

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.

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

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

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

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

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

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

SECTION 102. Knowledge and notice.

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

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

- (1) Knows of it;
- (2) Has received a notification of it; or
- (3) Has reason to know it exists from all of the facts known to the person at the time in question.

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

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

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

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

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

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

SECTION 103. Effect of partnership agreement; nonwaivable provisions.

(a) Except as otherwise provided in subsection (b), relations among the partners and between the partners and the 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);

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

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

SECTION 104. Supplemental principles of law.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 106. Governing law.

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

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

SECTION 107. Partnership subject to amendment or repeal of act. A partnership governed by this act is subject to any amendment to or repeal of this act.

ARTICLE 2

NATURE OF PARTNERSHIP

SECTION 201. Partnership as entity.

(a) A partnership is an entity distinct from its partners.

(b) A limited liability partnership continues to be the same entity that existed before the filing of a statement of qualification under Section 1001.

SECTION 202. Formation of partnership.

(a) Except as otherwise provided in subsection (b), the association of two or more persons to carry on as co-owners a business for profit forms a partnership, whether or not the persons intend to form a partnership.

(b) An association formed under a statute other than this act, a predecessor statute, or a comparable statute of another jurisdiction is not a partnership under this act.

(c) In determining whether a partnership is formed, the following rules apply:

(1) Joint tenancy, tenancy in common, tenancy by the entirety, joint property, common property, or part ownership does not by itself establish a partnership, even if the co-owners share profits made by the use of the property.

(2) The sharing of gross returns does not by itself establish a partnership, even if the persons sharing them have a joint or common right or interest in property from which the returns are derived.

(3) A person who receives a share of the profits of a business is presumed to be a partner in the business, unless the profits were received in payment:

(i) Of a debt by installments or otherwise;

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

(iii) Of rent;

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

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

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

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

SECTION 204. When property is partnership property.

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

- (1) The partnership; or
- (2) One or more partners with an indication in the instrument transferring title to the property of the person's capacity as a partner or of the existence of a partnership but without an indication of the name of the partnership.

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

- (1) The partnership in its name; or
- (2) One or more partners in their capacity as partners in the partnership, if the name of the partnership is indicated in the instrument transferring title to the property.

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

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

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

ARTICLE 3

RELATIONS OF PARTNERS TO

PERSONS DEALING WITH PARTNERSHIP

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

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

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

SECTION 302. Transfer of partnership property.

(a) Partnership property may be transferred as follows:

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

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

SECTION 303. Statement of partnership authority.

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

(1) Must include:

- (i) The name of the partnership;
- (ii) The street address of its chief executive office and of one office in this state, if there is one;
- (iii) The names and mailing addresses of all of the partners or of an agent appointed and maintained by the partnership for the purpose of subsection (b); and
- (iv) The names of the partners authorized to execute an instrument transferring real property held in the name of the partnership; and

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

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

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

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

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

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

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

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

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

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

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

SECTION 305. Partnership liable for partner's actionable conduct.

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

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

SECTION 306. Partner's liability.

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

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

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

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

SECTION 307. Actions by and against partnership and partners.

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

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

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

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

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

(2) The partnership is a debtor in bankruptcy;

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

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

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

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

SECTION 308. Liability of purported partner.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 404. General standards of partner's conduct.

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

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

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

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

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

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

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

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

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

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

SECTION 405. Actions by partnership and partners.

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE 5

TRANSFEREES AND CREDITORS OF PARTNER

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

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

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

SECTION 502. Partner's transferable interest in partnership.

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

SECTION 503. Transfer of partner's transferable interest.

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

- (1) Is permissible;
- (2) Does not by itself cause the partner's dissociation or a dissolution and winding up of the partnership business; and
- (3) Does not, as against the other partners or the partnership, entitle the transferee, during the continuance of the partnership, to participate in the management or conduct of the partnership business, to require access to information concerning partnership transactions, or to inspect or copy the partnership books or records.

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

- (1) To receive, in accordance with the transfer, distributions to which the transferor would otherwise be entitled;
- (2) To receive upon the dissolution and winding up of the partnership business, in accordance with the transfer, the net amount otherwise distributable to the transferor; and
- (3) To seek under Section 801(6) a judicial determination that it is equitable to wind up the partnership business.

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

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

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

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

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

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

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

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

- (1) By the judgment debtor;
- (2) With property other than partnership property, by one or more of the other partners; or
- (3) With partnership property, by one or more of the other partners with the consent of all of the partners whose interests are not so charged.

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

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

ARTICLE 6

PARTNER'S DISSOCIATION

SECTION 601. Events causing partner's dissociation. A partner is dissociated from a partnership upon the occurrence of any of the following events:

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

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

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

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

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

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

(iii) Within ninety (90) days after the partnership notifies a corporate partner that it will be expelled because it has filed a certificate of dissolution or the equivalent, its charter has been revoked, or its right to conduct 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

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

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

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

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

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

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

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

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

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

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

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

- (1) Reasonably believed that the dissociated partner was then a partner;
- (2) Did not have notice of the partner's dissociation; and
- (3) Is not deemed to have had knowledge under Section 303(e) or notice under Section 704(c).

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

SECTION 703. Dissociated partner's liability to other persons.

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

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

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

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

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

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

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

SECTION 704. Statement of dissociation.

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

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

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

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

ARTICLE 8

WINDING UP PARTNERSHIP BUSINESS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 802. Partnership continues after dissolution.

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

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

SECTION 807. Settlement of accounts and contributions among partners.

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

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

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

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

SECTION 903. Reserved.

SECTION 904. Effect of conversion; entity unchanged.

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

(b) When a conversion takes effect:

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

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

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

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

SECTION 905. Merger.

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

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

(1) The merger is permitted by the laws under which the 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.

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

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

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

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

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

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

SECTION 906. Effect of merger.

(a) When a merger takes effect:

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 907. Statement of merger.

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

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

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

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

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

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

ARTICLE 11

FOREIGN LIMITED LIABILITY PARTNERSHIP

SECTION 1101. Law governing foreign limited liability partnership.

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

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

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

SECTION 1102. Statement of foreign qualification.

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

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

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

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

(4) A deferred effective date, if any.

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

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

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

SECTION 1103. Effect of failure to qualify.

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

(b) The failure of a foreign limited liability partnership to have in effect a statement of foreign qualification does not impair the validity of a contract or act of the foreign limited liability partnership or preclude it from defending an action or 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;

(9) Conducting an isolated transaction that is completed within thirty (30) days and is not one in the course of similar transactions; and

(10) Transacting business in interstate commerce.

(b) For purposes of this article, the ownership in this state of income-producing real property or tangible personal property, other than property excluded under subsection (a), constitutes transacting business in this state.

(c) This section does not apply in determining the contacts or activities that may subject a foreign limited liability partnership to service of process, taxation, or regulation under any other law of this state.

SECTION 1105. Action by attorney general. The Attorney General may maintain an action to restrain a foreign limited liability partnership from transacting business in this state in violation of this article.

ARTICLE 12

MISCELLANEOUS PROVISIONS

SECTION 1201. Uniformity of application and construction.
This act shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this act among states enacting it.

SECTION 1202. Short title. This act may be cited as the Uniform Partnership Act (1997).

SECTION 1203. Severability clause. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SECTION 1204. Reserved.

SECTION 1205. Applicability.

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.