 partnership's property, discharge the partnership's liabilities,
1119 distribute the assets of the partnership pursuant to Section 807,
1120 settle disputes by mediation or arbitration, and perform other
1121 necessary acts.

1122 **SECTION 804. Partner's power to bind partnership after**
1123 **dissolution.** Subject to Section 805, a partnership is bound by a
1124 partner's act after dissolution that:

1125 (1) Is appropriate for winding up the partnership
1126 business; or

1127 (2) Would have bound the partnership under Section 301
1128 before dissolution, if the other party to the transaction did not
1129 have notice of the dissolution.

1130 **SECTION 805. Statement of dissolution.**

1131 (a) After dissolution, a partner who has not wrongfully
1132 dissociated may file a statement of dissolution stating the name
1133 of the partnership and that the partnership has dissolved and is
1134 winding up its business.

1135 (b) A statement of dissolution cancels a filed statement of
1136 partnership authority for the purposes of Section 303(d) and is a
1137 limitation on authority for the purposes of Section 303(e).

1138 (c) For the purposes of Sections 301 and 804, a person not a
1139 partner is deemed to have notice of the dissolution and the
1140 limitation on the partners' authority as a result of the statement
1141 of dissolution thirty (30) days after it is filed.

1142 (d) After filing and, if appropriate, recording a statement
1143 of dissolution, a dissolved partnership may file and, if
1144 appropriate, record a statement of partnership authority which
1145 will operate with respect to a person not a partner as provided in
1146 Section 303(d) and (e) in any transaction, whether or not the
1147 transaction is appropriate for winding up the partnership
1148 business.

1149 **SECTION 806. Partner's liability to other partners after**
1150 **dissolution.**

1151 (a) Except as otherwise provided in subsection (b) and
1152 Section 306, after dissolution a partner is liable to the other
1153 partners for the partner's share of any partnership liability
1154 incurred under Section 804.

1155 (b) A partner who, with knowledge of the dissolution, incurs
1156 a partnership liability under Section 804(2) by an act that is not
1157 appropriate for winding up the partnership business is liable to
1158 the partnership for any damage caused to the partnership arising
1159 from the liability.

1160 **SECTION 807. Settlement of accounts and contributions among**
1161 **partners.**

1162 (a) In winding up a partnership's business, the assets of
1163 the partnership, including the contributions of the partners
1164 required by this section, must be applied to discharge its
1165 obligations to creditors, including, to the extent permitted by
1166 law, partners who are creditors. Any surplus must be applied to
1167 pay in cash the net amount distributable to partners in accordance
1168 with their right to distributions under subsection (b).

1169 (b) Each partner is entitled to a settlement of all
1170 partnership accounts upon winding up the partnership business. In
1171 settling accounts among the partners, profits and losses that
1172 result from the liquidation of the partnership assets must be
1173 credited and charged to the partners' accounts. The partnership
1174 shall make a distribution to a partner in an amount equal to any
1175 excess of the credits over the charges in the partner's account.
1176 A partner shall contribute to the partnership an amount equal to
1177 any excess of the charges over the credits in the partner's
1178 account but excluding from the calculation charges attributable to
1179 an obligation for which the partner is not personally liable under
1180 Section 306.

1181 (c) If a partner fails to contribute the full amount
1182 required under subsection (b), all of the other partners shall
1183 contribute, in the proportions in which those partners share
1184 partnership losses, the additional amount necessary to satisfy the
1185 partnership obligations for which they are personally liable under
1186 Section 306. A partner or partner's legal representative may
1187 recover from the other partners any contributions the partner

1188 makes to the extent the amount contributed exceeds that partner's
1189 share of the partnership obligations for which the partner is
1190 personally liable under Section 306.

1191 (d) After the settlement of accounts, each partner shall
1192 contribute, in the proportion in which the partner shares
1193 partnership losses, the amount necessary to satisfy partnership
1194 obligations that were not known at the time of the settlement and
1195 for which the partner is personally liable under Section 306.

1196 (e) The estate of a deceased partner is liable for the
1197 partner's obligation to contribute to the partnership.

1198 (f) An assignee for the benefit of creditors of a
1199 partnership or a partner, or a person appointed by a court to
1200 represent creditors of a partnership or a partner, may enforce a
1201 partner's obligation to contribute to the partnership.

1202 **ARTICLE 9**

1203 **CONVERSIONS AND MERGERS**

1204 **SECTION 901. Definitions.** In this article:

1205 (1) "Domestic partnership" means a partnership the
1206 internal affairs of which are governed by this act.

1207 (2) "Entity" means any association or legal entity
1208 organized to conduct business, including, without limitation, for
1209 profit and nonprofit corporations, limited partnerships,
1210 partnerships, limited liability partnerships, limited liability
1211 companies, joint ventures, joint stock companies, and business
1212 trusts.

1213 (3) "General partner" means a partner in a partnership
1214 and a general partner in a limited partnership.

1215 (4) "Limited partner" means a limited partner in a
1216 limited partnership.

1217 (5) "Limited partnership" means a limited partnership
1218 created under the Mississippi Limited Partnership Act (Section
1219 79-14-101 et seq.), predecessor law, or comparable law of another
1220 jurisdiction.

1221 (6) "Partner" includes both a general partner and a
1222 limited partner.

1223 **SECTION 902. Conversion of partnership to limited**
1224 **partnership.**

1225 (a) A partnership may be converted to a limited partnership
1226 pursuant to this section.

1227 (b) The terms and conditions of a conversion of a
1228 partnership to a limited partnership must be approved by all of
1229 the partners or by a number or percentage specified for conversion
1230 in the partnership agreement.

1231 (c) After the conversion is approved by the partners, the
1232 partnership shall file a certificate of limited partnership in the
1233 jurisdiction in which the limited partnership is to be formed
1234 containing the information required to be contained in a
1235 certificate of limited partnership in such jurisdiction and
1236 additionally including:

1237 (1) A statement that the partnership was converted to a
1238 limited partnership from a partnership;

1239 (2) Its former name; and

1240 (3) A statement of the number of votes cast by the
1241 partners for and against the conversion and, if the vote is less
1242 than unanimous, the number or percentage required to approve the
1243 conversion under the partnership agreement.

1244 (d) The conversion takes effect when the certificate of
1245 limited partnership is filed or at any later date specified in the
1246 certificate.

1247 (e) A general partner who becomes a limited partner as a
1248 result of the conversion remains liable as a general partner for
1249 an obligation incurred by the partnership before the conversion
1250 takes effect. If the other party to a transaction with the
1251 limited partnership reasonably believes when entering the
1252 transaction that the limited partner is a general partner, the
1253 limited partner is liable for an obligation incurred by the

1254 limited partnership within ninety (90) days after the conversion
1255 takes effect. The limited partner's liability for all other
1256 obligations of the limited partnership incurred after the
1257 conversion takes effect is that of a limited partner as provided
1258 in the Mississippi Limited Partnership Act.

1259 **SECTION 903.** Reserved.

1260 **SECTION 904. Effect of conversion; entity unchanged.**

1261 (a) A partnership that has been converted pursuant to this
1262 article is for all purposes the same entity that existed before
1263 the conversion.

1264 (b) When a conversion takes effect:

1265 (1) All property owned by the converting partnership
1266 remains vested in the converted entity;

1267 (2) All obligations of the converting partnership
1268 continue as obligations of the converted entity; and

1269 (3) An action or proceeding pending against the
1270 converting partnership may be continued as if the conversion had
1271 not occurred.

1272 (c) Except for the provisions of Section 902 and this
1273 section, from and after the effective date of conversion the
1274 converted limited partnership shall be governed by the provisions
1275 of the Mississippi Limited Partnership Act.

1276 **SECTION 905. Merger.**

1277 (a) Unless otherwise provided in the partnership agreement,
1278 pursuant to a plan of merger approved as provided in subsection
1279 (d), one or more domestic partnerships may be merged with a
1280 domestic or foreign entity.

1281 (b) A domestic or foreign entity may be a party to the
1282 merger, or may be created by the terms of the plan of merger, only
1283 if:

1284 (1) The merger is permitted by the laws under which the
1285 entity is organized or by which it is governed; and

1286 (2) In effecting the merger, the entity complies with
1287 such laws and with its organizational documents.

1288 (c) The plan of merger must set forth:

1289 (1) The name of each entity that is a party to the
1290 merger;

1291 (2) The name of the entity that will be the survivor of
1292 the merger;

1293 (3) If the surviving entity is a partnership or a
1294 limited partnership, the status of each partner;

1295 (4) The terms and conditions of the merger;

1296 (5) The manner and basis of converting the interests of
1297 each party to the merger into shares or other securities,
1298 interests, obligations, or rights to acquire shares or other
1299 securities of the surviving entity, or into money or other
1300 property, or any combination of the foregoing;

1301 (6) The organizational documents of any entity to be
1302 created by the merger, or if a new entity is not to be created by
1303 the merger, any amendments to the survivor's organizational
1304 documents;

1305 (7) The street address of the surviving entity's chief
1306 executive office; and

1307 (8) Any other provisions required by the laws under
1308 which any party to the merger is organized or by which it is
1309 governed, or by the organizational documents of any such party.

1310 (d) The plan of merger must be approved:

1311 (1) In the case of a domestic partnership that is a
1312 party to the merger, by all of the partners, or a number or
1313 percentage specified for merger in the partnership agreement; and

1314 (2) In the case of a domestic limited liability
1315 partnership that is a party to a merger where the surviving entity
1316 is a partnership other than a limited liability partnership, by
1317 all of the partners, notwithstanding a provision to the contrary
1318 in the partnership agreement.

1319 (e) The terms described in subsections (c)(4) and (c)(5) of
1320 this section may be made dependent on facts ascertainable outside
1321 the plan of merger, provided that those facts are objectively
1322 ascertainable. The term "facts" includes, but is not limited to,
1323 the occurrence of any event, including a determination or action
1324 by any person or body, including the partnership.

1325 (f) After a plan of merger is approved and before the merger
1326 takes effect, the plan may be amended or abandoned as provided in
1327 the plan.

1328 (g) The merger takes effect on the later of:

1329 (1) The approval of the plan of merger by all parties
1330 to the merger, as provided in subsection (d);

1331 (2) The filing of all documents required by law to be
1332 filed as a condition to the effectiveness of the merger; or

1333 (3) Any effective date specified in the plan of merger.

1334 **SECTION 906. Effect of merger.**

1335 (a) When a merger takes effect:

1336 (1) The separate existence of every domestic
1337 partnership that is a party to the merger, other than the
1338 surviving entity, ceases;

1339 (2) All property owned by each of the merged domestic
1340 partnerships vests in the surviving entity;

1341 (3) All obligations of every domestic partnership that
1342 is a party to the merger become the obligations of the surviving
1343 entity; and

1344 (4) An action or proceeding pending against a domestic
1345 partnership that is a party to the merger may be continued as if
1346 the merger had not occurred, or the surviving entity may be
1347 substituted as a party to the action or proceeding.

1348 (b) The Secretary of State of this state is the agent for
1349 service of process in an action or proceeding against a surviving
1350 foreign entity to enforce an obligation of a domestic partnership
1351 that is a party to a merger. The surviving foreign entity shall

1352 promptly notify the Secretary of State of the mailing address of
1353 its chief executive office and of any change of address. Upon
1354 receipt of process, the Secretary of State shall mail a copy of
1355 the process to the surviving foreign entity.

1356 (c) A partner of a domestic partnership which is a party to
1357 a merger remains liable for all obligations incurred by such
1358 domestic partnership before the merger and for which the partner
1359 was personally liable before the merger.

1360 (d) Without affecting any liability a partner may have in
1361 accordance with the provisions of subsection (c) of this section,
1362 a partner of a domestic partnership which is the survivor of a
1363 merger:

1364 (1) Shall not become personally liable as a result of
1365 the merger for obligations of the surviving partnership incurred
1366 before the merger by a party to the merger of which that partner
1367 was not a general partner; and

1368 (2) Except as otherwise provided in Section 306, shall
1369 become personally liable for all obligations of the surviving
1370 partnership incurred after the merger takes effect.

1371 (e) In the case of a partner of a domestic partnership which
1372 is a party to a merger who does not become a partner, shareholder,
1373 member or other equity owner of the surviving entity:

1374 (1) The surviving entity shall cause the partner's
1375 interest in the partnership to be purchased under Section 701; and

1376 (2) If the surviving entity is a domestic partnership,
1377 the surviving partnership is bound under Section 702 by an act of
1378 the terminated partner, and the terminated partner is liable under
1379 Section 703 for transactions entered into by the surviving
1380 partnership after the merger takes effect.

1381 **SECTION 907. Statement of merger.**

1382 (a) After a merger, the surviving domestic or foreign entity
1383 may file a statement that one or more domestic partnerships have
1384 merged into the surviving entity.

1385 (b) A statement of merger must contain:
1386 (1) The name of each entity that is a party to the
1387 merger;
1388 (2) The name and domicile of the entity that will be
1389 the survivor of the merger;
1390 (3) The street address of the surviving entity's chief
1391 executive office and of an office in this state, if any; and
1392 (4) The type of entity of the surviving entity is
1393 (e.g., partnership, limited partnership, for profit corporation,
1394 etc.).

1395 (c) Except as otherwise provided in subsection (d), for the
1396 purposes of Section 302, property of the surviving entity which
1397 before the merger was held in the name of another party to the
1398 merger is property held in the name of the surviving entity upon
1399 filing a statement of merger.

1400 (d) For the purposes of Section 302, real property of the
1401 surviving entity which before the merger was held in the name of
1402 another party to the merger is property held in the name of the
1403 surviving entity upon recording a certified copy of the statement
1404 of merger in the office for recording transfers of that real
1405 property.

1406 (e) A filed and, if appropriate, recorded statement of
1407 merger, executed and declared to be accurate pursuant to Section
1408 105(c), stating the name of a partnership that is a party to the
1409 merger in whose name property was held before the merger and the
1410 name of the surviving entity, but not containing all of the other
1411 information required by subsection (b), operates with respect to
1412 the partnerships named to the extent provided in subsections (c)
1413 and (d).

1414 **SECTION 908. Nonexclusive.** This article is not exclusive.
1415 Partnerships may be converted or merged in any other manner
1416 provided by law.

1417 **ARTICLE 10**

1418 **LIMITED LIABILITY PARTNERSHIP**

1419 **SECTION 1001. Statement of qualification.**

1420 (a) A partnership may become a limited liability partnership
1421 pursuant to this section.

1422 (b) The terms and conditions on which a partnership becomes
1423 a limited liability partnership must be approved by the vote
1424 necessary to amend the partnership agreement except, in the case
1425 of a partnership agreement that expressly considers obligations to
1426 contribute to the partnership, the vote necessary to amend those
1427 provisions.

1428 (c) After the approval required by subsection (b), a
1429 partnership may become a limited liability partnership by filing a
1430 statement of qualification. The statement must contain:

1431 (1) The name of the partnership;

1432 (2) The street address of the partnership's chief
1433 executive office and, if different, the street address of an
1434 office in this state, if any;

1435 (3) If the partnership does not have an office in this
1436 state, the name and street address of the partnership's agent for
1437 service of process;

1438 (4) A statement that the partnership elects to be a
1439 limited liability partnership; and

1440 (5) A deferred effective date, if any.

1441 (d) The agent of a limited liability partnership for service
1442 of process must be an individual who is a resident of this state
1443 or other person authorized to do business in this state.

1444 (e) The status of a partnership as a limited liability
1445 partnership is effective on the later of the filing of the
1446 statement or a date specified in the statement. The status
1447 remains effective, regardless of changes in the partnership, until
1448 it is canceled pursuant to Section 105(d).

1449 (f) The status of a partnership as a limited liability
1450 partnership and the liability of its partners is not affected by

1451 errors or later changes in the information required to be
1452 contained in the statement of qualification under subsection (c).

1453 (g) The filing of a statement of qualification establishes
1454 that a partnership has satisfied all conditions precedent to the
1455 qualification of the partnership as a limited liability
1456 partnership.

1457 (h) An amendment or cancellation of a statement of
1458 qualification is effective when it is filed or on a deferred
1459 effective date specified in the amendment or cancellation.

1460 **SECTION 1002. Name.** The name of a limited liability
1461 partnership must end with "Registered Limited Liability
1462 Partnership", "Limited Liability Partnership", "R.L.L.P.,"
1463 "L.L.P.," "RLLP" or "LLP."

1464 **ARTICLE 11**

1465 **FOREIGN LIMITED LIABILITY PARTNERSHIP**

1466 **SECTION 1101. Law governing foreign limited liability**
1467 **partnership.**

1468 (a) The law under which a foreign limited liability
1469 partnership is formed governs relations among the partners and
1470 between the partners and the partnership and the liability of
1471 partners for obligations of the partnership.

1472 (b) A foreign limited liability partnership may not be
1473 denied a statement of foreign qualification by reason of any
1474 difference between the law under which the partnership was formed
1475 and the law of this state.

1476 (c) A statement of foreign qualification does not authorize
1477 a foreign limited liability partnership to engage in any business
1478 or exercise any power that a partnership may not engage in or
1479 exercise in this state as a limited liability partnership.

1480 **SECTION 1102. Statement of foreign qualification.**

1481 (a) Before transacting business in this state, a foreign
1482 limited liability partnership must file a statement of foreign
1483 qualification. The statement must contain:

1484 (1) The name of the foreign limited liability
1485 partnership which satisfies the requirements of the state or other
1486 jurisdiction under whose law it is formed and ends with
1487 "Registered Limited Liability Partnership," "Limited Liability
1488 Partnership," "R.L.L.P.," "L.L.P.," "RLLP" or "LLP";

1489 (2) The street address of the partnership's chief
1490 executive office and, if different, the street address of an
1491 office of the partnership in this state, if any;

1492 (3) If there is no office of the partnership in this
1493 state, the name and street address of the partnership's agent for
1494 service of process; and

1495 (4) A deferred effective date, if any.

1496 (b) The agent of a foreign limited liability company for
1497 service of process must be an individual who is a resident of this
1498 state or other person authorized to do business in this state.

1499 (c) The status of a partnership as a foreign limited
1500 liability partnership is effective on the later of the filing of
1501 the statement of foreign qualification or a date specified in the
1502 statement. The status remains effective, regardless of changes in
1503 the partnership, until it is canceled pursuant to Section 105(d).

1504 (d) An amendment or cancellation of a statement of foreign
1505 qualification is effective when it is filed or on a deferred
1506 effective date specified in the amendment or cancellation.

1507 **SECTION 1103. Effect of failure to qualify.**

1508 (a) A foreign limited liability partnership transacting
1509 business in this state may not maintain an action or proceeding in
1510 this state unless it has in effect a statement of foreign
1511 qualification.

1512 (b) The failure of a foreign limited liability partnership
1513 to have in effect a statement of foreign qualification does not
1514 impair the validity of a contract or act of the foreign limited
1515 liability partnership or preclude it from defending an action or
1516 proceeding in this state.

1517 (c) A limitation on personal liability of a partner is not
1518 waived solely by transacting business in this state without a
1519 statement of foreign qualification.

1520 (d) If a foreign limited liability partnership transacts
1521 business in this state without a statement of foreign
1522 qualification, the Secretary of State is its agent for service of
1523 process with respect to a right of action arising out of the
1524 transaction of business in this state.

1525 **SECTION 1104. Activities not constituting transacting**
1526 **business.**

1527 (a) Activities of a foreign limited liability partnership
1528 which do not constitute transacting business for the purpose of
1529 this article include:

1530 (1) Maintaining, defending, or settling an action or
1531 proceeding;

1532 (2) Holding meetings of its partners or carrying on any
1533 other activity concerning its internal affairs;

1534 (3) Maintaining bank accounts;

1535 (4) Maintaining offices or agencies for the transfer,
1536 exchange, and registration of the partnership's own securities or
1537 maintaining trustees or depositories with respect to those
1538 securities;

1539 (5) Selling through independent contractors;

1540 (6) Soliciting or obtaining orders, whether by mail or
1541 through employees or agents or otherwise, if the orders require
1542 acceptance outside this state before they become contracts;

1543 (7) Creating or acquiring indebtedness, with or without
1544 a mortgage, or other security interest in property;

1545 (8) Collecting debts or foreclosing mortgages or other
1546 security interests in property securing the debts, and holding,
1547 protecting, and maintaining property so acquired;

1580 (a) Before January 1, 2007, this act governs only a
1581 partnership formed:

1582 (1) After the effective date of this act, except a
1583 partnership that is continuing the business of a dissolved
1584 partnership under the Mississippi Uniform Partnership Law in
1585 effect on December 31, 2004; and

1586 (2) Before the effective date of this act, that elects,
1587 as provided by subsection (c), to be governed by this act.

1588 (b) On and after January 1, 2007, this act governs all
1589 partnerships.

1590 (c) Before January 1, 2007, a partnership voluntarily may
1591 elect, in the manner provided in its partnership agreement or by
1592 law for amending the partnership agreement, to be governed by this
1593 act. The provisions of this act relating to the liability of the
1594 partnership's partners to third parties apply to limit those
1595 partners' liability to a third party who had done business with
1596 the partnership within one (1) year before the partnership's
1597 election to be governed by this act only if the third party knows
1598 or has received a notification of the partnership's election to be
1599 governed by this act.

1600 **SECTION 1207.** Sections 79-12-1, 79-12-3, 79-12-5, 79-12-7,
1601 79-12-9, 79-12-11, 79-12-13, 79-12-15, 79-12-17, 79-12-19,
1602 79-12-21, 79-12-23, 79-12-25, 79-12-27, 79-12-29, 79-12-31,
1603 79-12-33, 79-12-35, 79-12-37, 79-12-39, 79-12-41, 79-12-43,
1604 79-12-45, 79-12-47, 79-12-49, 79-12-51, 79-12-53, 79-12-55,
1605 79-12-57, 79-12-59, 79-12-61, 79-12-63, 79-12-65, 79-12-67,
1606 79-12-69, 79-12-71, 79-12-73, 79-12-75, 79-12-77, 79-12-79,
1607 79-12-81, 79-12-83, 79-12-85, 79-12-87, 79-12-89, 79-12-91,
1608 79-12-93, 79-12-95, 79-12-97, 79-12-99, 79-12-101, 79-12-103,
1609 79-12-105, 79-12-107, 79-12-109, 79-12-111, 79-12-113, 79-12-115,
1610 79-12-117 and 79-12-119, Mississippi Code of 1972, which
1611 constitute the Mississippi Uniform Partnership Law, shall stand
1612 repealed on January 1, 2007.

1613 **SECTION 1208. Savings clause.** This act does not affect an
1614 action or proceeding commenced or right accrued before this act
1615 takes effect.

1616 **SECTION 1209. Effective date.** This act takes effect January
1617 1, 2005.