

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2386

Chapter 103, Laws of 1998

55th Legislature
1998 Regular Session

UNIFORM PARTNERSHIP ACT--REVISIONS

EFFECTIVE DATE: 6/11/98 - Except section 1308 which becomes effective 1/1/99.

Passed by the House February 10, 1998
Yeas 96 Nays 0

CLYDE BALLARD
**Speaker of the
House of Representatives**

Passed by the Senate March 5, 1998
Yeas 45 Nays 3

BRAD OWEN
President of the Senate

Approved March 23, 1998

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2386** as passed by the House of Representatives and the Senate on the dates hereon set forth.

TIMOTHY A. MARTIN
Chief Clerk

FILED

March 23, 1998 - 4:17 p.m.

**Secretary of State
State of Washington**

1 NEW SECTION. **Sec. 101.** DEFINITIONS. The definitions in this
2 section apply throughout this chapter unless the context clearly
3 requires otherwise:

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

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

6 (a) An order for relief under Title 11 of the United States Code or
7 a comparable order under a successor statute of general application; or

8 (b) A comparable order under federal, state, or foreign law
9 governing insolvency.

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

13 (4) "Foreign limited liability partnership" means a partnership
14 that:

15 (a) Is formed under laws other than the laws of this state; and

16 (b) Has the status of a limited liability partnership under those
17 laws.

18 (5) "Limited liability partnership" means a partnership that has
19 filed a statement of qualification under section 1101 of this act and
20 does not have a similar statement in effect in any other jurisdiction.

21 (6) "Partnership" means an association of two or more persons to
22 carry on as co-owners a business for profit formed under section 202 of
23 this act, predecessor law, or comparable law of another jurisdiction.

24 (7) "Partnership agreement" means the agreement, whether written,
25 oral, or implied, among the partners concerning the partnership,
26 including amendments to the partnership agreement.

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

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

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

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

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

4 (13) "Statement" means a statement of partnership authority under
5 section 303 of this act, a statement of denial under section 304 of
6 this act, a statement of dissociation under section 704 of this act, a
7 statement of dissolution under section 805 of this act, or an amendment
8 or cancellation of any statement under these sections.

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

11 NEW SECTION. **Sec. 102.** KNOWLEDGE AND NOTICE. (1) A person knows
12 a fact if the person has actual knowledge of it.

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

14 (a) Knows of it;

15 (b) Has received a notification of it; or

16 (c) Has reason to know it exists from all of the facts known to the
17 person at the time in question.

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

21 (4) A person receives a notification when the notification:

22 (a) Comes to the person's attention; or

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

26 (5) Except as otherwise provided in subsection (6) of this section,
27 a person other than an individual knows, has notice, or receives a
28 notification of a fact for purposes of a particular transaction when
29 the individual conducting the transaction knows, has notice, or
30 receives a notification of the fact, or in any event when the fact
31 would have been brought to the individual's attention if the person had
32 exercised reasonable diligence. The person exercises reasonable
33 diligence if the person maintains reasonable routines for communicating
34 significant information to the individual conducting the transaction
35 and there is reasonable compliance with the routines. Reasonable
36 diligence does not require an individual acting for the person to
37 communicate information unless the communication is part of the
38 individual's regular duties or the individual has reason to know of the

1 transaction and that the transaction would be materially affected by
2 the information.

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

8 NEW SECTION. **Sec. 103.** EFFECT OF PARTNERSHIP AGREEMENT;
9 NONWAIVABLE PROVISIONS. (1) Except as otherwise provided in subsection
10 (2) of this section, relations among the partners and between the
11 partners and the partnership are governed by the partnership agreement.
12 To the extent the partnership agreement does not otherwise provide,
13 this chapter governs relations among the partners and between the
14 partners and the partnership.

15 (2) The partnership agreement may not:

16 (a) Vary the rights and duties under section 105 of this act except
17 to eliminate the duty to provide copies of statements to all of the
18 partners;

19 (b) Unreasonably restrict the right of access to books and records
20 under section 403(2) of this act;

21 (c) Eliminate the duty of loyalty under section 404(2) or 603(2)(c)
22 of this act, but, if not manifestly unreasonable:

23 (i) The partnership agreement may identify specific types or
24 categories of activities that do not violate the duty of loyalty; or

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

29 (d) Unreasonably reduce the duty of care under section 404(3) or
30 603(2)(c) of this act;

31 (e) Eliminate the obligation of good faith and fair dealing under
32 section 404(4) of this act, but the partnership agreement may prescribe
33 the standards by which the performance of the obligation is to be
34 measured, if the standards are not manifestly unreasonable;

35 (f) Vary the power to dissociate as a partner under section 602(1)
36 of this act, except to require the notice under section 601(1) of this
37 act to be in writing;

1 (g) Vary the right of a court to expel a partner in the events
2 specified in section 601(5) of this act;

3 (h) Vary the requirement to wind up the partnership business in
4 cases specified in section 801 (4), (5), or (6) of this act;

5 (i) Vary the law applicable to a limited liability partnership
6 under section 106(2) of this act; or

7 (j) Restrict rights of third parties under this chapter.

8 NEW SECTION. **Sec. 104.** SUPPLEMENTAL PRINCIPLES OF LAW. (1)
9 Unless displaced by particular provisions of this chapter, the
10 principles of law and equity supplement this chapter.

11 (2) If an obligation to pay interest arises under this chapter and
12 the rate is not specified, the rate is that specified in
13 RCW 19.52.010(1).

14 NEW SECTION. **Sec. 105.** EXECUTION AND FILING OF STATEMENTS. (1)
15 A statement may be filed in the office of the secretary of state. A
16 certified copy of a statement that is filed in an office in another
17 state may be filed in the office of the secretary of state. Either
18 filing has the effect provided in this chapter with respect to
19 partnership property located in or transactions that occur in this
20 state.

21 (2) A statement filed by a partnership must be executed by at least
22 two partners. Other statements must be executed by a partner or other
23 person authorized by this chapter. An individual who executes a
24 statement as, or on behalf of, a partner or other person shall
25 personally declare under penalty of perjury that the contents of the
26 statement are accurate.

27 (3) A person authorized by this chapter to file a statement may
28 amend or cancel the statement by filing an amendment or cancellation
29 that names the partnership, identifies the statement, and states the
30 substance of the amendment or cancellation.

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

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

4 (i) Of a debt by installments or otherwise;

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

7 (iii) Of rent;

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

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

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

17 NEW SECTION. **Sec. 203.** PARTNERSHIP PROPERTY. Property acquired
18 by a partnership is property of the partnership and not of the partners
19 individually.

20 NEW SECTION. **Sec. 204.** WHEN PROPERTY IS PARTNERSHIP PROPERTY.

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

22 (a) The partnership; or

23 (b) One or more partners with an indication in the instrument
24 transferring title to the property of the person's capacity as a
25 partner or of the existence of a partnership, whether or not there is
26 an indication of the name of the partnership.

27 (2) Property is acquired in the name of the partnership by a
28 transfer to:

29 (a) The partnership in its name; or

30 (b) One or more partners in their capacity as partners in the
31 partnership, if the name of the partnership is indicated in the
32 instrument transferring title to the property.

33 (3) Property is presumed to be partnership property if purchased
34 with partnership assets, even if not acquired in the name of the
35 partnership or of one or more partners with an indication in the
36 instrument transferring title to the property of the person's capacity
37 as a partner or of the existence of a partnership.

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

6 **ARTICLE 3**

7 **RELATIONS OF PARTNERS TO PERSONS**

8 **DEALING WITH PARTNERSHIP**

9 NEW SECTION. **Sec. 301.** PARTNER AGENT OF PARTNERSHIP. Subject to
10 the effect of a statement of partnership authority under section 303 of
11 this act:

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

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

24 NEW SECTION. **Sec. 302.** TRANSFER OF PARTNERSHIP PROPERTY. (1)
25 Partnership property may be transferred as follows:

26 (a) Subject to the effect of a statement of partnership authority
27 under section 303 of this act, partnership property held in the name of
28 the partnership may be transferred by an instrument of transfer
29 executed by a partner in the partnership name;

30 (b) Partnership property held in the name of one or more partners
31 with an indication in the instrument transferring the property to them
32 of their capacity as partners or of the existence of a partnership, but
33 without an indication of the name of the partnership, may be
34 transferred by an instrument of transfer executed by the persons in
35 whose name the property is held; or

1 (c) Partnership property held in the name of one or more persons
2 other than the partnership, without an indication in the instrument
3 transferring the property to them of their capacity as partners or of
4 the existence of a partnership, may be transferred by an instrument of
5 transfer executed by the persons in whose name the property is held.

6 (2) A partnership may recover partnership property from a
7 transferee only if it proves that execution of the instrument of
8 initial transfer did not bind the partnership under section 301 of this
9 act, and:

10 (a) As to a subsequent transferee who gave value for property
11 transferred under subsection (1)(a) and (b) of this section, proves
12 that the subsequent transferee knew or had received a notification that
13 the person who executed the instrument of initial transfer lacked
14 authority to bind the partnership; or

15 (b) As to a transferee who gave value for property transferred
16 under subsection (1)(c) of this section, proves that the transferee
17 knew or had received a notification that the property was partnership
18 property and that the person who executed the instrument of initial
19 transfer lacked authority to bind the partnership.

20 (3) A partnership may not recover partnership property from a
21 subsequent transferee if the partnership would not have been entitled
22 to recover the property, under subsection (2) of this section, from any
23 earlier transferee of the property.

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

29 NEW SECTION. **Sec. 303.** STATEMENT OF PARTNERSHIP AUTHORITY. (1)
30 A partnership may file a statement of partnership authority, which:

31 (a) Must include:

32 (i) The name of the partnership; and

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

35 (b) May state the names of all of the partners, the names of the
36 partners authorized to execute an instrument transferring real property
37 held in the name of the partnership, the authority, or limitations on

1 the authority, of some or all of the partners to enter into other
2 transactions on behalf of the partnership and any other matter.

3 (2) A grant of authority contained in a filed statement of
4 partnership authority is conclusive in favor of a person not a partner
5 who gives value without knowledge to the contrary, so long as and to
6 the extent that a limitation on that authority is not then contained in
7 a subsequently filed statement. A filed cancellation of a limitation
8 on authority revives the previous grant of authority.

9 (3) A person not a partner is deemed to know of a limitation on the
10 authority of a partner to transfer real property held in the name of
11 the partnership if the limitation is contained in a filed statement of
12 partnership authority.

13 (4) Except as otherwise provided in subsection (3) of this section
14 and sections 704 and 805 of this act, a person not a partner is not
15 deemed to know of a limitation on the authority of a partner merely
16 because the limitation is contained in a filed statement.

17 (5) Unless earlier canceled, a filed statement of partnership
18 authority is canceled by operation of law five years after the date on
19 which the statement, or the most recent amendment, was filed with the
20 secretary of state.

21 NEW SECTION. **Sec. 304.** STATEMENT OF DENIAL. A partner, or other
22 person named as a partner in a filed statement of partnership
23 authority, may file a statement of denial stating the name of the
24 partnership and the fact that is being denied, which may include denial
25 of a person's authority or status as a partner. A statement of denial
26 is a limitation on authority as provided in section 303 (2) and (3) of
27 this act.

28 NEW SECTION. **Sec. 305.** PARTNERSHIP LIABLE FOR PARTNER'S
29 ACTIONABLE CONDUCT. (1) A partnership is liable for loss or injury
30 caused to a person, or for a penalty incurred, as a result of a
31 wrongful act or omission, or other actionable conduct, of a partner
32 acting in the ordinary course of business of the partnership or with
33 authority of the partnership.

34 (2) If, in the course of the partnership's business or while acting
35 with authority of the partnership, a partner receives or causes the
36 partnership to receive money or property of a person not a partner, and

1 the money or property is misapplied by a partner, the partnership is
2 liable for the loss.

3 NEW SECTION. **Sec. 306.** PARTNER'S LIABILITY. (1) Except as
4 otherwise provided in subsections (2), (3), and (4) of this section,
5 all partners are liable jointly and severally for all obligations of
6 the partnership unless otherwise agreed by the claimant or provided by
7 law.

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

11 (3) Except as otherwise provided in subsection (4) of this section,
12 an obligation of a partnership incurred while the partnership is a
13 limited liability partnership, whether arising in contract, tort, or
14 otherwise, is solely the obligation of the partnership. A partner is
15 not personally liable, directly or indirectly, by way of contribution
16 or otherwise, for such an obligation solely by reason of being or so
17 acting as a partner. This subsection applies notwithstanding anything
18 inconsistent in the partnership agreement that existed, in the case of
19 a limited liability partnership in existence on the effective date of
20 this act, and, in the case of a partnership becoming a limited
21 liability partnership after the effective date of this act, immediately
22 before the vote required to become a limited liability partnership
23 under section 1101(1) of this act.

24 (4) If the partners of a limited liability partnership or a foreign
25 limited liability partnership are required to be licensed to provide
26 professional services as defined in RCW 18.100.030, and the partnership
27 fails to maintain for itself and for its members practicing in this
28 state a policy of professional liability insurance, bond, deposit in
29 trust, bank escrow of cash, bank certificates of deposit, United States
30 treasury obligations, bank letter of credit, insurance company bond, or
31 other evidence of financial responsibility of a kind designated by rule
32 by the state insurance commissioner and in the amount of at least one
33 million dollars or such greater amount, not to exceed three million
34 dollars, as the state insurance commissioner may establish by rule for
35 a licensed profession or for any specialty within a profession, taking
36 into account the nature and size of the businesses within the
37 profession or specialty, then the partners shall be personally liable
38 to the extent that, had such insurance, bond, deposit in trust, bank

1 escrow of cash, bank certificates of deposit, United States treasury
2 obligations, bank letter of credit, insurance company bond, or other
3 evidence of responsibility been maintained, it would have covered the
4 liability in question.

5 NEW SECTION. **Sec. 307.** ACTIONS BY AND AGAINST PARTNERSHIP AND
6 PARTNERS. (1) A partnership may sue and be sued in the name of the
7 partnership.

8 (2) An action may be brought against the partnership and, to the
9 extent not inconsistent with section 306 of this act, any or all of the
10 partners in the same action or in separate actions.

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

15 (4) A judgment creditor of a partner may not levy execution against
16 the assets of the partner to satisfy a judgment based on a claim
17 against the partnership unless the partner is personally liable for the
18 claim under section 306 of this act, and:

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

22 (b) The partnership is a debtor in bankruptcy;

23 (c) The partner has agreed that the creditor need not exhaust
24 partnership assets;

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

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

33 (5) This section applies to any partnership liability or obligation
34 resulting from a representation by a partner or purported partner under
35 section 308 of this act.

36 NEW SECTION. **Sec. 308.** LIABILITY OF PURPORTED PARTNER. (1) If a
37 person, by words or conduct, purports to be a partner, or consents to

1 being represented by another as a partner, in a partnership or with one
2 or more persons not partners, the purported partner is liable to a
3 person to whom the representation is made, if that person, relying on
4 the representation, enters into a transaction with the actual or
5 purported partnership. If the representation, either by the purported
6 partner or by a person with the purported partner's consent, is made in
7 a public manner, the purported partner is liable to a person who relies
8 upon the purported partnership even if the purported partner is not
9 aware of being held out as a partner to the claimant. If partnership
10 liability results, the purported partner is liable with respect to that
11 liability as if the purported partner were a partner. If no
12 partnership liability results, the purported partner is liable with
13 respect to that liability jointly and severally with any other person
14 consenting to the representation.

15 (2) If a person is thus represented to be a partner in an existing
16 partnership, or with one or more persons not partners, the purported
17 partner is an agent of persons consenting to the representation to bind
18 them to the same extent and in the same manner as if the purported
19 partner were a partner, with respect to persons who enter into
20 transactions in reliance upon the representation. If all of the
21 partners of the existing partnership consent to the representation, a
22 partnership act or obligation results. If fewer than all of the
23 partners of the existing partnership consent to the representation, the
24 person acting and the partners consenting to the representation are
25 jointly and severally liable.

26 (3) A person is not liable as a partner merely because the person
27 is named by another in a statement of partnership authority.

28 (4) A person does not continue to be liable as a partner merely
29 because of a failure to file a statement of dissociation or to amend a
30 statement of partnership authority to indicate the partner's
31 dissociation from the partnership.

32 (5) Except as otherwise provided in subsections (1) and (2) of this
33 section, persons who are not partners as to each other are not liable
34 as partners to other persons.

35 **ARTICLE 4**

36 **RELATIONS OF PARTNERS TO EACH OTHER AND TO PARTNERSHIP**

1 NEW SECTION. **Sec. 401.** PARTNER'S RIGHTS AND DUTIES. (1) Each

2 partner is deemed to have an account that is:

3 (a) Credited with an amount equal to the money plus the value of
4 any other property, net of the amount of any liabilities, the partner
5 contributes to the partnership and the partner's share of the
6 partnership profits; and

7 (b) Charged with an amount equal to the money plus the value of any
8 other property, net of the amount of any liabilities, distributed by
9 the partnership to the partner and the partner's share of the
10 partnership losses.

11 (2) Each partner is entitled to an equal share of the partnership
12 profits and is chargeable with a share of the partnership losses in
13 proportion to the partner's share of the profits.

14 (3) A partnership shall reimburse a partner for payments made and
15 indemnify a partner for liabilities incurred by the partner in the
16 ordinary course of the business of the partnership or for the
17 preservation of its business or property.

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

21 (5) A payment or advance made by a partner which gives rise to a
22 partnership obligation under subsection (3) or (4) of this section
23 constitutes a loan to the partnership which accrues interest from the
24 date of the payment or advance.

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

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

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

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

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

1 (11) This section does not affect the obligations of a partnership
2 to other persons under section 301 of this act.

3 NEW SECTION. **Sec. 402.** DISTRIBUTIONS IN KIND. A partner has no
4 right to receive, and may not be required to accept, a distribution in
5 kind.

6 NEW SECTION. **Sec. 403.** PARTNER'S RIGHTS AND DUTIES WITH RESPECT
7 TO INFORMATION. (1) A partnership shall keep its books and records, if
8 any, at its chief executive office.

9 (2) A partnership shall provide partners and their agents and
10 attorneys access to its books and records. It shall provide former
11 partners and their agents and attorneys access to books and records
12 pertaining to the period during which they were partners. The right of
13 access provides the opportunity to inspect and copy books and records
14 during ordinary business hours. A partnership may impose a reasonable
15 charge, covering the costs of labor and material, for copies of
16 documents furnished.

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

20 (a) Without demand, any information concerning the partnership's
21 business and affairs reasonably required for the proper exercise of the
22 partner's rights and duties under the partnership agreement or this
23 chapter; and

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

28 NEW SECTION. **Sec. 404.** GENERAL STANDARDS OF PARTNER'S CONDUCT.
29 (1) The only fiduciary duties a partner owes to the partnership and the
30 other partners are the duty of loyalty and the duty of care set forth
31 in subsections (2) and (3) of this section.

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

34 (a) To account to the partnership and hold as trustee for it any
35 property, profit, or benefit derived by the partner in the conduct and
36 winding up of the partnership business or derived from a use by the

1 partner of partnership property, including the appropriation of a
2 partnership opportunity;

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

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

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

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

16 (5) A partner does not violate a duty or obligation under this
17 chapter or under the partnership agreement merely because the partner's
18 conduct furthers the partner's own interest.

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

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

26 NEW SECTION. **Sec. 405.** ACTIONS BY PARTNERSHIP AND PARTNERS. (1)
27 A partnership may maintain an action against a partner for a breach of
28 the partnership agreement, or for the violation of a duty to the
29 partnership, causing harm to the partnership.

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

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

34 (b) Enforce the partner's rights under this chapter, including:

35 (i) The partner's rights under section 401, 403, or 404 of this
36 act;

1 (ii) The partner's right on dissociation to have the partner's
2 interest in the partnership purchased pursuant to section 701 of this
3 act or enforce any other right under article 6 or 7 of this chapter; or

4 (iii) The partner's right to compel a dissolution and winding up of
5 the partnership business under section 801 of this act or enforce any
6 other right under article 8 of this chapter; or

7 (c) Enforce the rights and otherwise protect the interests of the
8 partner, including rights and interests arising independently of the
9 partnership relationship.

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

14 NEW SECTION. **Sec. 406.** CONTINUATION OF PARTNERSHIP BEYOND
15 DEFINITE TERM OR PARTICULAR UNDERTAKING. (1) If a partnership for a
16 definite term or particular undertaking is continued, without an
17 express agreement, after the expiration of the term or completion of
18 the undertaking, the rights and duties of the partners remain the same
19 as they were at the expiration or completion, so far as is consistent
20 with a partnership at will.

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

25 ARTICLE 5

26 TRANSFEREES AND CREDITORS OF PARTNER

27 NEW SECTION. **Sec. 501.** PARTNER NOT CO-OWNER OF PARTNERSHIP
28 PROPERTY. A partner is not a co-owner of partnership property and has
29 no interest in partnership property which can be transferred, either
30 voluntarily or involuntarily.

31 NEW SECTION. **Sec. 502.** PARTNER'S TRANSFERABLE INTEREST IN
32 PARTNERSHIP. The only transferable interest of a partner in the
33 partnership is the partner's share of the profits and losses of the
34 partnership and the partner's right to receive distributions. The
35 interest is personal property.

1 NEW SECTION. **Sec. 503.** TRANSFER OF PARTNER'S TRANSFERABLE
2 INTEREST. (1) A transfer, in whole or in part, of a partner's
3 transferable interest in the partnership:

4 (a) Is permissible;

5 (b) Does not by itself cause the partner's dissociation or a
6 dissolution and winding up of the partnership business; and

7 (c) Does not, as against the other partners or the partnership,
8 entitle the transferee, during the continuance of the partnership, to
9 participate in the management or conduct of the partnership business,
10 to require access to information concerning partnership transactions,
11 or to inspect or copy the partnership books or records.

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

14 (a) To receive, in accordance with the transfer, allocations of
15 profits and losses of the partnership and distributions to which the
16 transferor would otherwise be entitled;

17 (b) To receive upon the dissolution and winding up of the
18 partnership business, in accordance with the transfer, the net amount
19 otherwise distributable to the transferor; and

20 (c) To seek under section 801(6) of this act a judicial
21 determination that it is equitable to wind up the partnership business.

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

25 (4) Upon transfer, the transferor retains the rights and duties of
26 a partner other than the interest in profits and losses of the
27 partnership and distributions transferred.

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

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

34 NEW SECTION. **Sec. 504.** PARTNER'S TRANSFERABLE INTEREST SUBJECT TO
35 CHARGING ORDER. (1) On application by a judgment creditor of a partner
36 or of a partner's transferee, a court having jurisdiction may charge
37 the transferable interest of the judgment debtor to satisfy the
38 judgment. The court may appoint a receiver of the share of the

1 distributions due or to become due to the judgment debtor in respect of
2 the partnership and make all other orders, directions, accounts, and
3 inquiries the judgment debtor might have made or which the
4 circumstances of the case may require.

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

9 (3) At any time before foreclosure, an interest charged may be
10 redeemed:

11 (a) By the judgment debtor;

12 (b) With property other than partnership property, by one or more
13 of the other partners; or

14 (c) With partnership property, by one or more of the other partners
15 with the consent of all of the partners whose interests are not so
16 charged.

17 (4) This chapter does not deprive a partner of a right under
18 exemption laws with respect to the interest in the partnership.

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

22 ARTICLE 6

23 PARTNER'S DISSOCIATION

24 NEW SECTION. **Sec. 601.** EVENTS CAUSING PARTNER'S DISSOCIATION. A
25 partner is dissociated from a partnership upon the occurrence of any of
26 the following events:

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

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

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

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

34 (a) It is unlawful to carry on the partnership business with that
35 partner;

36 (b) There has been a transfer of all or substantially all of that
37 partner's transferable interest in the partnership, other than a

1 transfer for security purposes or a court order charging the partner's
2 interest which, in either case, has not been foreclosed;

3 (c) Within ninety days after the partnership notifies a corporate
4 partner that it will be expelled because it has filed articles of
5 dissolution, it has been administratively or judicially dissolved, or
6 its right to conduct business has been suspended by the jurisdiction of
7 its incorporation, and there is no revocation of the articles of
8 dissolution, no reinstatement following its administrative dissolution,
9 or reinstatement of its right to conduct business by the jurisdiction
10 of its incorporation, as applicable; or

11 (d) A partnership or limited liability company that is a partner
12 has been dissolved and its business is being wound up;

13 (5) On application by the partnership or another partner, the
14 partner's expulsion by judicial determination because:

15 (a) The partner engaged in wrongful conduct that adversely and
16 materially affected the partnership business;

17 (b) The partner willfully or persistently committed a material
18 breach of the partnership agreement or of a duty owed to the
19 partnership or the other partners under section 404 of this act; or

20 (c) The partner engaged in conduct relating to the partnership
21 business which makes it not reasonably practicable to carry on the
22 business in partnership with the partner;

23 (6) The partner's:

24 (a) Becoming a debtor in bankruptcy;

25 (b) Executing an assignment for the benefit of creditors;

26 (c) Seeking, consenting to, or acquiescing in the appointment of a
27 trustee, receiver, or liquidator of that partner or of all or
28 substantially all of that partner's property; or

29 (d) Failing, within ninety days after the appointment, to have
30 vacated or stayed the appointment of a trustee, receiver, or liquidator
31 of the partner or of all or substantially all of the partner's property
32 obtained without the partner's consent or acquiescence, or failing
33 within ninety days after the expiration of a stay to have the
34 appointment vacated;

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

36 (a) The partner's death;

37 (b) The appointment of a guardian or general conservator for the
38 partner; or

1 (c) A judicial determination that the partner has otherwise become
2 incapable of performing the partner's duties under the partnership
3 agreement;

4 (8) In the case of a partner that is a trust or is acting as a
5 partner by virtue of being a trustee of a trust, distribution of the
6 trust's entire transferable interest in the partnership, but not merely
7 by reason of the substitution of a successor trustee;

8 (9) In the case of a partner that is an estate or is acting as a
9 partner by virtue of being a personal representative of an estate,
10 distribution of the estate's entire transferable interest in the
11 partnership, but not merely by reason of the substitution of a
12 successor personal representative; or

13 (10) Termination of a partner who is not an individual,
14 partnership, corporation, trust, or estate.

15 NEW SECTION. **Sec. 602.** PARTNER'S POWER TO DISSOCIATE; WRONGFUL
16 DISSOCIATION. (1) A partner has the power to dissociate at any time,
17 rightfully or wrongfully, by express will pursuant to section 601(1) of
18 this act.

19 (2) A partner's dissociation is wrongful only if:

20 (a) It is in breach of an express provision of the partnership
21 agreement; or

22 (b) In the case of a partnership for a definite term or particular
23 undertaking, before the expiration of the term or the completion of the
24 undertaking:

25 (i) The partner withdraws by express will, unless the withdrawal
26 follows within ninety days after another partner's dissociation by
27 death or otherwise under section 601 (6) through (10) of this act or
28 wrongful dissociation under this subsection;

29 (ii) The partner is expelled by judicial determination under
30 section 601(5) of this act;

31 (iii) The partner is dissociated as the result of an event
32 described in section 601(6) of this act; or

33 (iv) In the case of a partner who is not an individual, trust other
34 than a business trust, or estate, the partner is expelled or otherwise
35 dissociated because it willfully dissolved or terminated.

36 (3) A partner who wrongfully dissociates is liable to the
37 partnership and to the other partners for damages caused by the

1 dissociation. The liability is in addition to any other obligation of
2 the partner to the partnership or to the other partners.

3 NEW SECTION. **Sec. 603.** EFFECT OF PARTNER'S DISSOCIATION. (1) If
4 a partner's dissociation results in a dissolution and winding up of the
5 partnership business, article 8 of this chapter applies; otherwise,
6 article 7 of this chapter applies.

7 (2) Upon a partner's dissociation:

8 (a) The partner's right to participate in the management and
9 conduct of the partnership business terminates, except as otherwise
10 provided in section 803 of this act;

11 (b) The partner's duty of loyalty under section 404(2)(c) of this
12 act terminates; and

13 (c) The partner's duty of loyalty under section 404(2) (a) and (b)
14 of this act and duty of care under section 404(3) of this act continue
15 only with regard to matters arising and events occurring before the
16 partner's dissociation, unless the partner participates in winding up
17 the partnership's business pursuant to section 803 of this act.

18 **ARTICLE 7**

19 **PARTNER'S DISSOCIATION WHEN** 20 **BUSINESS NOT WOUND UP**

21 NEW SECTION. **Sec. 701.** PURCHASE OF DISSOCIATED PARTNER'S
22 INTEREST. (1) If a partner is dissociated from a partnership without
23 resulting in a dissolution and winding up of the partnership business
24 under section 801 of this act, the partnership shall cause the
25 dissociated partner's interest in the partnership to be purchased for
26 a buyout price determined pursuant to subsection (2) of this section.

27 (2) The buyout price of a dissociated partner's interest is the
28 amount that would have been distributable to the dissociating partner
29 under section 807(2) of this act if, on the date of dissociation, the
30 assets of the partnership were sold at a price equal to the greater of
31 the liquidation value or the value based on a sale of the entire
32 business as a going concern without the dissociated partner and the
33 partnership were wound up as of that date. Interest must be paid from
34 the date of dissociation to the date of payment.

35 (3) Damages for wrongful dissociation under section 602(2) of this
36 act, and all other amounts owing, whether or not presently due, from

1 the dissociated partner to the partnership, must be offset against the
2 buyout price. Interest must be paid from the date the amount owed
3 becomes due to the date of payment.

4 (4) A partnership shall indemnify a dissociated partner whose
5 interest is being purchased against all partnership liabilities,
6 whether incurred before or after the dissociation, except liabilities
7 incurred by an act of the dissociated partner under section 702 of this
8 act.

9 (5) If no agreement for the purchase of a dissociated partner's
10 interest is reached within one hundred twenty days after a written
11 demand for payment, the partnership shall pay, or cause to be paid, in
12 cash to the dissociated partner the amount the partnership estimates to
13 be the buyout price and accrued interest, reduced by any offsets and
14 accrued interest under subsection (3) of this section.

15 (6) If a deferred payment is authorized under subsection (8) of
16 this section, the partnership may tender a written offer to pay the
17 amount it estimates to be the buyout price and accrued interest,
18 reduced by any offsets under subsection (3) of this section, stating
19 the time of payment, the amount and type of security for payment, and
20 the other terms and conditions of the obligation.

21 (7) The payment or tender required by subsection (5) or (6) of this
22 section must be accompanied by the following:

23 (a) A statement of partnership assets and liabilities as of the
24 date of dissociation;

25 (b) The latest available partnership balance sheet and income
26 statement, if any;

27 (c) An explanation of how the estimated amount of the payment was
28 calculated; and

29 (d) Written notice that the payment is in full satisfaction of the
30 obligation to purchase unless, within one hundred twenty days after the
31 written notice, the dissociated partner commences an action to
32 determine the buyout price, any offsets under subsection (3) of this
33 section, or other terms of the obligation to purchase.

34 (8) A partner who wrongfully dissociates before the expiration of
35 a definite term or the completion of a particular undertaking is not
36 entitled to payment of any portion of the buyout price until the
37 expiration of the term or completion of the undertaking, unless the
38 partner establishes to the satisfaction of the court that earlier
39 payment will not cause undue hardship to the business of the

1 partnership. A deferred payment must be adequately secured and bear
2 interest.

3 (9) A dissociated partner may maintain an action against the
4 partnership, pursuant to section 405(2)(b)(ii) of this act, to
5 determine the buyout price of that partner's interest, any offsets
6 under subsection (3) of this section, or other terms of the obligation
7 to purchase. The action must be commenced within one hundred twenty
8 days after the partnership has tendered payment or an offer to pay or
9 within one year after written demand for payment if no payment or offer
10 to pay is tendered. The court shall determine the buyout price of the
11 dissociated partner's interest, any offset due under subsection (3) of
12 this section, and accrued interest, and enter judgment for any
13 additional payment or refund. If deferred payment is authorized under
14 subsection (8) of this section, the court shall also determine the
15 security for payment and other terms of the obligation to purchase.
16 The court may assess reasonable attorneys' fees and the fees and
17 expenses of appraisers or other experts for a party to the action, in
18 amounts the court finds equitable, against a party that the court finds
19 acted arbitrarily, vexatiously, or not in good faith. The finding may
20 be based on the partnership's failure to tender payment or an offer to
21 pay or to comply with subsection (7) of this section.

22 NEW SECTION. Sec. 702. DISSOCIATED PARTNER'S POWER TO BIND AND
23 LIABILITY TO PARTNERSHIP. (1) For two years after a partner
24 dissociates without resulting in a dissolution and winding up of the
25 partnership business, the partnership, including a surviving
26 partnership under article 9 of this chapter, is bound by an act of the
27 dissociated partner which would have bound the partnership under
28 section 301 of this act before dissociation only if at the time of
29 entering into the transaction the other party:

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

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

33 (c) Is not deemed to have had knowledge under section 303(3) of
34 this act or notice under section 704(3) of this act.

35 (2) A dissociated partner is liable to the partnership for any
36 damage caused to the partnership arising from an obligation incurred by
37 the dissociated partner after dissociation for which the partnership is
38 liable under subsection (1) of this section.

1 NEW SECTION. **Sec. 703.** DISSOCIATED PARTNER'S LIABILITY TO OTHER
2 PERSONS. (1) A partner's dissociation does not of itself discharge the
3 partner's liability for a partnership obligation incurred before
4 dissociation. A dissociated partner is not liable for a partnership
5 obligation incurred after dissociation, except as otherwise provided in
6 subsection (2) of this section.

7 (2) A partner who dissociates without resulting in a dissolution
8 and winding up of the partnership business is liable as a partner to
9 the other party in a transaction entered into by the partnership, or a
10 surviving partnership under article 9 of this chapter, within two years
11 after the partner's dissociation, only if the partner is liable for the
12 obligation under section 306 of this act and at the time of entering
13 into the transaction the other party:

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

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

17 (c) Is not deemed to have had knowledge under section 303(3) of
18 this act or notice under section 704(3) of this act.

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

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

27 NEW SECTION. **Sec. 704.** STATEMENT OF DISSOCIATION. (1) A
28 dissociated partner or the partnership may file a statement of
29 dissociation stating the name of the partnership and that the partner
30 is dissociated from the partnership.

31 (2) A statement of dissociation is a limitation on the authority of
32 a dissociated partner for the purposes of section 303 (2) and (3) of
33 this act.

34 (3) For the purposes of sections 702(1)(c) and 703(2)(c) of this
35 act, a person not a partner is deemed to have notice of the
36 dissociation ninety days after the statement of dissociation is filed.

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

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

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

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

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

16 NEW SECTION. **Sec. 802.** PARTNERSHIP CONTINUES AFTER DISSOLUTION.

17 (1) Subject to subsection (2) of this section, a partnership continues
18 after dissolution only for the purpose of winding up its business. The
19 partnership is terminated when the winding up of its business is
20 completed.

21 (2) At any time after the dissolution of a partnership and before
22 the winding up of its business is completed, all of the partners,
23 including any dissociating partner other than a wrongfully dissociating
24 partner, may waive the right to have the partnership's business wound
25 up and the partnership terminated. In that event:

26 (a) The partnership resumes carrying on its business as if
27 dissolution had never occurred, and any liability incurred by the
28 partnership or a partner after the dissolution and before the waiver is
29 determined as if dissolution had never occurred; and

30 (b) The rights of a third party accruing under section 804(1) of
31 this act or arising out of conduct in reliance on the dissolution
32 before the third party knew or received a notification of the waiver
33 may not be adversely affected.

34 NEW SECTION. **Sec. 803.** RIGHT TO WIND UP PARTNERSHIP BUSINESS.

35 (1) After dissolution, a partner who has not wrongfully dissociated may
36 participate in winding up the partnership's business, but on
37 application of any partner, partner's legal representative, or

1 transferee, the superior court, for good cause shown, may order
2 judicial supervision of the winding up.

3 (2) The legal representative of the last surviving partner may wind
4 up a partnership's business.

5 (3) A person winding up a partnership's business may preserve the
6 partnership business or property as a going concern for a reasonable
7 time, prosecute and defend actions and proceedings, whether civil,
8 criminal, or administrative, settle and close the partnership's
9 business, dispose of and transfer the partnership's property, discharge
10 the partnership's liabilities, distribute the assets of the partnership
11 pursuant to section 807 of this act, settle disputes by mediation or
12 arbitration, and perform other necessary acts.

13 NEW SECTION. **Sec. 804.** PARTNER'S POWER TO BIND PARTNERSHIP AFTER
14 DISSOLUTION. Subject to section 805 of this act, a partnership is
15 bound by a partner's act after dissolution that:

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

17 (2) Would have bound the partnership under section 301 of this act
18 before dissolution, if the other party to the transaction did not have
19 notice of the dissolution.

20 NEW SECTION. **Sec. 805.** STATEMENT OF DISSOLUTION. (1) After
21 dissolution, a partner who has not wrongfully dissociated may file a
22 statement of dissolution stating the name of the partnership and that
23 the partnership has dissolved and is winding up its business.

24 (2) A statement of dissolution cancels all previously filed
25 statements of partnership authority.

26 (3) For the purposes of sections 301 and 804 of this act, a person
27 not a partner is deemed to have notice of the dissolution and the
28 limitation on the partners' authority as a result of the statement of
29 dissolution ninety days after it is filed.

30 (4) After filing a statement of dissolution, a dissolved
31 partnership may file a statement of partnership authority which will
32 operate with respect to a person not a partner as provided in
33 section 303 (2) and (3) of this act in any transaction, whether or not
34 the transaction is appropriate for winding up the partnership business.

35 NEW SECTION. **Sec. 806.** PARTNER'S LIABILITY TO OTHER PARTNERS
36 AFTER DISSOLUTION. (1) Except as otherwise provided in subsection (2)

1 of this section, after dissolution a partner is liable to the other
2 partners for the partner's share of any partnership liability incurred
3 under section 804 of this act.

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

9 NEW SECTION. **Sec. 807.** SETTLEMENT OF ACCOUNTS AND CONTRIBUTIONS
10 AMONG PARTNERS. (1) In winding up a partnership's business, the assets
11 of the partnership, including the contributions of the partners
12 required by this section, must be applied to discharge its obligations
13 to creditors, including, to the extent permitted by law, partners who
14 are creditors. Any surplus must be applied to pay in cash the net
15 amount distributable to partners in accordance with their right to
16 distributions under subsection (2) of this section.

17 (2) Each partner is entitled to a settlement of all partnership
18 accounts upon winding up the partnership business. In settling
19 accounts among the partners, profits and losses that result from the
20 liquidation of the partnership assets must be credited and charged to
21 the partners' accounts. The partnership shall make a distribution to
22 a partner in an amount equal to any excess of the credits over the
23 charges in the partner's account. A partner shall contribute to the
24 partnership an amount equal to any excess of the charges over the
25 credits in the partner's account, except, in the case of a limited
26 liability partnership the partner shall make such contribution only to
27 the extent of his or her share of any unpaid partnership obligations
28 for which the partner has personal liability under section 306 of this
29 act.

30 (3) If a partner fails to contribute the full amount required under
31 subsection (2) of this section, all of the other partners shall
32 contribute, in the proportions in which those partners share
33 partnership losses, the additional amount necessary to satisfy the
34 partnership obligations for which they are personally liable under
35 section 306 of this act. A partner or partner's legal representative
36 may recover from the other partners any contributions the partner makes
37 to the extent the amount contributed exceeds that partner's share of

1 the partnership obligations for which the partner is personally liable
2 under section 306 of this act.

3 (4) After the settlement of accounts, each partner shall
4 contribute, in the proportion in which the partner shares partnership
5 losses, the amount necessary to satisfy partnership obligations that
6 were not known at the time of the settlement and for which the partner
7 is personally liable under section 306 of this act.

8 (5) The estate of a deceased partner is liable for the partner's
9 obligation to contribute to the partnership.

10 (6) An assignee for the benefit of creditors of a partnership or a
11 partner, or a person appointed by a court to represent creditors of a
12 partnership or a partner, may enforce a partner's obligation to
13 contribute to the partnership.

14 ARTICLE 9

15 CONVERSIONS AND MERGERS

16 NEW SECTION. **Sec. 901.** DEFINITIONS. The definitions in this
17 article apply throughout this article unless the context clearly
18 requires otherwise:

19 (1) "General partner" means a partner in a partnership and a
20 general partner in a limited partnership.

21 (2) "Limited partner" means a limited partner in a limited
22 partnership.

23 (3) "Limited partnership" means a limited partnership created under
24 the Washington uniform limited partnership act, predecessor law, or
25 comparable law of another jurisdiction.

26 (4) "Partner" includes both a general partner and a limited
27 partner.

28 NEW SECTION. **Sec. 902.** CONVERSION OF PARTNERSHIP TO LIMITED
29 PARTNERSHIP. (1) A partnership may be converted to a limited
30 partnership pursuant to this section.

31 (2) The terms and conditions of a conversion of a partnership to a
32 limited partnership must be approved by all of the partners or by a
33 number or percentage specified for conversion in the partnership
34 agreement.

35 (3) After the conversion is approved by the partners, the
36 partnership shall file a certificate of limited partnership in the

1 jurisdiction in which the limited partnership is to be formed. The
2 certificate must include:

3 (a) A statement that the partnership was converted to a limited
4 partnership from a partnership;

5 (b) Its former name; and

6 (c) A statement of the number of votes cast by the partners for and
7 against the conversion and, if the vote is less than unanimous, the
8 number or percentage required to approve the conversion under the
9 partnership agreement.

10 (4) If the partnership was converted to a domestic limited
11 partnership, the certificate must also include:

12 (a) The name of the limited partnership;

13 (b) The address of the office for records and the name and address
14 of the agent for service of process appointed pursuant to RCW
15 25.10.040;

16 (c) The name and the geographical and mailing address of each
17 general partner;

18 (d) The latest date upon which the limited partnership is to
19 dissolve; and

20 (e) Any other matters the general partners determine to include
21 therein.

22 (5) The conversion takes effect when the certificate of limited
23 partnership is filed or at any later date specified in the certificate.

24 (6) A general partner who becomes a limited partner as a result of
25 the conversion remains liable as a general partner for an obligation
26 incurred by the partnership before the conversion takes effect. If the
27 other party to a transaction with the limited partnership reasonably
28 believes when entering the transaction that the limited partner is a
29 general partner, the limited partner is liable for an obligation
30 incurred by the limited partnership within ninety days after the
31 conversion takes effect. The limited partner's liability for all other
32 obligations of the limited partnership incurred after the conversion
33 takes effect is that of a limited partner as provided in the Washington
34 uniform limited partnership act.

35 NEW SECTION. **Sec. 903.** CONVERSION OF LIMITED PARTNERSHIP TO
36 PARTNERSHIP. (1) A limited partnership may be converted to a
37 partnership pursuant to this section.

1 (2) Notwithstanding a provision to the contrary in a limited
2 partnership agreement, the terms and conditions of a conversion of a
3 limited partnership to a partnership must be approved by all of the
4 partners.

5 (3) After the conversion is approved by the partners, the limited
6 partnership shall cancel its certificate of limited partnership.

7 (4) The conversion takes effect when the certificate of limited
8 partnership is canceled.

9 (5) A limited partner who becomes a general partner as a result of
10 the conversion remains liable only as a limited partner for an
11 obligation incurred by the limited partnership before the conversion
12 takes effect. Except as otherwise provided in section 306 of this act,
13 the partner is liable as a general partner for an obligation of the
14 partnership incurred after the conversion takes effect.

15 NEW SECTION. **Sec. 904.** EFFECT OF CONVERSION; ENTITY UNCHANGED.

16 (1) A partnership or limited partnership that has been converted
17 pursuant to this article is for all purposes the same entity that
18 existed before the conversion.

19 (2) When a conversion takes effect:

20 (a) All property owned by the converting partnership or limited
21 partnership remains vested in the converted entity;

22 (b) All obligations of the converting partnership or limited
23 partnership continue as obligations of the converted entity; and

24 (c) An action or proceeding pending against the converting
25 partnership or limited partnership may be continued as if the
26 conversion had not occurred.

27 NEW SECTION. **Sec. 905.** MERGER OF PARTNERSHIPS. (1) One or more
28 domestic partnerships may merge with one or more domestic partnerships,
29 domestic limited partnerships, domestic limited liability companies, or
30 domestic corporations pursuant to a plan of merger approved or adopted
31 as provided in section 906 of this act.

32 (2) The plan of merger must set forth:

33 (a) The name of each partnership, limited liability company,
34 limited partnership, and corporation planning to merge and the name of
35 the surviving partnership, limited liability company, limited
36 partnership, or corporation into which the other partnership, limited
37 liability company, limited partnership, or corporation plans to merge;

1 (b) The terms and conditions of the merger; and
2 (c) The manner and basis of converting the interests of each member
3 of each limited liability company, the partnership interests in each
4 partnership and each limited partnership, and the shares of each
5 corporation party to the merger into the interests, shares,
6 obligations, or other securities of the surviving or any other
7 partnership, limited liability company, limited partnership, or
8 corporation or into cash or other property in whole or part.

9 (3) The plan of merger may set forth:

10 (a) Amendments to the certificate of formation of the surviving
11 limited liability company;

12 (b) Amendments to the certificate of limited partnership of the
13 surviving limited partnership;

14 (c) Amendments to the articles of incorporation of the surviving
15 corporation; and

16 (d) Other provisions relating to the merger.

17 (4) If the plan of merger does not specify a delayed effective
18 date, it shall become effective upon the filing of articles of merger.
19 If the plan of merger specifies a delayed effective time and date, the
20 plan of merger becomes effective at the time and date specified. If
21 the plan of merger specifies a delayed effective date but no time is
22 specified, the plan of merger is effective at the close of business on
23 that date. A delayed effective date for a plan of merger may not be
24 later than the ninetieth day after the date it is filed.

25 NEW SECTION. **Sec. 906.** MERGER--PLAN--APPROVAL. (1) Unless
26 otherwise provided in the partnership agreement, approval of a plan of
27 merger by a domestic partnership party to the merger shall occur when
28 the plan is approved by all of the partners.

29 (2) If a domestic limited partnership is a party to the merger, the
30 plan of merger shall be adopted and approved as provided in RCW
31 25.10.810.

32 (3) If a domestic limited liability company is a party to the
33 merger, the plan of merger shall be adopted and approved as provided in
34 RCW 25.15.400.

35 (4) If a domestic corporation is a party to the merger, the plan of
36 merger shall be adopted and approved as provided in chapter 23B.11 RCW.

1 NEW SECTION. Sec. 907. ARTICLES OF MERGER--FILING. (1) Except as
2 otherwise provided in subsection (2) of this section, after a plan of
3 merger is approved or adopted, the surviving partnership, limited
4 liability company, limited partnership, or corporation shall deliver to
5 the secretary of state for filing articles of merger setting forth:

6 (a) The plan of merger;

7 (b) If the approval of any partners, members, or shareholders of
8 one or more partnerships, limited liability companies, limited
9 partnerships, or corporations party to the merger was not required, a
10 statement to that effect; or

11 (c) If the approval of any partners, members, or shareholders of
12 one or more of the partnerships, limited liability companies, limited
13 partnerships, or corporations party to the merger was required, a
14 statement that the merger was duly approved by such members, partners,
15 and shareholders pursuant to RCW 25.15.400, section 906 of this act, or
16 chapter 23B.11 RCW.

17 (2) If the merger involves only two or more partnerships and one or
18 more of such partnerships has filed a statement of partnership
19 authority with the secretary of state, the surviving partnership shall
20 file articles of merger as provided in subsection (1) of this section.

21 NEW SECTION. Sec. 908. EFFECT OF MERGER. (1) When a merger takes
22 effect:

23 (a) Every other partnership, limited liability company, limited
24 partnership, or corporation that is party to the merger merges into the
25 surviving partnership, limited liability company, limited partnership,
26 or corporation and the separate existence of every partnership, limited
27 liability company, limited partnership, or corporation except the
28 surviving partnership, limited liability company, limited partnership,
29 or corporation ceases;

30 (b) The title to all real estate and other property owned by each
31 partnership, limited liability company, limited partnership, and
32 corporation party to the merger is vested in the surviving partnership,
33 limited liability company, limited partnership, or corporation without
34 reversion or impairment;

35 (c) The surviving partnership, limited liability company, limited
36 partnership, or corporation has all liabilities of each partnership,
37 limited liability company, limited partnership, and corporation that is
38 party to the merger;

1 (d) A proceeding pending against any partnership, limited liability
2 company, limited partnership, or corporation that is party to the
3 merger may be continued as if the merger did not occur or the surviving
4 partnership, limited liability company, limited partnership, or
5 corporation may be substituted in the proceeding for the partnership,
6 limited liability company, limited partnership, or corporation whose
7 existence ceased;

8 (e) The certificate of formation of the surviving limited liability
9 company is amended to the extent provided in the plan of merger;

10 (f) The partnership agreement of the surviving limited partnership
11 is amended to the extent provided in the plan of merger;

12 (g) The articles of incorporation of the surviving corporation are
13 amended to the extent provided in the plan of merger; and

14 (h) The former members of every limited liability company party to
15 the merger, the former holders of the partnership interests of every
16 domestic partnership or limited partnership that is party to the
17 merger, and the former holders of the shares of every domestic
18 corporation that is party to the merger are entitled only to the rights
19 provided in the plan of merger, or to their rights under this article,
20 to their rights under RCW 25.10.900 through 25.10.955, or to their
21 rights under chapter 23B.13 RCW.

22 (2) Unless otherwise agreed, a merger of a domestic partnership,
23 including a domestic partnership which is not the surviving entity in
24 the merger, shall not require the domestic partnership to wind up its
25 affairs under article 8 of this chapter.

26 (3) Unless otherwise agreed, a merger of a domestic limited
27 partnership, including a domestic limited partnership which is not the
28 surviving entity in the merger, shall not require the domestic limited
29 partnership to wind up its affairs under RCW 25.10.460 or pay its
30 liabilities and distribute its assets under RCW 25.10.470.

31 (4) Unless otherwise agreed, a merger of a domestic limited
32 liability company, including a domestic limited liability company which
33 is not the surviving entity in the merger, shall not require the
34 domestic limited liability company to wind up its affairs under RCW
35 25.15.295 or pay its liabilities and distribute its assets under RCW
36 25.15.300.

37 NEW SECTION. **Sec. 909.** MERGER--FOREIGN AND DOMESTIC. (1) One or
38 more foreign partnerships, foreign limited liability companies, foreign

1 limited partnerships, and foreign corporations may merge with one or
2 more domestic partnerships, domestic limited liability companies,
3 domestic limited partnerships, or domestic corporations if:

4 (a) The merger is permitted by the law of the jurisdiction under
5 which each foreign partnership was organized, each foreign limited
6 liability company was formed, each foreign limited partnership was
7 organized, and each foreign corporation was incorporated, and each
8 foreign partnership, foreign limited liability company, foreign limited
9 partnership, and foreign corporation complies with that law in
10 effecting the merger;

11 (b) The surviving entity complies with section 907 of this act;

12 (c) Each domestic limited liability company complies with RCW
13 25.15.400;

14 (d) Each domestic limited partnership complies with RCW 25.10.810;
15 and

16 (e) Each domestic corporation complies with RCW 23B.11.080.

17 (2) Upon the merger taking effect, a surviving foreign limited
18 liability company, limited partnership, or corporation is deemed to
19 appoint the secretary of state as its agent for service of process in
20 a proceeding to enforce any obligation or the rights of dissenting
21 members, partners or shareholders of each domestic limited liability
22 company, domestic limited partnership, or domestic corporation party to
23 the merger.

24 NEW SECTION. **Sec. 910.** NONEXCLUSIVE. This article is not
25 exclusive. Partnerships, limited partnerships, limited liability
26 companies, or corporations may be converted or merged in any other
27 manner provided by law.

28 **ARTICLE 10**
29 **DISSENTERS' RIGHTS**

30 NEW SECTION. **Sec. 1001.** DEFINITIONS. The definitions in this
31 section apply throughout this article, unless the context clearly
32 requires otherwise.

33 (1) "Partnership" means the domestic partnership in which the
34 dissenter holds or held a partnership interest, or the surviving
35 partnership, limited liability company, limited partnership, or

1 corporation by merger, whether foreign or domestic, of that
2 partnership.

3 (2) "Dissenter" means a partner who is entitled to dissent from a
4 plan of merger and who exercises that right when and in the manner
5 required by this article.

6 (3) "Fair value," with respect to a dissenter's partnership
7 interest, means the value of the partner's interest immediately before
8 the effectuation of the merger to which the dissenter objects,
9 excluding any appreciation or depreciation in anticipation of the
10 merger unless exclusion would be inequitable.

11 (4) "Interest" means interest from the effective date of the merger
12 until the date of payment, at the average rate currently paid by the
13 partnership on its principal bank loans or, if none, at a rate that is
14 fair and equitable under all the circumstances.

15 NEW SECTION. **Sec. 1002.** PARTNER--DISSENT--PAYMENT OF FAIR VALUE.

16 (1) Except as provided in section 1004 or 1006(2) of this act, a
17 partner in a domestic partnership is entitled to dissent from, and
18 obtain payment of the fair value of the partner's interest in a
19 partnership in the event of consummation of a plan of merger to which
20 the partnership is a party as permitted by section 905 or 909 of this
21 act.

22 (2) A partner entitled to dissent and obtain payment for the
23 partner's interest in a partnership under this article may not
24 challenge the merger creating the partner's entitlement unless the
25 merger fails to comply with the procedural requirements imposed by this
26 title, Title 23B RCW, RCW 25.10.800 through 25.10.840, or 25.15.430, as
27 applicable, or the partnership agreement, or is fraudulent with respect
28 to the partner or the partnership.

29 (3) The right of a dissenting partner in a partnership to obtain
30 payment of the fair value of the partner's interest in the partnership
31 shall terminate upon the occurrence of any one of the following events:

32 (a) The proposed merger is abandoned or rescinded;

33 (b) A court having jurisdiction permanently enjoins or sets aside
34 the merger; or

35 (c) The partner's demand for payment is withdrawn with the written
36 consent of the partnership.

1 NEW SECTION. **Sec. 1003.** DISSENTERS' RIGHTS--NOTICE--TIMING. (1)
2 Not less than ten days prior to the approval of a plan of merger, the
3 partnership must send a written notice to all partners who are entitled
4 to vote on or approve the plan of merger that they may be entitled to
5 assert dissenters' rights under this article. Such notice shall be
6 accompanied by a copy of this article.

7 (2) The partnership shall notify in writing all partners not
8 entitled to vote on or approve the plan of merger that the plan of
9 merger was approved, and send them the dissenters' notice as required
10 by section 1005 of this act.

11 NEW SECTION. **Sec. 1004.** PARTNER--DISSENT--VOTING RESTRICTION. A
12 partner of a partnership who is entitled to vote on or approve the plan
13 of merger and who wishes to assert dissenters' rights must not vote in
14 favor of or approve the plan of merger. A partner who does not satisfy
15 the requirements of this section is not entitled to payment for the
16 partner's interest in the partnership under this article.

17 NEW SECTION. **Sec. 1005.** PARTNERS--DISSENTERS' NOTICE--
18 REQUIREMENTS. (1) If the plan of merger is approved, the partnership
19 shall deliver a written dissenters' notice to all partners who
20 satisfied the requirements of section 1004 of this act.

21 (2) The dissenters' notice required by section 1003(2) of this act
22 or by subsection (1) of this section must be sent within ten days after
23 the approval of the plan of merger, and must:

- 24 (a) State where the payment demand must be sent;
- 25 (b) Inform partners as to the extent transfer of the partner's
26 interest in the partnership will be restricted as permitted by section
27 1007 of this act after the payment demand is received;
- 28 (c) Supply a form for demanding payment;
- 29 (d) Set a date by which the partnership must receive the payment
30 demand, which date may not be fewer than thirty nor more than sixty
31 days after the date the notice under this section is delivered; and
32 (e) Be accompanied by a copy of this article.

33 NEW SECTION. **Sec. 1006.** PARTNER--PAYMENT DEMAND--ENTITLEMENT.
34 (1) A partner who demands payment retains all other rights of a partner
35 in the partnership until the proposed merger becomes effective.

1 (2) A partner in a partnership sent a dissenters' notice who does
2 not demand payment by the date set in the dissenters' notice is not
3 entitled to payment for the partner's interest in the partnership under
4 this article.

5 NEW SECTION. **Sec. 1007.** PARTNERS' INTERESTS--TRANSFER
6 RESTRICTION. The partnership agreement may restrict the transfer of
7 partners' interests in the partnership from the date the demand for
8 their payment is received until the proposed merger becomes effective
9 or the restriction is released under this article.

10 NEW SECTION. **Sec. 1008.** PAYMENT OF FAIR VALUE--REQUIREMENTS FOR
11 COMPLIANCE. (1) Within thirty days of the later of the date the
12 proposed merger becomes effective, or the payment demand is received,
13 the partnership shall pay each dissenter who complied with section 1006
14 of this act the amount the partnership estimates to be the fair value
15 of the dissenting partner's interest in the partnership, plus accrued
16 interest.

17 (2) The payment must be accompanied by:

18 (a) Copies of the financial statements for the partnership for its
19 most recent fiscal year;

20 (b) An explanation of how the partnership estimated the fair value
21 of the partner's interest in the partnership;

22 (c) An explanation of how the accrued interest was calculated;

23 (d) A statement of the dissenter's right to demand payment; and

24 (e) A copy of this article.

25 NEW SECTION. **Sec. 1009.** MERGER--NOT EFFECTIVE WITHIN SIXTY DAYS--
26 TRANSFER RESTRICTIONS. (1) If the proposed merger does not become
27 effective within sixty days after the date set for demanding payment,
28 the partnership shall release any transfer restrictions imposed as
29 permitted by section 1007 of this act.

30 (2) If, after releasing transfer restrictions, the proposed merger
31 becomes effective, the partnership must send a new dissenters' notice
32 as provided in sections 1003(2) and 1005 of this act and repeat the
33 payment demand procedure.

34 NEW SECTION. **Sec. 1010.** DISSENTER'S ESTIMATE OF FAIR VALUE--
35 NOTICE. (1) A dissenting partner may notify the partnership in writing

1 of the dissenter's own estimate of the fair value of the dissenter's
2 interest in the partnership, and amount of interest due, and demand
3 payment of the dissenter's estimate, less any payment under section
4 1009 of this act, if:

5 (a) The dissenter believes that the amount paid is less than the
6 fair value of the dissenter's interest in the partnership, or that the
7 interest due is incorrectly calculated;

8 (b) The partnership fails to make payment within sixty days after
9 the date set for demanding payment; or

10 (c) The partnership, having failed to effectuate the proposed
11 merger, does not release the transfer restrictions imposed on the
12 partners' interests as permitted by section 1007 of this act within
13 sixty days after the date set for demanding payment.

14 (2) A dissenter waives the right to demand payment under this
15 section unless the dissenter notifies the partnership of the
16 dissenter's demand in writing under subsection (1) of this section
17 within thirty days after the partnership made payment for the
18 dissenter's interest in the partnership.

19 NEW SECTION. **Sec. 1011.** UNSETTLED DEMAND FOR PAYMENT--
20 PROCEEDING--PARTIES--APPRAISERS. (1) If a demand for payment under
21 section 1006 of this act remains unsettled, the partnership shall
22 commence a proceeding within sixty days after receiving the payment
23 demand and petition the court to determine the fair value of the
24 dissenting partner's interest in the partnership, and accrued interest.
25 If the partnership does not commence the proceeding within the sixty-
26 day period, it shall pay each dissenter whose demand remains unsettled
27 the amount demanded.

28 (2) The partnership shall commence the proceeding in the superior
29 court. If the partnership is a domestic partnership, it shall commence
30 the proceeding in the county where its chief executive office is
31 maintained.

32 (3) The partnership shall make all dissenters, whether or not
33 residents of this state, whose demands remain unsettled parties to the
34 proceeding as in an action against their partnership interests in the
35 partnership and all parties must be served with a copy of the petition.
36 Nonresidents may be served by registered or certified mail or by
37 publication as provided by law.

1 (4) The partnership may join as a party to the proceeding any
2 partner who claims to be a dissenter but who has not, in the opinion of
3 the partnership, complied with the provisions of this article. If the
4 court determines that such partner has not complied with the provisions
5 of this article, the partner shall be dismissed as a party.

6 (5) The jurisdiction of the court in which the proceeding is
7 commenced is plenary and exclusive. The court may appoint one or more
8 persons as appraisers to receive evidence and recommend decisions on
9 the question of fair value. The appraisers have the powers described
10 in the order appointing them or in any amendment to it. The dissenters
11 are entitled to the same discovery rights as parties in other civil
12 proceedings.

13 (6) Each dissenter made a party to the proceeding is entitled to
14 judgment for the amount, if any, by which the court finds the fair
15 value of the dissenter's partnership interest in the partnership, plus
16 interest, exceeds the amount paid by the partnership.

17 NEW SECTION. Sec. 1012. UNSETTLED DEMAND FOR PAYMENT--COSTS--FEES
18 AND EXPENSES OF COUNSEL. (1) The court in a proceeding commenced under
19 section 1011 of this act shall determine all costs of the proceeding,
20 including the reasonable compensation and expenses of appraisers
21 appointed by the court. The court shall assess the costs against the
22 partnership, except that the court may assess the costs against all or
23 some of the dissenters, in amounts the court finds equitable, to the
24 extent the court finds the dissenters acted arbitrarily, vexatiously,
25 or not in good faith in demanding payment.

26 (2) The court may also assess the fees and expenses of counsel and
27 experts for the respective parties, in amounts the court finds
28 equitable:

29 (a) Against the partnership and in favor of any or all dissenters
30 if the court finds the partnership did not substantially comply with
31 the requirements of this article; or

32 (b) Against either the partnership or a dissenter, in favor of any
33 other party, if the court finds that the party against whom the fees
34 and expenses are assessed acted arbitrarily, vexatiously, or not in
35 good faith with respect to the rights provided by this article.

36 (3) If the court finds that the services of counsel for any
37 dissenter were of substantial benefit to other dissenters similarly
38 situated, and that the fees for those services should not be assessed

1 against the partnership, the court may award to these counsel
2 reasonable fees to be paid out of the amounts awarded to the dissenters
3 who were benefited.

4 **ARTICLE 11**

5 **LIMITED LIABILITY PARTNERSHIP**

6 NEW SECTION. **Sec. 1101.** ~~FORMATION--REGISTRATION--APPLICATION--~~
7 ~~FEE--FORMS.~~ (1) A partnership which is not a limited liability
8 partnership on the effective date of this act may become a limited
9 liability partnership upon the approval of the terms and conditions
10 upon which it becomes a limited liability partnership by the vote
11 necessary to amend the partnership agreement except, in the case of a
12 partnership agreement that expressly considers obligations to
13 contribute to the partnership, the vote necessary to amend those
14 provisions, and by filing the applications required by subsection (2)
15 of this section. A partnership which is a limited liability
16 partnership on the effective date of this act continues as a limited
17 liability partnership under this chapter.

18 (2) To become and to continue as a limited liability partnership,
19 a partnership shall file with the secretary of state an application
20 stating the name of the partnership; the address of its principal
21 office; if the partnership's principal office is not located in this
22 state, the address of a registered office and the name and address of
23 a registered agent for service of process in this state which the
24 partnership will be required to maintain; the number of partners; a
25 brief statement of the business in which the partnership engages; any
26 other matters that the partnership determines to include; and that the
27 partnership thereby applies for status as a limited liability
28 partnership.

29 (3) The application shall be accompanied by a fee of one hundred
30 seventy-five dollars for each partnership.

31 (4) The secretary of state shall register as a limited liability
32 partnership any partnership that submits a completed application with
33 the required fee.

34 (5) A partnership registered under this section shall pay an annual
35 fee, in each year following the year in which its application is filed,
36 on a date and in an amount specified by the secretary of state. The
37 fee must be accompanied by a notice, on a form provided by the

1 secretary of state, of the number of partners currently in the
2 partnership and of any material changes in the information contained in
3 the partnership's application for registration.

4 (6) Registration is effective immediately after the date an
5 application is filed, and remains effective until:

6 (a) It is voluntarily withdrawn by filing with the secretary of
7 state a written withdrawal notice executed by a majority of the
8 partners or by one or more partners or other persons authorized to
9 execute a withdrawal notice; or

10 (b) Thirty days after receipt by the partnership of a notice from
11 the secretary of state, which notice shall be sent by first class mail,
12 postage prepaid, that the partnership has failed to make timely payment
13 of the annual fee specified in subsection (5) of this section, unless
14 the fee is paid within such a thirty-day period.

15 (7) The status of a partnership as a limited liability partnership,
16 and the liability of the partners thereof, shall not be affected by:

17 (a) Errors in the information stated in an application under
18 subsection (2) of this section or a notice under subsection (6) of this
19 section; or (b) changes after the filing of such an application or
20 notice in the information stated in the application or notice.

21 (8) The secretary of state may provide forms for the application
22 under subsection (2) of this section or a notice under subsection (6)
23 of this section.

24 NEW SECTION. **Sec. 1102.** NAME. The name of a limited liability
25 partnership shall contain the words "limited liability partnership" or
26 the abbreviation "L.L.P." or "LLP" as the last words or letters of its
27 name.

28 NEW SECTION. **Sec. 1103.** RENDERING PROFESSIONAL SERVICES. (1) A
29 person or group of persons licensed or otherwise legally authorized to
30 render professional services, as defined in RCW 18.100.030, within this
31 state may organize and become a member or members of a limited
32 liability partnership under the provisions of this chapter for the
33 purposes of rendering professional service. Nothing in this section
34 prohibits a person duly licensed or otherwise legally authorized to
35 render professional services in any jurisdiction other than this state
36 from becoming a member of a limited liability partnership organized for
37 the purpose of rendering the same professional services. Nothing in

1 this section prohibits a limited liability partnership from rendering
2 professional services outside this state through individuals who are
3 not duly licensed or otherwise legally authorized to render such
4 professional services within this state.

5 (2)(a) Notwithstanding any other provision of this chapter, health
6 care professionals who are licensed or certified pursuant to chapters
7 18.06, 18.19, 18.22, 18.25, 18.29, 18.34, 18.35, 18.36A, 18.50, 18.53,
8 18.55, 18.64, 18.79, 18.83, 18.89, 18.108, and 18.138 RCW may join and
9 render their individual professional services through one limited
10 liability partnership and are to be considered, for the purpose of
11 forming a limited liability partnership, as rendering the "same
12 specific professional services" or "same professional services" or
13 similar terms.

14 (b) Notwithstanding any other provision of this chapter, health
15 care professionals who are licensed pursuant to chapters 18.57 and
16 18.71 RCW may join and render their individual professional services
17 through one limited liability partnership and are to be considered, for
18 the purpose of forming a limited liability partnership, as rendering
19 the "same specific professional services" or "same professional
20 services" or similar terms.

21 (c) Formation of a limited liability partnership under this
22 subsection does not restrict the application of the uniform
23 disciplinary act under chapter 18.130 RCW, or any applicable health
24 care professional statutes under Title 18 RCW, including but not
25 limited to restrictions on persons practicing a health profession
26 without being appropriately credentialed and persons practicing beyond
27 the scope of their credential.

28 ARTICLE 12

29 FOREIGN LIMITED LIABILITY PARTNERSHIP

30 NEW SECTION. **Sec. 1201.** LAW GOVERNING FOREIGN LIMITED LIABILITY
31 PARTNERSHIP. (1) The law under which a foreign limited liability
32 partnership is formed governs relations among the partners and between
33 the partners and the partnership and, except as otherwise provided in
34 section 306(4) of this act, the liability of partners for obligations
35 of the partnership.

36 (2) A foreign limited liability partnership may not be denied a
37 statement of foreign qualification by reason of any difference between

1 the law under which the partnership was formed and the law of this
2 state.

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

7 NEW SECTION. **Sec. 1202.** STATEMENT OF FOREIGN QUALIFICATION.
8 Before transacting business in this state, a foreign limited liability
9 partnership must register with the secretary of state under this
10 chapter in the same manner as a limited liability partnership, except
11 that if the foreign limited liability partnership's name contains the
12 words "registered limited liability partnership" or the abbreviation
13 "R.L.L.P." or "RLLP," it may include those words or abbreviations in
14 its application with the secretary of state.

15 NEW SECTION. **Sec. 1203.** EFFECT OF FAILURE TO QUALIFY. (1) A
16 foreign limited liability partnership transacting business in this
17 state may not maintain an action or proceeding in this state unless it
18 has in effect a registration as a foreign limited liability
19 partnership.

20 (2) The failure of a foreign limited liability partnership to have
21 in effect a registration as a foreign limited liability partnership
22 does not impair the validity of a contract or act of the foreign
23 limited liability partnership or preclude it from defending an action
24 or proceeding in this state.

25 (3) A limitation on personal liability of a partner is not waived
26 solely by transacting business in this state without registration as a
27 foreign limited liability partnership.

28 (4) If a foreign limited liability partnership transacts business
29 in this state without a registration as a foreign limited liability
30 partnership, the secretary of state is its agent for service of process
31 with respect to a right of action arising out of the transaction of
32 business in this state.

33 NEW SECTION. **Sec. 1204.** ACTIVITIES NOT CONSTITUTING TRANSACTING
34 BUSINESS. (1) Activities of a foreign limited liability partnership
35 which do not constitute transacting business for the purpose of this
36 article include:

- 1 (a) Maintaining, defending, or settling an action or proceeding;
2 (b) Holding meetings of its partners or carrying on any other
3 activity concerning its internal affairs;
4 (c) Maintaining bank accounts;
5 (d) Maintaining offices or agencies for the transfer, exchange, and
6 registration of the partnership's own securities or maintaining
7 trustees or depositories with respect to those securities;
8 (e) Selling through independent contractors;
9 (f) Soliciting or obtaining orders, whether by mail or through
10 employees or agents or otherwise, if the orders require acceptance
11 outside this state before they become contracts;
12 (g) Creating or acquiring indebtedness, with or without a mortgage,
13 or other security interest in property;
14 (h) Collecting debts or foreclosing mortgages or other security
15 interests in property securing the debts, and holding, protecting, and
16 maintaining property so acquired;
17 (i) Conducting an isolated transaction that is completed within
18 thirty days and is not one in the course of similar transactions; and
19 (j) Transacting business in interstate commerce.
20 (2) For purposes of this article, the ownership in this state of
21 income-producing real property or tangible personal property, other
22 than property excluded under subsection (1) of this section,
23 constitutes transacting business in this state.
24 (3) This section does not apply in determining the contacts or
25 activities that may subject a foreign limited liability partnership to
26 service of process, taxation, or regulation under any other law of this
27 state.

28 NEW SECTION. **Sec. 1205.** ACTION BY ATTORNEY GENERAL. The attorney
29 general may maintain an action to restrain a foreign limited liability
30 partnership from transacting business in this state in violation of
31 this chapter.

32 **ARTICLE 13**
33 **MISCELLANEOUS PROVISIONS**

34 NEW SECTION. **Sec. 1301.** UNIFORMITY OF APPLICATION AND
35 CONSTRUCTION. This act shall be applied and construed to effectuate

1 its general purpose to make uniform the law with respect to the subject
2 of this act among states enacting it.

3 NEW SECTION. **Sec. 1302.** SHORT TITLE. This chapter may be cited
4 as the Washington revised uniform partnership act.

5 NEW SECTION. **Sec. 1303.** SEVERABILITY CLAUSE. If any provision of
6 this act or its application to any person or circumstance is held
7 invalid, the remainder of the act or the application of the provision
8 to other persons or circumstances is not affected.

9 NEW SECTION. **Sec. 1304.** APPLICABILITY. (1) Before January 1,
10 1999, this chapter governs only a partnership formed:

11 (a) After the effective date of this act, unless that partnership
12 is continuing the business of a dissolved partnership under RCW
13 25.04.410; and

14 (b) Before the effective date of this act, that elects, as provided
15 by subsection (3) of this section, to be governed by this chapter.

16 (2) Effective January 1, 1999, this chapter governs all
17 partnerships.

18 (3) Before January 1, 1999, a partnership voluntarily may elect, in
19 the manner provided in its partnership agreement or by law for amending
20 the partnership agreement, to be governed by this chapter. The
21 provisions of this chapter relating to the liability of the
22 partnership's partners to third parties apply to limit those partners'
23 liability to a third party who had done business with the partnership
24 within one year preceding the partnership's election to be governed by
25 this chapter, only if the third party knows or has received a
26 notification of the partnership's election to be governed by this
27 chapter.

28 NEW SECTION. **Sec. 1305.** SAVINGS CLAUSE. This act does not affect
29 an action or proceeding commenced or right accrued before the effective
30 date of this act.

31 NEW SECTION. **Sec. 1306.** ESTABLISHMENT OF FILING FEES AND
32 MISCELLANEOUS CHARGES. (1) The secretary of state shall adopt rules
33 establishing fees which shall be charged and collected for:

34 (a) Filing of a statement;

1 (b) Filing of a certified copy of a statement that is filed in an
2 office in another state;

3 (c) Filing amendments to any of the foregoing or any other
4 certificate, statement, or report authorized or permitted to be filed;
5 and

6 (d) Copies, certified copies, certificates, and expedited filings
7 or other special services.

8 (2) In the establishment of a fee schedule, the secretary of state
9 shall, insofar as is possible and reasonable, be guided by the fee
10 schedule provided for corporations covered by Title 23B RCW. Fees for
11 copies, certified copies, and certificates of record shall be as
12 provided for in RCW 23B.01.220.

13 (3) All fees collected by the secretary of state shall be deposited
14 with the state treasurer pursuant to law.

15 NEW SECTION. **Sec. 1307.** AUTHORITY TO ADOPT RULES. The secretary
16 of state shall adopt such rules as are necessary to implement the
17 keeping of records required by this chapter.

18 NEW SECTION. **Sec. 1308.** REPEALERS. The following acts or parts
19 of acts are each repealed:

20 (1) RCW 25.04.010 and 1955 c 15 s 25.04.010;

21 (2) RCW 25.04.020 and 1985 c 8 s 2;

22 (3) RCW 25.04.030 and 1955 c 15 s 25.04.030;

23 (4) RCW 25.04.040 and 1955 c 15 s 25.04.040;

24 (5) RCW 25.04.050 and 1955 c 15 s 25.04.050;

25 (6) RCW 25.04.060 and 1955 c 15 s 25.04.060;

26 (7) RCW 25.04.070 and 1973 1st ex.s. c 154 s 24 & 1955 c 15 s
27 25.04.070;

28 (8) RCW 25.04.080 and 1955 c 15 s 25.04.080;

29 (9) RCW 25.04.090 and 1955 c 15 s 25.04.090;

30 (10) RCW 25.04.100 and 1955 c 15 s 25.04.100;

31 (11) RCW 25.04.110 and 1955 c 15 s 25.04.110;

32 (12) RCW 25.04.120 and 1955 c 15 s 25.04.120;

33 (13) RCW 25.04.130 and 1955 c 15 s 25.04.130;

34 (14) RCW 25.04.140 and 1955 c 15 s 25.04.140;

35 (15) RCW 25.04.150 and 1985 c 8 s 3;

36 (16) RCW 25.04.160 and 1955 c 15 s 25.04.160;

37 (17) RCW 25.04.170 and 1955 c 15 s 25.04.170;

1 (18) RCW 25.04.180 and 1955 c 15 s 25.04.180;
2 (19) RCW 25.04.190 and 1955 c 15 s 25.04.190;
3 (20) RCW 25.04.200 and 1955 c 15 s 25.04.200;
4 (21) RCW 25.04.210 and 1955 c 15 s 25.04.210;
5 (22) RCW 25.04.220 and 1955 c 15 s 25.04.220;
6 (23) RCW 25.04.230 and 1955 c 15 s 25.04.230;
7 (24) RCW 25.04.240 and 1955 c 15 s 25.04.240;
8 (25) RCW 25.04.250 and 1973 1st ex.s. c 154 s 25 & 1955 c 15 s
9 25.04.250;
10 (26) RCW 25.04.260 and 1955 c 15 s 25.04.260;
11 (27) RCW 25.04.270 and 1955 c 15 s 25.04.270;
12 (28) RCW 25.04.280 and 1955 c 15 s 25.04.280;
13 (29) RCW 25.04.290 and 1955 c 15 s 25.04.290;
14 (30) RCW 25.04.300 and 1955 c 15 s 25.04.300;
15 (31) RCW 25.04.310 and 1955 c 15 s 25.04.310;
16 (32) RCW 25.04.320 and 1955 c 15 s 25.04.320;
17 (33) RCW 25.04.330 and 1955 c 15 s 25.04.330;
18 (34) RCW 25.04.340 and 1955 c 15 s 25.04.340;
19 (35) RCW 25.04.350 and 1955 c 15 s 25.04.350;
20 (36) RCW 25.04.360 and 1955 c 15 s 25.04.360;
21 (37) RCW 25.04.370 and 1955 c 15 s 25.04.370;
22 (38) RCW 25.04.380 and 1955 c 15 s 25.04.380;
23 (39) RCW 25.04.390 and 1955 c 15 s 25.04.390;
24 (40) RCW 25.04.400 and 1955 c 15 s 25.04.400;
25 (41) RCW 25.04.410 and 1955 c 15 s 25.04.410;
26 (42) RCW 25.04.420 and 1955 c 15 s 25.04.420;
27 (43) RCW 25.04.430 and 1955 c 15 s 25.04.430;
28 (44) RCW 25.04.700 and 1995 c 337 s 1;
29 (45) RCW 25.04.705 and 1995 c 337 s 2;
30 (46) RCW 25.04.710 and 1995 c 337 s 3;
31 (47) RCW 25.04.715 and 1995 c 337 s 4;
32 (48) RCW 25.04.720 and 1997 c 390 s 5, 1996 c 231 s 4, & 1995 c 337
33 s 5;
34 (49) RCW 25.04.725 and 1995 c 337 s 6;
35 (50) RCW 25.04.730 and 1995 c 337 s 7;
36 (51) RCW 25.04.735 and 1995 c 337 s 8;
37 (52) RCW 25.04.740 and 1995 c 337 s 9;
38 (53) RCW 25.04.745 and 1995 c 337 s 10; and
39 (54) RCW 25.04.750 and 1995 c 337 s 11.

1 **Sec. 1309.** RCW 43.07.120 and 1994 c 211 s 1310 and 1994 c 60 s 5
2 are each reenacted and amended to read as follows:

3 (1) The secretary of state shall establish by rule and collect the
4 fees in this subsection:

5 (a) For a copy of any law, resolution, record, or other document or
6 paper on file in the secretary's office;

7 (b) For any certificate under seal;

8 (c) For filing and recording trademark;

9 (d) For each deed or patent of land issued by the governor;

10 (e) For recording miscellaneous records, papers, or other
11 documents.

12 (2) The secretary of state may adopt rules under chapter 34.05 RCW
13 establishing reasonable fees for the following services rendered under
14 Title 23B RCW, chapter 18.100, 19.77, 23.86, 23.90, 24.03, 24.06,
15 24.12, 24.20, 24.24, 24.28, 24.36, 25.15, ~~((or))~~ 25.10, or chapter
16 25.-- (sections 101 through 1307 of this act) RCW:

17 (a) Any service rendered in-person at the secretary of state's
18 office;

19 (b) Any expedited service;

20 (c) The electronic or facsimile transmittal of information from
21 corporation records or copies of documents;

22 (d) The providing of information by micrographic or other reduced-
23 format compilation;

24 (e) The handling of checks, drafts, or credit or debit cards upon
25 adoption of rules authorizing their use for which sufficient funds are
26 not on deposit; and

27 (f) Special search charges.

28 (3) To facilitate the collection of fees, the secretary of state
29 may establish accounts for deposits by persons who may frequently be
30 assessed such fees to pay the fees as they are assessed. The secretary
31 of state may make whatever arrangements with those persons as may be
32 necessary to carry out this section.

33 (4) The secretary of state may adopt rules for the use of credit or
34 debit cards for payment of fees.

35 (5) No member of the legislature, state officer, justice of the
36 supreme court, judge of the court of appeals, or judge of the superior
37 court shall be charged for any search relative to matters pertaining to
38 the duties of his or her office; nor may such official be charged for
39 a certified copy of any law or resolution passed by the legislature

1 relative to his or her official duties, if such law has not been
2 published as a state law.

3 **Sec. 1310.** RCW 23B.11.080 and 1991 c 269 s 38 are each amended to
4 read as follows:

5 (1) One or more domestic corporations may merge with one or more
6 limited liability companies, partnerships, or limited partnerships if:

7 (a) The board of directors of each corporation adopts and the
8 shareholders of each corporation approve, if approval would be
9 necessary, the plan of merger as required by RCW 23B.11.030; ((and))

10 (b) The partners of each limited partnership approve the plan of
11 merger as required by RCW 25.10.810;

12 (c) The partners of each partnership approve the plan of merger as
13 required by section 906 of this act; and

14 (d) The members of each limited liability company approve, if
15 approval is necessary, the plan of merger as required by RCW 25.15.400.

16 (2) The plan of merger must set forth:

17 (a) The name of each limited liability company, partnership,
18 corporation, and limited partnership planning to merge and the name of
19 the surviving limited liability company, partnership, corporation, or
20 limited partnership into which each other limited liability company,
21 partnership, corporation, or limited partnership plans to merge;

22 (b) The terms and conditions of the merger; and

23 (c) The manner and basis of converting the shares of each
24 corporation, the member interests of each limited liability company,
25 and the partnership interests ((of)) in each partnership and each
26 limited partnership into shares, limited liability company member
27 interests, partnership interests, obligations or other securities of
28 the surviving limited liability company, partnership, corporation, or
29 limited partnership, or into cash or other property, including shares,
30 obligations, or securities of any other limited liability company,
31 partnership, or corporation, and partnership interests, obligations, or
32 securities of any other limited partnership, in whole or in part.

33 (3) The plan of merger may set forth:

34 (a) Amendments to the articles of incorporation of the surviving
35 corporation;

36 (b) Amendments to the certificate of limited partnership of the
37 surviving limited partnership; and

38 (c) Other provisions relating to the merger.

1 **Sec. 1311.** RCW 23B.11.090 and 1991 c 269 s 39 are each amended to
2 read as follows:

3 After a plan of merger for one or more corporations and one or more
4 limited partnerships, one or more partnerships, or one or more limited
5 liability companies is approved by the shareholders of each corporation
6 (or adopted by the board of directors of any corporation for which
7 shareholder approval is not required), ~~((and))~~ is approved by the
8 partners for each limited partnership as required by RCW 25.10.810, is
9 approved by the partners of each partnership as required by section 907
10 of this act, or is approved by the members of each limited liability
11 company as required by RCW 25.15.400, the surviving entity must:

12 (1) If the surviving entity is a corporation, file with the
13 secretary of state articles of merger setting forth:

14 (a) The plan of merger;

15 (b) A statement that the merger was duly approved by the
16 shareholders of each corporation pursuant to RCW 23B.11.030 (or a
17 statement that shareholder approval was not required for a merging
18 corporation); and

19 (c) A statement that the merger was duly approved by the partners
20 of each limited partnership pursuant to RCW 25.10.810.

21 (2) If the surviving entity is a limited partnership, comply with
22 the requirements in RCW 25.10.820.

23 (3) If the surviving entity is a partnership, comply with the
24 requirements in section 907 of this act.

25 (4) If the surviving entity is a limited liability company, comply
26 with the requirements in RCW 25.15.405.

27 **Sec. 1312.** RCW 23B.11.100 and 1991 c 269 s 40 are each amended to
28 read as follows:

29 When a merger of one or more corporations ~~((and))~~, one or more
30 limited partnerships, one or more partnerships, or one or more limited
31 liability companies takes effect, and a corporation is the surviving
32 entity:

33 (1) Every other corporation ~~((and))~~, every limited partnership,
34 every partnership, and every limited liability company party to the
35 merger merges into the surviving corporation and the separate existence
36 of every corporation except the surviving corporation, and every
37 limited partnership, partnership, and limited liability company,
38 ceases;

1 (2) The title to all real estate and other property owned by each
2 corporation (~~and~~), limited partnership, partnership, and limited
3 liability company party to the merger is vested in the surviving
4 corporation without reversion or impairment;

5 (3) The surviving corporation has all the liabilities of each
6 corporation (~~and~~), limited partnership, partnership, and limited
7 liability company party to the merger;

8 (4) A proceeding pending against any corporation (~~or~~), limited
9 partnership, partnership, or limited liability company party to the
10 merger may be continued as if the merger did not occur or the surviving
11 corporation may be substituted in the proceeding for the corporation
12 (~~or~~), limited partnership, partnership, or limited liability company
13 whose existence ceased;

14 (5) The articles of incorporation of the surviving corporation are
15 amended to the extent provided in the plan of merger;

16 (6) The former holders of the shares of every corporation party to
17 the merger are entitled only to the rights provided in the plan of
18 merger or to their rights under chapter 23B.13 RCW; and

19 (7) The former holders of partnership interests of every limited
20 partnership or partnership party to the merger and the former holders
21 of member interests of every limited liability company party to the
22 merger are entitled only to the rights provided in the plan of merger
23 or to their rights under chapter 25.10 RCW.

24 **Sec. 1313.** RCW 23B.11.110 and 1991 c 269 s 41 are each amended to
25 read as follows:

26 (1) One or more foreign limited partnerships (~~and one or more~~),
27 foreign corporations, foreign partnerships, and foreign limited
28 liability companies may merge with one or more domestic partnerships,
29 domestic limited liability companies, domestic limited partnerships, or
30 domestic corporations, provided that:

31 (a) The merger is permitted by the law of the jurisdiction under
32 which each foreign limited partnership was organized and the law of the
33 state or country under which each foreign corporation was incorporated
34 and each foreign limited partnership or foreign corporation complies
35 with that law in effecting the merger;

36 (b) If the surviving entity is a foreign or domestic corporation,
37 that corporation complies with RCW 23B.11.090;

1 (c) If the surviving entity is a foreign or domestic limited
2 partnership, that limited partnership complies with RCW 25.10.820;

3 (d) Each domestic corporation complies with RCW 23B.11.080; ~~((and))~~

4 (e) Each domestic limited partnership complies with RCW 25.10.810;

5 (f) Each domestic limited liability company complies with RCW
6 25.15.400; and

7 (g) Each domestic partnership complies with section 906 of this
8 act.

9 (2) Upon the merger taking effect, a surviving foreign corporation
10 ~~((or)),~~ foreign limited partnership, foreign limited liability
11 corporation, or foreign partnership is deemed:

12 (a) To appoint the secretary of state as its agent for service of
13 process in a proceeding to enforce any obligation or the rights of
14 dissenting shareholders or partners of each domestic corporation
15 ~~((or)),~~ domestic limited partnership, domestic limited liability
16 company, or domestic partnership party to the merger; and

17 (b) To agree that it will promptly pay to the dissenting
18 shareholders or partners of each domestic corporation ~~((or)),~~ domestic
19 limited partnership, domestic limited liability company, or domestic
20 partnership party to the merger the amount, if any, to which they are
21 entitled under chapter 23B.13 RCW, in the case of dissenting
22 shareholders, or under chapter 25.10, 25.15, or 25.-- (sections 101
23 through 1307 of this act) RCW, in the case of dissenting partners.

24 **Sec. 1314.** RCW 25.10.800 and 1991 c 269 s 11 are each amended to
25 read as follows:

26 (1) One or more domestic limited partnerships may merge with one or
27 more domestic limited partnerships ~~((or)),~~ domestic corporations,
28 domestic partnerships, or domestic limited liability companies pursuant
29 to a plan of merger approved or adopted as provided in RCW 25.10.810.

30 (2) The plan of merger must set forth:

31 (a) The name of each limited partnership ~~((and)),~~ corporation,
32 partnership, or limited liability company planning to merge and the
33 name of the surviving limited partnership ~~((or)),~~ corporation,
34 partnership, or limited liability company into which the other limited
35 partnership ~~((or)),~~ corporation, partnership, or limited liability
36 company plans to merge;

37 (b) The terms and conditions of the merger; and

1 (c) The manner and basis of converting the partnership interests of
2 each limited partnership and each partnership, and the member interests
3 of each limited liability company, and the shares of each corporation
4 party to the merger into the partnership interests, shares, member
5 interests, obligations, or other securities of the surviving or any
6 other limited partnership (~~(or)~~), partnership, corporation, or limited
7 liability company or into cash or other property in whole or part.

8 (3) The plan of merger may set forth:

9 (a) Amendments to the certificate of limited partnership of the
10 surviving limited partnership;

11 (b) Amendments to the articles of incorporation of the surviving
12 corporation; (~~and~~)

13 (c) Amendments to the certificate of formation of the surviving
14 limited liability company; and

15 (d) Other provisions relating to the merger.

16 (4) If the plan of merger does not specify a delayed effective
17 date, it shall become effective upon the filing of articles of merger.
18 If the plan of merger specifies a delayed effective time and date, the
19 plan of merger becomes effective at the time and date specified. If
20 the plan of merger specifies a delayed effective date but no time is
21 specified, the plan of merger is effective at the close of business on
22 that date. A delayed effective date for a plan of merger may not be
23 later than the ninetieth day after the date it is filed.

24 **Sec. 1315.** RCW 25.10.810 and 1991 c 269 s 13 are each amended to
25 read as follows:

26 (1) Unless otherwise provided in its partnership agreement,
27 approval of a plan of merger by a domestic limited partnership party to
28 a merger shall occur when the plan is approved (a) by all general
29 partners of such limited partnership, and (b) by the limited partners
30 or, if there is more than one class of limited partners, then by each
31 class or group of limited partners of such limited partnership, in
32 either case, by limited partners who own more than fifty percent of the
33 then current percentage or other interest in the profits of such
34 limited partnership owned by all limited partners or by the limited
35 partners in each class or group, as appropriate.

36 (2) If a domestic corporation is a party to the merger, the plan of
37 merger shall be adopted and approved as provided in chapter 23B.11 RCW.

1 (3) If a domestic partnership is a party to the merger, the plan of
2 merger shall be approved as provided in section 906 of this act.

3 (4) If a domestic limited liability company is a party to the
4 merger, the plan of merger shall be approved as provided in RCW
5 25.15.400.

6 **Sec. 1316.** RCW 25.10.820 and 1991 c 269 s 14 are each amended to
7 read as follows:

8 After a plan of merger is approved or adopted, the surviving
9 limited partnership ~~((or))~~, corporation, partnership, or limited
10 liability company shall deliver to the secretary of state for filing
11 articles of merger setting forth:

12 (1) The plan of merger;

13 (2) If the approval of any partners ~~((or))~~, shareholders, or
14 members of one or more limited partnerships ~~((or))~~, corporations,
15 partnerships, or limited liability companies party to the merger was
16 not required, a statement to that effect; or

17 (3) If the approval of any partners ~~((or))~~, shareholders, or
18 members of one or more of the limited partnerships ~~((or))~~,
19 corporations, partnerships, or limited liability companies party to the
20 merger was required, a statement that the merger was duly approved by
21 such partners ~~((and))~~, shareholders, and members pursuant to RCW
22 25.10.810 ~~((or))~~, chapter 23B.11 RCW, chapter 25.15 RCW, or section 906
23 of this act.

24 **Sec. 1317.** RCW 25.10.830 and 1991 c 269 s 15 are each amended to
25 read as follows:

26 (1) When a merger takes effect:

27 (a) Every other partnership, limited partnership ((or)),
28 corporation, or limited liability company that is party to the merger
29 merges into the surviving partnership, limited partnership ((or)),
30 corporation, or limited liability company and the separate existence of
31 every partnership, limited partnership ((and)), corporation, and
32 limited liability company except the surviving partnership, limited
33 partnership ((or)), corporation, or limited liability company ceases;

34 (b) The title to all real estate and other property owned by each
35 partnership, limited partnership ((and)), corporation, and limited
36 liability company party to the merger is vested in the surviving

1 partnership, limited partnership ((or)), corporation, or limited
2 liability company without reversion or impairment;

3 (c) The surviving partnership, limited partnership ((or)),
4 corporation, or limited liability company has all liabilities of each
5 partnership, limited partnership ((and)), corporation, and limited
6 liability company that is party to the merger;

7 (d) A proceeding pending against any partnership, limited
8 partnership ((or)), corporation, or limited liability company that is
9 party to the merger may be continued as if the merger did not occur or
10 the surviving partnership, limited partnership ((or)), corporation, or
11 limited liability company may be substituted in the proceeding for the
12 partnership, limited partnership ((or)), corporation, or limited
13 liability company whose existence ceased;

14 (e) The partnership agreement of the surviving limited partnership
15 is amended to the extent provided in the plan of merger;

16 (f) The articles of incorporation of the surviving corporation are
17 amended to the extent provided in the plan of merger; ((and))

18 (g) The certificate of formation of the surviving limited liability
19 company is amended to the extent provided in the plan of merger; and

20 (h) The former holders of the partnership interests of every
21 domestic partnership or limited partnership that is party to the merger
22 and the former holders of the shares of every domestic corporation that
23 is party to the merger and the former holders of member interests of
24 every domestic limited liability company are entitled only to the
25 rights provided in the articles of merger or to their rights under RCW
26 25.10.900 through 25.10.955 ((or)), to the rights under chapter 23B.13
27 RCW, to the rights under chapter 25.-- RCW (sections 101 through 1307
28 of this act), or to the rights under RCW 25.15.425 through 25.15.480.

29 (2) Unless otherwise agreed, a merger of a domestic limited
30 partnership, including a domestic limited partnership which is not the
31 surviving entity in the merger, shall not require the domestic limited
32 partnership to wind up its affairs under RCW 25.10.460 or pay its
33 liabilities and distribute its assets under RCW 25.10.470.

34 (3) Unless otherwise agreed, a merger of a domestic partnership,
35 including a domestic partnership which is not the surviving entity in
36 the merger, shall not require the domestic partnership to wind up its
37 affairs under article 8 of chapter 25.-- RCW (sections 101 through 1307
38 of this act).

1 (4) Unless otherwise agreed, a merger of a domestic limited
2 liability company, including a domestic limited liability company which
3 is not the surviving entity in the merger, shall not require the
4 domestic limited liability company to wind up its affairs under article
5 8 of chapter 25.15 RCW.

6 **Sec. 1318.** RCW 25.10.840 and 1991 c 269 s 16 are each amended to
7 read as follows:

8 (1) One or more foreign limited partnerships, foreign partnerships,
9 foreign limited liability companies, and one or more foreign
10 corporations may merge with one or more domestic partnerships, domestic
11 limited partnerships, domestic limited liability companies, or domestic
12 corporations if:

13 (a) The merger is permitted by the law of the jurisdiction under
14 which each foreign limited partnership was organized, and each foreign
15 corporation was incorporated, and each foreign partnership, foreign
16 limited partnership, foreign limited liability company, and foreign
17 corporation complies with that law in effecting the merger;

18 (b) The surviving entity complies with RCW 25.10.820 and section
19 907 of this act;

20 (c) Each domestic limited partnership complies with RCW 25.10.810;
21 ~~((and))~~

22 (d) Each domestic corporation complies with RCW 23B.11.080; and

23 (e) Each domestic limited liability company complies with RCW
24 25.15.400.

25 (2) Upon the merger taking effect, a surviving foreign partnership,
26 foreign limited partnership, foreign limited liability company, or
27 foreign corporation is deemed to appoint the secretary of state as its
28 agent for service of process in a proceeding to enforce any obligation
29 or the rights of dissenting partners or shareholders of each domestic
30 partnership, domestic limited partnership, domestic limited liability
31 company, or domestic corporation party to the merger.

32 **Sec. 1319.** RCW 25.15.395 and 1994 c 211 s 1101 are each amended to
33 read as follows:

34 (1) One or more domestic limited liability companies may merge with
35 one or more domestic partnerships, domestic limited partnerships,
36 domestic limited liability companies, or domestic corporations pursuant
37 to a plan of merger approved or adopted as provided in RCW 25.15.400.

1 (2) The plan of merger must set forth:

2 (a) The name of each partnership, limited liability company,
3 limited partnership, and corporation planning to merge and the name of
4 the surviving partnership, limited liability company, limited
5 partnership, or corporation into which the other partnership, limited
6 liability company, limited partnership, or corporation plans to merge;

7 (b) The terms and conditions of the merger; and

8 (c) The manner and basis of converting the interests of each member
9 of each limited liability company, the partnership interests in each
10 partnership or limited partnership, and the shares of each corporation
11 party to the merger into the interests, shares, obligations, or other
12 securities of the surviving or any other partnership, limited liability
13 company, limited partnership, or corporation or into cash or other
14 property in whole or part.

15 (3) The plan of merger may set forth:

16 (a) Amendments to the certificate of formation of the surviving
17 limited liability company;

18 (b) Amendments to the certificate of limited partnership of the
19 surviving limited partnership;

20 (c) Amendments to the articles of incorporation of the surviving
21 corporation; and

22 (d) Other provisions relating to the merger.

23 (4) If the plan of merger does not specify a delayed effective
24 date, it shall become effective upon the filing of articles of merger.
25 If the plan of merger specifies a delayed effective time and date, the
26 plan of merger becomes effective at the time and date specified. If
27 the plan of merger specifies a delayed effective date but no time is
28 specified, the plan of merger is effective at the close of business on
29 that date. A delayed effective date for a plan of merger may not be
30 later than the ninetieth day after the date it is filed.

31 **Sec. 1320.** RCW 25.15.400 and 1994 c 211 s 1102 are each amended to
32 read as follows:

33 (1) Unless otherwise provided in the limited liability company
34 agreement, approval of a plan of merger by a domestic limited liability
35 company party to the merger shall occur when the plan is approved by
36 the members, or if there is more than one class or group of members,
37 then by each class or group of members, in either case, by members
38 contributing more than fifty percent of the agreed value (as stated in

1 the records of the limited liability company required to be kept
2 pursuant to RCW 25.15.135) of the contributions made, or obligated to
3 be made, by all members or by the members in each class or group, as
4 appropriate.

5 (2) If a domestic limited partnership is a party to the merger, the
6 plan of merger shall be adopted and approved as provided in RCW
7 25.10.810.

8 (3) If a domestic corporation is a party to the merger, the plan of
9 merger shall be adopted and approved as provided in chapter 23B.11 RCW.

10 (4) If a domestic partnership is a party to the merger, the plan of
11 merger must be approved as provided in section 906 of this act.

12 **Sec. 1321.** RCW 25.15.405 and 1994 c 211 s 1103 are each amended to
13 read as follows:

14 After a plan of merger is approved or adopted, the surviving
15 partnership, limited liability company, limited partnership, or
16 corporation shall deliver to the secretary of state for filing articles
17 of merger setting forth:

18 (1) The plan of merger;

19 (2) If the approval of any members, partners, or shareholders of
20 one or more partnerships, limited liability companies, limited
21 partnerships, or corporations party to the merger was not required, a
22 statement to that effect; or

23 (3) If the approval of any members, partners, or shareholders of
24 one or more of the partnerships, limited liability companies, limited
25 partnerships, or corporations party to the merger was required, a
26 statement that the merger was duly approved by such members, partners,
27 and shareholders pursuant to section 906 of this act, RCW 25.15.400,
28 25.10.810, or chapter 23B.11 RCW.

29 **Sec. 1322.** RCW 25.15.410 and 1994 c 211 s 1104 are each amended to
30 read as follows:

31 (1) When a merger takes effect:

32 (a) Every other partnership, limited liability company, limited
33 partnership, or corporation that is party to the merger merges into the
34 surviving partnership, limited liability company, limited partnership,
35 or corporation and the separate existence of every partnership, limited
36 liability company, limited partnership, or corporation except the

1 surviving partnership, limited liability company, limited partnership,
2 or corporation ceases;

3 (b) The title to all real estate and other property owned by each
4 partnership, limited liability company, limited partnership, and
5 corporation party to the merger is vested in the surviving partnership,
6 limited liability company, limited partnership, or corporation without
7 reversion or impairment;

8 (c) The surviving partnership, limited liability company, limited
9 partnership, or corporation has all liabilities of each partnership,
10 limited liability company, limited partnership, and corporation that is
11 party to the merger;

12 (d) A proceeding pending against any partnership, limited liability
13 company, limited partnership, or corporation that is party to the
14 merger may be continued as if the merger did not occur or the surviving
15 partnership, limited liability company, limited partnership, or
16 corporation may be substituted in the proceeding for the partnership,
17 limited liability company, limited partnership, or corporation whose
18 existence ceased;

19 (e) The certificate of formation of the surviving limited liability
20 company is amended to the extent provided in the plan of merger;

21 (f) The partnership agreement of the surviving limited partnership
22 is amended to the extent provided in the plan of merger;

23 (g) The articles of incorporation of the surviving corporation are
24 amended to the extent provided in the plan of merger; and

25 (h) The former members of every limited liability company party to
26 the merger, holders of the partnership interests of every domestic
27 partnership or domestic limited partnership that is party to the
28 merger, and the former holders of the shares of every domestic
29 corporation that is party to the merger are entitled only to the rights
30 provided in the plan of merger, (~~(or)~~) to their rights under chapter
31 25.-- RCW (sections 101 through 1307 of this act), to their rights
32 under this article, to their rights under RCW 25.10.900 through
33 25.10.955, or to their rights under chapter 23B.13 RCW.

34 (2) Unless otherwise agreed, a merger of a domestic limited
35 liability company, including a domestic limited liability company which
36 is not the surviving entity in the merger, shall not require the
37 domestic limited liability company to wind up its affairs under RCW
38 25.15.295 or pay its liabilities and distribute its assets under RCW
39 25.15.300.

1 (3) Unless otherwise agreed, a merger of a domestic limited
2 partnership, including a domestic limited partnership which is not the
3 surviving entity in the merger, shall not require the domestic limited
4 partnership to wind up its affairs under RCW 25.10.460 or pay its
5 liabilities and distribute its assets under RCW 25.10.470.

6 (4) Unless otherwise agreed, a merger of a domestic partnership,
7 including a domestic partnership which is not the surviving entity in
8 the merger, shall not require the domestic partnership to wind up its
9 affairs under article 8 of chapter 25.-- RCW (sections 101 through 1307
10 of this act).

11 (5) Unless otherwise agreed, a merger of a domestic limited
12 liability company, including a domestic limited liability company which
13 is not the surviving entity in the merger, shall not require the
14 domestic limited liability company to wind up its affairs under article
15 8 of chapter 25.15 RCW.

16 **Sec. 1323.** RCW 25.15.415 and 1994 c 211 s 1105 are each amended to
17 read as follows:

18 (1) One or more foreign partnerships, one or more foreign limited
19 liability companies, one or more foreign limited partnerships, and one
20 or more foreign corporations may merge with one or more domestic
21 partnerships, domestic limited liability companies, domestic limited
22 partnerships, or domestic corporations if:

23 (a) The merger is permitted by the law of the jurisdiction under
24 which each foreign limited liability company was formed, each foreign
25 partnership or foreign limited partnership was organized, and each
26 foreign corporation was incorporated, and each foreign limited
27 liability company, foreign partnership, foreign limited partnership,
28 and foreign corporation complies with that law in effecting the merger;

29 (b) The surviving entity complies with RCW 25.15.405 and section
30 907 of this act;

31 (c) Each domestic limited liability company complies with RCW
32 25.15.400;

33 (d) Each domestic limited partnership complies with RCW 25.10.810;
34 and

35 (e) Each domestic corporation complies with RCW 23B.11.080.

36 (2) Upon the merger taking effect, a surviving foreign limited
37 liability company, limited partnership, or corporation is deemed to
38 appoint the secretary of state as its agent for service of process in

1 a proceeding to enforce any obligation or the rights of dissenting
2 partners or shareholders of each domestic limited liability company,
3 domestic limited partnership, or domestic corporation party to the
4 merger.

5 NEW SECTION. **Sec. 1324.** Sections 101 through 1307 of this act
6 constitute a new chapter in Title 25 RCW.

7 NEW SECTION. **Sec. 1325.** Section 1308 of this act takes effect
8 January 1, 1999.

Passed the House February 10, 1998.

Passed the Senate March 5, 1998.

Approved by the Governor March 23, 1998.

Filed in Office of Secretary of State March 23, 1998.