

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 85th General Assembly  
3 Regular Session, 2005  
4

*As Engrossed: H2/17/05*

# A Bill

HOUSE BILL 1261

5 By: Representatives Thyer, D. Johnson  
6  
7

## For An Act To Be Entitled

9 AN ACT TO ENACT THE ARKANSAS UNIFORM LIMITED  
10 PARTNERSHIP ACT (2005); TO PROVIDE TRANSITIONAL  
11 RULES; AND FOR OTHER PURPOSES.  
12

## Subtitle

13 TO ENACT THE ARKANSAS UNIFORM LIMITED  
14 PARTNERSHIP ACT (2005) AND TO PROVIDE  
15 TRANSITIONAL RULES.  
16  
17  
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
20

21 SECTION 1. Arkansas Code Title 4 is amended to add an additional  
22 chapter to read as follows:

23 CHAPTER 47 – Uniform Limited Partnership Act (2005)

24 Subchapter 1 – General Provisions

25 4-47-101. Short title.

26 This chapter may be cited as the “Arkansas Uniform Limited Partnership  
27 Act (2005).”  
28

29 4-47-102. Definitions.

30 In this chapter:

31 (1) “Certificate of limited partnership” means the certificate  
32 required by § 4-47-201. The term includes the certificate as amended or  
33 restated.

34 (2) “Contribution”, except in the phrase “right of  
35 contribution,” means any benefit provided by a person to a limited  
36 partnership in order to become a partner or in the person’s capacity as a



1 partner.

2 (3) "Debtor in bankruptcy" means a person that is the subject  
3 of:

4 (A) an order for relief under Title 11 of the United  
5 States Code or a comparable order under a successor statute of general  
6 application; or

7 (B) a comparable order under federal, state, or foreign  
8 law governing insolvency.

9 (4) "Designated office" means:

10 (A) with respect to a limited partnership, the office that  
11 the limited partnership is required to designate and maintain under § 4-47-  
12 114; and

13 (B) with respect to a foreign limited partnership, its  
14 principal office.

15 (5) "Distribution" means a transfer of money or other property  
16 from a limited partnership to a partner in the partner's capacity as a  
17 partner or to a transferee on account of a transferable interest owned by the  
18 transferee.

19 (6) "Foreign limited liability limited partnership" means a  
20 foreign limited partnership whose general partners have limited liability for  
21 the obligations of the foreign limited partnership under a provision similar  
22 to § 4-47-404(c).

23 (7) "Foreign limited partnership" means a partnership formed  
24 under the laws of a jurisdiction other than this State and required by those  
25 laws to have one or more general partners and one or more limited partners.  
26 The term includes a foreign limited liability limited partnership.

27 (8) "General partner" means:

28 (A) with respect to a limited partnership, a person that:  
29 (i) becomes a general partner under § 4-47-401; or  
30 (ii) was a general partner in a limited partnership  
31 when the limited partnership became subject to this chapter under § 4-47-  
32 1206(a) or (b); and

33 (B) with respect to a foreign limited partnership, a  
34 person that has rights, powers, and obligations similar to those of a general  
35 partner in a limited partnership.

36 (9) "Limited liability limited partnership", except in the

1 phrase “foreign limited liability limited partnership”, means a limited  
2 partnership whose certificate of limited partnership states that the limited  
3 partnership is a limited liability limited partnership.

4 (10) “Limited partner” means:

5 (A) with respect to a limited partnership, a person that:

6 (i) becomes a limited partner under § 4-47-301; or

7 (ii) was a limited partner in a limited partnership

8 when the limited partnership became subject to this chapter under § 4-47-  
9 1206(a) or (b); and

10 (B) with respect to a foreign limited partnership, a  
11 person that has rights, powers, and obligations similar to those of a limited  
12 partner in a limited partnership.

13 (11) “Limited partnership”, except in the phrases “foreign  
14 limited partnership” and “foreign limited liability limited partnership”,  
15 means an entity, having one or more general partners and one or more limited  
16 partners, which is formed under this chapter by two or more persons or  
17 becomes subject to this chapter under subchapter 11 or § 4-47-1206(a) or (b).  
18 The term includes a limited liability limited partnership.

19 (12) “Partner” means a limited partner or general partner.

20 (13) “Partnership agreement” means the partners’ agreement,  
21 whether oral, implied, in a record, or in any combination, concerning the  
22 limited partnership. The term includes the agreement as amended.

23 (14) “Person” means an individual, corporation, business trust,  
24 estate, trust, partnership, limited liability company, association, joint  
25 venture, government; governmental subdivision, agency, or instrumentality;  
26 public corporation, or any other legal or commercial entity.

27 (15) “Person dissociated as a general partner” means a person  
28 dissociated as a general partner of a limited partnership.

29 (16) “Principal office” means the office where the principal  
30 executive office of a limited partnership or foreign limited partnership is  
31 located, whether or not the office is located in this State.

32 (17) “Record” means information that is inscribed on a tangible  
33 medium or that is stored in an electronic or other medium and is retrievable  
34 in perceivable form.

35 (18) “Required information” means the information that a limited  
36 partnership is required to maintain under § 4-47-111.

1           (19) "Sign" means:

2                   (A) to execute or adopt a tangible symbol with the present  
3 intent to authenticate a record; or

4                   (B) to attach or logically associate an electronic symbol,  
5 sound, or process to or with a record with the present intent to authenticate  
6 the record.

7           (20) "State" means a State of the United States, the District of  
8 Columbia, Puerto Rico, the United States Virgin Islands, or any territory or  
9 insular possession subject to the jurisdiction of the United States.

10           (21) "Transfer" includes an assignment, conveyance, deed, bill  
11 of sale, lease, mortgage, security interest, encumbrance, gift, and transfer  
12 by operation of law.

13           (22) "Transferable interest" means a partner's right to receive  
14 distributions.

15           (23) "Transferee" means a person to which all or part of a  
16 transferable interest has been transferred, whether or not the transferor is  
17 a partner.

18  
19           4-47-103. Knowledge and notice.

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

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

22                   (1) knows of it;

23                   (2) has received a notification of it;

24                   (3) has reason to know it exists from all of the facts known to  
25 the person at the time in question; or

26                   (4) has notice of it under subsection (c) or (d).

27           (c) A certificate of limited partnership on file in the office of the  
28 Secretary of State is notice that the partnership is a limited partnership  
29 and the persons designated in the certificate as general partners are general  
30 partners. Except as otherwise provided in subsection (d), the certificate is  
31 not notice of any other fact.

32           (d) A person has notice of:

33                   (1) another person's dissociation as a general partner, 90 days  
34 after the effective date of an amendment to the certificate of limited  
35 partnership which states that the other person has dissociated or 90 days  
36 after the effective date of a statement of dissociation pertaining to the

1 other person, whichever occurs first;

2 (2) a limited partnership's dissolution, 90 days after the  
3 effective date of an amendment to the certificate of limited partnership  
4 stating that the limited partnership is dissolved;

5 (3) a limited partnership's termination, 90 days after the  
6 effective date of a statement of termination;

7 (4) a limited partnership's conversion under subchapter 11, 90  
8 days after the effective date of the articles of conversion; or

9 (5) a merger under subchapter 11, 90 days after the effective  
10 date of the articles of merger.

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

14 (f) A person receives a notification when the notification:

15 (1) comes to the person's attention; or

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

18 (g) Except as otherwise provided in subsection (h), a person other  
19 than an individual knows, has notice, or receives a notification of a fact  
20 for purposes of a particular transaction when the individual conducting the  
21 transaction for the person knows, has notice, or receives a notification of  
22 the fact, or in any event when the fact would have been brought to the  
23 individual's attention if the person had exercised reasonable diligence. A  
24 person other than an individual exercises reasonable diligence if it  
25 maintains reasonable routines for communicating significant information to  
26 the individual conducting the transaction for the person and there is  
27 reasonable compliance with the routines. Reasonable diligence does not  
28 require an individual acting for the person to communicate information unless  
29 the communication is part of the individual's regular duties or the  
30 individual has reason to know of the transaction and that the transaction  
31 would be materially affected by the information.

32 (h) A general partner's knowledge, notice, or receipt of a  
33 notification of a fact relating to the limited partnership is effective  
34 immediately as knowledge of, notice to, or receipt of a notification by the  
35 limited partnership, except in the case of a fraud on the limited partnership  
36 committed by or with the consent of the general partner. A limited partner's

1 knowledge, notice, or receipt of a notification of a fact relating to the  
2 limited partnership is not effective as knowledge of, notice to, or receipt  
3 of a notification by the limited partnership.

4  
5 4-47-104. Nature, purpose, and duration of entity.

6 (a) A limited partnership is an entity distinct from its partners. A  
7 limited partnership is the same entity regardless of whether its certificate  
8 states that the limited partnership is a limited liability limited  
9 partnership.

10 (b) A limited partnership may be organized under this chapter for any  
11 lawful purpose.

12 (c) A limited partnership has a perpetual duration.

13  
14 4-47-105. Powers.

15 A limited partnership has the powers to do all things necessary or  
16 convenient to carry on its activities, including the power to sue, be sued,  
17 and defend in its own name and to maintain an action against a partner for  
18 harm caused to the limited partnership by a breach of the partnership  
19 agreement or violation of a duty to the partnership.

20  
21 4-47-106. Governing law.

22 The law of this State governs relations among the partners of a limited  
23 partnership and between the partners and the limited partnership and the  
24 liability of partners as partners for an obligation of the limited  
25 partnership.

26  
27 4-47-107. Supplemental principles of law; rate of interest.

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

30 (b) If an obligation to pay interest arises under this chapter and the  
31 rate is not specified, the rate is that specified in Const. Ark., Art. 19,  
32 Section 13 as amended by Amendment 60.

33  
34 4-47-108. Name.

35 (a) The name of a limited partnership may contain the name of any  
36 partner.

1       (b) The name of a limited partnership that is not a limited liability  
2 limited partnership must contain the phrase "limited partnership" or the  
3 abbreviation "L.P." or "LP" and may not contain the phrase "limited  
4 liability limited partnership" or the abbreviation "LLLP" or "L.L.L.P.".

5       (c) The name of a limited liability limited partnership must contain  
6 the phrase "limited liability limited partnership" or the abbreviation "LLLP"  
7 or "L.L.L.P" and must not contain the abbreviation "L.P." or "LP".

8       (d) Unless authorized by subsection (e), the name of a limited  
9 partnership must be distinguishable in the records of the Secretary of State  
10 from:

11           (1) the name of each person other than an individual  
12 incorporated, organized, or authorized to transact business in this State;  
13 and

14           (2) each name reserved under § 4-47-109 or other state laws  
15 allowing the reservation or registration of business names, including  
16 fictitious name statutes.

17       (e) A limited partnership may apply to the Secretary of State for  
18 authorization to use a name that does not comply with subsection (d). The  
19 Secretary of State shall authorize use of the name applied for if, as to each  
20 conflicting name:

21           (1) the present user, registrant, or owner of the conflicting  
22 name consents in a signed record to the use and submits an undertaking in a  
23 form satisfactory to the Secretary of State to change the conflicting name to  
24 a name that complies with subsection (d) and is distinguishable in the  
25 records of the Secretary of State from the name applied for;

26           (2) the applicant delivers to the Secretary of State a certified  
27 copy of the final judgment of a court of competent jurisdiction establishing  
28 the applicant's right to use in this State the name applied for; or

29           (3) the applicant delivers to the Secretary of State proof  
30 satisfactory to the Secretary of State that the present user, registrant, or  
31 owner of the conflicting name:

32                   (A) has merged into the applicant;

33                   (B) has been converted into the applicant; or

34                   (C) has transferred substantially all of its assets,  
35 including the conflicting name, to the applicant.

36       (f) Subject to § 4-47-905, this section applies to any foreign limited

1 partnership transacting business in this State, having a certificate of  
2 authority to transact business in this State, or applying for a certificate  
3 of authority.

4  
5 4-47-109. Reservation of name.

6 (a) The exclusive right to the use of a name that complies with § 4-  
7 47-108 may be reserved by:

8 (1) a person intending to organize a limited partnership under  
9 this chapter and to adopt the name;

10 (2) a limited partnership or a foreign limited partnership  
11 authorized to transact business in this State intending to adopt the name;

12 (3) a foreign limited partnership intending to obtain a  
13 certificate of authority to transact business in this State and adopt the  
14 name;

15 (4) a person intending to organize a foreign limited partnership  
16 and intending to have it obtain a certificate of authority to transact  
17 business in this State and adopt the name;

18 (5) a foreign limited partnership formed under the name; or

19 (6) a foreign limited partnership formed under a name that does  
20 not comply with § 4-47-108(b) or (c), but the name reserved under this  
21 paragraph may differ from the foreign limited partnership's name only to the  
22 extent necessary to comply with § 4-47-108(b) and (c).

23 (b) A person may apply to reserve a name under subsection (a) by  
24 delivering to the Secretary of State for filing an application that states  
25 the name to be reserved and the paragraph of subsection (a) which applies.  
26 If the Secretary of State finds that the name is available for use by the  
27 applicant, the Secretary of State shall file a statement of name reservation  
28 and thereby reserve the name for the exclusive use of the applicant for 120  
29 days.

30 (c) An applicant that has reserved a name pursuant to subsection (b)  
31 may reserve the same name for additional 120-day periods. A person having a  
32 current reservation for a name may not apply for another 120-day period for  
33 the same name until 90 days have elapsed in the current reservation.

34 (d) A person that has reserved a name under this section may deliver  
35 to the Secretary of State for filing a notice of transfer that states the  
36 reserved name, the name and street and mailing address of some other person



1 to which the reservation is to be transferred, and the paragraph of  
2 subsection (a) which applies to the other person. Subject to § 4-47-206(c),  
3 the transfer is effective when the Secretary of State files the notice of  
4 transfer.

5  
6 4-47-110. Effect of partnership agreement; nonwaivable provisions.

7 (a) Except as otherwise provided in subsection (b), the partnership  
8 agreement governs relations among the partners and between the partners and  
9 the partnership. To the extent the partnership agreement does not otherwise  
10 provide, this chapter governs relations among the partners and between the  
11 partners and the partnership.

12 (b) A partnership agreement may not:

13 (1) vary a limited partnership's power under § 4-47-105 to sue,  
14 be sued, and defend in its own name;

15 (2) vary the law applicable to a limited partnership under § 4-  
16 47-106;

17 (3) vary the requirements of § 4-47-204;

18 (4) vary the information required under § 4-47-111 or  
19 unreasonably restrict the right to information under § 4-47-304 or § 4-47-  
20 407, but the partnership agreement may impose reasonable restrictions on the  
21 availability and use of information obtained under those sections and may  
22 define appropriate remedies, including liquidated damages, for a breach of  
23 any reasonable restriction on use;

24 (5) eliminate the duty of loyalty under § 4-47-408, but the  
25 partnership agreement may:

26 (A) identify specific types or categories of activities  
27 that do not violate the duty of loyalty, if not manifestly unreasonable; and

28 (B) specify the number or percentage of partners which may  
29 authorize or ratify, after full disclosure to all partners of all material  
30 facts, a specific act or transaction that otherwise would violate the duty of  
31 loyalty;

32 (6) unreasonably reduce the duty of care under § 4-47-408(c);

33 (7) eliminate the obligation of good faith and fair dealing  
34 under §§ 4-47-305(b) and 4-47-408(d), but the partnership agreement may  
35 prescribe the standards by which the performance of the obligation is to be  
36 measured, if the standards are not manifestly unreasonable;

1           (8) vary the power of a person to dissociate as a general  
2 partner under § 4-47-604(a) except to require that the notice under § 4-47-  
3 603(1) be in a record;

4           (9) vary the power of a court to decree dissolution in the  
5 circumstances specified in § 4-47-802;

6           (10) vary the requirement to wind up the partnership's business  
7 as specified in § 4-47-803;

8           (11) unreasonably restrict the right to maintain an action under  
9 subchapter 10;

10           (12) restrict the right of a partner under § 4-47-1110(a) to  
11 approve a conversion or merger or the right of a general partner under § 4-  
12 47-1110(b) to consent to an amendment to the certificate of limited  
13 partnership which deletes a statement that the limited partnership is a  
14 limited liability limited partnership; or

15           (13) restrict rights under this chapter of a person other than a  
16 partner or a transferee.

17  
18           4-47-111. Required information.

19           A limited partnership shall maintain at its designated office the  
20 following information:

21           (1) a current list showing the full name and last known street  
22 and mailing address of each partner, separately identifying the general  
23 partners, in alphabetical order, and the limited partners, in alphabetical  
24 order;

25           (2) a copy of the initial certificate of limited partnership and  
26 all amendments to and restatements of the certificate, together with signed  
27 copies of any powers of attorney under which any certificate, amendment, or  
28 restatement has been signed;

29           (3) a copy of any filed articles of conversion or merger;

30           (4) a copy of the limited partnership's federal, state, and  
31 local income tax returns and reports, if any, for the three most recent  
32 years;

33           (5) a copy of any partnership agreement made in a record and any  
34 amendment made in a record to any partnership agreement;

35           (6) a copy of any financial statement of the limited partnership  
36 for the three most recent years;

1           (7) a copy of the three most recent annual reports delivered by  
2 the limited partnership to the Secretary of State pursuant to § 4-47-210;

3           (8) a copy of any record made by the limited partnership during  
4 the past three years of any consent given by or vote taken of any partner  
5 pursuant to this chapter or the partnership agreement; and

6           (9) unless contained in a partnership agreement made in a  
7 record, a record stating:

8                   (A) the amount of cash, and a description and statement of  
9 the agreed value of the other benefits, contributed and agreed to be  
10 contributed by each partner;

11                   (B) the times at which, or events on the happening of  
12 which, any additional contributions agreed to be made by each partner are to  
13 be made;

14                   (C) for any person that is both a general partner and a  
15 limited partner, a specification of what transferable interest the person  
16 owns in each capacity; and

17                   (D) any events upon the happening of which the limited  
18 partnership is to be dissolved and its activities wound up.

19  
20           4-47-112. Business transactions of partner with partnership.

21           A partner may lend money to and transact other business with the  
22 limited partnership and has the same rights and obligations with respect to  
23 the loan or other transaction as a person that is not a partner.

24  
25           4-47-113. Dual capacity.

26           A person may be both a general partner and a limited partner. A person  
27 that is both a general and limited partner has the rights, powers, duties,  
28 and obligations provided by this chapter and the partnership agreement in  
29 each of those capacities. When the person acts as a general partner, the  
30 person is subject to the obligations, duties and restrictions under this  
31 chapter and the partnership agreement for general partners. When the person  
32 acts as a limited partner, the person is subject to the obligations, duties  
33 and restrictions under this chapter and the partnership agreement for limited  
34 partners.

35  
36           4-47-114. Office and agent for service of process.

1       (a) A limited partnership shall designate and continuously maintain in  
2 this state:

3               (1) an office, which need not be a place of its activity in this  
4 state; and

5               (2) an agent for service of process.

6       (b) A foreign limited partnership shall designate and continuously  
7 maintain in this state an agent for service of process.

8       (c) An agent for service of process of a limited partnership or  
9 foreign limited partnership must be an individual who is a resident of this  
10 State or other person authorized to do business in this state.

11  
12       4-47-115. Change of designated office or agent for service of process.

13       (a) In order to change its designated office, agent for service of  
14 process, or the address of its agent for service of process, a limited  
15 partnership or a foreign limited partnership may deliver to the Secretary of  
16 State for filing a statement of change containing:

17               (1) the name of the limited partnership or foreign limited  
18 partnership;

19               (2) the street and mailing address of its current designated  
20 office;

21               (3) if the current designated office is to be changed, the  
22 street and mailing address of the new designated office;

23               (4) the name and street and mailing address of its current agent  
24 for service of process; and

25               (5) if the current agent for service of process or an address of  
26 the agent is to be changed, the new information.

27       (b) Subject to § 4-47-206(c), a statement of change is effective when  
28 filed by the Secretary of State.

29  
30       4-47-116. Resignation of agent for service of process.

31       (a) In order to resign as an agent for service of process of a limited  
32 partnership or foreign limited partnership, the agent must deliver to the  
33 Secretary of State for filing a statement of resignation containing the name  
34 of the limited partnership or foreign limited partnership.

35       (b) After receiving a statement of resignation, the Secretary of State  
36 shall file it and mail a copy to the designated office of the limited

1 partnership or foreign limited partnership and another copy to the principal  
2 office if the address of the office appears in the records of the Secretary  
3 of State and is different from the address of the designated office.

4 (c) An agency for service of process is terminated on the 31st day  
5 after the Secretary of State files the statement of resignation.

6  
7 4-47-117. Service of process.

8 (a) An agent for service of process appointed by a limited partnership  
9 or foreign limited partnership is an agent of the limited partnership or  
10 foreign limited partnership for service of any process, notice, or demand  
11 required or permitted by law to be served upon the limited partnership or  
12 foreign limited partnership.

13 (b) If a limited partnership or foreign limited partnership does not  
14 appoint or maintain an agent for service of process in this State or the  
15 agent for service of process cannot with reasonable diligence be found at the  
16 agent's address, the Secretary of State is an agent of the limited  
17 partnership or foreign limited partnership upon whom process, notice, or  
18 demand may be served.

19 (c) Service of any process, notice, or demand on the Secretary of  
20 State may be made by delivering to and leaving with the Secretary of State  
21 duplicate copies of the process, notice, or demand. If a process, notice, or  
22 demand is served on the Secretary of State, the Secretary of State shall  
23 forward one of the copies by registered or certified mail, return receipt  
24 requested, to the limited partnership or foreign limited partnership at its  
25 designated office.

26 (d) Service is effected under subsection (c) at the earliest of:

27 (1) the date the limited partnership or foreign limited  
28 partnership receives the process, notice, or demand;

29 (2) the date shown on the return receipt, if signed on behalf of  
30 the limited partnership or foreign limited partnership; or

31 (3) five days after the process, notice, or demand is deposited  
32 in the mail, if mailed postpaid and correctly addressed.

33 (e) The Secretary of State shall keep a record of each process,  
34 notice, and demand served pursuant to this section and record the time of,  
35 and the action taken regarding, the service.

36 (f) This section does not affect the right to serve process, notice,

1 or demand in any other manner provided by law.

2  
3 4-47-118. Consent and proxies of partners.

4 Action requiring the consent of partners under this chapter may be  
5 taken without a meeting, and a partner may appoint a proxy to consent or  
6 otherwise act for the partner by signing an appointment record, either  
7 personally or by the partner's attorney in fact.

8  
9 Subchapter 2 – Formation - Certificate of Limited Partnership and other  
10 Filings

11 4-47-201. Formation of limited partnership; certificate of limited  
12 partnership.

13 (a) In order for a limited partnership to be formed, a certificate of  
14 limited partnership must be delivered to the Secretary of State for filing.

15 The certificate must state:

16 (1) the name of the limited partnership, which must comply with  
17 4-47-108;

18 (2) the street and mailing address of the initial designated  
19 office and the name and street and mailing address of the initial agent for  
20 service of process;

21 (3) the name and the street and mailing address of each general  
22 partner;

23 (4) whether the limited partnership is a limited liability  
24 limited partnership; and

25 (5) any additional information required by subchapter 11.

26 (b) A certificate of limited partnership may also contain any other  
27 matters but may not vary or otherwise affect the provisions specified in § 4-  
28 47-110(b) in a manner inconsistent with that section.

29 (c) If there has been substantial compliance with Subsection (a),  
30 subject to § 4-47-206(c) a limited partnership is formed when the Secretary  
31 of State files the certificate of limited partnership.

32 (d) Subject to Subsection (b), if any provision of a partnership  
33 agreement is inconsistent with the filed certificate of limited partnership  
34 or with a filed statement of dissociation, termination, or change or filed  
35 articles of conversion or merger:

36 (1) the partnership agreement prevails as to partners and

1 transferees; and

2 (2) the filed certificate of limited partnership, statement of  
3 dissociation, termination, or change or articles of conversion or merger  
4 prevail as to persons, other than partners and transferees, that reasonably  
5 rely on the filed record to their detriment.

6  
7 4-47-202. Amendment or restatement of certificate.

8 (a) In order to amend its certificate of limited partnership, a  
9 limited partnership must deliver to the Secretary of State for filing an  
10 amendment or, pursuant to Subchapter 11, articles of merger stating:

11 (1) the name of the limited partnership;

12 (2) the date of filing of its initial certificate; and

13 (3) the changes the amendment makes to the certificate as most  
14 recently amended or restated.

15 (b) A limited partnership shall promptly deliver to the Secretary of  
16 State for filing an amendment to a certificate of limited partnership to  
17 reflect:

18 (1) the admission of a new general partner;

19 (2) the dissociation of a person as a general partner; or

20 (3) the appointment of a person to wind up the limited  
21 partnership's activities under § 4-47-803(c) or (d).

22 (c) A general partner that knows that any information in a filed  
23 certificate of limited partnership was false when the certificate was filed  
24 or has become false due to changed circumstances shall promptly:

25 (1) cause the certificate to be amended; or

26 (2) if appropriate, deliver to the Secretary of State for filing  
27 a statement of change pursuant to § 4-47-115 or a statement of correction  
28 pursuant to § 4-47-207.

29 (d) A certificate of limited partnership may be amended at any time  
30 for any other proper purpose as determined by the limited partnership.

31 (e) A restated certificate of limited partnership may be delivered to  
32 the Secretary of State for filing in the same manner as an amendment.

33 (f) Subject to § 4-47-206(c), an amendment or restated certificate is  
34 effective when filed by the Secretary of State.

35  
36 4-47-203. Statement of termination.

1 A dissolved limited partnership that has completed winding up may  
2 deliver to the Secretary of State for filing a statement of termination that  
3 states:

4 (1) the name of the limited partnership;

5 (2) the date of filing of its initial certificate of limited  
6 partnership; and

7 (3) any other information as determined by the general partners  
8 filing the statement or by a person appointed pursuant to § 4-47-803(c) or  
9 (d).

10  
11 4-47-204. Signing of records.

12 (a) Each record delivered to the Secretary of State for filing  
13 pursuant to this chapter must be signed in the following manner:

14 (1) An initial certificate of limited partnership must be signed  
15 by all general partners listed in the certificate.

16 (2) An amendment adding or deleting a statement that the limited  
17 partnership is a limited liability limited partnership must be signed by all  
18 general partners listed in the certificate.

19 (3) An amendment designating as general partner a person  
20 admitted under § 4-47-801(3)(B) following the dissociation of a limited  
21 partnership's last general partner must be signed by that person.

22 (4) An amendment required by § 4-47-803(c) following the  
23 appointment of a person to wind up the dissolved limited partnership's  
24 activities must be signed by that person.

25 (5) Any other amendment must be signed by:

26 (A) at least one general partner listed in the  
27 certificate;

28 (B) each other person designated in the amendment as a new  
29 general partner; and

30 (C) each person that the amendment indicates has  
31 dissociated as a general partner, unless:

32 (i) the person is deceased or a guardian or general  
33 conservator has been appointed for the person and the amendment so states; or

34 (ii) the person has previously delivered to the  
35 Secretary of State for filing a statement of dissociation.

36 (6) A restated certificate of limited partnership must be signed



1 by at least one general partner listed in the certificate, and, to the extent  
2 the restated certificate effects a change under any other paragraph of this  
3 Subsection, the certificate must be signed in a manner that satisfies that  
4 paragraph.

5 (7) A statement of termination must be signed by all general  
6 partners listed in the certificate or, if the certificate of a dissolved  
7 limited partnership lists no general partners, by the person appointed  
8 pursuant to § 4-47-803(c) or (d) to wind up the dissolved limited  
9 partnership's activities.

10 (8) Articles of conversion must be signed by each general  
11 partner listed in the certificate of limited partnership.

12 (9) Articles of merger must be signed as provided in § 4-47-  
13 1108(a).

14 (10) Any other record delivered on behalf of a limited  
15 partnership to the Secretary of State for filing must be signed by at least  
16 one general partner listed in the certificate.

17 (11) A statement by a person pursuant to § 4-47-605(a)(4)  
18 stating that the person has dissociated as a general partner must be signed  
19 by that person.

20 (12) A statement of withdrawal by a person pursuant to § 4-47-  
21 306 must be signed by that person.

22 (13) A record delivered on behalf of a foreign limited  
23 partnership to the Secretary of State for filing must be signed by at least  
24 one general partner of the foreign limited partnership.

25 (14) Any other record delivered on behalf of any person to the  
26 Secretary of State for filing must be signed by that person.

27 (b) Any person may sign by an attorney in fact any record to be filed  
28 pursuant to this Act.

29  
30 4-47-205. Signing and filing pursuant to judicial order.

31 (a) If a person required by this Act to sign a record or deliver a  
32 record to the Secretary of State for filing does not do so, any other person  
33 that is aggrieved may petition the circuit court to order:

34 (1) the person to sign the record;

35 (2) deliver the record to the Secretary of State for filing; or

36 (3) the Secretary of State to file the record unsigned.

1       (b) If the person aggrieved under subsection (a) is not the limited  
2 partnership or foreign limited partnership to which the record pertains, the  
3 aggrieved person shall make the limited partnership or foreign limited  
4 partnership a party to the action. A person aggrieved under subsection (a)  
5 may seek the remedies provided in subsection (a) in the same action in  
6 combination or in the alternative.

7       (c) A record filed unsigned pursuant to this section is effective  
8 without being signed.

9  
10       4-47-206. Delivery to and filing of records by Secretary of State;  
11 effective time and date.

12       (a) A record authorized or required to be delivered to the Secretary  
13 of State for filing under this chapter must be captioned to describe the  
14 record's purpose, be in a medium permitted by the Secretary of State, and be  
15 delivered to the Secretary of State. Unless the Secretary of State  
16 determines that a record does not comply with the filing requirements of this  
17 chapter, and if all filing fees have been paid, the Secretary of State shall  
18 file the record and:

19           (1) for a statement of dissociation, send:

20               (A) a copy of the filed statement and a receipt for the  
21 fees to the person which the statement indicates has dissociated as a general  
22 partner; and

23               (B) a copy of the filed statement and receipt to the  
24 limited partnership;

25           (2) for a statement of withdrawal, send:

26               (A) a copy of the filed statement and a receipt for the  
27 fees to the person on whose behalf the record was filed; and

28               (B) if the statement refers to an existing limited  
29 partnership, a copy of the filed statement and receipt to the limited  
30 partnership; and

31           (3) for all other records, send a copy of the filed record and a  
32 receipt for the fees to the person on whose behalf the record was filed.

33       (b) Upon request and payment of a fee, the Secretary of State shall  
34 send to the requester a certified copy of the requested record.

35       (c) Except as otherwise provided in §§ 4-47-116 and 4-47-207, a record  
36 delivered to the Secretary of State for filing under this chapter may specify

1 an effective time and a delayed effective date. Except as otherwise provided  
2 in this chapter, a record filed by the Secretary of State is effective:

3 (1) if the record does not specify an effective time and does  
4 not specify a delayed effective date, on the date and at the time the record  
5 is filed as evidenced by the Secretary of State's endorsement of the date and  
6 time on the record;

7 (2) if the record specifies an effective time but not a delayed  
8 effective date, on the date the record is filed at the time specified in the  
9 record;

10 (3) if the record specifies a delayed effective date but not an  
11 effective time, at 12:01 a.m. on the earlier of:

12 (A) the specified date; or

13 (B) the 90th day after the record is filed; or

14 (4) if the record specifies an effective time and a delayed  
15 effective date, at the specified time on the earlier of:

16 (A) the specified date; or

17 (B) the 90th day after the record is filed.

18  
19 4-47-207. Correcting filed record.

20 (a) A limited partnership or foreign limited partnership may deliver  
21 to the Secretary of State for filing a statement of correction to correct a  
22 record previously delivered by the limited partnership or foreign limited  
23 partnership to the Secretary of State and filed by the Secretary of State, if  
24 at the time of filing the record contained false or erroneous information or  
25 was defectively signed.

26 (b) A statement of correction may not state a delayed effective date  
27 and must:

28 (1) describe the record to be corrected, including its filing  
29 date, or attach a copy of the record as filed;

30 (2) specify the incorrect information and the reason it is  
31 incorrect or the manner in which the signing was defective; and

32 (3) correct the incorrect information or defective signature.

33 (c) When filed by the Secretary of State, a statement of correction is  
34 effective retroactively as of the effective date of the record the statement  
35 corrects, but the statement is effective when filed:

36 (1) for the purposes of § 4-47-103(c) and (d); and

1           (2) as to persons relying on the uncorrected record and  
2 adversely affected by the correction.

3  
4           4-47-208. Liability for false information in filed record.

5           (a) If a record delivered to the Secretary of State for filing under  
6 this chapter and filed by the Secretary of State contains false information,  
7 a person that suffers loss by reliance on the information may recover damages  
8 for the loss from:

9           (1) a person that signed the record, or caused another to sign  
10 it on the person's behalf, and knew the information to be false at the time  
11 the record was signed; and

12           (2) a general partner that has notice that the information was  
13 false when the record was filed or has become false because of changed  
14 circumstances, if the general partner has notice for a reasonably sufficient  
15 time before the information is relied upon to enable the general partner to  
16 effect an amendment under § 4-47-202, file a petition pursuant to § 4-47-205,  
17 or deliver to the Secretary of State for filing a statement of change  
18 pursuant to § 4-47-115 or a statement of correction pursuant to § 4-47-207.

19           (b) Signing a record authorized or required to be filed under this  
20 chapter constitutes an affirmation under the penalties of perjury that the  
21 facts stated in the record are true.

22  
23           4-47-209. Certificate of existence or authorization.

24           (a) The Secretary of State, upon request and payment of the requisite  
25 fee, shall furnish a certificate of existence for a limited partnership if  
26 the records filed in the office of the Secretary of State show that the  
27 Secretary of State has filed a certificate of limited partnership and has not  
28 filed a statement of termination. A certificate of existence must state:

29           (1) the limited partnership's name;

30           (2) that it was duly formed under the laws of this state and the  
31 date of formation;

32           (3) whether all fees, taxes, and penalties due to the Secretary  
33 of State under this chapter or other law have been paid;

34           (4) whether the limited partnership's most recent annual report  
35 required by § 4-47-210 has been filed by the Secretary of State;

36           (5) whether the Secretary of State has administratively

1 dissolved the limited partnership;

2 (6) whether the limited partnership's certificate of limited  
3 partnership has been amended to state that the limited partnership is  
4 dissolved;

5 (7) that a statement of termination has not been filed by the  
6 Secretary of State; and

7 (8) other facts of record in the office of the Secretary of  
8 State which may be requested by the applicant.

9 (b) The Secretary of State, upon request and payment of the requisite  
10 fee, shall furnish a certificate of authorization for a foreign limited  
11 partnership if the records filed in the office of the Secretary of State show  
12 that the Secretary of State has filed a certificate of authority, has not  
13 revoked the certificate of authority, and has not filed a notice of  
14 cancellation. A certificate of authorization must state:

15 (1) the foreign limited partnership's name and any alternate  
16 name adopted under § 4-47-905(a) for use in this state;

17 (2) that it is authorized to transact business in this state;

18 (3) whether all fees, taxes, and penalties due to the Secretary  
19 of State under this chapter or other law have been paid;

20 (4) whether the foreign limited partnership's most recent annual  
21 report required by § 4-47-210 has been filed by the Secretary of State;

22 (5) that the Secretary of State has not revoked its certificate  
23 of authority and has not filed a notice of cancellation; and

24 (6) other facts of record in the office of the Secretary of  
25 State which may be requested by the applicant.

26 (c) Subject to any qualification stated in the certificate, a  
27 certificate of existence or authorization issued by the Secretary of State  
28 may be relied upon as conclusive evidence that the limited partnership or  
29 foreign limited partnership is in existence or is authorized to transact  
30 business in this State.

31  
32 4-47-210. Annual report for Secretary of State.

33 (a) A limited partnership or a foreign limited partnership authorized  
34 to transact business in this State shall deliver to the Secretary of State  
35 for filing an annual report that states:

36 (1) the name of the limited partnership or foreign limited

1 partnership;

2 (2) the street and mailing address of its designated office and  
3 the name and street and mailing address of its agent for service of process  
4 in this state;

5 (3) in the case of a limited partnership, the street and mailing  
6 address of its principal office; and

7 (4) in the case of a foreign limited partnership, the state or  
8 other jurisdiction under whose law the foreign limited partnership is formed  
9 and any alternate name adopted under § 4-47-905(a).

10 (b) Information in an annual report must be current as of the date the  
11 annual report is delivered to the Secretary of State for filing.

12 (c) The first annual report must be delivered to the Secretary of  
13 State between January 1 and May 1 of the year following the calendar year in  
14 which a limited partnership was formed or a foreign limited partnership was  
15 authorized to transact business. An annual report must be delivered to the  
16 Secretary of State between January 1 and May 1 of each subsequent calendar  
17 year.

18 (d) If an annual report does not contain the information required in  
19 subsection (a), the Secretary of State shall promptly notify the reporting  
20 limited partnership or foreign limited partnership and return the report to  
21 it for correction. If the report is corrected to contain the information  
22 required in subsection (a) and delivered to the Secretary of State within 30  
23 days after the effective date of the notice, it is timely delivered.

24 (e) If a filed annual report contains an address of a designated  
25 office or the name or address of an agent for service of process which  
26 differs from the information shown in the records of the Secretary of State  
27 immediately before the filing, the differing information in the annual report  
28 is considered a statement of change under § 4-47-115.

29  
30 Subchapter 3 – Limited Partners

31 4-47-301. Becoming limited partner.

32 A person becomes a limited partner:

33 (1) as provided in the partnership agreement;

34 (2) as the result of a conversion or merger under subchapter 11;

35 or

36 (3) with the consent of all the partners.

1  
2 4-47-302. No right or power as limited partner to bind limited  
3 partnership.

4 A limited partner does not have the right or the power as a limited  
5 partner to act for or bind the limited partnership.

6  
7 4-47-303. No liability as limited partner for limited partnership  
8 obligations.

9 An obligation of a limited partnership, whether arising in contract,  
10 tort, or otherwise, is not the obligation of a limited partner. A limited  
11 partner is not personally liable, directly or indirectly, by way of  
12 contribution or otherwise, for an obligation of the limited partnership  
13 solely by reason of being a limited partner, even if the limited partner  
14 participates in the management and control of the limited partnership.

15  
16 4-47-304. Right of limited partner and former limited partner to  
17 information.

18 (a) On 10 days' demand, made in a record received by the limited  
19 partnership, a limited partner may inspect and copy required information  
20 during regular business hours in the limited partnership's designated office.  
21 The limited partner need not have any particular purpose for seeking the  
22 information.

23 (b) During regular business hours and at a reasonable location  
24 specified by the limited partnership, a limited partner may obtain from the  
25 limited partnership and inspect and copy true and full information regarding  
26 the state of the activities and financial condition of the limited  
27 partnership and other information regarding the activities of the limited  
28 partnership as is just and reasonable if:

29 (1) the limited partner seeks the information for a purpose  
30 reasonably related to the partner's interest as a limited partner;

31 (2) the limited partner makes a demand in a record received by  
32 the limited partnership, describing with reasonable particularity the  
33 information sought and the purpose for seeking the information; and

34 (3) the information sought is directly connected to the limited  
35 partner's purpose.

36 (c) Within 10 days after receiving a demand pursuant to subsection

1 (b), the limited partnership in a record shall inform the limited partner  
2 that made the demand:

3 (1) what information the limited partnership will provide in  
4 response to the demand;

5 (2) when and where the limited partnership will provide the  
6 information; and

7 (3) if the limited partnership declines to provide any demanded  
8 information, the limited partnership's reasons for declining.

9 (d) Subject to subsection (f), a person dissociated as a limited  
10 partner may inspect and copy required information during regular business  
11 hours in the limited partnership's designated office if:

12 (1) the information pertains to the period during which the  
13 person was a limited partner;

14 (2) the person seeks the information in good faith; and

15 (3) the person meets the requirements of subsection (b).

16 (e) The limited partnership shall respond to a demand made pursuant to  
17 subsection (d) in the same manner as provided in subsection (c).

18 (f) If a limited partner dies, § 4-47-704 applies.

19 (g) The limited partnership may impose reasonable restrictions on the  
20 use of information obtained under this section. In a dispute concerning the  
21 reasonableness of a restriction under this subsection, the limited  
22 partnership has the burden of proving reasonableness.

23 (h) A limited partnership may charge a person that makes a demand  
24 under this section reasonable costs of copying, limited to the costs of labor  
25 and material.

26 (i) Whenever this chapter or a partnership agreement provides for a  
27 limited partner to give or withhold consent to a matter, before the consent  
28 is given or withheld, the limited partnership shall, without demand, provide  
29 the limited partner with all information material to the limited partner's  
30 decision that the limited partnership knows.

31 (j) A limited partner or person dissociated as a limited partner may  
32 exercise the rights under this section through an attorney or other agent.  
33 Any restriction imposed under subsection (g) or by the partnership agreement  
34 applies both to the attorney or other agent and to the limited partner or  
35 person dissociated as a limited partner.

36 (k) The rights stated in this section do not extend to a person as



1 transferee, but may be exercised by the legal representative of an individual  
2 under legal disability who is a limited partner or person dissociated as a  
3 limited partner.

4  
5 4-47-305. Limited duties of limited partners.

6 (a) A limited partner does not have any fiduciary duty to the limited  
7 partnership or to any other partner solely by reason of being a limited  
8 partner.

9 (b) A limited partner shall discharge the duties to the partnership  
10 and the other partners under this chapter or under the partnership agreement  
11 and exercise any rights consistently with the obligation of good faith and  
12 fair dealing.

13 (c) A limited partner does not violate a duty or obligation under this  
14 chapter or under the partnership agreement merely because the limited  
15 partner's conduct furthers the limited partner's own interest.

16  
17 4-47-306. Person erroneously believing self to be limited partner.

18 (a) Except as otherwise provided in subsection (b), a person that  
19 makes an investment in a business enterprise and erroneously but in good  
20 faith believes that the person has become a limited partner in the enterprise  
21 is not liable for the enterprise's obligations by reason of making the  
22 investment, receiving distributions from the enterprise, or exercising any  
23 rights of or appropriate to a limited partner, if, on ascertaining the  
24 mistake, the person:

25 (1) causes an appropriate certificate of limited partnership,  
26 amendment, or statement of correction to be signed and delivered to the  
27 Secretary of State for filing; or

28 (2) withdraws from future participation as an owner in the  
29 enterprise by signing and delivering to the Secretary of State for filing a  
30 statement of withdrawal under this section.

31 (b) A person that makes an investment described in subsection (a) is  
32 liable to the same extent as a general partner to any third party that enters  
33 into a transaction with the enterprise, believing in good faith that the  
34 person is a general partner, before the Secretary of State files a statement  
35 of withdrawal, certificate of limited partnership, amendment, or statement of  
36 correction to show that the person is not a general partner.

1       (c) If a person makes a diligent effort in good faith to comply with  
2 subsection (a)(1) and is unable to cause the appropriate certificate of  
3 limited partnership, amendment, or statement of correction to be signed and  
4 delivered to the Secretary of State for filing, the person has the right to  
5 withdraw from the enterprise pursuant to subsection (a)(2) even if the  
6 withdrawal would otherwise breach an agreement with others that are or have  
7 agreed to become co-owners of the enterprise.

8  
9       Subchapter 4 – General Partners

10       4-47-401. Becoming general partner.

11       A person becomes a general partner:

12               (1) as provided in the partnership agreement:

13               (2) under § 4-47-801(3)(B) following the dissociation of a  
14 limited partnership's last general partner;

15               (3) as the result of a conversion or merger under subchapter 11;  
16 or

17               (4) with the consent of all the partners.

18  
19       4-47-402. General partner agent of limited partnership.

20       (a) Each general partner is an agent of the limited partnership for  
21 the purposes of its activities. An act of a general partner, including the  
22 signing of a record in the partnership's name, for apparently carrying on in  
23 the ordinary course the limited partnership's activities or activities of the  
24 kind carried on by the limited partnership binds the limited partnership,  
25 unless the general partner did not have authority to act for the limited  
26 partnership in the particular matter and the person with which the general  
27 partner was dealing knew, had received a notification, or had notice under §  
28 4-47-103(d) that the general partner lacked authority.

29       (b) An act of a general partner which is not apparently for carrying  
30 on in the ordinary course the limited partnership's activities or activities  
31 of the kind carried on by the limited partnership binds the limited  
32 partnership only if the act was actually authorized by all the other  
33 partners.

34  
35       4-47-403. Limited partnership liable for general partner's actionable  
36 conduct.

1       (a) A limited partnership is liable for loss or injury caused to a  
2 person, or for a penalty incurred, as a result of a wrongful act or omission,  
3 or other actionable conduct, of a general partner acting in the ordinary  
4 course of activities of the limited partnership or with authority of the  
5 limited partnership.

6       (b) If, in the course of the limited partnership's activities or while  
7 acting with authority of the limited partnership, a general partner receives  
8 or causes the limited partnership to receive money or property of a person  
9 not a partner, and the money or property is misapplied by a general partner,  
10 the limited partnership is liable for the loss.

11  
12       4-47-404. General partner's liability.

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

17       (b) A person that becomes a general partner of an existing limited  
18 partnership is not personally liable for an obligation of a limited  
19 partnership incurred before the person became a general partner.

20       (c) An obligation of a limited partnership incurred while the limited  
21 partnership is a limited liability limited partnership, whether arising in  
22 contract, tort, or otherwise, is solely the obligation of the limited  
23 partnership. A general partner is not personally liable, directly or  
24 indirectly, by way of contribution or otherwise, for such an obligation  
25 solely by reason of being or acting as a general partner. This subsection  
26 applies despite anything inconsistent in the partnership agreement that  
27 existed immediately before the consent required to become a limited liability  
28 limited partnership under § 4-47-406(b)(2).

29  
30       4-47-405. Actions by and against partnership and partners.

31       (a) To the extent not inconsistent with § 4-47-404, a general partner  
32 may be joined in an action against the limited partnership or named in a  
33 separate action.

34       (b) A judgment against a limited partnership is not by itself a  
35 judgment against a general partner. A judgment against a limited partnership  
36 may not be satisfied from a general partner's assets unless there is also a

1 judgment against the general partner.

2 (c) A judgment creditor of a general partner may not levy execution  
3 against the assets of the general partner to satisfy a judgment based on a  
4 claim against the limited partnership, unless the partner is personally  
5 liable for the claim under § 4-47-404 and:

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

9 (2) the limited partnership is a debtor in bankruptcy;

10 (3) the general partner has agreed that the creditor need not  
11 exhaust limited partnership assets;

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

18 (5) liability is imposed on the general partner by law or  
19 contract independent of the existence of the limited partnership.

20  
21 4-47-406. Management rights of general partner.

22 (a) Each general partner has equal rights in the management and  
23 conduct of the limited partnership's activities. Except as expressly  
24 provided in this chapter, any matter relating to the activities of the  
25 limited partnership may be exclusively decided by the general partner or, if  
26 there is more than one general partner, by a majority of the general  
27 partners.

28 (b) The consent of each partner is necessary to:

29 (1) amend the partnership agreement;

30 (2) amend the certificate of limited partnership to add or,  
31 subject to § 4-47-1110, delete a statement that the limited partnership is a  
32 limited liability limited partnership; and

33 (3) sell, lease, exchange, or otherwise dispose of all, or  
34 substantially all, of the limited partnership's property, with or without the  
35 good will, other than in the usual and regular course of the limited  
36 partnership's activities.

1       (c) A limited partnership shall reimburse a general partner for  
2 payments made and indemnify a general partner for liabilities incurred by the  
3 general partner in the ordinary course of the activities of the partnership  
4 or for the preservation of its activities or property.

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

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

12       (f) A general partner is not entitled to remuneration for services  
13 performed for the partnership.

14  
15       4-47-407. Right of general partner and former general partner to  
16 information.

17       (a) A general partner, without having any particular purpose for  
18 seeking the information, may inspect and copy during regular business hours:

19           (1) in the limited partnership's designated office, required  
20 information; and

21           (2) at a reasonable location specified by the limited  
22 partnership, any other records maintained by the limited partnership  
23 regarding the limited partnership's activities and financial condition.

24       (b) Each general partner and the limited partnership shall furnish to  
25 a general partner:

26           (1) without demand, any information concerning the limited  
27 partnership's activities and activities reasonably required for the proper  
28 exercise of the general partner's rights and duties under the partnership  
29 agreement or this chapter; and

30           (2) on demand, any other information concerning the limited  
31 partnership's activities, except to the extent the demand or the information  
32 demand is unreasonable or otherwise improper under the circumstances.

33       (c) Subject to subsection (e), on 10 days' demand made in a record  
34 received by the limited partnership, a person dissociated as a general  
35 partner may have access to the information and records described in  
36 subsection (a) at the location specified in subsection (a) if:

1           (1) the information or record pertains to the period during  
2 which the person was a general partner;

3           (2) the person seeks the information or record in good faith;  
4 and

5           (3) the person satisfies the requirements imposed on a limited  
6 partner by § 4-47-304(b).

7           (d) The limited partnership shall respond to a demand made pursuant to  
8 subsection (c) in the same manner as provided in § 4-47-304(c).

9           (e) If a general partner dies, § 4-47-704 applies.

10          (f) The limited partnership may impose reasonable restrictions on the  
11 use of information under this section. In any dispute concerning the  
12 reasonableness of a restriction under this subsection, the limited  
13 partnership has the burden of proving reasonableness.

14          (g) A limited partnership may charge a person dissociated as a general  
15 partner that makes a demand under this section reasonable costs of copying,  
16 limited to the costs of labor and material.

17          (h) A general partner or person dissociated as a general partner may  
18 exercise the rights under this section through an attorney or other agent.  
19 Any restriction imposed under subsection (f) or by the partnership agreement  
20 applies both to the attorney or other agent and to the general partner or  
21 person dissociated as a general partner.

22          (i) The rights under this section do not extend to a person as  
23 transferee, but the rights under subsection (c) of a person dissociated as a  
24 general may be exercised by the legal representative of an individual who  
25 dissociated as a general partner under § 4-47-603(7)(B) or (C).

26  
27          4-47-408. General standards of general partner's conduct.

28          (a) The only fiduciary duties that a general partner has to the  
29 limited partnership and the other partners are the duties of loyalty and care  
30 under subsections (b) and (c).

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

33               (1) to account to the limited partnership and hold as trustee  
34 for it any property, profit, or benefit derived by the general partner in the  
35 conduct and winding up of the limited partnership's activities or derived  
36 from a use by the general partner of limited partnership property, including

1 the appropriation of a limited partnership opportunity;

2 (2) to refrain from dealing with the limited partnership in the  
3 conduct or winding up of the limited partnership's activities as or on behalf  
4 of a party having an interest adverse to the limited partnership; and

5 (3) to refrain from competing with the limited partnership in  
6 the conduct or winding up of the limited partnership's activities.

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

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

15 (e) A general partner does not violate a duty or obligation under this  
16 chapter or under the partnership agreement merely because the general  
17 partner's conduct furthers the general partner's own interests.

18  
19 Subchapter 5 – Contributions and Distributions

20 4-47-501. Form of contribution.

21 A contribution of a partner may consist of tangible or intangible  
22 property or other benefit to the limited partnership, including money,  
23 services performed, promissory notes, other agreements to contribute cash or  
24 property, and contracts for services to be performed.

25  
26 4-47-502. Liability for contribution.

27 (a) A partner's obligation to contribute money or other property or  
28 other benefit to, or to perform services for, a limited partnership is not  
29 excused by the partner's death, disability, or other inability to perform  
30 personally.

31 (b) If a partner does not make a promised non-monetary contribution,  
32 the partner is obligated at the option of the limited partnership to  
33 contribute money equal to that portion of the value, as stated in the  
34 required information, of the stated contribution which has not been made.

35 (c) The obligation of a partner to make a contribution or return money  
36 or other property paid or distributed in violation of this chapter may be

1 compromised only by consent of all partners. A creditor of a limited  
2 partnership which extends credit or otherwise acts in reliance on an  
3 obligation described in subsection (a), without notice of any compromise  
4 under this subsection, may enforce the original obligation.

5  
6 4-47-503. Sharing of distributions.

7 A distribution by a limited partnership must be shared among the  
8 partners on the basis of the value, as stated in the required records when  
9 the limited partnership decides to make the distribution, of the  
10 contributions the limited partnership has received from each partner.

11  
12 4-47-504. Interim distributions.

13 A partner does not have a right to any distribution before the  
14 dissolution and winding up of the limited partnership unless the limited  
15 partnership decides to make an interim distribution.

16  
17 4-47-505. No distribution on account of dissociation.

18 A person does not have a right to receive a distribution on account of  
19 dissociation.

20  
21 4-47-506. Distribution in kind.

22 A partner does not have a right to demand or receive any distribution  
23 from a limited partnership in any form other than cash. Subject to § 4-47-  
24 812(b), a limited partnership may distribute an asset in kind to the extent  
25 each partner receives a percentage of the asset equal to the partner's share  
26 of distributions.

27  
28 4-47-507. Right to distribution.

29 When a partner or transferee becomes entitled to receive a  
30 distribution, the partner or transferee has the status of, and is entitled to  
31 all remedies available to, a creditor of the limited partnership with respect  
32 to the distribution. However, the limited partnership's obligation to make a  
33 distribution is subject to offset for any amount owed to the limited  
34 partnership by the partner or dissociated partner on whose account the  
35 distribution is made.

36



1 4-47-508. Limitations on distribution.

2 (a) A limited partnership may not make a distribution in violation of  
3 the partnership agreement.

4 (b) A limited partnership may not make a distribution if after the  
5 distribution:

6 (1) the limited partnership would not be able to pay its debts  
7 as they become due in the ordinary course of the limited partnership's  
8 activities; or

9 (2) the limited partnership's total assets would be less than  
10 the sum of its total liabilities plus the amount that would be needed, if the  
11 limited partnership were to be dissolved, wound up, and terminated at the  
12 time of the distribution, to satisfy the preferential rights upon  
13 dissolution, winding up, and termination of partners whose preferential  
14 rights are superior to those of persons receiving the distribution.

15 (c) A limited partnership may base a determination that a distribution  
16 is not prohibited under subsection (b) on financial statements prepared on  
17 the basis of accounting practices and principles that are reasonable in the  
18 circumstances or on a fair valuation or other method that is reasonable in  
19 the circumstances.

20 (d) Except as otherwise provided in subsection (g), the effect of a  
21 distribution under subsection (b) is measured:

22 (1) in the case of distribution by purchase, redemption, or  
23 other acquisition of a transferable interest in the limited partnership, as  
24 of the date money or other property is transferred or debt incurred by the  
25 limited partnership; and

26 (2) in all other cases, as of the date:

27 (A) the distribution is authorized, if the payment occurs  
28 within 120 days after that date; or

29 (B) the payment is made, if payment occurs more than 120  
30 days after the distribution is authorized.

31 (e) A limited partnership's indebtedness to a partner incurred by  
32 reason of a distribution made in accordance with this section is at parity  
33 with the limited partnership's indebtedness to its general, unsecured  
34 creditors.

35 (f) A limited partnership's indebtedness, including indebtedness  
36 issued in connection with or as part of a distribution, is not considered a

1 liability for purposes of subsection (b) if the terms of the indebtedness  
2 provide that payment of principal and interest are made only to the extent  
3 that a distribution could then be made to partners under this section.

4 (g) If indebtedness is issued as a distribution, each payment of  
5 principal or interest on the indebtedness is treated as a distribution, the  
6 effect of which is measured on the date the payment is made.

7  
8 4-47-509. Liability for improper distributions.

9 (a) A general partner that consents to a distribution made in  
10 violation of § 4-47-508 is personally liable to the limited partnership for  
11 the amount of the distribution which exceeds the amount that could have been  
12 distributed without the violation if it is established that in consenting to  
13 the distribution the general partner failed to comply with § 4-47-408.

14 (b) A partner or transferee that received a distribution knowing that  
15 the distribution to that partner or transferee was made in violation of § 4-  
16 47-508 is personally liable to the limited partnership but only to the extent  
17 that the distribution received by the partner or transferee exceeded the  
18 amount that could have been properly paid under § 4-47-508.

19 (c) A general partner against which an action is commenced under  
20 subsection (a) may:

21 (1) implead in the action any other person that is liable under  
22 subsection (a) and compel contribution from the person; and

23 (2) implead in the action any person that received a  
24 distribution in violation of subsection (b) and compel contribution from the  
25 person in the amount the person received in violation of subsection (b).

26 (d) An action under this section is barred if it is not commenced  
27 within two years after the distribution.

28  
29 Subchapter 6 – Dissociation

30 4-47-601. Dissociation as limited partner.

31 (a) A person does not have a right to dissociate as a limited partner  
32 before the termination of the limited partnership.

33 (b) A person is dissociated from a limited partnership as a limited  
34 partner upon the occurrence of any of the following events:

35 (1) the limited partnership's having notice of the person's  
36 express will to withdraw as a limited partner or on a later date specified by

1 the person;

2 (2) an event agreed to in the partnership agreement as causing  
3 the person's dissociation as a limited partner;

4 (3) the person's expulsion as a limited partner pursuant to the  
5 partnership agreement;

6 (4) the person's expulsion as a limited partner by the unanimous  
7 consent of the other partners if:

8 (A) it is unlawful to carry on the limited partnership's  
9 activities with the person as a limited partner;

10 (B) there has been a transfer of all of the person's  
11 transferable interest in the limited partnership, other than a transfer for  
12 security purposes, or a court order charging the person's interest, which has  
13 not been foreclosed;

14 (C) the person is a corporation and, within 90 days after  
15 the limited partnership notifies the person that it will be expelled as a  
16 limited partner because it has filed a certificate of dissolution or the  
17 equivalent, its charter has been revoked, or its right to conduct business  
18 has been suspended by the jurisdiction of its incorporation, there is no  
19 revocation of the certificate of dissolution or no reinstatement of its  
20 charter or its right to conduct business; or

21 (D) the person is a limited liability company or  
22 partnership that has been dissolved and whose business is being wound up;

23 (5) on application by the limited partnership, the person's  
24 expulsion as a limited partner by judicial order because:

25 (A) the person engaged in wrongful conduct that adversely  
26 and materially affected the limited partnership's activities;

27 (B) the person willfully or persistently committed a  
28 material breach of the partnership agreement or of the obligation of good  
29 faith and fair dealing under § 4-47-305(b); or

30 (C) the person engaged in conduct relating to the limited  
31 partnership's activities which makes it not reasonably practicable to carry  
32 on the activities with the person as limited partner;

33 (6) in the case of a person who is an individual, the person's  
34 death;

35 (7) in the case of a person that is a trust or is acting as a  
36 limited partner by virtue of being a trustee of a trust, distribution of the

1 trust's entire transferable interest in the limited partnership, but not  
2 merely by reason of the substitution of a successor trustee;

3 (8) in the case of a person that is an estate or is acting as a  
4 limited partner by virtue of being a personal representative of an estate,  
5 distribution of the estate's entire transferable interest in the limited  
6 partnership, but not merely by reason of the substitution of a successor  
7 personal representative;

8 (9) termination of a limited partner that is not an individual,  
9 partnership, limited liability company, corporation, trust, or estate;

10 (10) the limited partnership's participation in a conversion or  
11 merger under subchapter 11, if the limited partnership:

12 (A) is not the converted or surviving entity; or

13 (B) is the converted or surviving entity but, as a result  
14 of the conversion or merger, the person ceases to be a limited partner.

15  
16 4-47-602. Effect of dissociation as limited partner.

17 (a) Upon a person's dissociation as a limited partner:

18 (1) subject to § 4-47-704, the person does not have further  
19 rights as a limited partner;

20 (2) the person's obligation of good faith and fair dealing as a  
21 limited partner under § 4-47-305(b) continues only as to matters arising and  
22 events occurring before the dissociation; and

23 (3) subject to § 4-47-704 and subchapter 11, any transferable  
24 interest owned by the person in the person's capacity as a limited partner  
25 immediately before dissociation is owned by the person as a mere transferee.

26 (b) A person's dissociation as a limited partner does not of itself  
27 discharge the person from any obligation to the limited partnership or the  
28 other partners which the person incurred while a limited partner.

29  
30 4-47-603. Dissociation as general partner.

31 A person is dissociated from a limited partnership as a general partner  
32 upon the occurrence of any of the following events:

33 (1) the limited partnership's having notice of the person's  
34 express will to withdraw as a general partner or on a later date specified by  
35 the person;

36 (2) an event agreed to in the partnership agreement as causing

1 the person's dissociation as a general partner;

2 (3) the person's expulsion as a general partner pursuant to the  
3 partnership agreement;

4 (4) the person's expulsion as a general partner by the unanimous  
5 consent of the other partners if:

6 (A) it is unlawful to carry on the limited partnership's  
7 activities with the person as a general partner;

8 (B) there has been a transfer of all or substantially all  
9 of the person's transferable interest in the limited partnership, other than  
10 a transfer for security purposes, or a court order charging the person's  
11 interest, which has not been foreclosed;

12 (C) the person is a corporation and, within 90 days after  
13 the limited partnership notifies the person that it will be expelled as a  
14 general partner because it has filed a certificate of dissolution or the  
15 equivalent, its charter has been revoked, or its right to conduct business  
16 has been suspended by the jurisdiction of its incorporation, there is no  
17 revocation of the certificate of dissolution or no reinstatement of its  
18 charter or its right to conduct business; or

19 (D) the person is a limited liability company or  
20 partnership that has been dissolved and whose business is being wound up;

21 (5) on application by the limited partnership, the person's  
22 expulsion as a general partner by judicial determination because:

23 (A) the person engaged in wrongful conduct that adversely  
24 and materially affected the limited partnership activities;

25 (B) the person willfully or persistently committed a  
26 material breach of the partnership agreement or of a duty owed to the  
27 partnership or the other partners under § 4-47-408; or

28 (C) the person engaged in conduct relating to the limited  
29 partnership's activities which makes it not reasonably practicable to carry  
30 on the activities of the limited partnership with the person as a general  
31 partner;

32 (6) the person's:

33 (A) becoming a debtor in bankruptcy;

34 (B) execution of an assignment for the benefit of  
35 creditors;

36 (C) seeking, consenting to, or acquiescing in the

1 appointment of a trustee, receiver, or liquidator of the person or of all or  
2 substantially all of the person's property; or

3 (D) failure, within 90 days after the appointment, to have  
4 vacated or stayed the appointment of a trustee, receiver, or liquidator of  
5 the general partner or of all or substantially all of the person's property  
6 obtained without the person's consent or acquiescence, or failing within 90  
7 days after the expiration of a stay to have the appointment vacated;

8 (7) in the case of a person who is an individual:

9 (A) the person's death;

10 (B) the appointment of a guardian or general conservator  
11 for the person; or

12 (C) a judicial determination that the person has otherwise  
13 become incapable of performing the person's duties as a general partner under  
14 the partnership agreement;

15 (8) in the case of a person that is a trust or is acting as a  
16 general partner by virtue of being a trustee of a trust, distribution of the  
17 trust's entire transferable interest in the limited partnership, but not  
18 merely by reason of the substitution of a successor trustee;

19 (9) in the case of a person that is an estate or is acting as a  
20 general partner by virtue of being a personal representative of an estate,  
21 distribution of the estate's entire transferable interest in the limited  
22 partnership, but not merely by reason of the substitution of a successor  
23 personal representative;

24 (10) termination of a general partner that is not an individual,  
25 partnership, limited liability company, corporation, trust, or estate; or

26 (11) the limited partnership's participation in a conversion or  
27 merger under subchapter 11, if the limited partnership:

28 (A) is not the converted or surviving entity; or

29 (B) is the converted or surviving entity but, as a result  
30 of the conversion or merger, the person ceases to be a general partner.

31  
32 4-47-604. Person's power to dissociate as general partner; wrongful  
33 dissociation.

34 (a) A person has the power to dissociate as a general partner at any  
35 time, rightfully or wrongfully, by express will pursuant to § 4-47-603(1).

36 (b) A person's dissociation as a general partner is wrongful only if:

1           (1) it is in breach of an express provision of the partnership  
2 agreement; or

3           (2) it occurs before the termination of the limited partnership,  
4 and:

5                   (A) the person withdraws as a general partner by express  
6 will;

7                   (B) the person is expelled as a general partner by  
8 judicial determination under § 4-47-603(5);

9                   (C) the person is dissociated as a general partner by  
10 becoming a debtor in bankruptcy; or

11                   (D) in the case of a person that is not an individual,  
12 trust other than a business trust, or estate, the person is expelled or  
13 otherwise dissociated as a general partner because it willfully dissolved or  
14 terminated.

15           (c) A person that wrongfully dissociates as a general partner is  
16 liable to the limited partnership and, subject to § 4-47-1001, to the other  
17 partners for damages caused by the dissociation. The liability is in  
18 addition to any other obligation of the general partner to the limited  
19 partnership or to the other partners.

20  
21           4-47-605. Effect of dissociation as general partner.

22           (a) Upon a person's dissociation as a general partner:

23                   (1) the person's right to participate as a general partner in  
24 the management and conduct of the partnership's activities terminates;

25                   (2) the person's duty of loyalty as a general partner under § 4-  
26 47-408(b)(3) terminates;

27                   (3) the person's duty of loyalty as a general partner under § 4-  
28 47-408(b)(1) and (2) and duty of care under § 4-47-408(c) continue only with  
29 regard to matters arising and events occurring before the person's  
30 dissociation as a general partner;

31                   (4) the person may sign and deliver to the Secretary of State  
32 for filing a statement of dissociation pertaining to the person and, at the  
33 request of the limited partnership, shall sign an amendment to the  
34 certificate of limited partnership which states that the person has  
35 dissociated; and

36                   (5) subject to § 4-47-704 and subchapter 11, any transferable

1 interest owned by the person immediately before dissociation in the person's  
2 capacity as a general partner is owned by the person as a mere transferee.

3 (b) A person's dissociation as a general partner does not of itself  
4 discharge the person from any obligation to the limited partnership or the  
5 other partners which the person incurred while a general partner.

6  
7 4-47-606. Power to bind and liability to limited partnership before  
8 dissolution of partnership of person dissociated as general partner.

9 (a) After a person is dissociated as a general partner and before the  
10 limited partnership is dissolved, converted under chapter 11, or merged out  
11 of existence under subchapter 11, the limited partnership is bound by an act  
12 of the person only if:

13 (1) the act would have bound the limited partnership under § 4-  
14 47-402 before the dissociation; and

15 (2) at the time the other party enters into the transaction:

16 (A) less than two years has passed since the dissociation;  
17 and

18 (B) the other party does not have notice of the  
19 dissociation and reasonably believes that the person is a general partner.

20 (b) If a limited partnership is bound under subsection (a), the person  
21 dissociated as a general partner which caused the limited partnership to be  
22 bound is liable:

23 (1) to the limited partnership for any damage caused to the  
24 limited partnership arising from the obligation incurred under subsection  
25 (a); and

26 (2) if a general partner or another person dissociated as a  
27 general partner is liable for the obligation, to the general partner or other  
28 person for any damage caused to the general partner or other person arising  
29 from the liability.

30  
31 4-47-607. Liability to other persons of person dissociated as general  
32 partner.

33 (a) A person's dissociation as a general partner does not of itself  
34 discharge the person's liability as a general partner for an obligation of  
35 the limited partnership incurred before dissociation. Except as otherwise  
36 provided in subsections (b) and (c), the person is not liable for a limited



1 partnership's obligation incurred after dissociation.

2 (b) A person whose dissociation as a general partner resulted in a  
3 dissolution and winding up of the limited partnership's activities is liable  
4 to the same extent as a general partner under § 4-47-404 on an obligation  
5 incurred by the limited partnership under § 4-47-804.

6 (c) A person that has dissociated as a general partner but whose  
7 dissociation did not result in a dissolution and winding up of the limited  
8 partnership's activities is liable on a transaction entered into by the  
9 limited partnership after the dissociation only if:

10 (1) a general partner would be liable on the transaction; and

11 (2) at the time the other party enters into the transaction:

12 (A) less than two years has passed since the dissociation;

13 and

14 (B) the other party does not have notice of the  
15 dissociation and reasonably believes that the person is a general partner.

16 (d) By agreement with a creditor of a limited partnership and the  
17 limited partnership, a person dissociated as a general partner may be  
18 released from liability for an obligation of the limited partnership.

19 (e) A person dissociated as a general partner is released from  
20 liability for an obligation of the limited partnership if the limited  
21 partnership's creditor, with notice of the person's dissociation as a general  
22 partner but without the person's consent, agrees to a material alteration in  
23 the nature or time of payment of the obligation.

24  
25 Subchapter 7 – Transferable Interests and Rights of Transferees and  
26 Creditors

27 4-47-701. Partner's transferable interest.

28 The only interest of a partner which is transferable is the partner's  
29 transferable interest. A transferable interest is personal property.

30  
31 4-47-702. Transfer of partner's transferable interest.

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

34 (1) is permissible;

35 (2) does not by itself cause the partner's dissociation or a  
36 dissolution and winding up of the limited partnership's activities; and

1           (3) does not, as against the other partners or the limited  
2 partnership, entitle the transferee to participate in the management or  
3 conduct of the limited partnership's activities, to require access to  
4 information concerning the limited partnership's transactions except as  
5 otherwise provided in subsection (c), or to inspect or copy the required  
6 information or the limited partnership's other records.

7           (b) A transferee has a right to receive, in accordance with the  
8 transfer:

9           (1) distributions to which the transferor would otherwise be  
10 entitled; and

11           (2) upon the dissolution and winding up of the limited  
12 partnership's activities the net amount otherwise distributable to the  
13 transferor.

14           (c) In a dissolution and winding up, a transferee is entitled to an  
15 account of the limited partnership's transactions only from the date of  
16 dissolution.

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

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

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

27           (g) A transferee that becomes a partner with respect to a transferable  
28 interest is liable for the transferor's obligations under §§ 4-47-502 and 4-  
29 47-509. However, the transferee is not obligated for liabilities unknown to  
30 the transferee at the time the transferee became a partner.

31  
32           4-47-703. Rights of creditor of partner or transferee.

33           (a) On application to a court of competent jurisdiction by any  
34 judgment creditor of a partner or transferee, the court may charge the  
35 transferable interest of the judgment debtor with payment of the unsatisfied  
36 amount of the judgment with interest. To the extent so charged, the judgment

1 creditor has only the rights of a transferee. The court may appoint a  
2 receiver of the share of the distributions due or to become due to the  
3 judgment debtor in respect of the partnership and make all other orders,  
4 directions, accounts, and inquiries the judgment debtor might have made or  
5 which the circumstances of the case may require to give effect to the  
6 charging order.

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

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

13 (1) by the judgment debtor;

14 (2) with property other than limited partnership property, by  
15 one or more of the other partners; or

16 (3) with limited partnership property, by the limited  
17 partnership with the consent of all partners whose interests are not so  
18 charged.

19 (d) This chapter does not deprive any partner or transferee of the  
20 benefit of any exemption laws applicable to the partner's or transferee's  
21 transferable interest.

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

25  
26 4-47-704. Power of estate of deceased partner.

27 If a partner dies, the deceased partner's personal representative or  
28 other legal representative may exercise the rights of a transferee as  
29 provided in § 4-47-702 and, for the purposes of settling the estate, may  
30 exercise the rights of a current limited partner under § 4-47-304.

31  
32 Subchapter 8 – Dissolution

33 4-47-801. Nonjudicial dissolution.

34 Except as otherwise provided in § 4-47-802, a limited partnership is  
35 dissolved, and its activities must be wound up, only upon the occurrence of  
36 any of the following:

1           (1) the happening of an event specified in the partnership  
2 agreement;

3           (2) the consent of all general partners and of limited partners  
4 owning a majority of the rights to receive distributions as limited partners  
5 at the time the consent is to be effective;

6           (3) after the dissociation of a person as a general partner:

7                   (A) if the limited partnership has at least one remaining  
8 general partner, the consent to dissolve the limited partnership given within  
9 90 days after the dissociation by partners owning a majority of the rights to  
10 receive distributions as partners at the time the consent is to be effective;  
11 or

12                   (B) if the limited partnership does not have a remaining  
13 general partner, the passage of 90 days after the dissociation, unless before  
14 the end of the period:

15                           (i) consent to continue the activities of the  
16 limited partnership and admit at least one general partner is given by  
17 limited partners owning a majority of the rights to receive distributions as  
18 limited partners at the time the consent is to be effective; and

19                           (ii) at least one person is admitted as a general  
20 partner in accordance with the consent;

21           (4) the passage of 90 days after the dissociation of the limited  
22 partnership's last limited partner, unless before the end of the period the  
23 limited partnership admits at least one limited partner; or

24           (5) the signing and filing of a declaration of dissolution by  
25 the Secretary of State under § 4-47-809(c).

26  
27       4-47-802. Judicial dissolution.

28       On application by a partner the circuit court may order dissolution of  
29 a limited partnership if it is not reasonably practicable to carry on the  
30 activities of the limited partnership in conformity with the partnership  
31 agreement.

32  
33       4-47-803. Winding up.

34       (a) A limited partnership continues after dissolution only for the  
35 purpose of winding up its activities.

36       (b) In winding up its activities, the limited partnership:

1           (1) may amend its certificate of limited partnership to state  
2 that the limited partnership is dissolved, preserve the limited partnership  
3 business or property as a going concern for a reasonable time, prosecute and  
4 defend actions and proceedings, whether civil, criminal, or administrative,  
5 transfer the limited partnership's property, settle disputes by mediation or  
6 arbitration, file a statement of termination as provided in § 4-47-203, and  
7 perform other necessary acts; and

8           (2) shall discharge the limited partnership's liabilities,  
9 settle and close the limited partnership's activities, and marshal and  
10 distribute the assets of the partnership.

11           (c) If a dissolved limited partnership does not have a general  
12 partner, a person to wind up the dissolved limited partnership's activities  
13 may be appointed by the consent of limited partners owning a majority of the  
14 rights to receive distributions as limited partners at the time the consent  
15 is to be effective. A person appointed under this subsection:

16           (1) has the powers of a general partner under § 4-47-804; and

17           (2) shall promptly amend the certificate of limited partnership  
18 to state:

19           (A) that the limited partnership does not have a general  
20 partner;

21           (B) the name of the person that has been appointed to wind  
22 up the limited partnership; and

23           (C) the street and mailing address of the person.

24           (d) On the application of any partner, the circuit court may order  
25 judicial supervision of the winding up, including the appointment of a person  
26 to wind up the dissolved limited partnership's activities, if:

27           (1) a limited partnership does not have a general partner and  
28 within a reasonable time following the dissolution no person has been  
29 appointed pursuant to subsection (c); or

30           (2) the applicant establishes other good cause.

31  
32           4-47-804. Power of general partner and person dissociated as general  
33 partner to bind partnership after dissolution.

34           (a) A limited partnership is bound by a general partner's act after  
35 dissolution which:

36           (1) is appropriate for winding up the limited partnership's

1 activities; or

2 (2) would have bound the limited partnership under § 4-47-402  
3 before dissolution, if, at the time the other party enters into the  
4 transaction, the other party does not have notice of the dissolution.

5 (b) A person dissociated as a general partner binds a limited  
6 partnership through an act occurring after dissolution if:

7 (1) at the time the other party enters into the transaction:

8 (A) less than two years has passed since the dissociation;

9 and

10 (B) the other party does not have notice of the  
11 dissociation and reasonably believes that the person is a general partner;

12 and

13 (2) the act:

14 (A) is appropriate for winding up the limited  
15 partnership's activities; or

16 (B) would have bound the limited partnership under § 4-47-  
17 402 before dissolution and at the time the other party enters into the  
18 transaction the other party does not have notice of the dissolution.

19  
20 4-47-805. Liability after dissolution of general partner and person  
21 dissociated as general partner to limited partnership, other general  
22 partners, and persons dissociated as general partner.

23 (a) If a general partner having knowledge of the dissolution causes a  
24 limited partnership to incur an obligation under § 4-47-804(a) by an act that  
25 is not appropriate for winding up the partnership's activities, the general  
26 partner is liable:

27 (1) to the limited partnership for any damage caused to the  
28 limited partnership arising from the obligation; and

29 (2) if another general partner or a person dissociated as a  
30 general partner is liable for the obligation, to that other general partner  
31 or person for any damage caused to that other general partner or person  
32 arising from the liability.

33 (b) If a person dissociated as a general partner causes a limited  
34 partnership to incur an obligation under § 4-47-804(b), the person is liable:

35 (1) to the limited partnership for any damage caused to the  
36 limited partnership arising from the obligation; and

1           (2) if a general partner or another person dissociated as a  
2 general partner is liable for the obligation, to the general partner or other  
3 person for any damage caused to the general partner or other person arising  
4 from the liability.

5  
6           4-47-806. Known claims against dissolved limited partnership.

7           (a) A dissolved limited partnership may dispose of the known claims  
8 against it by following the procedure described in subsection (b).

9           (b) A dissolved limited partnership may notify its known claimants of  
10 the dissolution in a record. The notice must:

11           (1) specify the information required to be included in a claim;

12           (2) provide a mailing address to which the claim is to be sent;

13           (3) state the deadline for receipt of the claim, which may not  
14 be less than 120 days after the date the notice is received by the claimant;

15           (4) state that the claim will be barred if not received by the  
16 deadline; and

17           (5) unless the limited partnership has been throughout its  
18 existence a limited liability limited partnership, state that the barring of  
19 a claim against the limited partnership will also bar any corresponding claim  
20 against any general partner or person dissociated as a general partner which  
21 is based on § 4-47-404.

22           (c) A claim against a dissolved limited partnership is barred if the  
23 requirements of subsection (b) are met and:

24           (1) the claim is not received by the specified deadline; or

25           (2) in the case of a claim that is timely received but rejected  
26 by the dissolved limited partnership, the claimant does not commence an  
27 action to enforce the claim against the limited partnership within 90 days  
28 after the receipt of the notice of the rejection.

29           (d) This section does not apply to a claim based on an event occurring  
30 after the effective date of dissolution or a liability that is contingent on  
31 that date.

32  
33           4-47-807. Other claims against dissolved limited partnership.

34           (a) A dissolved limited partnership may publish notice of its  
35 dissolution and request persons having claims against the limited partnership  
36 to present them in accordance with the notice.

1           (b) The notice must:

2                   (1) be published at least once in a newspaper of general  
3 circulation in the county in which the dissolved limited partnership's  
4 principal office is located or, if it has none in this State, in the county  
5 in which the limited partnership's designated office is or was last located;

6                   (2) describe the information required to be contained in a claim  
7 and provide a mailing address to which the claim is to be sent;

8                   (3) state that a claim against the limited partnership is barred  
9 unless an action to enforce the claim is commenced within five years after  
10 publication of the notice; and

11                   (4) unless the limited partnership has been throughout its  
12 existence a limited liability limited partnership, state that the barring of  
13 a claim against the limited partnership will also bar any corresponding claim  
14 against any general partner or person dissociated as a general partner which  
15 is based on § 4-47-404.

16           (c) If a dissolved limited partnership publishes a notice in  
17 accordance with subsection (b), the claim of each of the following claimants  
18 is barred unless the claimant commences an action to enforce the claim  
19 against the dissolved limited partnership within five years after the  
20 publication date of the notice:

21                   (1) a claimant that did not receive notice in a record under §  
22 4-47-806;

23                   (2) a claimant whose claim was timely sent to the dissolved  
24 limited partnership but not acted on; and

25                   (3) a claimant whose claim is contingent or based on an event  
26 occurring after the effective date of dissolution.

27           (d) A claim not barred under this section may be enforced:

28                   (1) against the dissolved limited partnership, to the extent of  
29 its undistributed assets;

30                   (2) if the assets have been distributed in liquidation, against  
31 a partner or transferee to the extent of that person's proportionate share of  
32 the claim or the limited partnership's assets distributed to the partner or  
33 transferee in liquidation, whichever is less, but a person's total liability  
34 for all claims under this paragraph does not exceed the total amount of  
35 assets distributed to the person as part of the winding up of the dissolved  
36 limited partnership; or



1           (3) against any person liable on the claim under § 4-47-404.

2  
3           4-47-808. Liability of general partner and person dissociated as  
4 general partner when claim against limited partnership barred.

5           If a claim against a dissolved limited partnership is barred under § 4-  
6 47-806 or § 4-47-807, any corresponding claim under § 4-47-404 is also  
7 barred.

8  
9           4-47-809. Administrative dissolution.

10          (a) The Secretary of State may dissolve a limited partnership  
11 administratively if the limited partnership does not, within 60 days after  
12 the due date:

13           (1) pay any fee, tax, or penalty due to the Secretary of State  
14 under this chapter or other law; or

15           (2) deliver its annual report to the Secretary of State.

16          (b) If the Secretary of State determines that a ground exists for  
17 administratively dissolving a limited partnership, the Secretary of State  
18 shall file a record of the determination and serve the limited partnership  
19 with a copy of the filed record.

20          (c) If within 60 days after service of the copy the limited  
21 partnership does not correct each ground for dissolution or demonstrate to  
22 the reasonable satisfaction of the Secretary of State that each ground  
23 determined by the Secretary of State does not exist, the Secretary of State  
24 shall administratively dissolve the limited partnership by preparing, signing  
25 and filing a declaration of dissolution that states the grounds for  
26 dissolution. The Secretary of State shall serve the limited partnership with  
27 a copy of the filed declaration.

28          (d) A limited partnership administratively dissolved continues its  
29 existence but may carry on only activities necessary to wind up its  
30 activities and liquidate its assets under §§ 4-47-803 and 4-47-812 and to  
31 notify claimants under §§ 4-47-806 and 4-47-807.

32          (e) The administrative dissolution of a limited partnership does not  
33 terminate the authority of its agent for service of process.

34  
35          4-47-810. Reinstatement following administrative dissolution.

36          (a) A limited partnership that has been administratively dissolved may

1 apply to the Secretary of State for reinstatement within two years after the  
2 effective date of dissolution. The application must be delivered to the  
3 Secretary of State for filing and state:

4 (1) the name of the limited partnership and the effective date  
5 of its administrative dissolution;

6 (2) that the grounds for dissolution either did not exist or  
7 have been eliminated; and

8 (3) that the limited partnership's name satisfies the  
9 requirements of § 4-47-108.

10 (b) If the Secretary of State determines that an application contains  
11 the information required by subsection (a) and that the information is  
12 correct, the Secretary of State shall prepare a declaration of reinstatement  
13 that states this determination, sign, and file the original of the  
14 declaration of reinstatement, and serve the limited partnership with a copy.

15 (c) When reinstatement becomes effective, it relates back to and takes  
16 effect as of the effective date of the administrative dissolution and the  
17 limited partnership may resume its activities as if the administrative  
18 dissolution had never occurred.

19  
20 4-47-811. Appeal from denial of reinstatement.

21 (a) If the Secretary of State denies a limited partnership's  
22 application for reinstatement following administrative dissolution, the  
23 Secretary of State shall prepare, sign and file a notice that explains the  
24 reason or reasons for denial and serve the limited partnership with a copy of  
25 the notice.

26 (b) Within 30 days after service of the notice of denial, the limited  
27 partnership may appeal from the denial of reinstatement by petitioning the  
28 circuit court to set aside the dissolution. The petition must be served on  
29 the Secretary of State and contain a copy of the Secretary of State's  
30 declaration of dissolution, the limited partnership's application for  
31 reinstatement, and the Secretary of State's notice of denial.

32 (c) The court may summarily order the Secretary of State to reinstate  
33 the dissolved limited partnership or may take other action the court  
34 considers appropriate.

35  
36 4-47-812. Disposition of assets; when contributions required.

1       (a) In winding up a limited partnership's activities, the assets of  
2 the limited partnership, including the contributions required by this  
3 section, must be applied to satisfy the limited partnership's obligations to  
4 creditors, including, to the extent permitted by law, partners that are  
5 creditors.

6       (b) Any surplus remaining after the limited partnership complies with  
7 subsection (a) must be paid in cash as a distribution.

8       (c) If a limited partnership's assets are insufficient to satisfy all  
9 of its obligations under subsection (a), with respect to each unsatisfied  
10 obligation incurred when the limited partnership was not a limited liability  
11 limited partnership, the following rules apply:

12           (1) Each person that was a general partner when the obligation  
13 was incurred and that has not been released from the obligation under § 4-47-  
14 607 shall contribute to the limited partnership for the purpose of enabling  
15 the limited partnership to satisfy the obligation. The contribution due from  
16 each of those persons is in proportion to the right to receive distributions  
17 in the capacity of general partner in effect for each of those persons when  
18 the obligation was incurred.

19           (2) If a person does not contribute the full amount required  
20 under paragraph (1) with respect to an unsatisfied obligation of the limited  
21 partnership, the other persons required to contribute by paragraph (1) on  
22 account of the obligation shall contribute the additional amount necessary to  
23 discharge the obligation. The additional contribution due from each of those  
24 other persons is in proportion to the right to receive distributions in the  
25 capacity of general partner in effect for each of those other persons when  
26 the obligation was incurred.

27           (3) If a person does not make the additional contribution  
28 required by paragraph (2), further additional contributions are determined  
29 and due in the same manner as provided in that paragraph.

30           (d) A person that makes an additional contribution under subsection  
31 (c)(2) or (3) may recover from any person whose failure to contribute under  
32 subsection (c)(1) or (2) necessitated the additional contribution. A person  
33 may not recover under this subsection more than the amount additionally  
34 contributed. A person's liability under this subsection may not exceed the  
35 amount the person failed to contribute.

36           (e) The estate of a deceased individual is liable for the person's

1 obligations under this section.

2 (f) An assignee for the benefit of creditors of a limited partnership  
3 or a partner, or a person appointed by a court to represent creditors of a  
4 limited partnership or a partner, may enforce a person's obligation to  
5 contribute under subsection (c).

6  
7 Subchapter 9 – Foreign Limited Partnerships

8 4-47-901. Governing law.

9 (a) The laws of the State or other jurisdiction under which a foreign  
10 limited partnership is organized govern relations among the partners of the  
11 foreign limited partnership and between the partners and the foreign limited  
12 partnership and the liability of partners as partners for an obligation of  
13 the foreign limited partnership.

14 (b) A foreign limited partnership may not be denied a certificate of  
15 authority by reason of any difference between the laws of the jurisdiction  
16 under which the foreign limited partnership is organized and the laws of this  
17 State.

18 (c) A certificate of authority does not authorize a foreign limited  
19 partnership to engage in any business or exercise any power that a limited  
20 partnership may not engage in or exercise in this State.

21  
22 4-47-902. Application for certificate of authority.

23 (a) A foreign limited partnership may apply for a certificate of  
24 authority to transact business in this State by delivering an application to  
25 the Secretary of State for filing. The application must state:

26 (1) the name of the foreign limited partnership and, if the name  
27 does not comply with § 4-47-108, an alternate name adopted pursuant to § 4-  
28 47-905(a);

29 (2) the name of the State or other jurisdiction under whose law  
30 the foreign limited partnership is organized;

31 (3) the street and mailing address of the foreign limited  
32 partnership's principal office and, if the laws of the jurisdiction under  
33 which the foreign limited partnership is organized require the foreign  
34 limited partnership to maintain an office in that jurisdiction, the street  
35 and mailing address of the required office;

36 (4) the name and street and mailing address of the foreign

1 limited partnership's initial agent for service of process in this State;

2 (5) the name and street and mailing address of each of the  
3 foreign limited partnership's general partners; and

4 (6) whether the foreign limited partnership is a foreign limited  
5 liability limited partnership.

6 (b) A foreign limited partnership shall deliver with the completed  
7 application a certificate of existence or a record of similar import signed  
8 by the Secretary of State or other official having custody of the foreign  
9 limited partnership's publicly filed records in the State or other  
10 jurisdiction under whose law the foreign limited partnership is organized.

11  
12 4-47-903. Activities not constituting transacting business.

13 (a) Activities of a foreign limited partnership which do not  
14 constitute transacting business in this state within the meaning of this  
15 chapter include:

16 (1) maintaining, defending, and settling an action or  
17 proceeding;

18 (2) holding meetings of its partners or carrying on any other  
19 activity concerning its internal affairs;

20 (3) maintaining accounts in financial institutions;

21 (4) maintaining offices or agencies for the transfer, exchange,  
22 and registration of the foreign limited partnership's own securities or  
23 maintaining trustees or depositories with respect to those securities;

24 (5) selling through independent contractors;

25 (6) soliciting or obtaining orders, whether by mail or  
26 electronic means or through employees or agents or otherwise, if the orders  
27 require acceptance outside this State before they become contracts;

28 (7) creating or acquiring indebtedness, mortgages, or security  
29 interests in real or personal property;

30 (8) securing or collecting debts or enforcing mortgages or other  
31 security interests in property securing the debts, and holding, protecting,  
32 and maintaining property so acquired;

33 (9) conducting an isolated transaction that is completed within  
34 30 days and is not one in the course of similar transactions of a like  
35 manner; and

36 (10) transacting business in interstate commerce.

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

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

8  
9        4-47-904. Filing of certificate of authority.

10       Unless the Secretary of State determines that an application for a  
11 certificate of authority does not comply with the filing requirements of this  
12 chapter, the Secretary of State, upon payment of all filing fees, shall file  
13 the application, prepare, sign and file a certificate of authority to  
14 transact business in this state, and send a copy of the filed certificate,  
15 together with a receipt for the fees, to the foreign limited partnership or  
16 its representative.

17  
18       4-47-905. Noncomplying name of foreign limited partnership.

19       (a) A foreign limited partnership whose name does not comply with § 4-  
20 47-108 may not obtain a certificate of authority until it adopts, for the  
21 purpose of transacting business in this State, an alternate name that  
22 complies with § 4-47-108. A foreign limited partnership that adopts an  
23 alternate name under this subsection and then obtains a certificate of  
24 authority with the name need not comply with § 4-32-108. After obtaining a  
25 certificate of authority with an alternate name, a foreign limited  
26 partnership shall transact business in this State under the name unless the  
27 foreign limited partnership is authorized under § 4-32-108 to transact  
28 business in this State under another name.

29       (b) If a foreign limited partnership authorized to transact business  
30 in this State changes its name to one that does not comply with § 4-47-108,  
31 it may not thereafter transact business in this state until it complies with  
32 subsection (a) and obtains an amended certificate of authority.

33  
34       4-47-906. Revocation of certificate of authority.

35       (a) A certificate of authority of a foreign limited partnership to  
36 transact business in this State may be revoked by the Secretary of State in

1 the manner provided in subsections (b) and (c) if the foreign limited  
2 partnership does not:

3 (1) pay, within 60 days after the due date, any fee, tax or  
4 penalty due to the Secretary of State under this chapter or other law;

5 (2) deliver, within 60 days after the due date, its annual  
6 report required under § 4-47-210;

7 (3) appoint and maintain an agent for service of process as  
8 required by § 4-47-114(b); or

9 (4) deliver for filing a statement of a change under § 4-47-115  
10 within 30 days after a change has occurred in the name or address of the  
11 agent.

12 (b) In order to revoke a certificate of authority, the Secretary of  
13 State must prepare, sign, and file a notice of revocation and send a copy to  
14 the foreign limited partnership's agent for service of process in this State,  
15 or if the foreign limited partnership does not appoint and maintain a proper  
16 agent in this state, to the foreign limited partnership's designated office.

17 The notice must state:

18 (1) the revocation's effective date, which must be at least 60  
19 days after the date the Secretary of State sends the copy; and

20 (2) the foreign limited partnership's failures to comply with  
21 subsection (a) which are the reason for the revocation.

22 (c) The authority of the foreign limited partnership to transact  
23 business in this State ceases on the effective date of the notice of  
24 revocation unless before that date the foreign limited partnership cures each  
25 failure to comply with subsection (a) stated in the notice. If the foreign  
26 limited partnership cures the failures, the Secretary of State shall so  
27 indicate on the filed notice.

28  
29 4-47-907. Cancellation of certificate of authority; effect of failure  
30 to have certificate.

31 (a) In order to cancel its certificate of authority to transact  
32 business in this State, a foreign limited partnership must deliver to the  
33 Secretary of State for filing a notice of cancellation. The certificate is  
34 canceled when the notice becomes effective under § 4-47-206.

35 (b) A foreign limited partnership transacting business in this State  
36 may not maintain an action or proceeding in this State unless it has a

1 certificate of authority to transact business in this State.

2 (c) The failure of a foreign limited partnership to have a certificate  
3 of authority to transact business in this State does not impair the validity  
4 of a contract or act of the foreign limited partnership or prevent the  
5 foreign limited partnership from defending an action or proceeding in this  
6 State.

7 (d) A partner of a foreign limited partnership is not liable for the  
8 obligations of the foreign limited partnership solely by reason of the  
9 foreign limited partnership's having transacted business in this State  
10 without a certificate of authority.

11 (e) If a foreign limited partnership transacts business in this State  
12 without a certificate of authority or cancels its certificate of authority,  
13 it appoints the Secretary of State as its agent for service of process for  
14 rights of action arising out of the transaction of business in this State.

15  
16 4-47-908. Action by Secretary of State.

17 The Secretary of State may maintain an action to restrain a foreign  
18 limited partnership from transacting business in this state in violation of  
19 this chapter.

20  
21 Subchapter 10 – Actions by Partners

22 4-47-1001. Direct action by partner.

23 (a) Subject to subsection (b), a partner may maintain a direct action  
24 against the limited partnership or another partner for legal or equitable  
25 relief, with or without an accounting as to the partnership's activities, to  
26 enforce the rights and otherwise protect the interests of the partner,  
27 including rights and interests under the partnership agreement or this  
28 chapter or arising independently of the partnership relationship.

29 (b) A partner commencing a direct action under this section is  
30 required to plead and prove an actual or threatened injury that is not solely  
31 the result of an injury suffered or threatened to be suffered by the limited  
32 partnership.

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



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4-47-1002. Derivative action.

A partner may maintain a derivative action to enforce a right of a limited partnership if:

(1) the partner first makes a demand on the general partners, requesting that they cause the limited partnership to bring an action to enforce the right, and the general partners do not bring the action within a reasonable time; or

(2) a demand would be futile.

4-47-1003. Proper plaintiff.

A derivative action may be maintained only by a person that is a partner at the time the action is commenced and:

(1) that was a partner when the conduct giving rise to the action occurred; or

(2) whose status as a partner devolved upon the person by operation of law or pursuant to the terms of the partnership agreement from a person that was a partner at the time of the conduct.

4-47-1004. Pleading.

In a derivative action, the complaint must state with particularity:

(1) the date and content of plaintiff's demand and the general partners' response to the demand; or

(2) why demand should be excused as futile.

4-47-1005. Proceeds and expenses.

(a) Except as otherwise provided in subsection (b):

(1) any proceeds or other benefits of a derivative action, whether by judgment, compromise, or settlement, belong to the limited partnership and not to the derivative plaintiff;

(2) if the derivative plaintiff receives any proceeds, the derivative plaintiff shall immediately remit them to the limited partnership.

(b) If a derivative action is successful in whole or in part, the court may award the plaintiff reasonable expenses, including reasonable attorney's fees, from the recovery of the limited partnership.

1           Subchapter 11 – Conversion and Merger

2           4-47-1101. Definitions.

3           In this subchapter:

4                   (1) “Constituent limited partnership” means a constituent  
5 organization that is a limited partnership.

6                   (2) “Constituent organization” means an organization that is  
7 party to a merger.

8                   (3) “Converted organization” means the organization into which a  
9 converting organization converts pursuant to §§ 4-47-1102 through 4-47-1105.

10                   (4) “Converting limited partnership” means a converting  
11 organization that is a limited partnership.

12                   (5) “Converting organization” means an organization that  
13 converts into another organization pursuant to § 4-47-1102.

14                   (6) “General partner” means a general partner of a limited  
15 partnership.

16                   (7) “Governing statute” of an organization means the statute  
17 that governs the organization’s internal affairs.

18                   (8) “Organization” means a general partnership, including a  
19 limited liability partnership; limited partnership, including a limited  
20 liability limited partnership; limited liability company; business trust;  
21 corporation; or any other person having a governing statute. The term  
22 includes domestic and foreign organizations whether or not organized for  
23 profit.

24                   (9) “Organizational documents” means:

25                               (A) for a domestic or foreign general partnership, its  
26 partnership agreement;

27                               (B) for a limited partnership or foreign limited  
28 partnership, its certificate of limited partnership and partnership  
29 agreement;

30                               (C) for a domestic or foreign limited liability company,  
31 its articles of organization and operating agreement, or comparable records  
32 as provided in its governing statute;

33                               (D) for a business trust, its agreement of trust and  
34 declaration of trust;

35                               (E) for a domestic or foreign corporation for profit, its  
36 articles of incorporation, bylaws, and other agreements among its

1 shareholders which are authorized by its governing statute, or comparable  
2 records as provided in its governing statute; and

3 (F) for any other organization, the basic records that  
4 create the organization and determine its internal governance and the  
5 relations among the persons that own it, have an interest in it, or are  
6 members of it.

7 (10) "Personal liability" means personal liability for a debt,  
8 liability, or other obligation of an organization which is imposed on a  
9 person that co-owns, has an interest in, or is a member of the organization:

10 (A) by the organization's governing statute solely by  
11 reason of the person co-owning, having an interest in, or being a member of  
12 the organization; or

13 (B) by the organization's organizational documents under a  
14 provision of the organization's governing statute authorizing those documents  
15 to make one or more specified persons liable for all or specified debts,  
16 liabilities, and other obligations of the organization solely by reason of  
17 the person or persons co-owning, having an interest in, or being a member of  
18 the organization.

19 (11) "Surviving organization" means an organization into which  
20 one or more other organizations are merged. A surviving organization may  
21 preexist the merger or be created by the merger.

22  
23 4-47-1102. Conversion.

24 (a) An organization other than a limited partnership may convert to a  
25 limited partnership, and a limited partnership may convert to another  
26 organization pursuant to this section and §§ 4-47-1103 through 4-47-1105 and  
27 a plan of conversion, if:

28 (1) the other organization's governing statute authorizes  
29 the conversion;

30 (2) the conversion is not prohibited by the law of the  
31 jurisdiction that enacted the governing statute; and

32 (3) the other organization complies with its governing statute  
33 in effecting the conversion.

34 (b) A plan of conversion must be in a record and must include:

35 (1) the name and form of the organization before conversion;

36 (2) the name and form of the organization after conversion; and

1           (3) the terms and conditions of the conversion, including the  
2 manner and basis for converting interests in the converting organization into  
3 any combination of money, interests in the converted organization, and other  
4 consideration; and

5           (4) the organizational documents of the converted organization.  
6

7           4-47-1103. Action on plan of conversion by converting limited  
8 partnership.

9           (a) Subject to § 4-47-1110, a plan of conversion must be consented to  
10 by all the partners of a converting limited partnership.

11           (b) Subject to § 4-47-1110 and any contractual rights, after a  
12 conversion is approved, and at any time before a filing is made under § 4-47-  
13 1104, a converting limited partnership may amend the plan or abandon the  
14 planned conversion:

15           (1) as provided in the plan; and

16           (2) except as prohibited by the plan, by the same consent as was  
17 required to approve the plan.  
18

19           4-47-1104. Filings required for conversion; effective date.

20           (a) After a plan of conversion is approved:

21           (1) a converting limited partnership shall deliver to the  
22 Secretary of State for filing articles of conversion, which must include:

23           (A) a statement that the limited partnership has been  
24 converted into another organization;

25           (B) the name and form of the organization and the  
26 jurisdiction of its governing statute;

27           (C) the date the conversion is effective under the  
28 governing statute of the converted organization;

29           (D) a statement that the conversion was approved as  
30 required by this chapter;

31           (E) a statement that the conversion was approved as  
32 required by the governing statute of the converted organization; and

33           (F) if the converted organization is a foreign  
34 organization not authorized to transact business in this State, the street  
35 and mailing address of an office which the Secretary of State may use for the  
36 purposes of § 4-47-1105(c); and

1           (2) if the converting organization is not a converting limited  
2 partnership, the converting organization shall deliver to the Secretary of  
3 State for filing a certificate of limited partnership, which must include, in  
4 addition to the information required by § 4-47-201:

5           (A) a statement that the limited partnership was converted  
6 from another organization;

7           (B) the name and form of the organization and the  
8 jurisdiction of its governing statute; and

9           (C) a statement that the conversion was approved in a  
10 manner that complied with the organization's governing statute.

11       (b) A conversion becomes effective:

12           (1) if the converted organization is a limited partnership, when  
13 the certificate of limited partnership takes effect; and

14           (2) if the converted organization is not a limited partnership,  
15 as provided by the governing statute of the converted organization.

16  
17       4-47-1105. Effect of conversion.

18       (a) An organization that has been converted pursuant to this  
19 subchapter is for all purposes the same entity that existed before the  
20 conversion.

21       (b) When a conversion takes effect:

22           (1) all property owned by the converting organization remains  
23 vested in the converted organization;

24           (2) all debts, liabilities, and other obligations of the  
25 converting organization continue as obligations of the converted  
26 organization;

27           (3) an action or proceeding pending by or against the converting  
28 organization may be continued as if the conversion had not occurred;

29           (4) except as prohibited by other law, all of the rights,  
30 privileges, immunities, powers, and purposes of the converting organization  
31 remain vested in the converted organization;

32           (5) except as otherwise provided in the plan of conversion, the  
33 terms and conditions of the plan of conversion take effect; and

34           (6) except as otherwise agreed, the conversion does not dissolve  
35 a converting limited partnership for the purposes of subchapter 8.

36       (c) A converted organization that is a foreign organization consents

1 to the jurisdiction of the courts of this state to enforce any obligation  
2 owed by the converting limited partnership, if before the conversion the  
3 converting limited partnership was subject to suit in this state on the  
4 obligation. A converted organization that is a foreign organization and not  
5 authorized to transact business in this state appoints the Secretary of State  
6 as its agent for service of process for purposes of enforcing an obligation  
7 under this subsection. Service on the Secretary of State under this  
8 subsection is made in the same manner and with the same consequences as in §  
9 4-47-117(c) and (d).

10  
11 4-47-1106. Merger.

12 (a) A limited partnership may merge with one or more other constituent  
13 organizations pursuant to this section and §§ 4-47-1107 through 4-47-1109 and  
14 a plan of merger, if:

15 (1) the governing statute of each the other organizations  
16 authorizes the merger;

17 (2) the merger is not prohibited by the law of a jurisdiction  
18 that enacted any of those governing statutes; and

19 (3) each of the other organizations complies with its governing  
20 statute in effecting the merger.

21 (b) A plan of merger must be in a record and must include:

22 (1) the name and form of each constituent organization;

23 (2) the name and form of the surviving organization and, if the  
24 surviving organization is to be created by the merger, a statement to that  
25 effect;

26 (3) the terms and conditions of the merger, including the manner  
27 and basis for converting the interests in each constituent organization into  
28 any combination of money, interests in the surviving organization, and other  
29 consideration;

30 (4) if the surviving organization is to be created by the  
31 merger, the surviving organization's organizational documents; and

32 (5) if the surviving organization is not to be created by the  
33 merger, any amendments to be made by the merger to the surviving  
34 organization's organizational documents.

35  
36 4-47-1107. Action on plan of merger by constituent limited

1 partnership.

2 (a) Subject to § 4-47-1110, a plan of merger must be consented to by  
3 all the partners of a constituent limited partnership.

4 (b) Subject to § 4-47-1110 and any contractual rights, after a merger  
5 is approved, and at any time before a filing is made under § 4-47-1108, a  
6 constituent limited partnership may amend the plan or abandon the planned  
7 merger:

8 (1) as provided in the plan; and

9 (2) except as prohibited by the plan, with the same consent as  
10 was required to approve the plan.

11  
12 4-47-1108. Filings required for merger; effective date.

13 (a) After each constituent organization has approved a merger,  
14 articles of merger must be signed on behalf of:

15 (1) each preexisting constituent limited partnership, by each  
16 general partner listed in the certificate of limited partnership; and

17 (2) each other preexisting constituent organization, by an  
18 authorized representative.

19 (b) The articles of merger must include:

20 (1) the name and form of each constituent organization and the  
21 jurisdiction of its governing statute;

22 (2) the name and form of the surviving organization, the  
23 jurisdiction of its governing statute, and, if the surviving organization is  
24 created by the merger, a statement to that effect;

25 (3) the date the merger is effective under the governing statute  
26 of the surviving organization;

27 (4) if the surviving organization is to be created by the  
28 merger:

29 (A) if it will be a limited partnership, the limited  
30 partnership's certificate of limited partnership; or

31 (B) if it will be an organization other than a limited  
32 partnership, the organizational document that creates the organization;

33 (5) if the surviving organization preexists the merger, any  
34 amendments provided for in the plan of merger for the organizational document  
35 that created the organization;

36 (6) a statement as to each constituent organization that the

1 merger was approved as required by the organization's governing statute;

2 (7) if the surviving organization is a foreign organization not  
3 authorized to transact business in this State, the street and mailing address  
4 of an office which the Secretary of State may use for the purposes of § 4-47-  
5 1109(b); and

6 (8) any additional information required by the governing statute  
7 of any constituent organization.

8 (c) Each constituent limited partnership shall deliver the articles of  
9 merger for filing in the office of the Secretary of State.

10 (d) A merger becomes effective under this subchapter:

11 (1) if the surviving organization is a limited partnership, upon  
12 the later of:

13 (A) compliance with subsection (c); or

14 (B) subject to § 4-47-206(c), as specified in the articles  
15 of merger; or

16 (2) if the surviving organization is not a limited partnership,  
17 as provided by the governing statute of the surviving organization.

18  
19 4-47-1109. Effect of merger.

20 (a) When a merger becomes effective:

21 (1) the surviving organization continues or comes into  
22 existence;

23 (2) each constituent organization that merges into the surviving  
24 organization ceases to exist as a separate entity;

25 (3) all property owned by each constituent organization that  
26 ceases to exist vests in the surviving organization;

27 (4) all debts, liabilities, and other obligations of each  
28 constituent organization that ceases to exist continue as obligations of the  
29 surviving organization;

30 (5) an action or proceeding pending by or against any  
31 constituent organization that ceases to exist may be continued as if the  
32 merger had not occurred;

33 (6) except as prohibited by other law, all of the rights,  
34 privileges, immunities, powers, and purposes of each constituent organization  
35 that ceases to exist vest in the surviving organization;

36 (7) except as otherwise provided in the plan of merger, the



1 terms and conditions of the plan of merger take effect; and

2 (8) except as otherwise agreed, if a constituent limited  
3 partnership ceases to exist, the merger does not dissolve the limited  
4 partnership for the purposes of subchapter 8;

5 (9) if the surviving organization is created by the merger:

6 (A) if it is a limited partnership, the certificate of  
7 limited partnership becomes effective; or

8 (B) if it is an organization other than a limited  
9 partnership, the organizational document that creates the organization  
10 becomes effective; and

11 (10) if the surviving organization preexists the merger, any  
12 amendments provided for in the articles of merger for the organizational  
13 document that created the organization become effective.

14 (b) A surviving organization that is a foreign organization consents  
15 to the jurisdiction of the courts of this state to enforce any obligation  
16 owed by a constituent organization, if before the merger the constituent  
17 organization was subject to suit in this state on the obligation. A  
18 surviving organization that is a foreign organization and not authorized to  
19 transact business in this state appoints the Secretary of State as its agent  
20 for service of process for the purposes of enforcing an obligation under this  
21 subsection. Service on the Secretary of State under this subsection is made  
22 in the same manner and with the same consequences as in § 4-47-117(c) and  
23 (d).

24  
25 4-47-1110. Restrictions on approval of conversions and mergers and on  
26 relinquishing LLLP status.

27 (a) If a partner of a converting or constituent limited partnership  
28 will have personal liability with respect to a converted or surviving  
29 organization, approval and amendment of a plan of conversion or merger are  
30 ineffective without the consent of the partner, unless:

31 (1) the limited partnership's partnership agreement provides for  
32 the approval of the conversion or merger with the consent of fewer than all  
33 the partners; and

34 (2) the partner has consented to the provision of the  
35 partnership agreement.

36 (b) An amendment to a certificate of limited partnership which deletes

1 a statement that the limited partnership is a limited liability limited  
2 partnership is ineffective without the consent of each general partner  
3 unless:

4 (1) the limited partnership's partnership agreement provides for  
5 the amendment with the consent of less than all the general partners; and

6 (2) each general partner that does not consent to the amendment  
7 has consented to the provision of the partnership agreement.

8 (c) A partner does not give the consent required by subsection (a) or  
9 (b) merely by consenting to a provision of the partnership agreement which  
10 permits the partnership agreement to be amended with the consent of fewer  
11 than all the partners.

12  
13 4-47-1111. Liability of general partner after conversion or merger.

14 (a) A conversion or merger under this chapter does not discharge any  
15 liability under §§ 4-47-404 and 4-47-607 of a person that was a general  
16 partner in or dissociated as a general partner from a converting or  
17 constituent limited partnership, but:

18 (1) the provisions of this chapter pertaining to the collection  
19 or discharge of the liability continue to apply to the liability;

20 (2) for the purposes of applying those provisions, the converted  
21 or surviving organization is deemed to be the converting or constituent  
22 limited partnership; and

23 (3) if a person is required to pay any amount under this  
24 subsection:

25 (A) the person has a right of contribution from each other  
26 person that was liable as a general partner under § 4-47-404 when the  
27 obligation was incurred and has not been released from the obligation under §  
28 4-47-607; and

29 (B) the contribution due from each of those persons is in  
30 proportion to the right to receive distributions in the capacity of general  
31 partner in effect for each of those persons when the obligation was incurred.

32 (b) In addition to any other liability provided by law:

33 (1) a person that immediately before a conversion or merger  
34 became effective was a general partner in a converting or constituent limited  
35 partnership that was not a limited liability limited partnership is  
36 personally liable for each obligation of the converted or surviving

1 organization arising from a transaction with a third party after the  
2 conversion or merger becomes effective, if, at the time the third party  
3 enters into the transaction, the third party:

4 (A) does not have notice of the conversion or merger; and

5 (B) reasonably believes that:

6 (i) the converted or surviving business is the  
7 converting or constituent limited partnership;

8 (ii) the converting or constituent limited  
9 partnership is not a limited liability limited partnership; and

10 (iii) the person is a general partner in the  
11 converting or constituent limited partnership; and

12 (2) a person that was dissociated as a general partner from a  
13 converting or constituent limited partnership before the conversion or merger  
14 became effective is personally liable for each obligation of the converted or  
15 surviving organization arising from a transaction with a third party after  
16 the conversion or merger becomes effective, if:

17 (A) immediately before the conversion or merger became  
18 effective the converting or surviving limited partnership was a not a limited  
19 liability limited partnership; and

20 (B) at the time the third party enters into the  
21 transaction less than two years have passed since the person dissociated as a  
22 general partner and the third party:

23 (i) does not have notice of the dissociation;

24 (ii) does not have notice of the conversion or  
25 merger; and

26 (iii) reasonably believes that the converted or  
27 surviving organization is the converting or constituent limited partnership,  
28 the converting or constituent limited partnership is not a limited liability  
29 limited partnership, and the person is a general partner in the converting or  
30 constituent limited partnership.

31  
32 4-47-1112. Power of general partners and persons dissociated as  
33 general partners to bind organization after conversion or merger.

34 (a) An act of a person that immediately before a conversion or merger  
35 became effective was a general partner in a converting or constituent limited  
36 partnership binds the converted or surviving organization after the

1 conversion or merger becomes effective, if:

2 (1) before the conversion or merger became effective, the act  
3 would have bound the converting or constituent limited partnership under § 4-  
4 47-402; and

5 (2) at the time the third party enters into the transaction, the  
6 third party:

7 (A) does not have notice of the conversion or merger; and

8 (B) reasonably believes that the converted or surviving  
9 business is the converting or constituent limited partnership and that the  
10 person is a general partner in the converting or constituent limited  
11 partnership.

12 (b) An act of a person that before a conversion or merger became  
13 effective was dissociated as a general partner from a converting or  
14 constituent limited partnership binds the converted or surviving organization  
15 after the conversion or merger becomes effective, if:

16 (1) before the conversion or merger became effective, the act  
17 would have bound the converting or constituent limited partnership under § 4-  
18 47-402 if the person had been a general partner; and

19 (2) at the time the third party enters into the transaction,  
20 less than two years have passed since the person dissociated as a general  
21 partner and the third party:

22 (A) does not have notice of the dissociation;

23 (B) does not have notice of the conversion or merger; and

24 (C) reasonably believes that the converted or surviving  
25 organization is the converting or constituent limited partnership and that  
26 the person is a general partner in the converting or constituent limited  
27 partnership.

28 (c) If a person having knowledge of the conversion or merger causes a  
29 converted or surviving organization to incur an obligation under subsection  
30 (a) or (b), the person is liable:

31 (1) to the converted or surviving organization for any damage  
32 caused to the organization arising from the obligation; and

33 (2) if another person is liable for the obligation, to that  
34 other person for any damage caused to that other person arising from the  
35 liability.

36

1 4-47-1113. Chapter not exclusive.

2 This chapter does not preclude an entity from being converted or merged  
3 under other law.

4  
5 Subchapter 12 – Miscellaneous Provisions

6 4-47-1201. Uniformity of application and construction.

7 In applying and construing this Uniform Act, consideration must be  
8 given to the need to promote uniformity of the law with respect to its  
9 subject matter among States that enact it.

10  
11 4-47-1202. Severability clause.

12 If any provision of this chapter or its application to any person or  
13 circumstance is held invalid, the invalidity does not affect other provisions  
14 or applications of this chapter which can be given effect without the invalid  
15 provision or application, and to this end the provisions of this chapter are  
16 severable.

17  
18 4-47-1203. Relation to electronic signatures in Global and National  
19 Commerce Act.

20 This chapter modifies, limits, or supersedes the federal Electronic  
21 Signatures in Global and National Commerce Act, 15 U.S.C. § 7001 et seq., but  
22 this chapter does not modify, limit, or supersede § 101(c) of that act or  
23 authorize electronic delivery of any of the notices described in § 103(b) of  
24 that act.

25  
26 4-47-1204. Effective date.

27 This chapter takes effect immediately after its enactment.

28  
29 4-47-1205. Repeals.

30 Effective January 1, 2007, the following acts and parts of acts are  
31 repealed: Revised Limited Partnership Act of 1991 as amended, §§ 4-43-101  
32 through 4-43-1206, except that §§ 4-43-1104 and 14-43-1111 shall remain in  
33 effect after January 1, 2007 and until subsequently repealed.

34  
35 4-47-1206. Application to existing relationships.

36

1 (a) Before January 1, 2007, this chapter governs only:

2 (1) a limited partnership formed on or after the time this  
3 chapter takes effect; and

4 (2) except as otherwise provided in subsection (c), a limited  
5 partnership formed under the Arkansas Revised Limited Partnership Act of 1991  
6 which elects, in the manner provided in its partnership agreement or by law  
7 for amending the partnership agreement, to be subject to this chapter.

8 (b) Except as otherwise provided in subsection (c), on and after  
9 January 1, 2007, this chapter governs:

10 (1) any limited partnership formed under the Arkansas Revised  
11 Limited Partnership Act of 1991 which has not previously elected to be  
12 governed by this chapter and is still in existence on January 1, 2007; and

13 (2) all limited partnerships, including each limited partnership  
14 formed under the Arkansas Revised Limited Partnership Act of 1991 which has  
15 previously elected to become governed by this chapter.

16 (c) With respect to a limited partnership formed before this chapter  
17 takes effect, the following rules apply except as the partners otherwise  
18 elect in the manner provided in the partnership agreement or by law for  
19 amending the partnership agreement:

20 (1) Section 4-47-104(c) does not apply and the limited  
21 partnership has whatever duration it had under the law applicable immediately  
22 before the limited partnership became subject to this chapter;

23 (2) the limited partnership is not required to amend its  
24 certificate of limited partnership to comply with § 4-47-201(a)(4);

25 (3) Sections 4-47-601 and 4-47-602 do not apply and a limited  
26 partner has the same right and power to dissociate from the limited  
27 partnership, with the same consequences, as existed immediately before the  
28 limited partnership became subject to this chapter;

29 (4) Section 4-47-603(4) does not apply;

30 (5) Section 4-47-603(5) does not apply and a court has the same  
31 power to expel a general partner as the court had immediately before the  
32 limited partnership became subject to this chapter; and

33 (6) Section 4-47-801(3) does not apply and the connection  
34 between a person's dissociation as a general partner and the dissolution of  
35 the limited partnership is the same as existed immediately before the limited  
36 partnership became subject to this chapter;

1       (d) If subsection (c) causes a limited partnership that is a limited  
2 liability limited partnership under § 4-43-1110 to become subject to this  
3 chapter:

4           (1) if immediately before the limited partnership that is a  
5 limited liability limited partnership under § 4-43-1110 became subject to  
6 this chapter its name complied with § 4-43-1110, the limited partnership may  
7 maintain its name even if the name does not comply with § 4-47-108(c); and

8           (2) the application to register the limited partnership that is  
9 a limited liability limited partnership under § 4-43-1110 on file with the  
10 Secretary of State pursuant to § 4-43-1110 is deemed to amend the limited  
11 partnership's certificate of limited partnership to state that the limited  
12 partnership is a limited liability limited partnership.

13       (e) On or after the effective date of this chapter a limited  
14 partnership formed under the Arkansas Revised Limited Partnership Act of 1991  
15 may become subject to this chapter if:

16           (1) it elects, in the manner provided in its partnership  
17 agreement or by law for amending the partnership agreement, to be subject to  
18 this chapter;

19           (2) neither its certificate of limited partnership nor its  
20 partnership agreement prohibit the election;

21           (3) its certificate of limited partnership, on file with the  
22 county recorder, is amended to state the election and, as may be necessary,  
23 to comply with this chapter; and

24           (4) a certified copy of the amended certificate of limited  
25 partnership, and of all other limited partnership documents previously filed  
26 with the county recorder, is filed with the Secretary of State.

27  
28       4-47-1207. Savings clause.

29       This chapter does not affect an action commenced, proceeding brought,  
30 or right accrued before this chapter takes effect.

31  
32       4-47-1208. Effect of designation.

33       Except as otherwise provided in this chapter, a limited partnership  
34 remains the same entity for purposes of holding title to or conveying an  
35 interest in real or personal property and for all other purposes:

36           (1) during the winding up of the limited partnership following

1 its dissolution;

2 (2) whether the certificate of limited partnership of a limited  
3 partnership is amended to add or delete a statement that the limited  
4 partnership is a limited liability limited partnership pursuant to § 4-47-  
5 406(b)(2); and

6 (3) regardless of whether the words "limited partnership,"  
7 "limited liability limited partnership," or the designation "LP," "L.P.,"  
8 "LLLP," or "L.L.L.P." are used in an instrument conveying an interest in real  
9 or personal property to or from the limited partnership or in any other  
10 writing.

11  
12 4-47-1209. Interim application of prior law; curative provisions.

13 (a) In circumstances arising after December 31, 2004, and before the  
14 effective date of this chapter, a partnership, limited partnership, limited  
15 liability partnership, or limited liability limited partnership may conduct  
16 itself under former Arkansas Code §§ 4-42-101 through 4-42-702 as if those  
17 sections had not been repealed.

18 (b) All actions taken under subsection (a) of this section are  
19 enforceable to the extent provided by former Arkansas Code §§ 4-42-101  
20 through 4-42-702 as if those sections had not been repealed.

21 (c) It is the intent of this section to cure any gap in applicable law  
22 resulting from the transition from prior law to the Arkansas Uniform Limited  
23 Partnership Act (2005), § 4-47-101 et seq.

24  
25 4-47-1210. Formation of future limited partnerships.

26 Beginning on the effective date of this chapter, no person may form an  
27 entity under the Arkansas Revised Limited Partnership Act of 1991, § 4-43-  
28 101, et seq.

29  
30 SECTION 2. Arkansas Code § 4-43-1107 is amended to read as follows:

31 4-43-1107. Application of Uniform Partnership Act.

32 (a) In any case not provided for in this chapter, the provisions of  
33 the Uniform Partnership Act, § 4-42-101 et seq., govern in effect on December  
34 31, 2004, shall apply notwithstanding the January 1, 2005 repeal of the  
35 Uniform Partnership Act for other purposes.

36 (b) This section applies retroactively to all limited partnerships and



1 limited liability limited partnerships in existence in this state between  
2 January 1, 2005, and the effective date of the Arkansas Uniform Limited  
3 Partnership Act (2005), § 4-47-101 et seq.

4 (c) It is the intent of the 2005 amendments to subsections (a) and (b)  
5 of this section to cure any gap in applicable law resulting from the  
6 transition from prior law to the Arkansas Uniform Limited Partnership Act  
7 (2005), § 4-47-101 et seq.

8  
9 SECTION 3. Arkansas Code § 4-43-1110 is amended to read as follows:

10 4-43-1110. Limited partnerships as registered limited liability limited  
11 partnerships.

12 (a) To become and continue as a registered limited liability limited  
13 partnership, a limited partnership shall, in addition to complying with the  
14 requirements of this chapter:

15 (1) File an application as provided in § 4-42-703 of the Uniform  
16 Partnership Act, as permitted by the limited partnership's partnership  
17 agreement or, if the limited partnership's partnership agreement does not  
18 provide for the limited partnership's becoming a registered limited liability  
19 limited partnership, with the approval (i) by all general partners, and (ii)  
20 by the limited partners or, if there is more than one class or group of  
21 limited partners, by each class or group of limited partners, and in either  
22 case, by limited partners who own more than fifty percent (50%) of the then  
23 current percentage or other interest in the profits of the limited  
24 partnership owned by all of the limited partners or by the limited partners  
25 in each class or group, as appropriate; and

26 (2) Have as the last words or letters of its name the words  
27 "Registered Limited Liability Limited Partnership", or the abbreviation  
28 "L.L.L.P." or "LLLP", and the word "Limited" may be abbreviated as "Ltd."

29 (b) In applying § 4-42-703 of the Uniform Partnership Act to a limited  
30 partnership:

31 (1) An application to become a registered limited liability  
32 limited partnership, or a withdrawal notice, shall be executed by at least  
33 one general partner of the limited partnership;

34 (2) All references to partners mean general partners only; and

35 (3) With respect to the initial filing of a certificate of  
36 limited partnership by a limited partnership which also files an application

1 as provided in § 4-42-703 to become a registered limited liability limited  
2 partnership, there shall only be one filing fee, which shall equal the  
3 greater of the filing fee under this chapter or the filing fee provided in §  
4 4-42-703.

5 (c) If a limited partnership is a registered limited liability limited  
6 partnership, its partners who are liable for the debts, liabilities and other  
7 obligations of the limited partnership shall have the limitation on liability  
8 afforded to partners of registered limited liability partnerships under § 4-  
9 42-307 of the Uniform Partnership Act.

10 (d) With respect to a limited partnership which is simultaneously  
11 filing a certificate of limited partnership along with an application to  
12 become a registered limited liability limited partnership, the name used in  
13 the certificate of limited partnership may contain the words designating the  
14 limited partnership as a registered limited liability limited partnership as  
15 indicated in subdivision (a)(2) of this section.

16 (e) For purposes of this section, all references to § 4-42-307 or § 4-  
17 42-703 of the Uniform Partnership Act, refer to and incorporate § 4-42-307 or  
18 § 4-42-703 of the Uniform Partnership Act in effect on December 31, 2004,  
19 notwithstanding the January 1, 2005, repeal of the Uniform Partnership Act  
20 for other purposes.

21 (f) This section applies retroactively to all limited partnerships and  
22 limited liability limited partnerships in existence in this state between  
23 January 1, 2005, and the effective date of the Arkansas Uniform Limited  
24 Partnership Act (2005), § 4-47-101 et seq.

25 (g) It is the intent of the 2005 amendments to subsections (e) and (f)  
26 of this section to cure any gap in applicable law resulting from the  
27 transition from prior law to the Arkansas Uniform Limited Partnership Act  
28 (2005), § 4-47-101 et seq.

29  
30 SECTION 4. Effective January 1, 2007, Arkansas Code §§ 4-43-101  
31 through 4-43-1103 are repealed.

32 ~~4-43-101. Definitions.~~

33 ~~As used in this chapter, unless the context otherwise requires:~~

34 ~~(1) "Certificate of limited partnership" means the certificate~~  
35 ~~referred to in § 4-43-201, and the certificate as amended or restated.~~

36 ~~(2) "Contribution" means any cash, property, services rendered,~~

1 ~~or a promissory note or other binding obligation to contribute cash or~~  
2 ~~property or to perform services which a partner contributes to a limited~~  
3 ~~partnership in his capacity as a partner.~~

4 ~~(3) "Event of withdrawal of a general partner" means an event~~  
5 ~~that causes a person to cease to be a general partner as provided in § 4-43-~~  
6 ~~402.~~

7 ~~(4) "Foreign limited partnership" means a partnership formed~~  
8 ~~under the laws of any state other than this state and having as partners one~~  
9 ~~or more general partners and one or more limited partners.~~

10 ~~(5) "General partner" means a person who has been admitted to a~~  
11 ~~limited partnership as a general partner in accordance with the partnership~~  
12 ~~agreement and named in the certificate of limited partnership as a general~~  
13 ~~partner.~~

14 ~~(6) "Limited partner" means a person who has been admitted to a~~  
15 ~~limited partnership as a limited partner in accordance with the partnership~~  
16 ~~agreement.~~

17 ~~(7) "Limited partnership" and "domestic limited partnership"~~  
18 ~~mean a partnership formed by two or more persons under the laws of this State~~  
19 ~~and having one or more general partners and one or more limited partners.~~

20 ~~(8) "Partner" means a limited or general partner.~~

21 ~~(9) "Partnership agreement" means any agreement, written or~~  
22 ~~oral, of the partners as to the affairs of a limited partnership and the~~  
23 ~~conduct of its business.~~

24 ~~(10) "Partnership interest" means a partner's share of the~~  
25 ~~profits and losses of a limited partnership and the right to receive~~  
26 ~~distributions of partnership assets.~~

27 ~~(11) "Person" means a natural person, partnership, limited~~  
28 ~~partnership (domestic or foreign), trust, estate, association, or~~  
29 ~~corporation.~~

30 ~~(12) "State" means a state, territory, or possession of the~~  
31 ~~United States, the District of Columbia, or the Commonwealth of Puerto Rico.~~

32 ~~(13) "Registered limited liability limited partnership" means a~~  
33 ~~partnership formed pursuant to the laws of this state and registered pursuant~~  
34 ~~to §§ 4-43-1110 and 4-42-703.~~

35  
36 ~~4-43-102. Name.~~

1       ~~The name of each limited partnership as set forth in its certificate of~~  
2 ~~limited partnership;~~

3           ~~(1) shall contain without abbreviation the words "limited~~  
4 ~~partnership";~~

5           ~~(2) may not contain the name of a limited partner unless (i) it~~  
6 ~~is also the name of a general partner or the corporate name of a corporate~~  
7 ~~general partner, or (ii) the business of the limited partnership had been~~  
8 ~~carried on under that name before the admission of that limited partner;~~

9           ~~(3) must be distinguishable upon the records of the Secretary of~~  
10 ~~State from the name of any corporation or limited partnership organized under~~  
11 ~~the laws of this state or licensed or registered as a foreign corporation or~~  
12 ~~limited partnership in this state.~~

13  
14       ~~4-43-103. Reservation of name.~~

15       ~~(a) The exclusive right to the use of a name may be reserved by:~~

16           ~~(1) any person intending to organize a limited partnership under~~  
17 ~~this chapter and to adopt that name;~~

18           ~~(2) any domestic limited partnership or any foreign limited~~  
19 ~~partnership registered in this State which, in either case, intends to adopt~~  
20 ~~that name;~~

21           ~~(3) any foreign limited partnership intending to register in~~  
22 ~~this State and adopt that name; and~~

23           ~~(4) any person intending to organize a foreign limited~~  
24 ~~partnership and intending to have it register in this State and adopt that~~  
25 ~~name.~~

26       ~~(b) The reservation shall be made by filing with the Secretary of~~  
27 ~~State an application, executed by the applicant, to reserve a specified name.~~  
28 ~~If the Secretary of State finds that the name is available for use by a~~  
29 ~~domestic or foreign limited partnership, he shall reserve the name for the~~  
30 ~~exclusive use of the applicant for a period of one hundred twenty (120) days.~~  
31 ~~Once having so reserved a name, the same applicant may not again reserve the~~  
32 ~~same name until more than sixty (60) days after the expiration of the last~~  
33 ~~one hundred twenty day period for which that applicant reserved that name.~~

34       ~~(c) The right to the exclusive use of a reserved name may be~~  
35 ~~transferred to any other person by filing in the office of the Secretary of~~  
36 ~~State a notice of the transfer, executed by the applicant for whom the name~~

1 ~~was reserved and specifying the name and address of the transferee.~~

2  
3 ~~4-43-104. Specified office and agent.~~

4 ~~Each limited partnership shall continuously maintain in this state:~~

5 ~~(1) an office which may but need not be a place of its business~~  
6 ~~in this State, at which shall be kept the records required by § 4-43-105 to~~  
7 ~~be maintained; and~~

8 ~~(2) an agent for service of process on the limited partnership,~~  
9 ~~which agent must be an individual resident of this State, a domestic~~  
10 ~~corporation, or a foreign corporation authorized to do business in this~~  
11 ~~State.~~

12  
13 ~~4-43-105. Records to be kept.~~

14 ~~(a) Each limited partnership shall keep at the office referred to in §~~  
15 ~~4-43-104(1) the following:~~

16 ~~(1) a current list of the full name and last known business~~  
17 ~~address of each partner, separately identifying the general partners (in~~  
18 ~~alphabetical order) and the limited partners (in alphabetical order);~~

19 ~~(2) a copy of the certificate of limited partnership and all~~  
20 ~~certificates of amendment thereto, together with executed copies of any~~  
21 ~~powers of attorney pursuant to which any certificate has been executed;~~

22 ~~(3) copies of the limited partnership's federal, state, and~~  
23 ~~local income tax returns and reports, if any, for the three (3) most recent~~  
24 ~~years;~~

25 ~~(4) copies of any then effective written partnership agreements~~  
26 ~~and of any financial statements of the limited partnership for the three (3)~~  
27 ~~most recent years; and~~

28 ~~(5) unless contained in a written partnership agreement, a~~  
29 ~~writing setting out:~~

30 ~~(i) the amount of cash and a description and statement of~~  
31 ~~the agreed value of the other property or services contributed by each~~  
32 ~~partner and which each partner has agreed to contribute;~~

33 ~~(ii) the times at which or events upon the happening of~~  
34 ~~which any additional contributions agreed to be made by each partner are to~~  
35 ~~be made;~~

36 ~~(iii) any right of a partner to receive, or of a general~~

1 partner to make, distributions to a partner which include a return of all or  
2 any part of the partner's contribution; and

3 (iv) any events upon the happening of which the limited  
4 partnership is to be dissolved and its affairs wound up.

5 (b) Records kept under this section are subject to inspection and  
6 copying at the reasonable request and at the expense of any partner during  
7 normal business hours.

8  
9 4-43-106. Nature of business.

10 A limited partnership may carry on any business that a partnership  
11 without limited partners may carry on except any business prohibited by law.

12  
13 4-43-107. Business transactions of partner with partnership.

14 Except as provided in the partnership agreement, a partner may lend  
15 money to and transact other business with the limited partnership and,  
16 subject to other applicable law, has the same rights and obligations with  
17 respect thereto as a person who is not a partner.

18  
19 4-43-108. Use of fictitious names.

20 (a) No limited partnership, domestic or foreign, shall conduct any  
21 business in this state under a fictitious name unless it first files with the  
22 Secretary of State a form supplied or approved by the Secretary of State  
23 giving the following information:

24 (1) The fictitious name under which business is being or will be  
25 conducted by the applicant limited partnership;

26 (2) A brief statement of the character of business to be  
27 conducted under the fictitious name; and

28 (3) The name of the limited partnership, state of organization,  
29 and location, giving city and street address, of the registered office in the  
30 state of the applicant limited partnership.

31 (b) Each such form shall be executed, without verification, in  
32 duplicate and filed with the Secretary of State. The Secretary of State shall  
33 retain one (1) counterpart; and the other counterpart, bearing the file marks  
34 of the Secretary of State, shall be returned to the limited partnership.  
35 However, the Secretary of State shall not accept such filing if the proposed  
36 fictitious name is the same as, or confusingly similar to, the name of any

1 ~~domestic corporation, limited liability company, limited partnership, limited~~  
2 ~~liability partnership or any other entity registered with the Secretary of~~  
3 ~~State, or any such foreign entity authorized to do business in the state or~~  
4 ~~any name reserved or registered under §§ 4-27-402, 4-27-403, 4-32-104, or 4-~~  
5 ~~43-103.~~

6 ~~(c) Copies of such filed forms, certified by the respective filing~~  
7 ~~officers, shall be admitted in evidence where the question of filing may be~~  
8 ~~material.~~

9 ~~(d) If, after a filing hereunder, the applicant limited partnership is~~  
10 ~~dissolved, or, being a foreign limited partnership, surrenders or forfeits~~  
11 ~~its right to do business in Arkansas or, whether a domestic or foreign~~  
12 ~~limited partnership, ceases to do business in Arkansas under the specified~~  
13 ~~fictitious name, such limited partnership shall be obligated to file with the~~  
14 ~~Secretary of State a cancellation of its privilege hereunder. If such~~  
15 ~~cancellation is not filed, the Secretary of State, upon satisfactory~~  
16 ~~evidence, may cancel such privilege.~~

17 ~~(e) If a limited partnership which has not filed hereunder has~~  
18 ~~heretofore or shall hereafter become a party to any contract, deed,~~  
19 ~~conveyance, assignment or instrument of encumbrance in which such limited~~  
20 ~~partnership is referred to exclusively by a fictitious name, the obligations~~  
21 ~~imposed upon such limited partnership under said instrument and the right~~  
22 ~~sought to be conferred upon third parties thereunder may be enforced against~~  
23 ~~it; but the rights accruing to such limited partnership under said instrument~~  
24 ~~may not be enforced by the limited partnership in the courts of this state~~  
25 ~~until it complies with this section and pays to the Treasurer of State a~~  
26 ~~civil penalty of three hundred dollars (\$300); and in any suit by a limited~~  
27 ~~partnership upon an instrument which identified it exclusively by a~~  
28 ~~fictitious name, the limited partnership shall be required to allege~~  
29 ~~compliance with this section.~~

30 ~~(f) Compliance with this section does not give a limited partnership~~  
31 ~~an exclusive right to the use of the fictitious name; and the registration of~~  
32 ~~a fictitious name hereunder will not bar the use of the same name as the name~~  
33 ~~of any domestic entity or any foreign entity authorized to do business in~~  
34 ~~this state. But this chapter is not intended to bar any aggrieved party, in~~  
35 ~~such a situation, from applying for equitable relief under principles of fair~~  
36 ~~trade law.~~

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~~4-43-201. Certificate of limited partnership.~~

~~(a) In order to form a limited partnership, a certificate of limited partnership must be executed and filed in the office of the Secretary of State. The certificate shall set forth:~~

~~(1) the name of the limited partnership;~~

~~(2) the address of the office and the name and address of the agent for service of process required to be maintained by § 4-43-104;~~

~~(3) the name and the business address of each general partner;~~

~~(4) the latest date upon which the limited partnership is to dissolve; and~~

~~(5) any other matters the general partners determine to include therein.~~

~~b) A limited partnership is formed at the time of the filing of the certificate of limited partnership in the office of the Secretary of State or at any later time specified in the certificate of limited partnership if, in either case, there has been substantial compliance with the requirements of this section.~~

~~4-43-202. Amendment to certificate.~~

~~(a) A certificate of limited partnership is amended by filing a certificate of amendment thereto in the office of the Secretary of State. The certificate shall set forth:~~

~~(1) the name of the limited partnership;~~

~~(2) the date of filing the certificate; and~~

~~(3) the amendment to the certificate.~~

~~(b) Within thirty (30) days after the happening of any of the following events, an amendment to a certificate of limited partnership reflecting the occurrence of the event or events shall be filed:~~

~~(1) the admission of a new general partner;~~

~~(2) the withdrawal of a general partner; or~~

~~(3) the continuation of the business under § 4-43-801 after an event of withdrawal of a general partner.~~

~~(c) A general partner who becomes aware that any statement in a certificate of limited partnership was false when made or that any arrangements or other facts described have changed, making the certificate~~



1 ~~inaccurate in any respect, shall promptly amend the certificate.~~

2 ~~(d) A certificate of limited partnership may be amended at any time~~  
3 ~~for any other proper purpose the general partners determine.~~

4 ~~(e) No person has any liability because an amendment to a certificate~~  
5 ~~of limited partnership has not been filed to reflect the occurrence of any~~  
6 ~~event referred to in subsection (b) of this section if the amendment is filed~~  
7 ~~within the thirty day period specified in subsection (b).~~

8 ~~(f) A restated certificate of limited partnership may be executed and~~  
9 ~~filed in the same manner as a certificate of amendment.~~

10  
11 ~~4-43-203. Cancellation of certificate.~~

12 ~~A certificate of limited partnership shall be cancelled upon the~~  
13 ~~dissolution and the commencement of winding up of the partnership or at any~~  
14 ~~other time there are no limited partners. A certificate of cancellation shall~~  
15 ~~be filed in the office of the Secretary of State and set forth:~~

16 ~~(1) the name of the limited partnership;~~

17 ~~(2) the date of filing of its certificate of limited~~  
18 ~~partnership;~~

19 ~~(3) the reason for filing the certificate of cancellation;~~

20 ~~(4) the effective date (which shall be a date certain) of~~  
21 ~~cancellation if it is not to be effective upon the filing of the certificate;~~  
22 ~~and~~

23 ~~(5) any other information the general partners filing the~~  
24 ~~certificate determine.~~

25  
26 ~~4-43-204. Execution of certificates.~~

27 ~~(a) Each certificate required by this subchapter to be filed in the~~  
28 ~~office of the Secretary of State shall be executed in the following manner:~~

29 ~~(1) an original certificate of limited partnership must be~~  
30 ~~signed by all general partners;~~

31 ~~(2) a certificate of amendment must be signed by at least one~~  
32 ~~(1) general partner and by each other general partner designated in the~~  
33 ~~certificate as a new general partner; and~~

34 ~~(3) a certificate of cancellation must be signed by all general~~  
35 ~~partners.~~

36 ~~(b) Any person may sign a certificate by an attorney in fact, but a~~

1 ~~power of attorney to sign a certificate relating to the admission of a~~  
2 ~~general partner must specifically describe the admission.~~

3 ~~(c) The execution of a certificate by a general partner constitutes an~~  
4 ~~affirmation under the penalties of perjury that the facts stated therein are~~  
5 ~~true.~~

6  
7 ~~4-43-205. Execution by judicial act.~~

8 ~~If a person required by § 4-43-204 to execute any certificate fails or~~  
9 ~~refuses to do so, any other person who is adversely affected by the failure~~  
10 ~~or refusal may petition the circuit court having jurisdiction thereof to~~  
11 ~~direct the execution of the certificate. If the court finds that it is~~  
12 ~~proper for the certificate to be executed and that any person so designated~~  
13 ~~has failed or refused to execute the certificate, it shall order the~~  
14 ~~Secretary of State to record an appropriate certificate.~~

15  
16 ~~4-43-206. Filing in office of Secretary of State.~~

17 ~~(a) Two signed copies of the certificate of limited partnership and of~~  
18 ~~any certificates of amendment or cancellation (or of any judicial decree of~~  
19 ~~amendment or cancellation) shall be delivered to the Secretary of State. A~~  
20 ~~person who executes a certificate as an agent or fiduciary need not exhibit~~  
21 ~~evidence of his authority as a prerequisite to filing. Unless the Secretary~~  
22 ~~of State finds that any certificate does not conform to law, upon receipt of~~  
23 ~~all filing fees required by law he shall:~~

24 ~~(1) endorse on each duplicate original the word "Filed" and the~~  
25 ~~day, month and year of the filing thereof;~~

26 ~~(2) file one (1) duplicate original in his office; and~~

27 ~~(3) return the other duplicate original to the person who filed~~  
28 ~~it or his representative.~~

29 ~~(b) Upon the filing of a certificate of amendment (or judicial decree~~  
30 ~~of amendment) in the office of the Secretary of State, the certificate of~~  
31 ~~limited partnership shall be amended as set forth therein, and upon the~~  
32 ~~effective date of a certificate of cancellation (or a judicial decree~~  
33 ~~thereof), the certificate of limited partnership is cancelled.~~

34  
35 ~~4-43-207. Liability for false statement in certificate.~~

36 ~~If any certificate of limited partnership or certificate of amendment~~

1 ~~or cancellation contains a false statement, one who suffers loss by reliance~~  
2 ~~on the statement may recover damages for the loss from:~~

3 ~~(1) any person who executes the certificate, or causes another~~  
4 ~~to execute it on his behalf, and knew, and any general partner who knew or~~  
5 ~~should have known, the statement to be false at the time the certificate was~~  
6 ~~executed; and~~

7 ~~(2) any general partner who thereafter knows or should have~~  
8 ~~known that any arrangement or other fact described in the certificate has~~  
9 ~~changed, making the statement inaccurate in any respect within a sufficient~~  
10 ~~time before the statement was relied upon reasonably to have enabled that~~  
11 ~~general partner to cancel or amend the certificate or to file a petition for~~  
12 ~~its cancellation or amendment under § 4-43-205.~~

13  
14 ~~4-43-208. Notice.~~

15 ~~The fact that a certificate of limited partnership is on file in the~~  
16 ~~office of the Secretary of State is notice that the partnership is a limited~~  
17 ~~partnership and the persons designated therein as general partners are~~  
18 ~~general partners, but it is not notice of any other fact.~~

19  
20 ~~4-43-209. Delivery of certificates to limited partners.~~

21 ~~Upon the return by the Secretary of State pursuant to § 4-43-206 of a~~  
22 ~~certificate marked "Filed", the general partners shall promptly deliver or~~  
23 ~~mail a copy of the certificate of limited partnership and each certificate of~~  
24 ~~amendment or cancellation to each limited partner unless the partnership~~  
25 ~~agreement provides otherwise.~~

26  
27 ~~4-43-301. Admission of limited partners.~~

28 ~~(a) A person becomes a limited partner:~~

29 ~~(1) at the time the limited partnership is formed; or~~

30 ~~(2) at any later time specified in the records of the limited~~  
31 ~~partnership for becoming a limited partner.~~

32 ~~(b) After the filing of a limited partnership's original certificate~~  
33 ~~of limited partnership, a person may be admitted as an additional limited~~  
34 ~~partner:~~

35 ~~(1) in the case of a person acquiring a partnership interest~~  
36 ~~directly from the limited partnership, upon the compliance with the~~

1 partnership agreement or, if the partnership agreement does not so provide,  
2 upon the written consent of all partners; and

3           (2) ~~in the case of an assignee of a partnership interest of a~~  
4 ~~partner who has the power, as provided in § 4-43-704, to grant the assignee~~  
5 ~~the right to become a limited partner, upon the exercise of that power and~~  
6 ~~compliance with any conditions limiting the grant or exercise of the power.~~

7  
8           4-43-302. Voting.

9           Subject to § 4-43-303, the partnership agreement may grant to all or a  
10 specified group of the limited partners the right to vote (on a per capita or  
11 other basis) upon any matter. Any such right to vote may be exercised in  
12 person by a limited partner or by a limited partner's attorney-in-fact  
13 pursuant to a power of attorney.

14  
15           4-43-303. Liability to third parties.

16           (a) ~~Except as provided in subsection (d) of this section, a limited~~  
17 ~~partner is not liable for the obligations of a limited partnership unless he~~  
18 ~~is also a general partner or, in addition to the exercise of his rights and~~  
19 ~~powers as a limited partner, he participates in the control of the business.~~  
20 ~~However, if the limited partner participates in the control of the business,~~  
21 ~~he is liable only to persons who transact business with the limited~~  
22 ~~partnership reasonably believing, based upon the limited partner's conduct,~~  
23 ~~that the limited partner is a general partner.~~

24           (b) ~~A limited partner does not participate in the control of the~~  
25 ~~business within the meaning of subsection (a) of this section solely by doing~~  
26 ~~one (1) or more of the following:~~

27                   (1) ~~being a contractor for or an agent or employee of the~~  
28 ~~limited partnership or of a general partner or being an officer, director, or~~  
29 ~~shareholder of a general partner that is a corporation;~~

30                   (2) ~~consulting with and advising a general partner with respect~~  
31 ~~to the business of the limited partnership;~~

32                   (3) ~~acting as surety for the limited partnership or guaranteeing~~  
33 ~~or assuming one (1) or more specific obligations of the limited partnership;~~

34                   (4) ~~taking any action required or permitted by law to bring or~~  
35 ~~pursue a derivative action in the right of the limited partnership;~~

36                   (5) ~~requesting or attending a meeting of partners;~~

1                   ~~(6) proposing, approving, or disapproving, by voting or~~  
 2 ~~otherwise, one (1) or more of the following matters:~~

3                   ~~(i) the dissolution and winding up of the limited~~  
 4 ~~partnership;~~

5                   ~~(ii) the sale, exchange, lease, mortgage, pledge, or other~~  
 6 ~~transfer of all or substantially all of the assets of the limited~~  
 7 ~~partnership;~~

8                   ~~(iii) the incurrence of indebtedness by the limited~~  
 9 ~~partnership other than in the ordinary course of its business;~~

10                   ~~(iv) a change in the nature of the business;~~

11                   ~~(v) the admission or removal of a general partner;~~

12                   ~~(vi) the admission or removal of a limited partner;~~

13                   ~~(vii) a transaction involving an actual or potential~~  
 14 ~~conflict of interest between a general partner and the limited partnership or~~  
 15 ~~the limited partners;~~

16                   ~~(viii) an amendment to the partnership agreement or~~  
 17 ~~certificate of limited partnership; or~~

18                   ~~(ix) matters related to the business of the limited~~  
 19 ~~partnership not otherwise enumerated in this subsection (b), which the~~  
 20 ~~partnership agreement states in writing may be subject to the approval or~~  
 21 ~~disapproval of limited partners;~~

22                   ~~(7) winding up the limited partnership pursuant to § 4-43-803;~~  
 23 ~~or~~

24                   ~~(8) exercising any right or power permitted to limited partners~~  
 25 ~~under this chapter and not specifically enumerated in this subsection (b).~~

26                   ~~(c) The enumeration in subsection (b) of this section does not mean~~  
 27 ~~that the possession or exercise of any other powers by a limited partner~~  
 28 ~~constitutes participation by him in the business of the limited partnership.~~

29                   ~~(d) A limited partner who knowingly permits his name to be used in the~~  
 30 ~~name of the limited partnership, except under circumstances permitted by § 4-~~  
 31 ~~43-102(2), is liable to creditors who extend credit to the limited~~  
 32 ~~partnership without actual knowledge that the limited partner is not a~~  
 33 ~~general partner.~~

34  
 35                   ~~4-43-304. Person erroneously believing himself limited partner.~~

36                   ~~(a) Except as provided in subsection (b) of this section, a person who~~

1 ~~makes a contribution to a business enterprise and erroneously but in good~~  
2 ~~faith believes that he has become a limited partner in the enterprise is not~~  
3 ~~a general partner in the enterprise and is not bound by its obligations by~~  
4 ~~reason of making the contribution, receiving distributions from the~~  
5 ~~enterprise, or exercising any rights of a limited partner, if, on~~  
6 ~~ascertaining the mistake, he:~~

7 ~~(1) causes an appropriate certificate of limited partnership or~~  
8 ~~a certificate of amendment to be executed and filed; or~~

9 ~~(2) withdraws from future equity participation in the enterprise~~  
10 ~~by executing and filing in the office of the Secretary of State a certificate~~  
11 ~~declaring withdrawal under this section.~~

12 ~~(b) A person who makes a contribution of the kind described in~~  
13 ~~subsection (a) of this section is liable as a general partner to any third~~  
14 ~~party who transacts business with the enterprise (i) before the person~~  
15 ~~withdraws and an appropriate certificate is filed to show withdrawal, or (ii)~~  
16 ~~before an appropriate certificate is filed to show that he is not a general~~  
17 ~~partner, but in either case only if the third party actually believed in good~~  
18 ~~faith that the person was a general partner at the time of the transaction.~~

19  
20 ~~4-43-305. Information.~~

21 ~~Each limited partner has the right to:~~

22 ~~(1) inspect and copy, at his own expense, any of the partnership~~  
23 ~~records required to be maintained by § 4-43-105; and~~

24 ~~(2) obtain from the general partners from time to time upon~~  
25 ~~reasonable demand (i) true and full information regarding the state of the~~  
26 ~~business and financial condition of the limited partnership, (ii) promptly~~  
27 ~~after becoming available, a copy of the limited partnership's federal, state,~~  
28 ~~and local income tax returns for each year, and (iii) other information~~  
29 ~~regarding the affairs of the limited partnership as is just and reasonable.~~

30  
31 ~~4-43-401. Admission of additional general partners.~~

32 ~~After the filing of a limited partnership's original certificate of~~  
33 ~~limited partnership, additional general partners may be admitted as provided~~  
34 ~~in writing in the partnership agreement or, if the partnership agreement does~~  
35 ~~not provide in writing for the admission of additional general partners, with~~  
36 ~~the written consent of all partners.~~

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~~4-43-402. Events of withdrawal.~~

~~Except as approved by the specific written consent of all partners at the time, a person ceases to be a general partner of a limited partnership upon the happening of any of the following events:~~

~~(1) the general partner withdraws from the limited partnership as provided in § 4-43-602;~~

~~(2) the general partner ceases to be a member of the limited partnership as provided in § 4-43-702;~~

~~(3) the general partner is removed as a general partner in accordance with the partnership agreement;~~

~~(4) unless otherwise provided in writing in the partnership agreement, the general partner: (i) makes an assignment for the benefit of creditors; (ii) files a voluntary petition in bankruptcy; (iii) is adjudicated a bankrupt or insolvent; (iv) files a petition or answer seeking for himself any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation; (v) files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against him in any proceeding of this nature; or (vi) seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the general partner or of all or any substantial part of his properties;~~

~~(5) unless otherwise provided in writing in the partnership agreement, one hundred twenty (120) days after the commencement of any proceeding against the general partner seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation, the proceeding has not been dismissed, or if within ninety (90) days after the appointment without his consent or acquiescence of a trustee, receiver, or liquidator of the general partner or of all or any substantial part of his properties, the appointment is not vacated or stayed or within ninety (90) days after the expiration of any such stay, the appointment is not vacated;~~

~~(6) in the case of a general partner who is a natural person, (i) his death; or (ii) the entry of an order by a court of competent jurisdiction adjudicating him incompetent to manage his person or his estate;~~

~~(7) in the case of a general partner who is acting as a general~~

1 partner by virtue of being a trustee of a trust, the termination of the trust  
2 (but not merely the substitution of a new trustee);

3 (8) in the case of a general partner that is a separate  
4 partnership, the dissolution and commencement of winding up of the separate  
5 partnership;

6 (9) in the case of a general partner that is a corporation, the  
7 filing of a certificate of dissolution, or its equivalent, for the  
8 corporation or the revocation of its charter; or

9 (10) in the case of an estate, the distribution by the fiduciary  
10 of the estate's entire interest in the partnership.

11  
12 ~~4-43-403. General powers and liabilities.~~

13 (a) Except as provided in this chapter or in the partnership  
14 agreement, a general partner of a limited partnership has the rights and  
15 powers and is subject to the restrictions of a partner in a partnership  
16 without limited partners.

17 (b) Except as provided in this chapter, a general partner of a limited  
18 partnership has the liabilities of a partner in a partnership without limited  
19 partners to persons other than the partnership and the other partners. Except  
20 as provided in this chapter or in the partnership agreement, a general  
21 partner of a limited partnership has the liabilities of a partner in a  
22 partnership without limited partners to the partnership and to the other  
23 partners.

24  
25 ~~4-43-404. Contributions by general partner.~~

26 A general partner of a limited partnership may make contributions to  
27 the partnership and share in the profits and losses of and in distributions  
28 from the limited partnership as a general partner. A general partner also may  
29 make contributions to and share in profits, losses, and distributions as a  
30 limited partner. A person who is both a general partner and a limited partner  
31 has the rights and powers, and is subject to the restrictions and  
32 liabilities, of a general partner and, except as provided in the partnership  
33 agreement, also has the powers, and is subject to the restrictions, of a  
34 limited partner to the extent of his participation in the partnership as a  
35 limited partner.

36



1           ~~4-43-405. Voting.~~

2           ~~The partnership agreement may grant to all or certain identified~~  
3 ~~general partners the right to vote (on a per capita or any other basis),~~  
4 ~~separately or with all or any class of the limited partners, on any matter.~~

5  
6           ~~4-43-501. Form of contribution.~~

7           ~~The contribution of a partner may be in cash, property, or services~~  
8 ~~rendered or a promissory note or other obligation to contribute cash or~~  
9 ~~property or to perform services.~~

10  
11           ~~4-43-502. Liability for contribution.~~

12           ~~(a) A promise by a limited partner to contribute to the limited~~  
13 ~~partnership is not enforceable unless set out in a writing signed by the~~  
14 ~~limited partner.~~

15           ~~(b) Except as provided in the partnership agreement, a partner is~~  
16 ~~obligated to the limited partnership to perform any enforceable promise to~~  
17 ~~contribute cash or property or to perform services, even if he is unable to~~  
18 ~~perform because of death, disability, or any other reason. If a partner does~~  
19 ~~not make the required contribution of property or services, he is obligated~~  
20 ~~at the option of the limited partnership to contribute cash equal to that~~  
21 ~~portion of the value as stated in the partnership records required to be kept~~  
22 ~~pursuant to § 4-43-105, of the stated contribution which has not been made.~~

23           ~~(c) Unless otherwise provided in the partnership agreement, the~~  
24 ~~obligation of a partner to make a contribution or return money or other~~  
25 ~~property paid or distributed in violation of this chapter may be compromised~~  
26 ~~only by consent of all the partners. Notwithstanding the compromise, a~~  
27 ~~creditor of a limited partnership who extends credit, or otherwise acts in~~  
28 ~~reliance on that obligation after the partner signs a writing which reflects~~  
29 ~~the obligation, and before the amendment or cancellation thereof to reflect~~  
30 ~~the compromise, may enforce the original obligation.~~

31  
32           ~~4-43-503. Sharing of profits and losses.~~

33           ~~The profits and losses of a limited partnership shall be allocated~~  
34 ~~among the partners, and among classes of partners, in the manner provided in~~  
35 ~~writing in the partnership agreement. If the partnership agreement does not~~  
36 ~~so provide in writing, profits and losses shall be allocated on the basis of~~

1 the value, as stated in the partnership records required to be kept pursuant  
2 to § 4-43-105, of the contributions made by each partner to the extent they  
3 have been received by the partnership and have not been returned.

4  
5 ~~4-43-504. Sharing of distributions.~~

6 ~~Distributions of cash or other assets of a limited partnership shall be~~  
7 ~~allocated among the partners, and among classes of partners, in the manner~~  
8 ~~provided in writing in the partnership agreement. If the partnership~~  
9 ~~agreement does not so provide in writing, distributions shall be made on the~~  
10 ~~basis of the value, as stated in the partnership records required to be kept~~  
11 ~~pursuant to § 4-43-105 of the contributions made by each partner to the~~  
12 ~~extent they have been received by the partnership and have not been returned.~~

13  
14 ~~4-43-601. Interim distributions.~~

15 ~~Except as provided in this subchapter, a partner is entitled to receive~~  
16 ~~distributions from a limited partnership before his withdrawal from the~~  
17 ~~limited partnership and before the dissolution and winding up thereof to the~~  
18 ~~extent and at the times or upon the happening of the events specified in the~~  
19 ~~partnership agreement.~~

20  
21 ~~4-43-602. Withdrawal of general partner.~~

22 ~~A general partner may withdraw from a limited partnership at any time~~  
23 ~~by giving written notice to the other partners, but if the withdrawal~~  
24 ~~violates the partnership agreement, the limited partnership may recover from~~  
25 ~~the withdrawing general partner damages for breach of the partnership~~  
26 ~~agreement and offset the damages against the amount otherwise distributable~~  
27 ~~to him.~~

28  
29 ~~4-43-603. Withdrawal of limited partner.~~

30 ~~A limited partner may withdraw from a limited partnership at the time~~  
31 ~~or upon the happening of events specified in writing in the partnership~~  
32 ~~agreement. If the agreement does not specify in writing the time or the~~  
33 ~~events upon the happening of which a limited partner may withdraw or a~~  
34 ~~definite time for the dissolution and winding up of the limited partnership,~~  
35 ~~a limited partner may withdraw upon not less than six (6) months' prior~~  
36 ~~written notice to each general partner at his address on the books of the~~

1 ~~limited partnership at its office in this state.~~

2  
3 ~~4-43-604. Distribution upon withdrawal.~~

4 ~~Except as provided in this subchapter, upon withdrawal any withdrawing~~  
5 ~~partner is entitled to receive any distribution to which he is entitled under~~  
6 ~~the partnership agreement and, if not otherwise provided in the agreement, he~~  
7 ~~is entitled to receive, within a reasonable time after withdrawal, the fair~~  
8 ~~value of his interest in the limited partnership as of the date of withdrawal~~  
9 ~~based upon his right to share in distributions from the limited partnership.~~

10  
11 ~~4-43-605. Distribution in kind.~~

12 ~~Except as provided in writing in the partnership agreement, a partner,~~  
13 ~~regardless of the nature of his contribution, has no right to demand and~~  
14 ~~receive any distribution from a limited partnership in any form other than~~  
15 ~~cash. Except as provided in writing in the partnership agreement, a partner~~  
16 ~~may not be compelled to accept a distribution of any asset in kind from a~~  
17 ~~limited partnership to the extent that the percentage of the asset~~  
18 ~~distributed to him exceeds a percentage of that asset which is equal to the~~  
19 ~~percentage in which he shares in distributions from the limited partnership.~~

20  
21 ~~4-43-606. Right to distribution.~~

22 ~~At the time a partner becomes entitled to receive a distribution, he~~  
23 ~~has the status of, and is entitled to all remedies available to, a creditor~~  
24 ~~of the limited partnership with respect to the distribution.~~

25  
26 ~~4-43-607. Limitations of distribution.~~

27 ~~A partner may not receive a distribution from a limited partnership to~~  
28 ~~the extent that, after giving effect to the distribution, all liabilities of~~  
29 ~~the limited partnership, other than liabilities to partners on account of~~  
30 ~~their partnership interests, exceed the fair value of the partnership assets.~~

31  
32 ~~4-43-608. Liability upon return of contribution.~~

33 ~~(a) If a partner has received the return of any part of his~~  
34 ~~contribution without violation of the partnership agreement or this chapter,~~  
35 ~~he is liable to the limited partnership for a period of one (1) year~~  
36 ~~thereafter for the amount of the returned contribution, but only to the~~

1 extent necessary to discharge the limited partnership's liabilities to  
2 creditors who extended credit to the limited partnership during the period  
3 the contribution was held by the partnership.

4 (b) If a partner has received the return of any part of his  
5 contribution in violation of the partnership agreement or this chapter, he is  
6 liable to the limited partnership for a period of six (6) years thereafter  
7 for the amount of the contribution wrongfully returned.

8 (c) A partner receives a return of his contribution to the extent that  
9 a distribution to him reduces his share of the fair value of the net assets  
10 of the limited partnership below the value, as set forth in the partnership  
11 records required to be kept pursuant to § 4-43-105, of his contribution which  
12 has not been distributed to him.

13  
14 ~~4-43-701. Nature of partnership interest.~~

15 ~~A partnership interest is personal property.~~

16  
17 ~~4-43-702. Assignment of partnership interest.~~

18 ~~Except as provided in the partnership agreement, a partnership interest~~  
19 ~~is assignable in whole or in part. An assignment of a partnership interest~~  
20 ~~does not dissolve a limited partnership or entitle the assignee to become or~~  
21 ~~to exercise any rights of a partner. An assignment entitles the assignee to~~  
22 ~~receive, to the extent assigned, only the distribution to which the assignor~~  
23 ~~would be entitled. Except as provided in the partnership agreement, a partner~~  
24 ~~ceases to be a partner upon assignment of all his partnership interest.~~

25  
26 ~~4-43-703. Rights of creditor.~~

27 ~~On application to a court of competent jurisdiction by any judgment~~  
28 ~~creditor of a partner, the court may charge the partnership interest of the~~  
29 ~~partner with payment of the unsatisfied amount of the judgment with interest.~~  
30 ~~To the extent so charged, the judgment creditor has only the rights of an~~  
31 ~~assignee of the partnership interest. This chapter does not deprive any~~  
32 ~~partner of the benefit of any exemption laws applicable to his partnership~~  
33 ~~interest.~~

34  
35 ~~4-43-704. Right of assignee to become limited partner.~~

36 ~~(a) An assignee of a partnership interest, including an assignee of a~~

1 ~~general partner, may become a limited partner if and to the extent that (i)~~  
2 ~~the assignor gives the assignee that right in accordance with authority~~  
3 ~~described in the partnership agreement, or (ii) all other partners consent.~~

4 ~~(b) An assignee who has become a limited partner has, to the extent~~  
5 ~~assigned, the rights and powers, and is subject to the restrictions and~~  
6 ~~liabilities, of a limited partner under the partnership agreement and this~~  
7 ~~chapter. An assignee who becomes a limited partner also is liable for the~~  
8 ~~obligations of his assignor to make and return contributions as provided in~~  
9 ~~§§ 4-43-501 et seq. and 4-43-601 et seq. However, the assignee is not~~  
10 ~~obligated for liabilities unknown to the assignee at the time he became a~~  
11 ~~limited partner.~~

12 ~~(c) If an assignee of a partnership interest becomes a limited~~  
13 ~~partner, the assignor is not released from his liability to the limited~~  
14 ~~partnership under §§ 4-43-207 and 4-43-502.~~

15  
16 ~~4-43-705. Power of estate of deceased or incompetent partner.~~

17 ~~If a partner who is an individual dies or a court of competent~~  
18 ~~jurisdiction adjudges him to be incompetent to manage his person or his~~  
19 ~~property, the partner's executor, administrator, guardian, conservator, or~~  
20 ~~other legal representative may exercise all the partner's rights for the~~  
21 ~~purpose of settling his estate or administering his property, including any~~  
22 ~~power the partner had to give an assignee the right to become a limited~~  
23 ~~partner. If a partner is a corporation, trust, or other entity and is~~  
24 ~~dissolved or terminated, the powers of that partner may be exercised by its~~  
25 ~~legal representative or successor.~~

26  
27 ~~4-43-801. Nonjudicial dissolution.~~

28 ~~A limited partnership is dissolved and its affairs shall be wound up~~  
29 ~~upon the happening of the first to occur of the following:~~

30 ~~(1) at the time specified in the certificate of limited~~  
31 ~~partnership;~~

32 ~~(2) upon the happening of events specified in writing in the~~  
33 ~~partnership agreement;~~

34 ~~(3) the written consent of all partners;~~

35 ~~(4) an event of withdrawal of a general partner unless at the~~  
36 ~~time there is at least one other general partner and written provisions of~~

1 the partnership agreement permit the business of the limited partnership to  
2 be carried on by the remaining general partner and that partner does so, but  
3 the limited partnership is not dissolved and is not required to be wound up  
4 by reason of any event of withdrawal, if, within ninety (90) days after the  
5 withdrawal, all partners agree in writing to continue the business of the  
6 limited partnership and to the appointment of one or more additional general  
7 partners if necessary or desired; or

8 (5) ~~entry of a decree of judicial dissolution under § 4-43-802,~~

9  
10 ~~4-43-802. Judicial dissolution.~~

11 ~~On application by or for a partner, the circuit court of the county in~~  
12 ~~which the partnership's principal place of business is located (and if no~~  
13 ~~principal place of business, then the Circuit Court of Pulaski County) may~~  
14 ~~decree dissolution of a limited partnership whenever it is not reasonably~~  
15 ~~practicable to carry on the business in conformity with the partnership~~  
16 ~~agreement.~~

17  
18 ~~4-43-803. Winding up.~~

19 ~~Except as provided in the partnership agreement, the general partners~~  
20 ~~who have not wrongfully dissolved a limited partnership or, if none, the~~  
21 ~~limited partners, may wind up the limited partnership's affairs, but the~~  
22 ~~court having jurisdiction thereof may wind up the limited partnership's~~  
23 ~~affairs upon application of any partner, his legal representative, or~~  
24 ~~assignee.~~

25  
26 ~~4-43-804. Distribution of assets.~~

27 ~~Upon the winding up of a limited partnership, the assets shall be~~  
28 ~~distributed as follows:~~

29 (1) ~~to creditors, including partners who are creditors, to the~~  
30 ~~extent permitted by law, in satisfaction of liabilities of the limited~~  
31 ~~partnership other than liabilities for distributions to partners under § 4-~~  
32 ~~43-601 or § 4-43-604;~~

33 (2) ~~except as provided in the partnership agreement, to partners~~  
34 ~~and former partners in satisfaction of liabilities for distributions under §~~  
35 ~~4-43-601 or § 4-43-604; and~~

36 (3) ~~except as provided in the partnership agreement, to partners~~

1 ~~first for the return of their contributions and secondly respecting their~~  
2 ~~partnership interests, in the proportions in which the partners share in~~  
3 ~~distributions.~~

4  
5 ~~4-43-901. Law governing.~~

6 ~~Subject to the Constitution of this State, (i) the laws of the state~~  
7 ~~under which a foreign limited partnership is organized govern its~~  
8 ~~organization and internal affairs and the liability of its limited partners,~~  
9 ~~and (ii) a foreign limited partnership may not be denied registration by~~  
10 ~~reason of any difference between those laws and the laws of this State.~~

11  
12 ~~4-43-902. Registration.~~

13 ~~Before transacting business in this State, a foreign limited~~  
14 ~~partnership shall register with the Secretary of State. In order to~~  
15 ~~register, a foreign limited partnership shall submit to the Secretary of~~  
16 ~~State, in duplicate, an application for registration as a foreign limited~~  
17 ~~partnership, signed and sworn to by a general partner and setting forth:~~

18 ~~(1) the name of the foreign limited partnership and, if~~  
19 ~~different, the name under which it proposes to register and transact business~~  
20 ~~in this State;~~

21 ~~(2) the state and date of its formation;~~

22 ~~(3) the name and address of any agent for service of process on~~  
23 ~~the foreign limited partnership whom the foreign limited partnership elects~~  
24 ~~to appoint; the agent must be an individual resident of this State, a~~  
25 ~~domestic corporation, or a foreign corporation having a place of business in,~~  
26 ~~and authorized to do business in, this State;~~

27 ~~(4) a statement that the Secretary of State is appointed the~~  
28 ~~agent of the foreign limited partnership for service of process if no agent~~  
29 ~~has been appointed under subdivision (3) or, if appointed, the agent's~~  
30 ~~authority has been revoked or if the agent cannot be found or served with the~~  
31 ~~exercise of reasonable diligence;~~

32 ~~(5) the address of the office required to be maintained in the~~  
33 ~~state of its organization by the laws of that state or, if not so required,~~  
34 ~~of the principal office of the foreign limited partnership;~~

35 ~~(6) the name and business address of each general partner; and~~

36 ~~(7) the address of the office at which is kept a list of the~~

1 ~~names and addresses of the limited partners and their capital contributions,~~  
2 ~~together with an undertaking by the foreign limited partnership to keep those~~  
3 ~~records until the foreign limited partnership's registration in this State is~~  
4 ~~cancelled or withdrawn.~~

5  
6 ~~4-43-903. Issuance of registration.~~

7 ~~(a) If the Secretary of State finds that an application for~~  
8 ~~registration conforms to law and all requisite fees have been paid, he shall:~~

9 ~~(1) endorse on the application the word "Filed," and the month,~~  
10 ~~day, and year of the filing thereof;~~

11 ~~(2) file in his office a duplicate original of the application;~~  
12 ~~and~~

13 ~~(3) issue a certificate of registration to transact business in~~  
14 ~~this State.~~

15 ~~(b) The certificate of registration, together with a duplicate~~  
16 ~~original of the application, shall be returned to the person who filed the~~  
17 ~~application or his representative.~~

18  
19 ~~4-43-904. Name.~~

20 ~~A foreign limited partnership may register with the Secretary of State~~  
21 ~~under any name, whether or not it is the name under which it is registered in~~  
22 ~~its state of organization, that includes without abbreviation the words~~  
23 ~~"limited partnership" and that could be registered by a domestic limited~~  
24 ~~partnership.~~

25  
26 ~~4-43-905. Changes and amendments.~~

27 ~~If any statement in the application for registration of a foreign~~  
28 ~~limited partnership was false when made or any arrangements or other facts~~  
29 ~~described have changed, making the application inaccurate in any respect, the~~  
30 ~~foreign limited partnership shall promptly file in the office of the~~  
31 ~~Secretary of State a certificate, signed and sworn to by a general partner,~~  
32 ~~correcting such statement.~~

33  
34 ~~4-43-906. Cancellation of registration.~~

35 ~~A foreign limited partnership may cancel its registration by filing~~  
36 ~~with the Secretary of State a certificate of cancellation signed and sworn to~~



1 by a general partner. A cancellation does not terminate the authority of the  
2 Secretary of State to accept service of process on the foreign limited  
3 partnership with respect to causes of action arising out of the transaction  
4 of business in this state.

5  
6 ~~4-43-907. Transaction of business without registration.~~

7 ~~(a) A foreign limited partnership transacting business in this State~~  
8 ~~may not maintain any action, suit, or proceeding in any court of this State~~  
9 ~~until it has registered in this State.~~

10 ~~(b) The failure of a foreign limited partnership to register in this~~  
11 ~~State does not impair the validity of any contract or act of the foreign~~  
12 ~~limited partnership or prevent the foreign limited partnership from defending~~  
13 ~~any action, suit, or proceeding in any court of this State.~~

14 ~~(c) A limited partner of a foreign limited partnership is not liable~~  
15 ~~as a general partner of the foreign limited partnership solely by reason of~~  
16 ~~having transacted business in this State without registration.~~

17 ~~(d) A foreign limited partnership, by transacting business in this~~  
18 ~~State without registration, appoints the Secretary of State as its agent for~~  
19 ~~service of process with respect to causes of action arising out of the~~  
20 ~~transaction of business in this State.~~

21  
22 ~~4-43-908. Action by Secretary of State.~~

23 ~~The Secretary of State may bring an action to restrain a foreign~~  
24 ~~limited partnership from transacting business in this state in violation of~~  
25 ~~this subchapter.~~

26  
27 ~~4-43-1001. Right of action.~~

28 ~~A limited partner may bring an action in the right of a limited~~  
29 ~~partnership to recover a judgment in its favor if general partners with~~  
30 ~~authority to do so have refused to bring the action or if an effort to cause~~  
31 ~~those general partners to bring the action is not likely to succeed.~~

32  
33 ~~4-43-1002. Proper plaintiff.~~

34 ~~In a derivative action, the plaintiff must be a partner at the time of~~  
35 ~~bringing the action and (i) must have been a partner at the time of the~~  
36 ~~transaction of which he complains or (ii) his status as a partner must have~~

1 ~~devolved upon him by operation of law or pursuant to the terms of the~~  
2 ~~partnership agreement from a person who was a partner at the time of the~~  
3 ~~transaction.~~

4  
5  
6 ~~4-43-1003. Pleading.~~

7 ~~In a derivative action, the complaint shall set forth with~~  
8 ~~particularity the effort of the plaintiff to secure initiation of the action~~  
9 ~~by a general partner or the reasons for not making the effort.~~

10  
11 ~~4-43-1004. Expenses.~~

12 ~~If a derivative action is successful, in whole or in part, or if~~  
13 ~~anything is received by the plaintiff as a result of a judgment, compromise,~~  
14 ~~or settlement of an action or claim, the court may award the plaintiff~~  
15 ~~reasonable expenses, including reasonable attorney's fees, and shall direct~~  
16 ~~him to remit to the limited partnership the remainder of those proceeds~~  
17 ~~received by him.~~

18  
19 ~~4-43-1101. Construction and application.~~

20 ~~This chapter shall be so applied and construed to effectuate its~~  
21 ~~general purpose to make uniform the law with respect to the subject of this~~  
22 ~~chapter.~~

23  
24 ~~4-43-1102. Short title.~~

25 ~~This chapter may be cited as the "Revised Limited Partnership Act of~~  
26 ~~1991".~~

27  
28 ~~4-43-1103. Severability.~~

29 ~~If any provision of this chapter or its application to any person or~~  
30 ~~circumstance is held invalid, the invalidity does not affect other provisions~~  
31 ~~or applications of the chapter which can be given effect without the invalid~~  
32 ~~provision or application, and to this end the provisions of this chapter are~~  
33 ~~severable.~~

34  
35 SECTION 5. Effective January 1, 2007, Arkansas Code §§ 4-43-1105  
36 through 4-43-1110 are repealed.

1           ~~4-43-1105. Elimination of certificate of assumed name.~~

2           ~~Any partnership which meets the filing requirements of this chapter~~  
3 ~~shall not be required to file a certificate of assumed name as required by §~~  
4 ~~4-70-201 et seq. For other purposes of this chapter, this provision shall be~~  
5 ~~construed as an amendment to § 4-70-201 et seq. insofar as partnerships~~  
6 ~~subject to this chapter are concerned.~~

7  
8           ~~4-43-1106. Provisions for existing limited partnership.~~

9           ~~(1) A limited partnership formed under any statute of this state~~  
10 ~~prior to the adoption of this chapter may become a limited partnership under~~  
11 ~~this chapter by complying with the provisions of § 4-43-201 provided the~~  
12 ~~property of the partnership exceeds the amount sufficient to discharge its~~  
13 ~~liabilities to persons not claiming as general or limited partners by an~~  
14 ~~amount greater than the sum of the contribution of its limited partners.~~

15           ~~(2) A limited partnership formed under any statute of this state~~  
16 ~~prior to the adoption of this chapter, until or unless it becomes a limited~~  
17 ~~partnership under this chapter, shall continue to be governed by the~~  
18 ~~provisions of Rev. Stat. Ch. 108 [repealed] or § 4-44-101 et seq. [repealed],~~  
19 ~~as appropriate.~~

20  
21           ~~4-43-1107. Application of Uniform Partnership Act.~~

22           ~~In any case not provided for in this chapter, the provisions of the~~  
23 ~~Uniform Partnership Act, § 4-42-101 et seq., govern.~~

24  
25           ~~4-43-1108. Supersession.~~

26           ~~(1) The effective date of this chapter shall be July 1, 1979,~~  
27 ~~and it shall apply to limited partnerships thereafter formed. The provisions~~  
28 ~~under prior law for execution and filing of certificates of limited~~  
29 ~~partnership and amendments thereunder and cancellation thereof continue in~~  
30 ~~effect until midnight, June 30, 1979.~~

31           ~~(2) Section 4-43-402, specifying the conditions under which a~~  
32 ~~general partner ceases to be a member of a limited partnership, is not~~  
33 ~~effective until the effective date, and the applicable provisions of existing~~  
34 ~~law continue to govern until the effective date.~~

35           ~~(3) Sections 4-43-501, 4-43-502, and 4-43-608 apply only to contributions~~  
36 ~~and distributions made after the effective date of this chapter.~~

1 ~~(4) Section 4-43-704 applies only to assignments made after the effective~~  
2 ~~date of this chapter.~~

3 ~~(5) Section 4-43-901 et seq., dealing with registration of foreign limited~~  
4 ~~partnerships, is not effective until the effective date.~~

5  
6 4-43-1109. Emergency clause.

7 It is hereby found and determined by the Seventy-Second General  
8 Assembly, that the effectiveness of this chapter on July 1, 1979, is  
9 essential to the orderly legal status of limited partnerships now formed or  
10 to be formed and that in the event of an extension of the Regular Session,  
11 the delay in the effective date of this chapter beyond July 1, 1979, could  
12 work irreparable harm to the legal status of all Arkansas limited  
13 partnerships. Therefore, an emergency is hereby declared to exist and this  
14 chapter being necessary for the immediate preservation of the public peace,  
15 health, and safety shall be in full force and effect from and after July 1,  
16 1979.

17  
18 4-43-1110. Limited partnerships as registered limited liability limited  
19 partnerships.

20 ~~(a) To become and continue as a registered limited liability limited~~  
21 ~~partnership, a limited partnership shall, in addition to complying with the~~  
22 ~~requirements of this chapter:~~

23 ~~(1) File an application as provided in § 4-42-703 of the Uniform~~  
24 ~~Partnership Act, as permitted by the limited partnership's partnership~~  
25 ~~agreement or, if the limited partnership's partnership agreement does not~~  
26 ~~provide for the limited partnership's becoming a registered limited liability~~  
27 ~~limited partnership, with the approval (i) by all general partners, and (ii)~~  
28 ~~by the limited partners or, if there is more than one class or group of~~  
29 ~~limited partners, by each class or group of limited partners, and in either~~  
30 ~~case, by limited partners who own more than fifty percent (50%) of the then~~  
31 ~~current percentage or other interest in the profits of the limited~~  
32 ~~partnership owned by all of the limited partners or by the limited partners~~  
33 ~~in each class or group, as appropriate; and~~

34 ~~(2) Have as the last words or letters of its name the words~~  
35 ~~"Registered Limited Liability Limited Partnership", or the abbreviation~~  
36 ~~"L.L.L.P." or "LLLP", and the word "Limited" may be abbreviated as "Ltd."~~

1           ~~(b) In applying § 4-42-703 of the Uniform Partnership Act to a limited~~  
2 ~~partnership;~~

3           ~~(1) An application to become a registered limited liability~~  
4 ~~limited partnership, or a withdrawal notice, shall be executed by at least~~  
5 ~~one general partner of the limited partnership;~~

6           ~~(2) All references to partners mean general partners only; and~~

7           ~~(3) With respect to the initial filing of a certificate of~~  
8 ~~limited partnership by a limited partnership which also files an application~~  
9 ~~as provided in § 4-42-703 to become a registered limited liability limited~~  
10 ~~partnership, there shall only be one filing fee, which shall equal the~~  
11 ~~greater of the filing fee under this chapter or the filing fee provided in §~~  
12 ~~4-42-703.~~

13           ~~(c) If a limited partnership is a registered limited liability limited~~  
14 ~~partnership, its partners who are liable for the debts, liabilities and other~~  
15 ~~obligations of the limited partnership shall have the limitation on liability~~  
16 ~~afforded to partners of registered limited liability partnerships under § 4-~~  
17 ~~42-307 of the Uniform Partnership Act.~~

18           ~~(d) With respect to a limited partnership which is simultaneously~~  
19 ~~filing a certificate of limited partnership along with an application to~~  
20 ~~become a registered limited liability limited partnership, the name used in~~  
21 ~~the certificate of limited partnership may contain the words designating the~~  
22 ~~limited partnership as a registered limited liability limited partnership as~~  
23 ~~indicated in subdivision (a)(2) of this section.~~

24  
25           SECTION 6. Effective January 1, 2007, Arkansas Code §§ 4-43-1201  
26 through 4-43-1206 are repealed.

27           ~~4-43-1201. Conversion of limited partnership to limited liability~~  
28 ~~company.~~

29           ~~(a) A limited partnership may be converted to a limited liability~~  
30 ~~company pursuant to this section.~~

31           ~~(b) The terms and conditions of a conversion of a limited partnership~~  
32 ~~to a limited liability company must be approved by all of the partners, or by~~  
33 ~~a number or percentage of the partners specified for conversion in the~~  
34 ~~partnership agreement.~~

35           ~~(c) An agreement of conversion must set forth the terms and conditions~~  
36 ~~of the conversion of the interests of partners of a limited partnership into~~

1 ~~interests in the converted limited liability company or the cash or other~~  
2 ~~consideration to be paid or delivered as a result of the conversion of the~~  
3 ~~interests of the partners, or a combination thereof.~~

4 ~~(d) After a conversion is approved under subsection (b) of this~~  
5 ~~section, the limited partnership shall file articles of organization in the~~  
6 ~~office of the Secretary of State which satisfy the requirements of § 4-32-202~~  
7 ~~and include:~~

8 ~~(1) A statement that the limited partnership was converted to a~~  
9 ~~limited liability company from a limited partnership;~~

10 ~~(2) Its former name;~~

11 ~~(3) A statement of the number of votes cast by the partners~~  
12 ~~entitled to vote for and against the conversion and, if the vote is less than~~  
13 ~~unanimous, the number or percentage required to approve the conversion under~~  
14 ~~subsection (b) of this section; and~~

15 ~~(4) A statement that the certificate of limited partnership is~~  
16 ~~anceled.~~

17 ~~(e) The filing of articles of organization under subsection (d) of~~  
18 ~~this section cancels the certificate of limited partnership as of the date on~~  
19 ~~which the conversion takes effect.~~

20 ~~(f) A conversion takes effect when the articles of organization are~~  
21 ~~filed in the office of the Secretary of State or at any later date specified~~  
22 ~~in the articles of organization.~~

23 ~~(g) A general partner who becomes a member of a limited liability~~  
24 ~~company as a result of a conversion remains liable as a partner for any~~  
25 ~~obligation incurred by the limited partnership before the conversion takes~~  
26 ~~effect.~~

27 ~~(h) A partner's liability for all obligations of the limited liability~~  
28 ~~company incurred after the conversion takes effect is that of a member of a~~  
29 ~~limited liability company. A limited partner who becomes a member as a result~~  
30 ~~of a conversion remains liable only to the extent the limited partner was~~  
31 ~~liable for an obligation incurred by the limited partnership before the~~  
32 ~~conversion takes effect.~~

33  
34 ~~4-43-1202. Effect of conversion—Entity unchanged.~~

35 ~~(a) A limited partnership that has been converted to a limited~~  
36 ~~liability company is for all purposes, except for any differences caused by~~

1 ~~being governed under the limited liability company statutes, the same entity~~  
2 ~~that existed before the conversion.~~

3 ~~(b) When a conversion takes effect:~~

4 ~~(1) All property owned by the converting limited partnership is~~  
5 ~~vested in the limited liability company;~~

6 ~~(2) All debts, liabilities, and other obligations of the~~  
7 ~~converting limited partnership continue as obligations of the limited~~  
8 ~~liability company;~~

9 ~~(3) An action or proceeding pending by or against the converting~~  
10 ~~limited partnership may be continued as if the conversion had not occurred;~~

11 ~~(4) Except as prohibited by other law, all the rights,~~  
12 ~~privileges, immunities, powers, and purposes of the converting limited~~  
13 ~~partnership are vested in the limited liability company; and~~

14 ~~(5) Except as otherwise provided in the agreement of conversion~~  
15 ~~under § 4-43-1201(c), all of the partners of the converting limited~~  
16 ~~partnership continue as members of the limited liability company.~~

17  
18 ~~4-43-1203. Merger or consolidation.~~

19 ~~(a) Unless otherwise provided in writing in a partnership agreement,~~  
20 ~~and subject to any law applicable to business entities other than limited~~  
21 ~~partnerships, one (1) or more limited partnerships may merge or consolidate~~  
22 ~~with or into one (1) or more other business entities with the limited~~  
23 ~~partnership or other business entity as the merger or consolidation agreement~~  
24 ~~shall provide being the surviving or resulting limited partnership or other~~  
25 ~~business entity.~~

26 ~~(b) Rights or securities of or interests in a business entity that is~~  
27 ~~a party to the merger or consolidation may be exchanged for or converted into~~  
28 ~~cash, property, obligations, rights or securities of or interests in the~~  
29 ~~surviving or resulting business entity or of any other business entity.~~

30 ~~(c) As used in this subchapter, "business entity" or "business~~  
31 ~~entities" shall mean domestic and foreign limited liability companies.~~

32  
33 ~~4-43-1204. Approval of merger or consolidation.~~

34 ~~(a) Unless otherwise provided in writing in a partnership agreement, a~~  
35 ~~limited partnership that is a party to a proposed merger or consolidation~~  
36 ~~shall approve the merger or consolidation agreement by the consent of all the~~

1 ~~partners.~~

2 ~~(b) Each business entity that is a party to a proposed merger or~~  
3 ~~consolidation shall approve the merger or consolidation in the manner and by~~  
4 ~~the vote required by the laws applicable to such business entity.~~

5 ~~(c) Each business entity that is a party to the merger or~~  
6 ~~consolidation shall have such rights to abandon the merger as are provided~~  
7 ~~for in the merger or consolidation agreement or in the laws applicable to the~~  
8 ~~business entity.~~

9  
10 ~~4-43-1205. Articles of merger or consolidation.~~

11 ~~(a) The business entity surviving or resulting from the merger or~~  
12 ~~consolidation shall deliver to the Secretary of State articles of merger or~~  
13 ~~consolidation executed by each constituent entity setting forth:~~

14 ~~(1) The name and jurisdiction of formation or organization of~~  
15 ~~each business entity which is to merge or consolidate;~~

16 ~~(2) That an agreement of merger or consolidation has been~~  
17 ~~approved and executed by each business entity which is a party to the merger~~  
18 ~~or consolidation;~~

19 ~~(3) The name of the surviving or resulting entity;~~

20 ~~(4) The future effective date of the merger or consolidation~~  
21 ~~(which shall be a date or time certain) if it is not to be effective upon the~~  
22 ~~filing of the articles of merger or consolidation;~~

23 ~~(5) That the agreement of merger or consolidation is on file at~~  
24 ~~a place of business of the surviving or resulting entity, and the address of~~  
25 ~~that place of business;~~

26 ~~(6) That a copy of the agreement of merger or consolidation will~~  
27 ~~be furnished by the surviving or resulting business entity, on request and~~  
28 ~~without cost, to any person holding an interest in any business entity which~~  
29 ~~is to merge or consolidate; and~~

30 ~~(7) If the surviving or resulting entity is not a business~~  
31 ~~entity organized under the laws of this state, a statement that such~~  
32 ~~surviving or resulting business entity:~~

33 ~~(i) Agrees that it may be served with process in this~~  
34 ~~state in any proceeding for enforcement of any obligation of any business~~  
35 ~~entity party to the merger or consolidation that was organized under the laws~~  
36 ~~of this state, as well as for enforcement of any obligation of the surviving~~



1 ~~business entity or the new business entity arising from the merger or~~  
2 ~~consolidation; and~~

3 ~~(ii) Appoints the Secretary of State as its agent for~~  
4 ~~service of process in any such proceeding, and the surviving business entity~~  
5 ~~shall specify the address to which a copy of the process shall be mailed to~~  
6 ~~it by the Secretary of State.~~

7 ~~(b) A merger or consolidation takes effect upon the later of the~~  
8 ~~effective date of the filing of the articles of merger or consolidation or~~  
9 ~~the date set forth in the articles of merger or consolidation.~~

10 ~~(c) The articles of merger or consolidation shall be executed by a~~  
11 ~~limited partnership that is a party to the merger or consolidation in the~~  
12 ~~manner provided for in § 4-43-204, and shall be filed with the Secretary of~~  
13 ~~State in the manner provided for in § 4-43-206.~~

14 ~~(d) Articles of merger or consolidation shall constitute articles of~~  
15 ~~dissolution for a limited partnership which is not the surviving or resulting~~  
16 ~~business entity in the merger or consolidation.~~

17 ~~(e) An agreement of merger or consolidation approved in accordance~~  
18 ~~with § 4-43-1204 may effect any amendment to a partnership agreement or~~  
19 ~~effect the adoption of a new partnership agreement for a limited partnership~~  
20 ~~if it is the surviving or resulting entity in the merger or consolidation. An~~  
21 ~~approved agreement of merger or consolidation may also provide that the~~  
22 ~~partnership agreement of any constituent limited partnership to the merger or~~  
23 ~~consolidation (including a limited partnership formed for the purpose of~~  
24 ~~consummating a merger or consolidation), shall be the agreement of the~~  
25 ~~surviving or resulting entity. Any amendment to a partnership agreement or~~  
26 ~~adoption of a new agreement made pursuant to this subsection (e) shall be~~  
27 ~~effective at the time or date of the merger or consolidation. The provisions~~  
28 ~~of this subsection shall not be construed to limit the accomplishment of a~~  
29 ~~merger or of any of the matters referred to herein by any other means~~  
30 ~~provided for in a partnership agreement or other agreement or as otherwise~~  
31 ~~permitted by law.~~

32  
33 ~~4-43-1206. Effects of merger or consolidation.~~

34 ~~A merger or consolidation has the following effects:~~

35 ~~(a) The business entities that are parties to the merger or~~  
36 ~~consolidation agreement shall become a single entity, which, in the case of a~~

1 merger, shall be the entity designated in the plan of merger as the surviving  
2 entity, and, in the case of a consolidation, shall be the new entity provided  
3 for in the plan of consolidation;

4 (b) Each party to the merger or consolidation agreement, except the  
5 surviving entity or the new entity, shall cease to exist;

6 (c) The surviving entity or the new entity shall thereupon and  
7 thereafter possess all the rights, privileges, immunities, and powers of each  
8 constituent entity and shall be subject to all the restrictions, disabilities  
9 and duties of each of the constituent entities to the extent that such  
10 rights, privileges, immunities, powers, franchises, restrictions,  
11 disabilities and duties are applicable to the type of business entity that is  
12 the surviving entity or the new entity;

13 (d) All property, real, personal and mixed, and all debts due on  
14 whatever account, including promises to make capital contributions and  
15 subscriptions for shares, and all other choses in action, and all and every  
16 other interest of or belonging to or due to each of the constituent entities  
17 shall be vested in the surviving entity or the new entity without further act  
18 or deed;

19 (e) The title to all real estate and any interest therein vested in  
20 any such constituent entity shall not revert or be in any way impaired by  
21 reason of such merger or consolidation;

22 (f) The surviving entity or the new entity shall thenceforth be liable  
23 for all liabilities of each of the constituent entities so merged or  
24 consolidated, and any claim existing or action or proceeding pending by or  
25 against any such constituent entity may be prosecuted as if such merger or  
26 consolidation had not taken place, or the surviving entity or the new entity  
27 may be substituted in the action;

28 (g) Neither the rights of the creditors nor any liens on the property  
29 of any constituent entity shall be impaired by the merger or consolidations;  
30 and

31 (h) The interests in a limited partnership that are to be converted or  
32 exchanged into interests, shares or other securities, cash, obligations or  
33 other property under the terms of the merger or consolidation agreement are  
34 so converted, and the former holders thereof are entitled only to the rights  
35 provided in the merger or consolidation agreement or the rights otherwise  
36 provided by law.

1  
2 SECTION 7. EMERGENCY CLAUSE. It is found and determined by the  
3 General Assembly of the State of Arkansas that the repeal of the Uniform  
4 Partnership Act, §§ 4-42-101 through 4-42-702, has created gaps and  
5 uncertainties in the Revised Limited Partnership Act of 1991, § 4-43-101 et  
6 seq., because the Revised Limited Partnership Act incorporates certain  
7 default provisions and includes cross-references to the Uniform Partnership  
8 Act. In particular, it is determined that there is the unintended potential  
9 gap in cross-references applicable to limited liability partnerships and that  
10 failure to act immediately will cause significant uncertainty with regard to  
11 the law applicable to the registration of limited partnerships as limited  
12 liability limited partnerships and the legal effect of such registration on  
13 general partners. In addition, the Revised Limited Partnership Act of 1991  
14 is out of date and fails to provide an economic environment most conducive to  
15 businesses that wish to operate as limited partnerships or limited liability  
16 limited partnerships. Further, to the extent these provisions have  
17 retroactive effect, they are found to be necessary to safeguard the public  
18 interest, to be consistent with the reasonable expectations of most if not  
19 all affected persons and necessary to avoid disruption to those expectations,  
20 to adversely impact any reasonable reliance interests only minimally if at  
21 all, and to be of a duration and scope limited to the emergency to which they  
22 are a response. Therefore, an emergency is declared to exist and this act  
23 being immediately necessary for the preservation of the public peace, health,  
24 and safety shall become effective on:

25 (1) The date of its approval by the Governor;

26 (2) If the bill is neither approved nor vetoed by the Governor,  
27 the expiration of the period of time during which the Governor may veto the  
28 bill; or

29 (3) If the bill is vetoed by the Governor and the veto is  
30 overridden, the date the last house overrides the veto.

31  
32 /s/ *Thyer, et al*  
33  
34  
35  
36