

## CHAPTER 449. PARTNERSHIPS

### UNIFORM PARTNERSHIP ACT Act 72 of 1917

AN ACT to define partnerships; the relation of partners to persons dealing with the partnership; the relation of partners to one another; to provide for the dissolution and winding up of partnerships; to prescribe powers and duties of certain state agencies and officials; and to make uniform the law relating to partnerships.

**History:** 1917, Act 72, Eff. Aug. 10, 1917;—Am. 1994, Act 323, Imd. Eff. Oct. 12, 1994.

*The People of the State of Michigan enact:*

#### PART I PRELIMINARY PROVISIONS.

##### **449.1 Uniform partnership act; short title.**

Sec. 1. (Name of act). This act may be cited as uniform partnership act.

**History:** 1917, Act 72, Eff. Aug. 10, 1917;—CL 1929, 9841;—CL 1948, 449.1.

**Compiler's note:** The catchlines in parentheses following the act section numbers of this act were incorporated as part of the act when enacted.

##### **449.2 Uniform partnership act; definitions.**

Sec. 2. (Definition of terms). In this act, “court” includes every court and judge having jurisdiction in the case; “business” includes every trade, occupation, or profession; “person” includes individuals, partnerships, corporations, and other associations; “bankrupt” includes bankrupt under the federal bankruptcy act or insolvent under any state insolvent act; “conveyance” includes every assignment, lease, mortgage, or incumbrance; “real property” includes land and any interest or estate in land.

**History:** 1917, Act 72, Eff. Aug. 10, 1917;—CL 1929, 9842;—CL 1948, 449.2.

##### **449.3 Uniform partnership act; interpretation of knowledge and notice.**

Sec. 3. (Interpretation of knowledge and notice).

(1) A person has knowledge of a fact within the meaning of this act not only when he has actual knowledge thereof, but also when he has knowledge of such other facts as in the circumstances shows bad faith;

(2) A person has notice of a fact within the meaning of this act when the person who claims the benefit of the notice:

(a) States the fact to such person, or

(b) Delivers through the mail, or by other means of communication, a written statement of the fact to such person or to a proper person at his place of business or residence.

**History:** 1917, Act 72, Eff. Aug. 10, 1917;—CL 1929, 9843;—CL 1948, 449.3.

##### **449.4 Rules of construction.**

Sec. 4. (Rules of construction).

(1) The rule that statutes in derogation of the common law are to be strictly construed shall have no application to this act;

(2) The law of estoppel shall apply under this act;

(3) The law of agency shall apply under this act;

(4) This act shall be so interpreted and construed as to effect its general purpose to make uniform the law of those states which enact it;

(5) This act shall not be construed so as to impair the obligations of any contract existing when the act goes into effect, nor to affect any action or proceedings begun or right accrued before this act takes effect.

**History:** 1917, Act 72, Eff. Aug. 10, 1917;—CL 1929, 9844;—CL 1948, 449.4.

##### **449.5 Rules for cases not provided for in act.**

Sec. 5. (Rules for cases not provided for in this act). In any case not provided for in this act the rules of law and equity, including the law merchant, shall govern.

**History:** 1917, Act 72, Eff. Aug. 10, 1917;—CL 1929, 9845;—CL 1948, 449.5.

#### PART II

## NATURE OF A PARTNERSHIP.

### **449.6 Partnership; definition; effect of act as to prior and limited partnerships.**

Sec. 6. (Partnership defined).

(1) A partnership is an association of 2 or more persons, which may consist of husband and wife, to carry on as co-owners a business for profit; any partnership heretofore established consisting of husband and wife only, formed since January 10, 1942 shall constitute a valid partnership.

(2) But any association formed under any other statute of this state, or any statute adopted by authority, other than the authority of this state, is not a partnership under this act, unless such association would have been a partnership in this state prior to the adoption of this act; but this act shall apply to limited partnerships except in so far as the statutes relating to such partnerships are inconsistent herewith.

**History:** 1917, Act 72, Eff. Aug. 10, 1917;—CL 1929, 9846;—Am. 1941, Act 272, Eff. Jan. 10, 1942;—CL 1948, 449.6;—Am. 1957, Act 59, Eff. Sept. 27, 1957.

### **449.7 Rules for determining existence of partnership.**

Sec. 7. (Rules for determining the existence of a partnership). In determining whether a partnership exists, these rules shall apply:

(1) Except as provided by section 16 persons who are not partners as to each other are not partners as to third persons;

(2) Joint tenancy, tenancy in common, tenancy by the entireties, joint property, common property, or part ownership does not of itself establish a partnership, whether such co-owners do or do not share any profits made by the use of the property;

(3) The sharing of gross returns does not of itself establish a partnership, whether or not the persons sharing them have a joint or common right or interest in any property from which the returns are derived;

(4) The receipt by a person of a share of the profits of a business is prima facie evidence that he is a partner in the business, but no such inference shall be drawn if such profits were received in payment:

(a) As a debt by installments or otherwise,

(b) As wages of an employe or rent to a landlord,

(c) As an annuity to a widow or representative of a deceased partner,

(d) As interest on a loan, though the amount of payment vary with the profits of the business,

(e) As the consideration for the sale of the good-will of a business or other property by installments or otherwise.

**History:** 1917, Act 72, Eff. Aug. 10, 1917;—CL 1929, 9847;—CL 1948, 449.7.

### **449.8 Partnership property; definition.**

Sec. 8. (Partnership property).

(1) All property originally brought into the partnership stock or subsequently acquired, by purchase or otherwise, on account of the partnership is partnership property;

(2) Unless the contrary intention appears, property acquired with partnership funds is partnership property;

(3) Any estate in real property may be acquired in the partnership name. Title so acquired can be conveyed only in the partnership name;

(4) A conveyance to a partnership in the partnership name, though without words of inheritance, passes the entire estate of the grantor unless a contrary intent appears.

**History:** 1917, Act 72, Eff. Aug. 10, 1917;—CL 1929, 9848;—CL 1948, 449.8.

## PART III

### RELATIONS OF PARTNERS TO PERSONS DEALING WITH THE PARTNERSHIP.

### **449.9 Partner as agent of partnership relative to partnership business.**

Sec. 9. (Partner agent of partnership as to partnership business).

(1) Every partner is an agent of the partnership for the purpose of its business, and the act of every partner, including the execution in the partnership name of any instrument, for apparently carrying on in the usual way the business of the partnership of which he is a member binds the partnership, unless the partner so acting has in fact no authority to act for the partnership in the particular matter, and the person with whom he is dealing has knowledge of the fact that he has no such authority;

(2) An act of a partner which is not apparently for the carrying on of the business of the partnership in the usual way does not bind the partnership unless authorized by the other partners;

(3) Unless authorized by the other partners or unless they have abandoned the business, 1 or more but less than all the partners have no authority to:

- (a) Assign the partnership property in trust for creditors or on the assignee's promise to pay the debts of the partnership,
  - (b) Dispose of the good-will of the business,
  - (c) Do any other act which would make it impossible to carry on the ordinary business of the partnership,
  - (d) Confess a judgment,
  - (e) Submit a partnership claim or liability to arbitration or reference;
- (4) No act of a partner in contravention of a restriction on his authority shall bind the partnership to persons having knowledge of the restriction.

**History:** 1917, Act 72, Eff. Aug. 10, 1917;—CL 1929, 9849;—CL 1948, 449.9.

#### **449.10 Real property of partnership; conveyance of title.**

Sec. 10. (Conveyance of real property of the partnership).

(1) Where title to real property is in the partnership name, any partner may convey a title to such property by a conveyance executed in the partnership name; but the partnership may recover such property unless the partner's act binds the partnership under the provisions of paragraph 1 of section 9, or unless such property has been conveyed by the grantee or a person claiming through such grantee to a holder for value without knowledge that the partner, in making the conveyance, has exceeded his authority;

(2) Where title to real property is in the name of the partnership, a conveyance executed by a partner, in his own name, passes the equitable interest of the partnership, provided the act is one within the authority of the partner under the provisions of paragraph 1 of section 9;

(3) Where title to real property is in the name of 1 or more but not all the partners, and the record does not disclose the right of the partnership, the partners in whose name the title stands may convey title to such property, but the partnership may recover such property if the partners' act does not bind the partnership under the provisions of paragraph 1 of section 9, unless the purchaser or his assignee, is a holder for value, without knowledge;

(4) Where the title to real property is in the name of 1 or more or all the partners, or in a third person in trust for the partnership, a conveyance executed by a partner in the partnership name, or in his own name, passes the equitable interest of the partnership, provided the act is one within the authority of the partner under the provisions of paragraph 1 of section 9;

(5) Where the title to real property is in the names of all the partners a conveyance executed by all the partners passes all their rights in such property.

**History:** 1917, Act 72, Eff. Aug. 10, 1917;—CL 1929, 9850;—CL 1948, 449.10.

#### **449.11 Partnership; effect of admission of partner.**

Sec. 11. (Partnership bound by admission of partner). An admission or representation made by any partner concerning partnership affairs within the scope of his authority as conferred by this act is evidence against the partnership.

**History:** 1917, Act 72, Eff. Aug. 10, 1917;—CL 1929, 9851;—CL 1948, 449.11.

#### **449.12 Partnership; effect of knowledge of or notice to partner.**

Sec. 12. (Partnership charged with knowledge of or notice to partner). Notice to any partner of any matter relating to partnership affairs, and the knowledge of the partner acting in the particular matter, acquired while a partner or then present to his mind, and the knowledge of any other partner who reasonably could and should have communicated it to the acting partner, operate as notice to or knowledge of the partnership, except in the case of a fraud on the partnership committed by or with the consent of that partner.

**History:** 1917, Act 72, Eff. Aug. 10, 1917;—CL 1929, 9852;—CL 1948, 449.12.

#### **449.13 Partnership; liability for wrongful acts of partner.**

Sec. 13. (Partnership bound by partner's wrongful act). Where, by any wrongful act or omission of any partner acting in the ordinary course of the business of the partnership, or with the authority of his copartners, loss or injury is caused to any person, not being a partner in the partnership, or any penalty is incurred, the partnership is liable therefor to the same extent as the partner so acting or omitting to act.

**History:** 1917, Act 72, Eff. Aug. 10, 1917;—CL 1929, 9853;—CL 1948, 449.13.

#### **449.14 Partnership; effect of partner's breach of trust.**

Sec. 14. (Partnership bound by partner's breach of trust). The partnership is bound to make good the loss:

(a) Where 1 partner acting within the scope of his apparent authority receives money or property of a third person and misapplies it; and

(b) Where the partnership in the course of its business receives money or property of a third person and the money or property so received is misapplied by any partner while it is in the custody of the partnership.

**History:** 1917, Act 72, Eff. Aug. 10, 1917;—CL 1929, 9854;—CL 1948, 449.14.

#### **449.15 Partners; joint and severable liability.**

Sec. 15. (Nature of partner's liability). Except as otherwise provided by section 46, all partners are liable for both of the following:

(a) Jointly and severally for everything chargeable to the partnership under sections 13 and 14.

(b) Jointly for all other debts and obligations of the partnership. However, a partner may enter into a separate obligation to perform a partnership contract.

**History:** 1917, Act 72, Eff. Aug. 10, 1917;—CL 1929, 9855;—CL 1948, 449.15;—Am. 1994, Act 323, Imd. Eff. Oct. 12, 1994.

#### **449.16 Partnership by estoppel; liability.**

Sec. 16. (Partner by estoppel).

(1) When a person, by words spoken or written or by conduct, represents himself, or consents to another representing him to any one, as a partner in an existing partnership or with 1 or more persons not actual partners, he is liable to any such person to whom such representation has been made, who has on the faith of such representation, given credit to the actual or apparent partnership, and if he has made such representation or consented to its being made in a public manner he is liable to such person, whether the representation has or has not been made or communicated to such person, so giving credit by or with the knowledge of the apparent partner making the representation or consenting to its being made;

(a) When a partnership liability results, he is liable as though he were an actual member of the partnership,

(b) When no partnership liability results, he is liable jointly with the other persons, if any, so consenting to the contract or representation as to incur liability, otherwise separately;

(2) When a person has been thus represented to be a partner in an existing partnership, or with 1 or more persons not actual partners, he is an agent of the persons consenting to such representation to bind them to the same extent and in the same manner as though he were a partner in fact, with respect to persons who rely upon the representation. Where all the members of the existing partnership consent to the representation, a partnership act or obligation results; but in all other cases it is the joint act or obligation of the person acting and the persons consenting to the representation.

**History:** 1917, Act 72, Eff. Aug. 10, 1917;—CL 1929, 9856;—CL 1948, 449.16.

#### **449.17 Incoming partner; liability.**

Sec. 17. (Liability of incoming partner). A person admitted as a partner into an existing partnership is liable for all the obligations of the partnership arising before his admission as though he had been a partner when such obligations were incurred, except that this liability shall be satisfied only out of partnership property.

**History:** 1917, Act 72, Eff. Aug. 10, 1917;—CL 1929, 9857;—CL 1948, 449.17.

### **PART IV**

### **RELATIONS OF PARTNERS TO ONE ANOTHER.**

#### **449.18 Rules for determining rights and duties of partners.**

Sec. 18. (Rules determining rights and duties of partners). The rights and duties of the partners in relation to the partnership shall be determined, subject to any agreement between them, by all of the following rules:

(a) Each partner shall be repaid his or her contributions, whether by way of capital or advances to the partnership property and share equally in the profits and surplus remaining after all liabilities, including those to partners, are satisfied. Except as provided in section 46, each partner shall contribute towards the losses, whether of capital or otherwise, sustained by the partnership according to his or her share in the profits.

(b) The partnership shall indemnify every partner in respect of payments made and personal liabilities reasonably incurred by him or her in the ordinary and proper conduct of its business, or for the preservation of its business or property.

(c) A partner, who in aid of the partnership makes any payment or advance beyond the amount of capital which he or she agreed to contribute, shall be paid interest from the date of the payment or advance.

(d) A partner shall receive interest on the capital contributed by him or her from the date when repayment should be made.

(e) All partners have equal rights in the management and conduct of the partnership business.

(f) A partner is not entitled to remuneration for acting in the partnership business, except that a surviving

partner is entitled to reasonable compensation for his or her services in winding up the partnership affairs.

(g) A person cannot become a member of a partnership without the consent of all partners.

(h) Any difference arising as to ordinary matters connected with the partnership business may be decided by a majority of the partners. However, an act in contravention of any agreement between the partners may not be done rightfully without the consent of all the partners.

**History:** 1917, Act 72, Eff. Aug. 10, 1917;—CL 1929, 9858;—CL 1948, 449.18;—Am. 1994, Act 323, Imd. Eff. Oct. 12, 1994.

#### **449.19 Partnership books; location, accessibility.**

Sec. 19. (Partnership books). The partnership books shall be kept, subject to any agreement between the partners, at the principal place of business of the partnership, and every partner shall at all times have access to and may inspect and copy any of them.

**History:** 1917, Act 72, Eff. Aug. 10, 1917;—CL 1929, 9859;—CL 1948, 449.19.

#### **449.20 Partner; duty to render information.**

Sec. 20. (Duty of partners to render information). Partners shall render on demand true and full information of all things affecting the partnership to any partner or the legal representative of any deceased partner or partner under legal disability.

**History:** 1917, Act 72, Eff. Aug. 10, 1917;—CL 1929, 9860;—CL 1948, 449.20.

#### **449.21 Partner; accountability as fiduciary.**

Sec. 21. (Partner accountable as a fiduciary).

(1) Every partner must account to the partnership for any benefit, and hold as trustee for it any profits derived by him without the consent of the other partners from any transaction connected with the formation, conduct, or liquidation of the partnership or from any use by him of its property;

(2) This section applies also to the representatives of a deceased partner engaged in the liquidation of the affairs of the partnership as the personal representatives of the last surviving partner.

**History:** 1917, Act 72, Eff. Aug. 10, 1917;—CL 1929, 9861;—CL 1948, 449.21.

#### **449.22 Partner; right to formal account.**

Sec. 22. (Right to an account). Any partner shall have the right to a formal account as to partnership affairs:

(a) If he is wrongfully excluded from the partnership business or possession of its property by his copartners,

(b) If the right exists under the terms of any agreement,

(c) As provided by section 21,

(d) Whenever other circumstances render it just and reasonable.

**History:** 1917, Act 72, Eff. Aug. 10, 1917;—CL 1929, 9862;—CL 1948, 449.22.

#### **449.23 Partnership; continuation beyond fixed term.**

Sec. 23. (Continuation of partnership beyond fixed term).

(1) When a partnership for a fixed term or particular undertaking is continued after the termination of such term or particular undertaking without any express agreement, the rights and duties of the partners remain the same as they were at such termination, so far as is consistent with a partnership at will.

(2) A continuation of the business by the partners or such of them as habitually acted therein during the term, without any settlement or liquidation of the partnership affairs, is prima facie evidence of a continuation of the partnership.

**History:** 1917, Act 72, Eff. Aug. 10, 1917;—CL 1929, 9863;—CL 1948, 449.23.

### **PART V**

### **PROPERTY RIGHTS OF A PARTNER.**

#### **449.24 Partner; extent of property rights.**

Sec. 24. (Extent of property rights of a partner). The property rights of a partner are (1) his rights in specific partnership property, (2) his interest in the partnership, and (3) his right to participate in the management.

**History:** 1917, Act 72, Eff. Aug. 10, 1917;—CL 1929, 9864;—CL 1948, 449.24.

#### **449.25 Partner; rights in specific partnership property.**

Sec. 25. (Nature of a partner's right in specific partnership property).

(1) A partner is a co-owner with his partners of specific partnership property holding as a tenant in partnership;

(2) The incidents of this tenancy are such that:

(a) A partner, subject to the provisions of this act and to any agreement between the partners, has an equal right with his partners to possess specific partnership property for partnership purposes; but he has no right to possess such property for any other purpose without the consent of his partners,

(b) A partner's right in specific partnership property is not assignable except in connection with the assignment of the rights of all the partners in the same property,

(c) A partner's right in specific partnership property is not subject to attachment or execution, except on a claim against the partnership. When partnership property is attached for a partnership debt, the partners, or any of them, or the representatives of a deceased partner, cannot claim any right under the homestead or exemption laws,

(d) On the death of a partner his right in specific partnership property vests in the surviving partner or partners, except where the deceased was the last surviving partner, when his right in such property vests in his legal representative. Such surviving partner or partners, or the legal representative of the last surviving partner, has no right to possess the partnership property for any but a partnership purpose,

(e) A partner's right in specific partnership property is not subject to dower, curtesy, or allowances to widows, heirs, or next of kin.

**History:** 1917, Act 72, Eff. Aug. 10, 1917;—CL 1929, 9865;—CL 1948, 449.25.

#### **449.26 Partner; interest in partnership as personal property.**

Sec. 26. (Nature of partner's interest in the partnership).

A partner's interest in the partnership is his share of the profits and surplus, and the same is personal property.

**History:** 1917, Act 72, Eff. Aug. 10, 1917;—CL 1929, 9866;—CL 1948, 449.26.

#### **449.27 Partner's interest; assignment, effect.**

Sec. 27. (Assignment of partner's interest).

(1) A conveyance by a partner of his interest in the partnership does not of itself dissolve the partnership, nor, as against the other partners in the absence of agreement, entitle the assignee, during the continuance of the partnership, to interfere in the management or administration of the partnership business or affairs, or to require any information or account of partnership transactions, or to inspect the partnership books; but it merely entitles the assignee to receive in accordance with his contract the profits to which the assigning partner would otherwise be entitled;

(2) In case of a dissolution of the partnership, the assignee is entitled to receive his assignor's interest and may require an account from the date only of the last account agreed to by all the partners.

**History:** 1917, Act 72, Eff. Aug. 10, 1917;—CL 1929, 9867;—CL 1948, 449.27.

#### **449.28 Partner's interest; subject to charging order.**

Sec. 28. (Partner's interest subject to charging order).

(1) On due application to a competent court by any judgment creditor of a partner, the court which entered the judgment, order, or decree, or any other court, may charge the interest of the debtor partner with payment of the unsatisfied amount of such judgment debt with interest thereon; and may then or later appoint a receiver of his share of the profits, and of any other money due or to fall due to him in respect of the partnership, and make all other orders, directions, accounts and inquiries which the debtor partner might have made, or which the circumstances of the case may require;

(2) The interest charged may be redeemed at any time before foreclosure or in case of a sale being directed by the court may be purchased without thereby causing a dissolution:

(a) With separate property, by any 1 or more of the partners, or

(b) With partnership property, by any 1 or more of the partners with the consent of all the partners whose interests are not so charged or sold;

(3) Nothing in this act shall be held to deprive a partner of his right, if any, under the exemption laws, as regards his interest in the partnership.

**History:** 1917, Act 72, Eff. Aug. 10, 1917;—CL 1929, 9868;—CL 1948, 449.28.

## **PART VI DISSOLUTION AND WINDING UP.**



#### **449.29 Dissolution of partnership; definition.**

Sec. 29. (Dissolution defined). The dissolution of a partnership is the change in the relation of the partners caused by any partner ceasing to be associated in the carrying on as distinguished from the winding up of the business.

**History:** 1917, Act 72, Eff. Aug. 10, 1917;—CL 1929, 9869;—CL 1948, 449.29.

#### **449.30 Dissolution; partnership not terminated.**

Sec. 30. (Partnership not terminated by dissolution). On dissolution the partnership is not terminated, but continues until the winding up of partnership affairs is completed.

**History:** 1917, Act 72, Eff. Aug. 10, 1917;—CL 1929, 9870;—CL 1948, 449.30.

#### **449.31 Dissolution; causes.**

Sec. 31. (Causes of dissolution). Dissolution is caused:

- (1) Without violation of the agreement between the partners:
  - (a) By the termination of the definite term or particular undertaking specified in the agreement,
  - (b) By the express will of any partner when no definite term or particular undertaking is specified,
  - (c) By the express will of all the partners who have not assigned their interests or suffered them to be charged for their separate debts, either before or after the termination of any specified term or particular undertaking,
  - (d) By the expulsion of any partner from the business bona fide in accordance with such power conferred by the agreement between the partners;
- (2) In contravention of the agreement between the partners, where the circumstances do not permit a dissolution under any other provision of this section, by the express will of any partner at any time;
- (3) By any event which makes it unlawful for the business of the partnership to be carried on or for the members to carry it on in partnership;
- (4) By the death of any partner;
- (5) By the bankruptcy of any partner or the partnership;
- (6) By decree of court under section 32.

**History:** 1917, Act 72, Eff. Aug. 10, 1917;—CL 1929, 9871;—CL 1948, 449.31.

#### **449.32 Dissolution; decree of court.**

Sec. 32. (Dissolution by decree of court).

- (1) On application by or for a partner the court shall decree a dissolution whenever:
  - (a) A partner has been declared a lunatic in any judicial proceeding or is shown to be of unsound mind,
  - (b) A partner becomes in any other way incapable of performing his part of the partnership contract,
  - (c) A partner has been guilty of such conduct as tends to effect prejudicially the carrying on of the business,
  - (d) A partner wilfully or persistently commits a breach of the partnership agreement, or otherwise so conducts himself in matters relating to the partnership business that it is not reasonably practicable to carry on the business in partnership with him,
  - (e) The business of the partnership can only be carried on at a loss,
  - (f) Other circumstances render a dissolution equitable;
- (2) On the application of the purchaser of a partner's interest under sections 28 or 29:
  - (a) After the termination of the specified term or particular undertaking,
  - (b) At any time if the partnership was a partnership at will when the interest was assigned or when the charging order was issued.

**History:** 1917, Act 72, Eff. Aug. 10, 1917;—CL 1929, 9872;—CL 1948, 449.32.

#### **449.33 Dissolution; effect as to authority of partner.**

Sec. 33. (General effect of dissolution on authority of partner). Except so far as may be necessary to wind up partnership affairs or to complete transactions begun but not then finished, dissolution terminates all authority of any partner to act for the partnership:

- (1) With respect to the partners:
  - (a) When the dissolution is not by the act, bankruptcy or death of a partner, or
  - (b) When the dissolution is by such act, bankruptcy or death of a partner, in cases where section 34 so requires;
- (2) With respect to persons not partners, as declared in section 35.

**History:** 1917, Act 72, Eff. Aug. 10, 1917;—CL 1929, 9873;—CL 1948, 449.33.

#### **449.34 Dissolution; liability of partner.**

Sec. 34. (Right of partner to contribution from copartners after dissolution). Except as otherwise provided by section 46, if dissolution is caused by the act, death, or bankruptcy of a partner, each partner is liable to his or her copartners for his or her share of any liability created by any partner acting for the partnership as if the partnership had not been dissolved unless this dissolution is caused by 1 of the following:

(a) The dissolution being by act of any partner and the partner acting for the partnership had knowledge of the dissolution.

(b) The dissolution being by the death or bankruptcy of a partner and the partner acting for the partnership had knowledge or notice of the death or bankruptcy.

**History:** 1917, Act 72, Eff. Aug. 10, 1917;—CL 1929, 9874;—CL 1948, 449.34;—Am. 1994, Act 323, Imd. Eff. Oct. 12, 1994.

#### **449.35 Dissolution; power of partner to bind partnership.**

Sec. 35. (Power of partner to bind partnership to third persons after dissolution).

(1) After dissolution a partner can bind the partnership except as provided in paragraph 3:

(a) By any act appropriate for winding up partnership affairs or completing transactions unfinished at dissolution,

(b) By any transaction which would bind the partnership if dissolution had not taken place, provided the other party to the transaction:

(I) Had extended credit to the partnership prior to dissolution and had no knowledge or notice of the dissolution, or

(II) Though he had not so extended credit, had nevertheless known of the partnership prior to dissolution, and, having no knowledge or notice of dissolution, the fact of dissolution had not been advertised in a newspaper of general circulation in the place, or in each place if more than 1, at which the partnership business was regularly carried on;

(2) The liability of a partner under paragraph (1b) shall be satisfied out of partnership assets alone when such partner had been prior to dissolution:

(a) Unknown as a partner to the person with whom the contract is made, and

(b) So far unknown and inactive in partnership affairs that the business reputation of the partnership could not be said to have been in any degree due to his connection with it;

(3) The partnership is in no case bound by any act of a partner after dissolution:

(a) Where the partnership is dissolved because it is unlawful to carry on the business, unless the act is appropriate for winding up partnership affairs, or

(b) Where the partner has become bankrupt, or

(c) Where the partner has no authority to wind up partnership affairs, except by a transaction with one who:

(I) Had extended credit to the partnership prior to dissolution and had no knowledge or notice of his want of authority, or

(II) Had not extended credit to the partnership prior to dissolution, and, having no knowledge or notice of his want of authority, the fact of his want of authority has not been advertised in the manner provided for advertising the fact of dissolution in paragraph (1bII);

(4) Nothing in this section shall affect the liability under section 16 of any person who after dissolution represents himself or consents to another representing him as a partner in a partnership engaged in carrying on business.

**History:** 1917, Act 72, Eff. Aug. 10, 1917;—CL 1929, 9875;—CL 1948, 449.35.

**Compiler's note:** For provisions of section 16, referred to in subsection (4), see MCL 449.16.

Section 35 of this act in the final draft as prepared by the National Conference of Commissioners on Uniform State Laws is as follows:

“(1) If the partnership is not dissolved because it has become unlawful to carry on the business, a partner cannot, after dissolution, bind the partnership to third persons by any act which is not necessary to wind up the partnership affairs or to complete transactions then unfinished unless,

“(a) Such third person, having had relations with the partnership by which a credit was extended upon the faith of the partnership, has had no knowledge or notice of the dissolution; or

“(b) Such third person, not having had business relations with the partnership by which a credit was extended to the partnership, has no knowledge or notice of the dissolution, and the fact of dissolution, has not been advertised in a newspaper of general circulation of the place (or of each place if more than one) at which the partnership business was regularly carried on

“(2) The partnership is in no case bound by the acts of a partner who has become bankrupt; but this provision does not affect the liability of any person who, as declared by section 16, after bankruptcy, has represented himself, or consented to another's representing him to be a partner of the bankrupt.”



#### **449.36 Dissolution; effect as to partner's existing liability.**

Sec. 36. (Effect of dissolution on partner's existing liability).

(1) The dissolution of the partnership does not discharge the existing liability of any partner.

(2) A partner is discharged from existing liability upon dissolution of the partnership by an agreement to that effect between the partner, the partnership creditor, and the person or partnership continuing the business. An agreement may be inferred from the course of dealing between the creditor having knowledge of the dissolution and the person or partnership continuing the business.

(3) If a person agrees to assume the existing obligations of a dissolved partnership, the partners whose obligations have been assumed shall be discharged from liability to any creditor of the partnership who, knowing of the agreement, consents to a material alteration in the nature or time of payment of the obligations.

(4) Except as provided in section 46, the individual property of a deceased partner shall be liable for those obligations of the partnership incurred while he or she was a partner but subject to the prior payment of his or her separate debts.

**History:** 1917, Act 72, Eff. Aug. 10, 1917;—CL 1929, 9876;—CL 1948, 449.36;—Am. 1994, Act 323, Imd. Eff. Oct. 12, 1994.

#### **449.37 Dissolution; rights of partner to wind up partnership affairs.**

Sec. 37. (Right to wind up). Unless otherwise agreed, the partners who have not wrongfully dissolved the partnership or the legal representative of the last surviving partner, not bankrupt, has the right to wind up the partnership affairs: Provided, however, That any partner, his legal representative, or his assignee, upon cause shown, may obtain winding up by the court.

**History:** 1917, Act 72, Eff. Aug. 10, 1917;—CL 1929, 9877;—CL 1948, 449.37.

#### **449.38 Dissolution; rights of partner to application of partnership property.**

Sec. 38. (Rights of partners to application of partnership property).

(1) When dissolution is caused in any way, except in contravention of the partnership agreement, each partner, as against his copartners and all persons claiming through them in respect of their interests in the partnership, unless otherwise agreed, may have the partnership property applied to discharge its liabilities, and the surplus applied to pay in cash the net amount owing to the respective partners. But if dissolution is caused by expulsion of a partner, bona fide under the partnership agreement, and if the expelled partner is discharged from all partnership liabilities, either by payment or agreement under section 36(2), he shall receive in cash only the net amount due him from the partnership;

(2) When dissolution is caused in contravention of the partnership agreement the rights of the partners shall be as follows:

(a) Each partner who has not caused dissolution wrongfully shall have:

(I) All the rights specified in paragraph 1 of this section, and

(II) The right, as against each partner who has caused the dissolution wrongfully, to damages for breach of the agreement,

(b) The partners who have not caused the dissolution wrongfully, if they all desire to continue the business in the same name, either by themselves or jointly with others, may do so, during the agreed term for the partnership and for that purpose may possess the partnership property, provided they secure the payment by bond approved by the court, or pay to any partner who has caused the dissolution wrongfully, the value of his interest in the partnership at the dissolution, less any damages recoverable under clause (2aII) of this section, and in like manner indemnify him against all present or future partnership liabilities,

(c) A partner who has caused the dissolution wrongfully shall have:

(I) If the business is not continued under the provisions of paragraph (2b) all the rights of a partner under paragraph 1, subject to clause (2aII) of this section,

(II) If the business is continued under paragraph (2b) of this section the right as against his copartners and all claiming through them in respect of their interests in the partnership, to have the value of his interest in the partnership, less any damages caused to his copartners by the dissolution, ascertained and paid to him in cash, or the payment secured by bond approved by the court, and to be released from all existing liabilities of the partnership; but in ascertaining the value of the partner's interest the value of the good will of the business shall not be considered.

**History:** 1917, Act 72, Eff. Aug. 10, 1917;—CL 1929, 9878;—CL 1948, 449.38.

#### **449.39 Dissolution; rights of partner when partnership dissolved for fraud or misrepresentation.**

Sec. 39. (Rights where partnership is dissolved for fraud or misrepresentation). Where a partnership contract is rescinded on the ground of the fraud or misrepresentation of 1 of the parties thereto, the party entitled to rescind is, without prejudice to any other right, entitled:

(a) To a lien on, or right of retention of, the surplus of the partnership property after satisfying the partnership liabilities to third persons for any sum of money paid by him for the purchase of an interest in the partnership and for any capital or advances contributed by him, and

(b) To stand, after all liabilities to third persons have been satisfied, in the place of the creditors of the partnership for any payments made by him in respect of the partnership liabilities, and

(c) To be indemnified by the person guilty of the fraud or making the representation against all debts and liabilities of the partnership.

**History:** 1917, Act 72, Eff. Aug. 10, 1917;—CL 1929, 9879;—CL 1948, 449.39.

#### **449.40 Dissolution; rules for distribution of assets and liabilities.**

Sec. 40. (Rules for distribution). In settling accounts between the partners after dissolution, the following rules shall be observed, subject to any agreement to the contrary:

(a) The assets of the partnership are as follows:

(i) The partnership property.

(ii) The contributions of the partners specified in subdivision (d).

(b) The liabilities of the partnership shall rank in order of payment, as follows:

(i) Those owing to creditors other than partners.

(ii) Those owing to partners other than for capital and profits.

(iii) Those owing to partners in respect of capital.

(iv) Those owing to partners in respect of profits.

(c) The assets shall be applied in the order of their declaration in subdivision (a) to the satisfaction of the liabilities.

(d) Except as provided in section 46, the partners shall contribute, as provided by section 18(a), the amount necessary to satisfy the liabilities. If any of the partners are insolvent, not subject to process, or otherwise refuse to contribute, the other partners shall contribute their share of the liabilities in the relative proportions in which they share the profits.

(e) An assignee for the benefit of creditors or any person appointed by the court shall have the right to enforce the contributions specified in subdivision (d).

(f) Any partner or his or her legal representative shall have the right to enforce the contributions specified in subdivision (d) to the extent of the amount which he or she has paid in excess of his or her share of the liability.

(g) The individual property of a deceased partner shall be liable for the contributions specified in subdivision (d).

(h) When partnership property and the individual properties of the partners are in the possession of a court for distribution, except for lienholders and secured creditors, partnership creditors shall have priority on partnership property and separate creditors on individual property.

(i) If a partner has become bankrupt or his or her estate is insolvent, the claims against his or her separate property shall rank in the following order:

(i) Those owing to separate creditors.

(ii) Those owing to partnership creditors.

(iii) Those owing to partners by way of contribution.

**History:** 1917, Act 72, Eff. Aug. 10, 1917;—CL 1929, 9880;—CL 1948, 449.40;—Am. 1994, Act 323, Imd. Eff. Oct. 12, 1994.

**Compiler's note:** For provisions of section 18, referred to in subdivision (d), see MCL 449.18.

#### **449.41 Dissolution; liability of persons continuing business.**

Sec. 41. (Liability of persons continuing the business in certain cases).

(1) When any new partner is admitted into an existing partnership, or when any partner retires and assigns, or the representative of the deceased partner assigns, his rights in partnership property to 2 or more of the partners, or to 1 or more of the partners and 1 or more third persons, if the business is continued without liquidation of the partnership affairs, creditors of the first or dissolved partnership are also creditors of the partnership so continuing the business;

(2) When all but 1 partner retire and assign, or the representative of a deceased partner assigns, their rights in partnership property to the remaining partner, who continues the business without liquidation of partnership affairs, either alone or with others, creditors of the dissolved partnership are also creditors of the person or partnership so continuing the business;

(3) When any partner retires or dies and the business of the dissolved partnership is continued as set forth in paragraphs 1 and 2 of this section, with the consent of the retired partners or the representative of the deceased partner, but without any assignment of his right in partnership property, rights of creditors of the dissolved partnership and of the creditors of the person or partnership continuing the business shall be as if such assignment had been made;

(4) When all the partners or their representatives assign their rights in partnership property to 1 or more third persons who promise to pay the debts and who continue the business of the dissolved partnership, creditors of the dissolved partnership are also creditors of the person or partnership continuing the business;

(5) When any partner wrongfully causes a dissolution and the remaining partners continue the business under the provisions of section 38(2b), either alone or with others, and without liquidation of the partnership affairs, creditors of the dissolved partnership are also creditors of the person or partnership continuing the business;

(6) When a partner is expelled and the remaining partners continue the business either alone or with others, without liquidation of the partnership affairs, creditors of the dissolved partnership are also creditors of the person or partnership continuing the business;

(7) The liability of a third person becoming a partner in the partnership continuing the business, under this section to the creditors of the dissolved partnership shall be satisfied out of partnership property only;

(8) When the business of a partnership after dissolution is continued under any conditions set forth in this section the creditors of the dissolved partnership, as against the separate creditors of the retiring or deceased partner or the representative of the deceased partner, have a prior right to any claim of the retired partner or the representative of the deceased partner against the person or partnership continuing the business, on account of the retired or deceased partner's interest in the dissolved partnership or on account of any consideration promised for such interest or for his right in partnership property;

(9) Nothing in this section shall be held to modify any right of creditors to set aside any assignment on the ground of fraud;

(10) The use by the person or partnership continuing the business of the partnership name, or the name of a deceased partner as part thereof, shall not of itself make the individual property of the deceased partner liable for any debts contracted by such person or partnership.

**History:** 1917, Act 72, Eff. Aug. 10, 1917;—CL 1929, 9881;—CL 1948, 449.41.

#### **449.42 Dissolution; rights of retiring or deceased partner when business continued.**

Sec. 42. (Rights of retiring or estate of deceased partner when the business is continued). When any partner retires or dies, and the business is continued under any of the conditions set forth in section 41(1, 2, 3, 5, 6), or section 38(2b), without any settlement of accounts as between him or his estate and the person or partnership continuing the business, unless otherwise agreed, he or his legal representative as against such persons or partnership may have the value of his interest at the date of dissolution ascertained and shall receive as an ordinary creditor an amount equal to the value of his interest in the dissolved partnership with interest, or, at his option or at the option of his legal representative, in lieu of interest, the profits attributable to the use of his right in the property of the dissolved partnership: Provided, That the creditors of the dissolved partnership as against the separate creditors, or the representative of the retired or deceased partner, shall have priority on any claim arising under this section, as provided by section 41(8) of this act.

**History:** 1917, Act 72, Eff. Aug. 10, 1917;—CL 1929, 9882;—CL 1948, 449.42.

#### **449.43 Dissolution; accrual of rights.**

Sec. 43. (Accrual of actions). The right to an account of his interest shall accrue to any partner, or his legal representative, as against the winding up partners or the surviving partners or the person or partnership continuing the business, at the date of dissolution, in the absence of any agreement to the contrary.

**History:** 1917, Act 72, Eff. Aug. 10, 1917;—CL 1929, 9883;—CL 1948, 449.43.

#### **449.44 Limited liability partnership; registration procedures.**

Sec. 44. (1) A partnership may organize as a limited liability partnership by filing with the department on a form provided by the department a registration that states the following:

(a) The name of the partnership.

(b) The address of the partnership's principal office.

(c) If the partnership is a foreign limited liability partnership, the address of the registered office and the name of the registered agent authorized to receive service of process in this state.

(d) A brief statement of the business of the partnership.

(e) A statement that the partnership will operate as a limited liability partnership.

(f) The partnership's federal employer identification number or, if a number has not been assigned to the partnership, the social security number of the person or persons signing the registration.

(g) Any other information that the department may require.

(2) A majority in interest of the partners or individuals authorized to execute a registration by a majority in interest of the partners shall sign the registration form described in subsection (1). The registration shall be accompanied by a registration fee of \$100.00.

(3) The registration is effective immediately upon filing with the department and the payment of the registration fee and shall remain in effect for 1 year from the effective date under this section.

(4) A registration may be renewed for 1 year by filing with the department a renewal registration on a form provided by the department and the payment of a renewal fee of \$100.00.

(5) The status of a partnership as a registered limited liability partnership shall not be affected by errors or subsequent changes in the information provided pursuant to this section.

(6) As used in this section and sections 47 and 48, "department" means the department of commerce.

**History:** Add. 1994, Act 323, Imd. Eff. Oct. 12, 1994.

#### **449.45 Registered limited liability partnership; name.**

Sec. 45. The name of a registered limited liability partnership shall contain the words "limited liability partnership" or the abbreviation "L.L.P." or "LLP" as the last words or letters of the partnership's name.

**History:** Add. 1994, Act 323, Imd. Eff. Oct. 12, 1994.

#### **449.46 Registered limited liability partnership; liability of partner.**

Sec. 46. (1) Except as provided in subsections (2) and (5), a debt, obligation, or other liability of a partnership incurred while the partnership is a registered limited liability partnership is solely the debt, obligation, or other liability of the registered limited liability partnership. A partner is not personally liable, directly or indirectly, by way of contribution or otherwise, for a debt, obligation, or other liability of the registered limited liability partnership solely by reason of being or acting as a partner. This subsection applies regardless of the dissolution of the registered limited liability partnership.

(2) Subsection (1) does not affect the liability of a partner in a registered limited liability partnership for the partner's own negligence, wrongful acts, omissions, misconduct, or malpractice, or that of any individual who is under the partner's direct supervision and control, that results in a debt, obligation, or other liability of the registered limited liability partnership.

(3) Except as provided in subsection (2), a partner in a registered limited liability partnership is not a proper party to a proceeding by or against the registered limited liability partnership, the object of which is to recover damages or enforce a debt, obligation, or other liability for which a partner is not liable under subsection (1).

(4) The failure of a registered limited liability partnership to observe any applicable formalities relating to the exercise of its powers or management of its business is not a ground for imposing liability on a partner for a debt, obligation, or other liability of the registered limited liability partnership.

(5) Subsection (1) does not affect the personal liability of a partner for a debt, obligation, or other liability of the registered limited liability partnership incurred or arising before the effective date of the amendatory act that added this subsection.

**History:** Add. 1994, Act 323, Imd. Eff. Oct. 12, 1994;—Am. 2018, Act 131, Eff. Aug. 1, 2018.

#### **449.47 Foreign limited liability partnership.**

Sec. 47. (1) A registered limited liability partnership formed under the laws of another state, territory, district, or possession of the United States or another country shall not conduct business in this state until the partnership has registered with the department and paid a registration fee of \$100.00.

(2) The registration form shall contain the same information as required by section 44(1) and the address of its registered office and the name and address of its registered agent for service of process.

(3) The registration is effective immediately upon filing with the department and payment of the registration fee and shall remain in effect for 1 year from the effective date under this section.

(4) A registration may be renewed for 1 year by filing with the department a renewal registration and the payment of a renewal fee of \$100.00.

(5) Except as otherwise provided by this act, a foreign limited liability partnership shall be governed by the laws under which it was formed.

(6) The name of a partnership doing business in this state under this section shall contain the words "limited liability partnership" or the abbreviation "L.L.P." or "LLP" as the last words or letters of its name.

**History:** Add. 1994, Act 323, Imd. Eff. Oct. 12, 1994.

#### **449.48 Registration or renewal for limited liability partnership; filing.**

Sec. 48. (1) The registration or renewal of a registration for a limited liability partnership shall be filed by delivering the registration to the department together with the fees and any other documents required by section 44 or 47. The department may establish procedures for accepting the registration by means of facsimile transmission.

(2) If the registration substantially conforms to the requirements of section 44 or 47, the department shall indorse upon it the word "filed" with the date of filing, and shall file and index the registration or a photostatic, micrographic, photographic, optical disc media, or other reproduced copy of registration. If requested at the time of filing, the department shall include in the indorsement the hour of filing.

(3) The records and files of the department relating to registered limited liability partnerships shall be open to reasonable inspection by the public. The records or files may be maintained either in their original form or in a photostatic, micrographic, photographic, optical disc media, or other reproduced form.

(4) The department may make copies of all documents filed under section 44 or 47 by a photostatic, micrographic, photographic, optical disc media, or other process, and may destroy the originals of the documents copied. A photostatic, micrographic, photographic, optical disc media, or other reproduced copy certified by the department, which may be sent by facsimile transmission, shall be considered an original for all purposes and is admissible in evidence in the manner as an original.

(5) A fee received under section 44 or 47 shall be deposited in the state treasury to the credit of the department to be used by the department in carrying out the duties required by this section. After the payment of the amounts appropriated by the legislature for the necessary expenses incurred by the department, the money remaining shall be credited to the general fund of the state.

(6) A minimum charge of \$1.00 for each certificate and 50 cents per folio shall be paid to the department for certifying a part of a file or record pertaining to a registered limited liability partnership. The department may furnish copies of documents, reports, and papers required or permitted by law to be filed with the department, and shall charge for those copies pursuant to a schedule of fees that the department adopts with the approval of the state administrative board. The department shall retain the revenue collected under this subsection to be used by the department to defray the costs for its copying and certifying services.

(7) If a domestic or foreign registered limited liability partnership pays fees or penalties by check and the check is dishonored, the fee shall be considered unpaid and the filing of all related documents is rescinded.

(8) The department may accept a credit card, in lieu of cash or check, as payment of a fee under this act. The department shall determine which credit cards may be accepted for payment.

(9) The department may charge a nonrefundable fee of up to \$50.00 for a document submitted or certificate sent by facsimile transmission. The department shall retain the revenue collected under this subsection to be used by the department in carrying out its duties under this section.

(10) If the department rejects the filing of a registration or renewal registration, the department shall refund any fees paid except for \$25.00, which the department shall retain to defray its costs incurred under this section.

**History:** Add. 1994, Act 323, Imd. Eff. Oct. 12, 1994.



## **COPARTNERSHIPS**

### **Act 164 of 1913**

AN ACT to require the filing of certificates of copartnership, fixing the liability of copartners and providing a penalty for violation of the provisions of this act.

**History:** 1913, Act 164, Eff. Aug. 14, 1913.

*The People of the State of Michigan enact:*

#### **449.101 Copartnerships; certificate required, filing, contents.**

Sec. 1. No 2 or more persons shall hereafter be engaged in carrying on any business as copartners unless such persons shall first make and file with the county clerk of the county in which such copartnership business is or shall be located, a certificate in writing, to be signed by each, and verified by the affidavit of 1 of the members of said copartnership, setting forth the full name of each and every person composing the said copartnership, and the residence of each, the name and style of the firm, and the length of time for which it is to continue, if limited by the partnership contract, and also the locality of their place of business; which certificate shall be kept in the office of the said county clerk, as a public document, and open to the inspection of any person: Provided, That any copartnership that has filed the certificate required by Act No. 101 of the Public Acts of 1907, shall not be required to file the certificate herein provided for.

**History:** 1913, Act 164, Eff. Aug. 14, 1913;—CL 1915, 6354;—CL 1929, 9929;—CL 1948, 449.101.

**Compiler's note:** For provisions of Act 101 of 1907, referred to in this section, see MCL 445.1 et seq.

#### **449.101a Certificate of copartnership; signers authorized to conduct business as partners for 5 years; renewal certificate; filing, fee, forms, and duration; notice; destruction of certificate; imposition of fees by certain charter counties.**

Sec. 1a. (1) The certificate when acknowledged and filed as required in section 1 shall authorize the persons signing it to conduct their business as partners for 5 years. Within 90 days before the expiration date, a renewal certificate may be filed with the county clerk upon payment of a fee of \$10.00 on forms to be provided by the county clerk. The renewal certificate will extend the right to the persons signing the certificate to conduct their business as partners for an additional 5-year period after the date of expiration of the original certificate or renewal if it has previously been renewed.

(2) Between the ninetieth day and the thirtieth day before the expiration date of an outstanding certificate, the county clerk shall mail to the persons whose certificate will expire, renewal certificate blank forms, in triplicate, together with a notice on a form to be provided by the county clerk that the certificate authorizing ..... and ..... etc., et al. to carry on a business as partners expires at 5 p.m. on the ..... day of ....., and, that failure to file a renewal certificate and pay a fee of \$10.00 before the expiration date above mentioned will constitute a violation of section 6 rendering the persons liable to the punishment provided for in section 6. The notice required in this section shall be mailed by the county clerk to the last known address of persons whose certificates or renewal certificates will expire as stated on the original or renewal certificate. Six years after an original or renewal certificate has expired the county clerk may destroy the certificate.

(3) A charter county with a population of more than 2,000,000 may impose by ordinance a different amount for the fees required by this section. A charter county shall not impose a fee which is greater than the cost of the service for which the fee is charged.

**History:** Add. 1955, Act 138, Eff. Oct. 14, 1955;—Am. 1977, Act 113, Imd. Eff. Oct. 12, 1977;—Am. 1984, Act 293, Imd. Eff. Dec. 20, 1984.

#### **449.101b Copartnership certificate; renewal, notice.**

Sec. 1b. Persons now carrying on business as copartners under the provisions of this act shall file a renewal certificate as is herein prescribed within 5 years after this act shall take effect, and after notice from the county clerk as is herein provided, which notice shall be given within 90 to 30 days prior to the expiration of the 5-year period.

**History:** Add. 1955, Act 138, Eff. Oct. 14, 1955.

#### **449.102 Copartnership certificate; name change, procedure, interim effect.**

Sec. 2. In case there shall be at any time after the making and filing of said certificate, any change in the name or style of said firm, or in the time of its existence, then a new certificate, verified as before specified, shall in like manner be filed as required by section 1 of this act, before such change shall take effect; and until such new certificate shall have been made and filed, as above specified, the individual members of the firm,



as set forth in the certificate on file, shall be held to be the actual members of the firm, and in all respects holden and liable for any obligation, debt or liability, incurred by the said copartnership.

**History:** 1913, Act 164, Eff. Aug. 14, 1913;—CL 1915, 6355;—CL 1929, 9930;—CL 1948, 449.102.

#### **449.103 Copartnership certificate; certified copy as evidence.**

Sec. 3. A certified copy of the said certificate, or renewal certificate, on file in the county clerk's office, signed by the county clerk, and attested by the seal of the circuit court of the county, shall be held to be good and sufficient evidence of any or all the facts in said certificate, or renewal certificate stated and set forth.

**History:** 1913, Act 164, Eff. Aug. 14, 1913;—CL 1915, 6356;—CL 1929, 9931;—CL 1948, 449.103;—Am. 1955, Act 138, Eff. Oct. 14, 1955.

#### **449.104 Copartnership certificate; filing; assumed name, rejection by county clerk.**

Sec. 4. Persons now owning or conducting any such business as copartners shall file such certificate as hereinbefore prescribed within 90 days after this act shall take effect, and persons hereafter owning, conducting or transacting business as aforesaid shall, before commencing said business, file such certificate in the manner hereinbefore prescribed. The several county clerks of this state are hereby authorized to reject any assumed name which is likely to mislead the public, or any assumed name already filed in the county or so nearly similar thereto as to lead to confusion or deception.

**History:** 1913, Act 164, Eff. Aug. 14, 1913;—CL 1915, 6357;—CL 1929, 9932;—Am. 1931, Act 273, Eff. Sept. 18, 1931;—CL 1948, 449.104.

#### **449.104a Copartnership under assumed name; change of business location certificate, attachment.**

Sec. 4a. Whenever a copartnership operating under an assumed name has changed or changes its place of business, it shall be the duty of 1 of the members of such copartnership to file with the county clerk with whom the certificate required under the provisions of section 1 of this act was filed, a certificate stating the change in business location, which certificate shall be attached by the county clerk to the certificate, or renewal certificate, filed under the provisions of this act, and, in case the business location is changed to some other county or counties in this state, to file the assumed name certificate required under the provisions of section 1 of this act with the clerk of such county, before doing any business in such county.

**History:** Add. 1931, Act 273, Eff. Sept. 18, 1931;—CL 1948, 449.104a;—Am. 1955, Act 138, Eff. Oct. 14, 1955.

#### **449.104b Copartnership under assumed name; discontinuance of business certificate; use of name by others, objection.**

Sec. 4b. Whenever a copartnership operating under an assumed name shall go out of business, it shall be the duty of 1 of the members of such copartnership to file a certificate with the clerk of the county or counties in which such copartnership transacted business, of the discontinuance of such copartnership in such county or counties which certificate shall be attached by the county clerk to the certificate or renewal certificate filed under the provisions of this act. In case the certificate required under the provisions of this section is not filed, any person or persons desiring to use the assumed name in such certificate shall file an affidavit, accompanied by a filing fee of \$3.00 with the county clerk that such person or persons have thoroughly investigated the facts and setting forth further facts showing that such copartnership has in fact gone out of business. Thereupon the county clerk shall forthwith send by registered mail to such copartnership at the address on file in his office a copy of the affidavit, and further stating that an application has been filed to use such assumed name and further notifying him or them that unless objection is made within 10 days that the certificate or renewal certificate filed under provisions of this act will be revoked. The county clerk shall file his own affidavit of mailing and the registered receipt with the original certificate or renewal certificate and if no objection is filed in 10 days the county clerk is hereby authorized to permit such person or persons applying to use the assumed name of such concern, on the filing of the certificate required under the provisions of section 1 of this act.

**History:** Add. 1931, Act 273, Eff. Sept. 18, 1931;—CL 1948, 449.104b;—Am. 1955, Act 138, Eff. Oct. 14, 1955.

#### **449.105 Certificates and renewal certificates; alphabetical index; indexing and filing fee; cost of certified copies.**

Sec. 5. The county clerk shall keep an alphabetical index of all certificates and renewal certificates, provided for in this act, and for the indexing and filing of the certificates and renewal certificates shall receive a fee of \$10.00, to be paid by the party filing the same. Upon the payment of the \$10.00, the payer shall be entitled to 3 certified copies of the certificate or renewal certificate without extra charge, with additional

copies at \$1.00 each. The county clerk shall, upon request of a person, supply certified copies of the original or renewal certificates upon payment of a fee of \$2.00 per copy.

**History:** 1913, Act 164, Eff. Aug. 14, 1913;—CL 1915, 6358;—CL 1929, 9933;—Am. 1947, Act 280, Eff. Oct. 11, 1947;—CL 1948, 449.105;—Am. 1955, Act 138, Eff. Oct. 14, 1955;—Am. 1977, Act 113, Imd. Eff. Oct. 12, 1977.

**449.106 Violation of act; penalty; effect on validity and enforcement of contracts.**

Sec. 6. Any 2 or more persons owning, carrying on or conducting or transacting business as aforesaid, who shall fail to comply with the provisions of this act, shall each be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$10.00 nor more than \$100.00 or by imprisonment in the county jail for a term not exceeding 30 days or by both such fine and imprisonment in the discretion of the court; and each day any person or persons shall violate any provisions of this act shall be deemed a separate offense: Provided, however, The fact that a penalty is provided herein for non-compliance with the provisions of this act shall not be construed to avoid contracts, but any copartnership failing to file the certificate or renewal certificate required by this act shall be prohibited from bringing any suit, action or proceeding in any of the courts of this state until after full compliance with the provisions of this act.

**History:** 1913, Act 164, Eff. Aug. 14, 1913;—CL 1915, 6359;—Am. 1919, Act 265, Eff. Aug. 14, 1919;—CL 1929, 9934;—CL 1948, 449.106;—Am. 1955, Act 138, Eff. Oct. 14, 1955.

## **PARTNERS AND JOINT DEBTORS; SETTLEMENTS OR COMPROMISES WITH CREDITORS**

### **Act 181 of 1859**

AN ACT to provide for settlement and compromises by partners and joint debtors with their creditor or creditors.

**History:** 1859, Act 181, Eff. May 18, 1859.

*The People of the State of Michigan enact:*

#### **449.151 Copartnerships; settlements with creditors; discharge of partner not party.**

Sec. 1. That whenever any firm or copartnership shall be dissolved by mutual consent or otherwise it shall and may be lawful for any 1 or more of the individuals composing such firm or copartnership to make a separate settlement or compromise with any 1 or all of the creditors of such firm or copartnership and such settlement or compromise shall be a full and complete discharge both in law and in equity to the debtor or debtors making such settlement or compromise and to such debtor or debtors only of and from all and every liability to the creditor or creditors with whom the same is made or incurred by reason of his or their connection with such firm or copartnership: Provided however, that in case of such settlement or compromise the copartner or copartners who are not parties to the same shall be discharged from all liability to the creditor or creditors except for their joint ratable portion of such copartnership debt.

**History:** CL 1871, 6199;—How. 7783;—CL 1897, 10449;—CL 1915, 14581;—CL 1929, 9935;—CL 1948, 449.151.

**Compiler's note:** This act was expressly excepted from the repeal of Ch. 288, CL 1897, by Act 314 of 1915.

#### **449.152 Settlements with creditors; written discharge by creditors, bar to recovery.**

Sec. 2. Every such debtor or debtors making such settlement or compromise shall take from the creditor or creditors or their attorney with whom he may make the same a receipt or memorandum in writing exonerating and discharging him or them from all and every individual liability incurred by reason of such connection with such firm or copartnership whether such liability was incurred as endorsee acceptors or otherwise which receipt or memorandum shall refer to the instrument as evidence of the indebtedness and may be given in evidence by such debtor or debtors under the general issue in bar of any creditors right or of recovery against him or them or any indebtedness or liability so settled or compromised and if such liability shall be by judgment in any court of this state then on production to and filing in such court a receipt or memorandum signed by such creditor agent or attorney entitled in such cause describing such judgment then the justice before whom such judgment may remain or if in a court of record then the clerk of such court shall discharge such judgment of record so far as such debtor or debtors so settling or compromising shall be concerned.

**History:** 1859, Act 181, Eff. May 18, 1859;—CL 1871, 6200;—How. 7784;—CL 1897, 10450;—CL 1915, 14582;—CL 1929, 9936;—CL 1948, 449.152.

#### **449.153 Settlements with creditors; rights against undischarged partners not impaired; right to set off and defense.**

Sec. 3. Such settlement or compromise with the individual member of a firm or copartnership shall not be so construed as to discharge the other copartners except as provided in the first section of this act nor shall it impair the right of the creditors to proceed in law or in equity against the members of such firm or copartnership as have not been discharged and it shall not be necessary to make such person or persons as have been discharged by such settlement or compromise parties to any suit with the other copartners who have not been discharged, and the member or members of such firm or copartnership so proceeded against shall be entitled to set off any demand against said creditor or creditors which could have been set off had such suit been brought against all the individuals comprising such firm or copartnership nor shall such settlement, compromise or discharge of an individual of a firm or copartnership prevent the other members of such firm or copartnership from availing themselves of any defense at law or equity that would have been available had not this act been passed except that they shall not set up the discharge of 1 or more partners as the discharge of the other copartners unless it shall expressly appear in the receipt or memorandum that all were intended to be discharged.

**History:** 1859, Act 181, Eff. May 18, 1859;—CL 1871, 6201;—How. 7785;—CL 1897, 10451;—CL 1915, 14583;—CL 1929, 9937;—CL 1948, 449.153.

#### **449.154 Settlements with creditors; contribution between partners.**

Sec. 4. Such settlement or compromise of 1 or more members of such firm or copartnership with a creditor of such firm or copartnership shall in no wise affect the right of the other partners to demand and recover

from their copartners making such settlement or compromise their ratable portions of such firm or copartnership debt in the same manner and to the same extent as if this act had not been passed.

**History:** 1859, Act 181, Eff. May 18, 1859;—CL 1871, 6202;—How. 7786;—CL 1897, 10452;—CL 1915, 14584;—CL 1929, 9938;—CL 1948, 449.154.

#### **449.155 Extension of act to joint debtors.**

Sec. 5. The provisions of this act shall extend to joint debtors in the same manner as it now extends to copartners and such joint debtors are hereby authorized individually to settle or compromise and be discharged from their joint indebtedness in the same manner as is herein provided for the settlement and compromise of copartners.

**History:** 1859, Act 181, Eff. May 18, 1859;—CL 1871, 6203;—How. 7787;—CL 1897, 10453;—CL 1915, 14585;—CL 1929, 9939;—CL 1948, 449.155.

### **UNIFORM LIMITED PARTNERSHIP ACT Act 110 of 1931**

**449.201-449.231 Repealed. 1982, Act 213, Eff. Jan. 1, 1983.**

## PARTNERSHIP ASSOCIATIONS

### Act 191 of 1877

AN ACT authorizing the formation of partnership associations, in which the capital subscribed shall alone be responsible for the debts of the association, except under certain circumstances.

**History:** 1877, Act 191, Eff. Aug. 21, 1877.

*The People of the State of Michigan enact:*

#### **449.301 Partnership associations; formation; capital stock; articles of association, contents, recording, certification.**

Sec. 1. When any 3 or more persons may desire to form a partnership association, for the purpose of conducting any lawful business or occupation within the United States or elsewhere, whose principal office or place of business shall be established and maintained within this state, by subscribing and contributing capital thereto, which capital shall alone be liable for the debts of such association, it shall and may be lawful for such persons to sign and acknowledge, before some officer competent to take acknowledgment of deeds, a statement in writing, or articles of association, in which shall be set forth the full names of such persons, and the amount of capital of said association subscribed for by each; the total amount of capital, and when and how to be paid: Provided, however, That the amount of capital stock subscribed shall not be less than 50 per cent of the authorized capital stock and the amount of capital stock paid in at the time of executing the articles of association shall not be less than 10 per cent of the authorized capital. Said articles of association shall also state the character of the business to be conducted, and the location of the same whether or not the capital subscribed shall be subject to the restrictive provisions of section 4 of this act, and unless the articles of association expressly declare that the capital subscribed shall not be subject to the provisions of said section 4 such capital shall be subject to the provisions of said section 4 so far as the same prohibits the members from transferring their interests and the transferee from becoming a member without the consent of the other members; the name of the association, with the word "limited" added thereto as part of the same; the contemplated duration of said association, which shall not in any case exceed 20 years, and the names of the officers of said association selected in conformity with the provisions of this act. Contributions to the capital stock may be in real or personal estate, at a valuation to be approved by all the members subscribing to the capital of such association; but where property has been contributed as part of the capital, a schedule containing the names of the parties so contributing, with a description and valuation of the property so contributed, shall be inserted in such statement or articles; and any amendment of said statement or articles shall be made only in like manner; which said statement and amendment shall be recorded in the office of the secretary of state of this state and in the office of clerk of the county in which such association has its principal office, at the expense of the association; and until said statement or articles are so recorded the same shall not be deemed valid or operative nor authorize the association to commence or conduct business thereunder. The secretary of state and the county clerk, in whose office such articles of association shall be recorded, shall each certify upon every such article of association recorded by him, the time when it was received with a reference to the book and page where the same was recorded, and the record or transcript of the record, certified by the secretary of state, of this state, and under the seal thereof, shall be received in all the courts of this state as prima facie evidence of the due formation, existence and capacity of such association in any suit or proceedings brought by or against the same.

**History:** 1877, Act 191, Eff. Aug. 21, 1877;—How. 2365;—CL 1897, 6079;—Am. 1903, Act 244, Imd. Eff. June 18, 1903;—CL 1915, 7950;—CL 1929, 9909;—CL 1948, 449.301.

**Compiler's note:** This act was held not repealed by Act 327 of 1921 in *Attorney General v. Hill-Davis Co.*, 261 Mich. 89, 245 N.W. 579 (1932).

#### **449.302 Partnership associations; liability of members; labor debts.**

Sec. 2. The members of any such partnership association shall not be liable under any judgment, decree, or order which shall be obtained against such association, or for any debt or engagement of such company, further or otherwise than is hereinafter provided, that is to say: if any execution or other process in the nature of execution, either at law or in equity, shall have been issued against the property or effects of the company, and if there cannot be found sufficient thereof whereon to levy or enforce such execution or other process, then such execution or other process may be issued against any of the members to the extent of the portions of their subscriptions respectively, in the capital of the association not then paid up: Provided always, That no such execution shall issue against any member, except upon an order of court or of a judge of the court in which the action, suit, or other proceeding shall have been brought or instituted; and the said court or judge

may compel the production of the books of the association, showing the names of the members thereof, and the amount of capital remaining to be paid upon their respective subscriptions, and from them or other sources of information, ascertain the truth in regard thereto, and may order execution to issue accordingly; and the said association shall be and it is hereby required to keep a subscription list book for that purpose and the same shall be open to inspection by the creditors and members of the association, at all reasonable times: Provided, That nothing herein contained shall be construed to exempt the members of such partnership association from individual liability for all labor performed for the association.

**History:** 1877, Act 191, Eff. Aug. 21, 1877;—How. 2366;—CL 1897, 6080;—CL 1915, 7951;—CL 1929, 9910;—CL 1948, 449.302

#### **449.303 Partnership associations; limited as last word in name; effect of omission.**

Sec. 3. The word "limited" shall be the last word of the name of every partnership association formed under the provisions of this act; and every such association shall paint or affix, and shall keep painted or affixed, its name on the outside of every office or place in which the business of the association is carried on, in a conspicuous position, in letters easily legible, and shall have its full name mentioned in legible characters in all notices, advertisements, and other official publications of such association, and in all bills of exchange, promissory notes, checks, orders for money, bills of lading, invoices, receipts, letters, and other writings used in the transaction of the business of the partnership association: Provided, That the omission of the word "limited" in the use of the name of the partnership association shall render each and every member of such partnership liable for any indebtedness, damage, or liability arising therefrom.

**History:** 1877, Act 191, Eff. Aug. 21, 1877;—How. 2367;—CL 1897, 6081;—CL 1915, 7952;—CL 1929, 9911;—CL 1948, 449.303

#### **449.304 Partnership associations; interest, transfer; death of member, effect; scope, limitation.**

Sec. 4. Interest in said association shall be personal estate, and may be transferred under such rules and regulations as the association may prescribe, but no transferee of any interest, or the representatives of any decedent, or of any insolvent shall be entitled thereafter to any participation in the subsequent business of said association, unless he or she be elected thereto by a vote of a majority of the members in number and value of their interests, and any change of ownership, whether by sale, death, bankruptcy, or otherwise, which shall not be followed by election to the association, shall entitle the owner only to his interest in the association at a price and upon terms to be mutually agreed upon, and in default of such agreement the price and terms shall be fixed by an appraiser appointed by the circuit court of the county where such association has its principal office, subject to the approval of said court: Provided, That it may be stipulated and agreed in the statement in writing by which said association is organized, or by amendment filed thereafter, that on the death of any member his interest, if the representatives of his estate so elect, shall continue in the association during the continuance thereof and that the representatives of his estate may select some person who shall thereupon become a member of such association in place of such deceased member, with all his rights, privileges and responsibilities: Provided, however, That nothing herein contained shall affect the right of members to transfer their interest in associations heretofore organized under the provisions of Act 192 of the Public Acts of 1877, as amended.

**History:** 1877, Act 191, Eff. Aug. 21, 1877;—Am. 1881, Act 216, Imd. Eff. June 3, 1881;—How. 2368;—Am. 1885, Act 21, Imd. Eff. Mar. 17, 1885;—CL 1897, 6082;—Am. 1903, Act 244, Imd. Eff. June 18, 1903;—CL 1915, 7953;—CL 1929, 9912;—CL 1948, 449.304.

**Compiler's note:** The reference at the end of this section to "Act 192 of the Public Acts of 1877" should evidently be to "Act 191 of the Public Acts of 1877."

#### **449.305 Partnership associations; meetings, notice; managers; debts and liabilities; rules.**

Sec. 5. There shall be at least 1 meeting of the members of the association in each year, written notice of which shall be duly served on each member of the association 10 days prior to said meeting, at 1 of which there shall be elected not less than 3 nor more than 7 managers of said association, 1 of whom shall be the chairman, 1 the treasurer and 1 the secretary, who shall hold their respective offices for 1 year and until their successors are duly installed; and no debt shall be contracted nor liability incurred for said association except by 1 or more of said managers, and no liability for an amount exceeding \$500.00, except against the person incurring it, shall bind the said association unless reduced to writing and signed by at least 2 managers, except in case of associations for the purpose of buying and selling merchandise, a majority of the interest in such association may select 1 of the managers each year to purchase merchandise required in the business of the association, make contracts and sign notes for the same: Provided, Such power given in writing fully setting forth the extent to which such manager may make purchases and contract debt for the association, which shall



be signed by a majority of the members in number and value of their interest, and such power of purchasing and contracting debts shall be strictly limited to the ordinary business of the association: And also provided, That at the time of the formation of such association, rules, not inconsistent with the provisions of this act, may be adopted for the management thereof, which shall only be amended by the consent in writing of 3/4 in number and value of interest.

**History:** 1877, Act 191, Eff. Aug. 21, 1877;—Am. 1881, Act 216, Imd. Eff. June 3, 1881;—How. 2369;—CL 1897, 6083;—CL 1915, 7954;—CL 1929, 9913;—CL 1948, 449.305;—Am. 1955, Act 146, Eff. Oct. 14, 1955.

#### **449.306 Partnership associations; division of profits, impairment of capital.**

Sec. 6. The association may, from time to time, divide the profits of its business in such manner and in such an amount as a majority of its managers may determine, which profits so divided shall not at the time diminish or impair the capital of the said association; and any one consenting to a dividend, which shall diminish or impair the capital, shall be liable to any person or persons interested or injured thereby to the amount of such diminution or impairment.

**History:** 1877, Act 191, Eff. Aug. 21, 1877;—How. 2370;—CL 1897, 6084;—CL 1915, 7954;—CL 1929, 9914;—CL 1948, 449.306

#### **449.307 Partnership associations; loan of credit, name or capital, interest.**

Sec. 7. It shall not be lawful for such association to loan its credit, its name, or its capital to any member of said association, and for such loan to any other person or association, the consent in writing of a majority in number and value of interest shall be requisite, and in no case shall the credit of the association be loaned except the regular business of the association is to be directly benefitted thereby.

**History:** 1877, Act 191, Eff. Aug. 21, 1877;—How. 2371;—CL 1897, 6085;—CL 1915, 7956;—CL 1929, 9915;—CL 1948, 449.307

#### **449.308 Partnership associations; dissolution, conditions.**

Sec. 8. Such association may be dissolved:

First, Whenever the period fixed for the duration of the association expires.

Second, Whenever, by vote of a majority in number and value of interest it shall be so determined, and notice of such winding up shall be given by publication in 2 newspapers published in the proper city or county, at least 4 consecutive weeks; and immediately upon the commencement of said advertising, said association shall cease to carry on its business, except so far as may be required for the beneficial winding up thereof.

**History:** 1877, Act 191, Eff. Aug. 21, 1877;—How. 2372;—CL 1897, 6086;—CL 1915, 7957;—CL 1929, 9916;—CL 1948, 449.308

#### **449.309 Partnership associations; dissolution, distribution of property.**

Sec. 9. When any such partnership association shall be dissolved by the voluntary action thereof, its property shall be applied and distributed as follows:

First, To the payment of all debts for wages of labor;

Second, To the satisfaction of its other liabilities and indebtedness;

Third, After payment thereof, the same shall be distributed to and among the members thereof, in proportion to their respective interests, in the following manner:

Fourth, 3 liquidating trustees shall be elected by the members of the association, who shall have full power and authority to wind up the concern, and distribute the net assets thereof among the members, under the direction of the circuit court of the proper county.

**History:** 1877, Act 191, Eff. Aug. 21, 1877;—How. 2373;—CL 1897, 6087;—CL 1915, 7958;—CL 1929, 9917;—CL 1948, 449.309

#### **449.310 Partnership associations; real estate, ownership and conveyance; service of process.**

Sec. 10. All real estate owned or purchased by any association, created under and by virtue of this act, shall be held and owned and conveyance thereof shall be made in the association name; said association shall sue and be sued in their association name; and when suit is brought against any such association, service of process and other papers in such suit prior to appearance therein by defendant, shall be made upon the chairman, secretary or treasurer thereof: Provided, If no such officer reside in the county where the principal office or place or [of] business of such association is located, or no such officer be found in such county within 5 days after the commencement of such suit, service of such process and papers may be made upon such association by service thereof upon any clerk, agent or attorney thereof in its office or place of business

named in its articles of incorporation, which service shall be as complete and effective as if made upon each and every member of such association.

**History:** 1877, Act 191, Eff. Aug. 21, 1877;—How. 2374;—CL 1897, 6088;—Am. 1905, Act 188, Imd. Eff. June 7, 1905;—CL 1915, 7959;—CL 1929, 9918;—CL 1948, 449.310.

#### **449.311 Saving clause.**

Sec. 11. That no amendment, modification, or repeal of this act shall affect anything duly done, right acquired, liability incurred or penalty, forfeiture or other punishment incurred or to be incurred, in respect of any offense against the provisions of this act before such amendment, modification, or repeal comes into operation.

**History:** 1877, Act 191, Eff. Aug. 21, 1877;—How. 2375;—CL 1897, 6089;—CL 1915, 7960;—CL 1929, 9919;—CL 1948, 449.311

#### **449.312 Partnership associations; franchise fee to accompany articles of association; void contracts; specific tax.**

Sec. 12. Every such partnership association organized after this act takes effect, shall at the time of recording its statement in writing, or articles of association, pay to the secretary of state a franchise fee of 1/2 of 1 mill upon each dollar of its total authorized capital stock, and a proportionate fee upon every subsequent increase thereof; no statement in writing, or articles of association, shall be received by the secretary of state for recording unless accompanied by the fee provided for in this act, and every partnership association heretofore organized which shall hereafter increase its authorized capital, shall pay a franchise fee of 1/2 of 1 mill upon each dollar of such increase of authorized capital, and a proportionate fee upon each subsequent increase thereof: Provided, The fee herein provided shall in no case be less than 5 dollars. All contracts made in this state after the first day of January, 1904 by any partnership association organized after this act becomes operative, which has not first paid the franchise fee required to be paid by this act shall be wholly void. The franchise fee provided by this act shall be deemed and held to be specific taxes and shall be paid into the state treasury, and shall be applied to the objects and purposes prescribed in section 1, article 14 of the constitution of this state.

**History:** Add. 1903, Act 244, Imd. Eff. June 18, 1903;—CL 1915, 7961;—CL 1929, 9920;—CL 1948, 449.312.

**Compiler's note:** In this section, "section 1, article 14 of the constitution" refers to the Constitution of 1850. See now Const. 1963, Art. IX, § 1.

This section and MCL 449.313 were impliedly repealed by Act 233 of 1923. See *Whitney Realty Co. v. Secretary of State*, 228 Mich. 96, 199 N.W. 669 (1924).

#### **449.313 Partnership associations; annual report; time, contents, blanks, examination, filing; failure, duties of attorney general; dissolution notice; penalties, collection.**

Sec. 13. Every partnership association heretofore or hereafter organized under this act shall annually, in the month of January or February, make duplicate reports for the fiscal year last ending, of such association, on suitable blanks to be furnished by the secretary of state, as hereinafter provided. Such report shall state the amount of capital subscribed, and the amount thereof actually paid in, in cash, and the amount thereof paid in property, if any; the amount of capital invested in real and personal estate, and the present actual value of the same as near as may be estimated; the amount of debts of the association, and the amount of credits, and the present estimated value of the credits; the name and postoffice address of each member and the amount of capital held by each at the date of such report; the name and postoffice address of each officer and manager of the association and such other information as the secretary of state may require. It shall be the duty of the secretary of state in the month of December, in each year, to mail to each such association suitable blanks on which shall be printed a copy of this section. Such reports shall be signed by a majority of the managers and verified by the oath of the secretary of the association, and deposited in the office of the secretary of state within the said month of January or February. The secretary of state shall carefully examine such reports, and if upon such examination they shall be found to comply with all the requirements of this section, he shall file 1 of them in his office and shall forward the other by mail or express to the county clerk of the county in which the principal office, in this state, for the transaction of the business of said association is situated. And it shall be the duty of such county clerk, upon receipt of such report to immediately cause the same to be filed in his office. If any of the managers of any such association shall wilfully neglect or refuse to make and deposit the report required by this section, within the time herein specified, they shall each be liable for all the debts of such association contracted during the period of such neglect or refusal, and subject to a penalty of 25 dollars, and in addition thereto the sum of 5 dollars for each and every secular day after the first of March in each year during the pendency of such neglect or refusal, which penalty shall be for the use and benefit of the general fund of this state. The secretary of state shall, during the last week of June of each year, report to the

attorney general in writing, the name and postoffice address of each and every association which has failed to comply with the provisions of this section. And upon the receipt of such report, it shall be the duty of the attorney general to institute proceedings in any court of competent jurisdiction, to collect said penalties, and all necessary expenses incurred by the attorney general in such proceedings shall be audited by the board of state auditors, and paid from the general fund of the state. And in case an association organized or doing business under the provisions of this act shall be dissolved by process of law, or whose term of existence shall terminate by limitation, or whose property and franchises shall be sold at mortgage sale or at private sale, it shall be the duty of the last board of managers of such association, within 30 days thereafter, to give written notice of such change to the secretary of state and the county clerk of the county where the principal office of such association is located, signed by a majority of such last board of managers, which said notice shall be recorded as amendments are required to be recorded. And in case of neglect to give such notice, they shall be subject to the same penalties provided in case of neglect to make annual reports, which said penalties shall be collected and applied in the same manner as in case of neglect in making annual reports. The neglect or refusal to file the reports, required by this section to be filed, shall be deemed to be wilful when the report required is not filed within the time herein limited. Whenever any association has neglected or refused to make and file its report within 20 days after the time limited in this section, the secretary of state shall cause notice of that fact to be given by mail to such association, and to each last known officer and manager thereof, directed to their respective postoffice addresses. The certificate of the secretary of state or his deputy, of the mailing of such notices, shall be prima facie evidence in all courts and places of that fact, and that such notices were duly received by said association. All actions and suits based on the neglect or refusal of the officers or managers of such associations to make and file the reports required by this section, shall be commenced within 2 years next after such neglect or refusal has occurred, and not afterwards.

**History:** Add. 1903, Act 244, Imd. Eff. June 18, 1903;—Am. 1905, Act 63, Eff. Sept. 16, 1905;—CL 1915, 7962;—CL 1929, 9921;—CL 1948, 449.313.

**Compiler's note:** This section and MCL 449.312 were impliedly repealed by Act 233 of 1923. See *Whitney Realty Co. v. Secretary of State*, 228 Mich. 96, 199 N.W. 669 (1924).

#### **449.314 Existing associations; articles, filing; penalty; franchise fee.**

Sec. 14. Every partnership association heretofore organized, is required to file a copy of its statement in writing or articles of association, verified by the oath of the secretary of the board of managers or certified by the register of deeds of the county in which said statement or articles were recorded, as a full and true copy of the same with its date of record together with all amendments to such statement or articles if any have been made and recorded, in the office of the secretary of state of this state on or before the first day of January 1904. The officers and managers of every such partnership association failing to file such copy of its statement in writing or articles within the time herein prescribed, shall each be subject to a penalty of 25 dollars, and in addition thereto the sum of 5 dollars for each and every secular day after January first, 1904. Such penalty shall be for the same use, and shall be collected in the same manner, by the attorney general, as prescribed in section 13 of this act: Provided, That partnership associations already organized shall not be required to pay a franchise fee upon their recording articles of association under this act.

**History:** Add. 1903, Act 244, Imd. Eff. June 18, 1903;—CL 1915, 7963;—CL 1929, 9922;—CL 1948, 449.314.

#### **449.315 Existing associations; articles, amendment, procedure; evidence.**

Sec. 15. Every association organized or existing under the provisions of this act may, at any annual meeting or any meeting duly called for that purpose by a resolution adopted by a vote of 2/3 in value of interest of its capital stock, amend its articles of association in any manner not inconsistent with the provisions of this act, but such amendments shall not become operative until a copy of such resolutions, signed by the chairman and secretary of the board of managers of such association, shall have been recorded as is provided herein for the recording of the original articles of association when such amendment shall have the same force and effect as though said amendments had been included in the original articles, and a record or copy of the record of such resolution certified as provided in section 1 for the certification of the original articles of association shall be received in all courts of this state as prima facie evidence of the things therein stated.

**History:** Add. 1903, Act 244, Imd. Eff. June 18, 1903;—CL 1915, 7964;—CL 1929, 9923;—CL 1948, 449.315.

#### **449.316 Existing associations; reorganization as corporation, procedure; franchise fee; period of existence.**

Sec. 16. Every partnership association now existing, organized under Act No. 191 of the Public Acts of 1877, as amended, being chapter 160 of the Compiled Laws of 1897, may at any time reorganize under any

act providing for the incorporation of companies for a purpose or purposes for which such association was organized: Provided, Such reorganization is authorized and directed by a vote of 2/3 in interest of the members holding the capital stock of any such partnership association, at a regular meeting of the members of such association, or at a meeting called expressly for that purpose in accordance with the by-laws or statement in writing by which it was organized. The resolution or other action by which said vote is expressed shall be certified in duplicate by the executive officers of the association so reorganizing, and attached to its articles of incorporation when the same are recorded; and in addition to said resolution or other action the said officers shall certify the name of the association and the date upon which the same was organized under the statute now known as chapter 160 of the Compiled Laws of 1897, and every such association so organized before this act becomes operative may reorganize as herein provided without paying the franchise fee provided in Act No. 182 of the Public Acts of 1891, being section 8574 of the Compiled Laws of 1897: Provided, That the period for the existence of the corporation so organized shall be coincident with the period of existence remaining to the partnership association at the date of its reorganization as above provided.

**History:** Add. 1903, Act 244, Imd. Eff. June 18, 1903;—Am. 1911, Act 252, Eff. Aug. 1, 1911;—CL 1915, 7965;—CL 1929, 9924;—CL 1948, 449.316.

**Compiler's note:** For provisions of Act 191 of 1877, referred to in this section, see MCL 449.301 et seq. Act 182 of 1891, referred to in this section, was repealed by Act 309 of 1929.

**PARTNERSHIP ASSOCIATIONS; ELECTION OF MANAGERS**  
**Act 45 of 1909**

AN ACT to secure to the minority of members in partnership associations organized under the provisions of Act No. 191 of the Public Acts of 1877, and acts amendatory thereto, the same being compiler's chapter 160 of the Compiled Laws of 1897, the power of electing a representative membership in the boards of managers of such partnership associations.

**History:** 1909, Act 45, Eff. Sept. 1, 1909.

*The People of the State of Michigan enact:*

**449.351 Partnership associations; election of managers, procedure, time, number.**

Sec. 1. In all elections for managers of partnership associations organized under the provisions of chapter 160 of the Compiled Laws of 1897 and acts amendatory thereto, every member of such partnership association shall have the right to vote in person or by proxy the number of shares owned by him for as many persons as there may be managers to be elected, or to cumulate said shares and give 1 candidate as many votes as will equal the number of managers multiplied by the number of his shares of stock; or to distribute them on the same principal among as many candidates as he shall think fit. All such partnership associations shall elect their managers annually, and the entire number of managers shall be balloted for at 1 and the same time and not separately: Provided, That the by-laws of any such partnership association shall not be so amended as to reduce the number of managers of such partnership association, in case the votes of a sufficient number of shares are recorded against such proposed amendment, which, if cumulatively voted as herein provided, would elect 1 or more managers where the same number of shares, if cumulatively voted, would not be sufficient to elect the same number of managers of the reduced board of managers.

**History:** 1909, Act 45, Eff. Sept. 1, 1909;—CL 1915, 7966;—CL 1929, 9925;—CL 1948, 449.351.

**Compiler's note:** This act was held not repealed by Act 327 of 1921 in *Attorney General v. Hill-Davis Co.*, 261 Mich. 89, 245 N.W. 579 (1932).

**PARTNERSHIP ASSOCIATIONS LIMITED**  
**Act 105 of 1919**

AN ACT to provide for the extension of the life of partnership associations limited, organized under the laws of this state, whose term of existence would otherwise expire or has already expired and to fix the rights, duties and liabilities of such partnership associations limited.

**History:** 1919, Act 105, Eff. Aug. 14, 1919;—Am. 1925, Act 25, Eff. Aug. 27, 1925.

*The People of the State of Michigan enact:*

**449.371 Partnership associations limited; continuance of existence, procedure; evidence; franchise fee.**

Sec. 1. Any partnership association limited, organized under the general laws of this state whose term is about to expire by limitation, may at any time within 2 years next preceding the expiration of such term, by a vote of at least 2/3 of its capital, at any annual meeting or at any special meeting of its members called for that purpose, direct the continuance of its existence for such further term, not exceeding 20 years from the expiration of its former term, as may be expressed in a resolution for that purpose. Upon the adoption of such resolution at the annual meeting or any special meeting called in accordance with the by-laws of the organization, it shall be the duty of the chairman and secretary to make, sign and acknowledge duplicate articles of association, to which shall be appended a copy of the proceedings of such meeting, certified by the secretary and verified by his oath, which articles of association shall be recorded in the same public offices where the original articles of association of partnership associations limited are required to be recorded, at the expense of said corporation, and the record thereof or a certified copy of such record, shall be prima facie evidence of the facts therein recited: Provided, That such partnership association limited shall at the time of filing such articles of association, pay the same franchise fee as would be required in the case of an original organization of such association.

**History:** 1919, Act 105, Eff. Aug. 14, 1919;—CL 1929, 9940;—CL 1948, 449.371.

**Compiler's note:** This act was held not repealed by Act 327 of 1921 in Attorney General v. Hill-Davis Co., 261 Mich. 89, 245 N.W. 579 (1932).

**449.372 Partnership associations limited; renewal, powers conferred; articles and by-laws, amendment.**

Sec. 2. The renewed term of such partnership association limited shall begin from the expiration of its former term, and an association which has thus been renewed shall be the same association and hold and own all the rights, franchises and property held and owned by the association before renewal and be subject to all its liabilities, and have the same members and the same officers. The articles of association and by-laws thereof may be changed or amended by the association in the manner required by law.

**History:** 1919, Act 105, Eff. Aug. 14, 1919;—CL 1929, 9941;—CL 1948, 449.372.

**449.373 Partnership associations limited; expired term, extension.**

Sec. 3. Extension after expiration of term. Any such partnership association limited whose term has expired but which has not been wound up or dissolved and which has nevertheless, inadvertently continued its active business beyond such term, may with the consent of at least 4/5 of its capital stock renew its existence for such further term not exceeding 20 years from the expiration of its former term in the same manner as is provided in sections 1 and 2 of this act in relation to a partnership association limited, whose term is about to expire and it shall be the duty of the officers and directors de facto, to do and perform all things required of such officers and directors de jure as provided in said sections 1 and 2 in relation to calling a special meeting of the stockholders and members of such partnership association limited and submitting the question to them of renewing its existence and the filing of renewing articles, but no such partnership association limited de facto shall be permitted to renew its existence unless such action is taken within 3 years next after its term has expired, and such renewal shall in nowise relieve such partnership association limited from any penalties that may have accrued against it under any law of this state but such renewal shall entitle the partnership association to all the rights, privileges, immunities and powers conferred upon partnership associations limited, renewing their existence before or at the expiration of their terms.

**History:** Add. 1925, Act 25, Eff. Aug. 27, 1925;—CL 1929, 9942;—CL 1948, 449.373.

**Compiler's note:** The catchline following the act section number of this section was incorporated as a part of the section when enacted.



**MICHIGAN REVISED UNIFORM LIMITED PARTNERSHIP ACT**  
**Act 213 of 1982**

AN ACT to authorize the formation of limited partnerships; to define the rights and liabilities of the partners, the relation of partners to each other, and to persons dealing with limited partnerships; to provide for the dissolution and winding up of limited partnerships; to provide for registration of foreign limited partnerships; to provide certain causes of action; to impose certain duties on certain state departments; to make uniform the law relating to limited partnerships; and to repeal certain acts and parts of acts.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

*The People of the State of Michigan enact:*

**ARTICLE 1**

**449.1101 Definitions.**

Sec. 101. As used in this act, unless the context otherwise requires:

(1) "Administrator" means the chief officer of the Michigan department of commerce or his or her designated representative.

(2) "Certificate of limited partnership" means the certificate, and the certificate as amended or restated, referred to in section 201.

(3) "Contribution" means any cash, property, services rendered, or a promissory note or other binding obligation to contribute cash or property or to perform services, which a partner contributes to a limited partnership in the capacity of a partner.

(4) "Event of withdrawal of a general partner" means an event that causes a person to cease to be a general partner as provided in section 402.

(5) "Foreign limited partnership" means a partnership formed under the laws of any state other than this state and having as partners 1 or more general partners and 1 or more limited partners.

(6) "General partner" means a person who has been admitted to a limited partnership as a general partner in accordance with the partnership agreement and named in the certificate of limited partnership as a general partner.

(7) "Limited partner" means a person who has been admitted to a limited partnership as a limited partner in accordance with the partnership agreement and named in the certificate of limited partnership as a limited partner.

(8) "Limited partnership" and "domestic limited partnership" means a partnership formed by 2 or more persons under the laws of this state and having 1 or more general partners and 1 or more limited partners.

(9) "Partner" means a limited or general partner.

(10) "Partnership agreement" means any valid agreement, written or oral, of the partners as to the affairs of a limited partnership and the conduct of its business.

(11) "Partnership interest" means a partner's share of the profits and losses of a limited partnership and the right to receive distributions of partnership assets.

(12) "Person" means a natural person, partnership, domestic or foreign limited partnership, trust, estate, association, or corporation, or any other legal entity.

(13) "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

**449.1102 Name of limited partnership; requirements and restrictions.**

Sec. 102. The name of each limited partnership as set forth in its certificate of limited partnership:

(1) Shall contain without abbreviation the words "limited partnership".

(2) May not contain the name of a limited partner unless: (i) the name is also the name of a general partner or the corporate name of a corporate general partner, or (ii) the business of the limited partnership had been carried on under that name before the admission of that limited partner.

(3) May not contain any word or phrase indicating or implying that it is organized other than for a purpose stated in its certificate of limited partnership.

(4) Shall be such as to distinguish it upon the records in the office of the administrator from (i) the name of each other domestic limited partnership, (ii) the name of each foreign limited partnership authorized to transact business in this state and the name under which each such foreign limited partnership has registered in this state, (iii) each name currently reserved under section 103 or assumed under section 104, (iv) the name

of each domestic corporation and each foreign corporation authorized to transact business in this state, and (v) each corporate name currently reserved or registered under the business corporation act, Act No. 284 of the Public Acts of 1972, as amended, being sections 450.1101 to 450.2099 of the Michigan Compiled Laws, or a predecessor act and each corporate name assumed under section 217 of the business corporation act, Act No. 284 of the Public Acts of 1972, as amended, being section 450.1217 of the Michigan Compiled Laws.

(5) May not contain the words “corporation” or “incorporated” or any abbreviation or derivative thereof.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

#### **449.1103 Name of limited partnership; reservation of exclusive right to use; application; time period; expiration; extension; transfer of right.**

Sec. 103. (a) The exclusive right to the use of a name may be reserved by any of the following:

- (1) Any person intending to organize a limited partnership under this act and to adopt that name.
- (2) Any domestic limited partnership or any foreign limited partnership registered in this state, which, in either case, intends to adopt that name.
- (3) Any foreign limited partnership intending to register in this state and adopt that name.
- (4) Any person intending to organize a foreign limited partnership and intending to have the partnership registered in this state and adopt that name.

(b) The reservation shall be made by filing with the administrator an application, executed by the applicant, to reserve a specified name. If the administrator finds that the name is available for use by a domestic or foreign limited partnership, and all filing fees required by law have been paid, he or she shall reserve the name for the exclusive use of the applicant for a period expiring at the end of the fourth full calendar month following the month in which the application was filed. The administrator, for good cause shown, may extend the reservation for periods of not more than 2 calendar months each. Not more than 2 extensions shall be granted. The right to the exclusive use of a reserved name may be transferred to any other person by filing in the office of the administrator a notice of the transfer, executed by the applicant for whom the name was reserved and specifying the name and address of the transferee.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

#### **449.1104 Transacting business under assumed name; certificate.**

Sec. 104. (a) A domestic limited partnership may transact its business under any assumed name or names other than its name as set forth in its certificate of limited partnership and a foreign limited partnership may transact its business under any assumed name or names other than the name under which it has registered in this state if not precluded from use by section 102(2), (3), (4), or (5), and the same name may be assumed by 2 or more domestic or foreign limited partnerships participating together in any partnership or joint venture by filing with the administrator a certificate stating the name as set forth in the certificate of limited partnership, in the case of a domestic limited partnership, or under which it has registered in this state, in the case of a foreign limited partnership, and the assumed name under which the business is to be transacted. Such certificate shall be effective for a period expiring on December 31 of the fifth full calendar year following the year in which it was filed, unless sooner terminated by the filing with the administrator of a certificate of termination of assumed name or by the dissolution and the commencement of winding up of a domestic or foreign limited partnership or the filing with the administrator of a certificate of cancellation of registration of a foreign limited partnership. It may be extended for additional consecutive periods of 5 full calendar years each by the filing with the administrator of similar certificates not earlier than 90 days preceding the expiration of any such period. The administrator shall notify the limited partnership of the impending expiration of the certificate of assumed name no later than 90 days before the initial or subsequent 5-year period will expire. This section does not create substantive rights to the use of a particular assumed name.

(b) Each certificate filed pursuant to section 104(a) shall be executed by at least 1 general partner.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

#### **449.1105 Maintenance of office and agent for service of process; resignation of agent; appointment of successor.**

Sec. 105. (a) Each limited partnership shall continuously maintain in this state both of the following:

- (1) An office, which may be but need not be a place of its business in this state, at which shall be kept the records required by section 106 to be maintained.
- (2) An agent for service of process on the limited partnership, which agent must be an individual resident of this state, a domestic corporation, or a foreign corporation authorized to do business in this state.

(b) An agent for service of process on a domestic or foreign limited partnership may resign by filing a written notice thereof with a general partner of such domestic or foreign limited partnership and with the

administrator. The general partners shall promptly appoint a successor agent and shall promptly cause the certificate of limited partnership to be amended, in the case of a domestic limited partnership, or a certificate pursuant to section 905 to be filed, in the case of a foreign limited partnership, to reflect such appointment. The appointment of the resigning agent terminates upon the (i) appointment of a successor and the filing of a certificate of amendment or restated certificate of limited partnership, in the case of a domestic limited partnership, or a certificate pursuant to section 905, in the case of a foreign limited partnership, reflecting such appointment, or (ii) expiration of 30 days after receipt of the notice by the administrator, whichever first occurs.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

#### **449.1106 Records required to be kept at office; inspection and copying by partner or representative.**

Sec. 106. Each limited partnership shall keep at the office referred to in section 105(a)(1) all of the following: (1) a current list of the full name and last known business or residence address of each partner, specifying separately the general partners and limited partners and set forth in alphabetical order within each category; (2) a copy of the certificate of limited partnership and all certificates of amendment to that certificate, restated certificates of limited partnership and certificates filed pursuant to section 104(a), together with executed copies of any powers of attorney pursuant to which any certificate has been executed; (3) copies of the limited partnership's federal, state, and local income tax returns and reports, if any, for the 3 most recent years; and (4) copies of any then effective written partnership agreements and of any financial statements of the limited partnership for the 3 most recent years. Records required to be kept by this section are subject to inspection and copying by any partner or his or her designated representative during ordinary business hours, at the reasonable request and at the expense of such partner.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

#### **449.1107 Business which may be carried on.**

Sec. 107. A limited partnership may carry on any business that a partnership without limited partners may carry on except as otherwise provided by law.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

#### **449.1108 Loans by partner and other transactions with limited partnership; rights and obligations.**

Sec. 108. Except as provided in the partnership agreement, a partner may lend money to and transact other business with the limited partnership and, subject to other applicable law, has the same rights and obligations with respect to the limited partnership as a person who is not a partner.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

#### **449.1109 Agreement to pay interest in excess of legal rate; defense of usury prohibited.**

Sec. 109. A domestic or foreign limited partnership, whether or not formed at the request of a lender, may by agreement in writing, and not otherwise, agree to pay a rate of interest in excess of the legal rate, and in such case the defense of usury is prohibited. This section shall not be construed as allowing a domestic or foreign limited partnership to pay a rate of interest in excess of the rate set forth in Act No. 259 of the Public Acts of 1968, being sections 438.41 and 438.42 of the Michigan Compiled Laws.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

## **ARTICLE 2**

#### **449.1201 Formation; certificate of limited partnership; contents; date of formation.**

Sec. 201. (a) In order to form a limited partnership 2 or more persons shall execute a certificate of limited partnership. The certificate shall be filed in the office of the administrator and set forth all of the following:

- (1) The name of the limited partnership.
- (2) The general character of its business.
- (3) The address of the office and the name and address of the agent for service of process required to be maintained by section 105(a).
- (4) The name and the business or residence address of each partner, specifying separately the general partners and limited partners.
- (5) The amount of cash and a description and statement of the agreed value of the other property or services contributed by each limited partner and which each limited partner has agreed to contribute in the future.

(6) The times at which or events on the happening of which any additional contributions agreed to be made by each limited partner are to be made.

(7) Any power of a limited partner to grant the right to become a limited partner to an assignee of any part of his or her partnership interest, and the terms and conditions of the power.

(8) If agreed upon, the time at which or the events on the happening of which a partner may terminate his or her membership in the limited partnership and, in the case of a limited partner, the amount of, or the method of determining, the distribution to which such limited partner may be entitled respecting his or her partnership interest, and the terms and conditions of the termination and distribution.

(9) Any right of a limited partner to receive distributions of property, including cash from the limited partnership.

(10) Any right of a limited partner to receive, or of a general partner to make to a limited partner, distributions which include a return of all or any part of the limited partner's contribution.

(11) Any time at which or events upon the happening of which the limited partnership is to be dissolved and its affairs wound up.

(12) Any right of the remaining general partners to continue the business on the happening of an event of withdrawal of a general partner.

(13) Any other matters the partners determine to include in the certificate of limited partnership.

(b) A limited partnership is formed on the effective date of the certificate of limited partnership as provided in section 206.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

#### **449.1202 Certificate of limited partnership; amendment; contents of certificate of amendment; events necessitating amendment; liability; restated certificate of limited partnership; effective date of amendment.**

Sec. 202. (a) A certificate of limited partnership is amended by filing a certificate of amendment to the certificate of limited partnership in the office of the administrator. The certificate of amendment shall set forth all of the following:

(1) The name of the limited partnership.

(2) The date of filing of its original certificate of limited partnership.

(3) The amendment or amendments to the certificate of limited partnership.

(b) Within 60 days after the happening of any of the following events, an amendment to a certificate of limited partnership reflecting the occurrence of the event or events shall be filed:

(1) A change in the amount or character of the contribution of any limited partner, or in any limited partner's obligation to make a contribution.

(2) The admission of a new partner.

(3) The withdrawal of a partner.

(4) The continuation of the business under section 801 after an event of withdrawal of a general partner.

(c) A general partner who becomes aware that any statement in a certificate of limited partnership was false when made or that any arrangements or other facts described have changed, making the certificate inaccurate in any respect, shall promptly amend the certificate. However, an amendment to show a change of address of a limited partner need be filed only once every 12 months.

(d) A certificate of limited partnership may be amended at any time for any other proper purpose the general partners determine.

(e) No person has any liability because an amendment to a certificate of limited partnership has not been filed to reflect the occurrence of any event referred to in subsection (b) if the amendment is filed within the 60-day period specified in subsection (b).

(f) The provisions of a limited partnership's certificate of limited partnership which are then in effect and operative, as theretofore amended, may be integrated into a single instrument, and at the same time its certificate of limited partnership may also be further amended by the execution and filing of a restated certificate of limited partnership. An amendment effected in connection with the restatement and integration of the certificate of limited partnership is subject to any other provision of this act, not inconsistent with this subsection, which would apply if a certificate of amendment were filed to effect such amendment. A restated certificate of limited partnership shall be specifically designated as such in the heading thereof and shall state, either in the heading or in an introductory paragraph, the limited partnership's present name, and, if it has been changed, all of its former names and the date of filing of its original certificate of limited partnership.

(g) The certificate of limited partnership is amended on the effective date of the certificate of amendment or restated certificate of limited partnership effecting an amendment as provided in section 206.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

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**449.1203 Certificate of limited partnership; cancellation; contents of certificate of cancellation; effective date of cancellation.**

Sec. 203. (a) A certificate of limited partnership shall be canceled upon the dissolution and the commencement of winding up of the partnership or at any other time there are no limited partners. A certificate of cancellation shall be filed in the office of the administrator and shall set forth all of the following:

- (1) The name of the limited partnership.
- (2) The date of filing of its original certificate of limited partnership.
- (3) The reason for filing the certificate of cancellation.
- (4) Any other information the general partners filing the certificate determine.

(b) The certificate of limited partnership is canceled on the effective date of the certificate of cancellation as provided in section 206.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

**449.1204 Manner of executing certificates.**

Sec. 204. (a) Each certificate required by this article to be filed in the office of the administrator shall be executed in the following manner:

- (1) An original certificate of limited partnership shall be signed by all partners named in the certificate.

(2) A certificate of amendment or a restated certificate of limited partnership shall be signed by at least 1 general partner and by each other partner designated in the certificate as a new partner or whose contribution is described as having been increased.

- (3) A certificate of cancellation shall be signed by at least 1 general partner.

(b) Any person may sign any certificate required or permitted to be filed under this act by an attorney in fact.

(c) The execution of a certificate by a general partner constitutes an affirmation under the penalties of perjury that the facts stated in the certificate are true.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

**449.1205 Failure to execute certificate; circuit court proceedings; court-ordered certificate; assessment of court costs and attorney fees; effective date of court-ordered amendment or cancellation.**

Sec. 205. If a person required by section 204 to execute a certificate of amendment, a restated certificate of limited partnership, or a certificate of cancellation fails or refuses to do so, any other partner, and any assignee of a partnership interest, who is adversely affected by the failure or refusal, may petition the circuit court of the county in which the office referred to in section 105(a)(1) is located to direct the amendment, restatement, or cancellation. If the court finds that the amendment, restatement, or cancellation is proper and that any person so designated has failed or refused to execute the certificate, it shall order the administrator to record an appropriate certificate of amendment, restated certificate of limited partnership, or certificate of cancellation, and the court may require the person who has failed or refused to execute the certificate to pay to the petitioner the reasonable expenses, including court costs and fees of attorneys, incurred by him or her with respect to the proceedings. The certificate of limited partnership is amended on the effective date of the certificate of amendment or restated certificate of limited partnership effecting an amendment, and the certificate of limited partnership is canceled on the effective date of the certificate of cancellation, as provided in section 206.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

**449.1206 Documents; filing; submission; delivery; endorsement; return of copy or original; public inspection; records or files; effective date of documents; forms; fees.**

Sec. 206. (1) A document required or permitted to be filed under this act shall be submitted by delivering the document to the administrator together with the fees and accompanying documents required by law. A person who executes a certificate as an attorney in fact, agent, or fiduciary is not required to provide evidence of his or her authority as a prerequisite to filing. The administrator may establish a procedure for accepting delivery of a document submitted under this subsection by facsimile or other electronic transmission. However, by December 31, 2006, the administrator shall establish a procedure for accepting delivery of a document filed under this subsection by electronic mail or over the Internet. Beginning January 1, 2007, the administrator shall accept delivery of documents submitted by electronic mail or over the Internet.

(2) If a document submitted under subsection (1) substantially conforms to the requirements of this act, the



administrator shall endorse upon it the word "filed" with his or her official title and the dates of receipt and of filing, and shall file and index the document or a reproduction of the document pursuant to the records reproduction act, 1992 PA 116, MCL 24.401 to 24.406, in his or her office. If requested at the time of the delivery of the document to his or her office, the administrator shall include the hour of filing in the endorsement on the document.

(3) The administrator shall return a copy of a document filed under subsection (1), or at his or her discretion the original, to the person who submitted the document for filing. The administrator shall mark the filing date on the copy or original before returning it or, if the document was submitted by electronic mail or over the Internet, may provide proof of the filing date to the person who submitted the document for filing in another manner determined by the administrator.

(4) The records and files of the administrator relating to limited partnerships shall be open to reasonable inspection by the public. The administrator may maintain records or files either in their original form or in the form of reproductions pursuant to the records reproduction act, 1992 PA 116, MCL 24.401 to 24.406.

(5) The administrator may make copies of any documents filed under this act, or any predecessor act, pursuant to the records reproduction act, 1992 PA 116, MCL 24.401 to 24.406, and may destroy the originals of the reproduced documents.

(6) A document filed under subsection (2) is effective at the time it is endorsed unless a subsequent effective time, not later than 90 days after the date of delivery, is set forth in the document.

(7) The administrator may require that a person submit a document described in subsection (1) on a form prescribed by the administrator.

(8) The administrator shall charge 1 of the following nonrefundable fees if expedited filing of a document by the administrator is requested and the administrator shall retain the revenue collected under this subsection and the department shall use it to carry out its duties required by law:

(a) For any filing that a person requests the administrator to complete within 1 hour on the same day as the day of the request, \$1,000.00. The department may establish a deadline by which a person must submit a request for filing under this subdivision.

(b) For any filing that a person requests the administrator to complete within 2 hours on the same day as the day of the request, \$500.00. The department may establish a deadline by which a person must submit a request for filing under this subdivision.

(c) Except for a filing request under subdivision (a) or (b), for the filing of any formation or qualification document that a person requests the administrator to complete on the same day as the day of the request, \$100.00. The department may establish a deadline by which a person must submit a request for filing under this subdivision.

(d) Except for a filing request under subdivision (a) or (b), for the filing of any other document concerning an existing domestic limited partnership or a qualified foreign limited partnership that a person requests the administrator to complete on the same day as the day of the request, \$200.00. The department may establish a deadline by which a person must submit a request for filing under this subdivision.

(e) For the filing of any formation or qualification document that a person requests the administrator to complete within 24 hours of the time the administrator receives the request, \$50.00.

(f) For the filing of any other document concerning an existing domestic limited partnership or a qualified foreign limited partnership that a person requests the administrator to complete within 24 hours of the time the administrator receives the request, \$100.00.

**History:** 1982, Act 213, Eff. Jan. 1, 1983;—Am. 1992, Act 110, Imd. Eff. June 26, 1992;—Am. 2005, Act 220, Eff. Jan. 1, 2006.

#### **449.1207 False statements in certificate; recovery of damages.**

Sec. 207. If any certificate of limited partnership, certificate of amendment, restated certificate of limited partnership, or certificate of cancellation contains a false statement, a person who suffers loss by reliance on the statement may recover damages for the loss from any of the following:

(1) Any person who executes the certificate, or causes another to execute it on his or her behalf, and knew the statement to be false at the time the certificate was executed.

(2) Any general partner who thereafter knows that any arrangement or other fact described in the certificate has changed, making the statement inaccurate in any respect within a sufficient time before the statement was relied upon reasonably to have enabled that general partner to cancel or amend the certificate, or to file a petition for its cancellation or amendment under section 205. However, the provisions of this subsection are subject in all respects to the provisions of section 202(e).

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

#### **449.1208 Certificate on file as notice of matters included therein.**



Sec. 208. The fact that a certificate of limited partnership is on file in the office of the administrator is notice that the partnership is a limited partnership and the persons designated therein as limited partners are limited partners, and is notice of the matters included therein that are specified in section 201(a)(1) to (12) or that are included therein pursuant to any other section of this act, but it is not notice of any other fact.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

**449.1209 Delivery of copy of certificate to limited partners upon return of certificate by administrator.**

Sec. 209. Upon the return by the administrator pursuant to section 206 of a true copy or original of a certificate of limited partnership, certificate of amendment, restated certificate of limited partnership, or certificate of cancellation, the general partners shall promptly deliver or mail a copy of the certificate to each limited partner unless the partnership agreement provides otherwise.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

**449.1210 Merger or consolidation of domestic limited partnerships; plan of merger or consolidation; certificate; applicable provisions; abandonment; merger or consolidation of domestic limited partnership with foreign limited partnership; surviving or new limited partnership; “business organization” and “entity” defined; merger or consolidation of domestic limited partnership with business organization.**

Sec. 210. (1) A domestic limited partnership may merge or consolidate with 1 or more other domestic limited partnerships under a plan of merger or consolidation as provided in subsection (2) and approved as provided in subsection (3).

(2) One or more general partners of each limited partnership that is a participant in the merger or consolidation shall propose a plan of merger or consolidation which includes all of the following:

(a) The name of the surviving or new limited partnership.

(b) The name of each other constituent limited partnership.

(c) The terms and conditions of the merger or consolidation, including the manner and basis of converting the partnership interests in each constituent limited partnership into partnership interests in the surviving or new limited partnership, into cash, other consideration, or a combination thereof.

(d) In the case of a merger, if any amendment to the certificate of limited partnership of the surviving limited partnership is required on account of the merger, a copy of a restated certificate of limited partnership of the surviving limited partnership reflecting the amendment and containing the information required by section 202(f). In the case of a consolidation, a copy of the certificate of limited partnership of the new limited partnership, containing the information required by section 201(a).

(e) Any other provisions considered necessary or desirable regarding the merger or consolidation.

(3) The plan of merger or consolidation shall be submitted to the partners of each constituent limited partnership for approval. Approval shall be by unanimous consent of the partners of each constituent limited partnership, unless the partnership agreement of a constituent limited partnership provides otherwise, in which event approval by the partners of that limited partnership shall be as provided in the partnership agreement.

(4) After a plan of merger or consolidation is approved by the partners of each constituent limited partnership, a certificate of merger or consolidation for each constituent limited partnership shall be filed by 1 or more general partners with the administrator. The certificate shall contain all of the following:

(a) The information required by subsection (2)(a) and (b).

(b) The original signed copy of the restated certificate of limited partnership or the certificate of limited partnership if required by subsection (2)(d).

(c) A statement that the plan of merger or consolidation has been approved by the partners of each constituent limited partnership as required by subsection (3).

(d) The effective date of the certificate of merger or consolidation.

(5) The merger or consolidation is effective on the effective date of the certificate of merger or consolidation as provided in section 206.

(6) All of the following apply to a merged or consolidated domestic limited partnership:

(a) The constituent limited partnerships become a single limited partnership, that in the case of a merger, is the limited partnership designated in the plan of merger as the surviving limited partnership and, in the case of a consolidation is the new limited partnership provided for in the plan of consolidation.

(b) Title to all real, personal, and other property, including all accounts and debts receivable, promises to make contributions, other choses in action, and any other right or interest of, owned by, belonging to, or due to each constituent limited partnership is vested in the surviving or new limited partnership, without further act or deed and without reversion or impairment.

(c) Upon complying with section 104, the surviving or new limited partnership may use the name and the assumed names of any other constituent limited partnership.

(d) The surviving or new limited partnership has all liabilities of each constituent limited partnership.

(e) A proceeding pending against any constituent limited partnership may be continued as if the merger or consolidation had not occurred or the surviving or new limited partnership may be substituted in the proceeding for any constituent limited partnership.

(f) In the case of a merger, the certificate of limited partnership of the surviving limited partnership is amended by any restated certificate of limited partnership attached to the certificate of merger. In the case of a consolidation, the certificate of limited partnership of the new limited partnership shall be attached to the certificate of consolidation and a separate additional filing of a restated certificate of limited partnership is not required.

(g) The partnership interests in each constituent limited partnership are converted into partnership interests in the surviving or new limited partnership, into cash, other consideration, or a combination thereof as provided in the plan of merger or consolidation.

(h) A general partner of the surviving limited partnership in a merger or a general partner of the new limited partnership in a consolidation is not liable as a general partner for any obligations of any other constituent limited partnership unless the general partner was also a general partner of another constituent limited partnership, the general partner was liable for the obligations, and the obligations were outstanding on the effective date of the merger or consolidation or arise after the effective date of the merger or consolidation on account of acts or omissions before the effective date of the merger or consolidation.

(i) A general partner of a constituent limited partnership in a merger or consolidation shall continue to be liable as a general partner for all obligations of the constituent limited partnership outstanding on the effective date of the merger or consolidation or which arise after the effective date of the merger or consolidation on account of acts or omissions before the effective date of the merger or consolidation, to the extent that the general partner would have been liable for the obligations had the merger or consolidation not occurred.

(7) Before the effective date of the certificate of merger or consolidation, the merger or consolidation may be abandoned as provided in the plan of merger or consolidation or, if no provisions exist, by the unanimous consent of the partners of each constituent limited partnership. If the partnership agreement of a constituent limited partnership requires or permits a different abandonment procedure, the procedure required or permitted in the partnership agreement shall be followed. If the certificate of merger or consolidation has been filed, then in order for the abandonment to be effective, each constituent limited partnership shall file a certificate of abandonment within 10 days after the abandonment, but not later than the effective date of the certificate of merger or consolidation.

(8) One or more domestic limited partnerships may merge or consolidate with 1 or more foreign limited partnerships if all of the following requirements are satisfied:

(a) The merger or consolidation is permitted by the laws of the jurisdiction in which each constituent foreign limited partnership is organized, each constituent foreign limited partnership complies with those laws, each constituent foreign limited partnership complies with the laws of this state, and each constituent foreign limited partnership complies with subsection (4). If the surviving or new limited partnership is a foreign limited partnership, subsection (4)(b) does not apply. In the case of a merger, a copy of the certificate of limited partnership or similar document of the surviving foreign limited partnership shall be attached to the certificate of merger with any changes to the certificate of limited partnership or similar document has required on account of the merger. In the case of a consolidation, a copy of the certificate of limited partnership or similar document of the new foreign limited partnership containing the information required by the laws of the jurisdiction in which the foreign limited partnership is organized shall be attached to the certificate of consolidation. Each constituent foreign limited partnership shall attach to the plan of merger or consolidation a statement that the plan of merger or consolidation has been approved in accordance with the laws of the jurisdiction in which each constituent foreign limited partnership is organized.

(b) Each domestic limited partnership has complied with subsections (1) to (4). The merger or consolidation is effective on the effective date of the certificate of merger or consolidation as provided in section 206.

(9) If the surviving or new limited partnership is a domestic limited partnership, all of subsection (6) shall apply. If the surviving or new limited partnership is a foreign limited partnership, all of subsection (6), except subdivision (f), shall apply. In the case of a merger, if the certificate of merger contains a statement of changes to the surviving foreign limited partnership's certificate of limited partnership or similar document as provided in subsection (8)(a), the certificate of limited partnership or similar document shall be amended to reflect the changes in the manner provided under the laws of the jurisdiction in which the foreign limited partnership is organized. In the case of a consolidation, a copy of the certificate of limited partnership or

similar document of the new foreign limited partnership shall be attached to the certificate of consolidation as provided in subsection (8)(a) and filed as provided under the laws of the jurisdiction in which the foreign limited partnership is organized.

(10) Before the effective date of the certificate of merger or consolidation, the merger or consolidation may be abandoned as provided in the plan of merger or consolidation or, if no provisions exist, by the unanimous consent of the partners of each constituent limited partnership. If the partnership agreement of a constituent domestic limited partnership requires or permits a different abandonment procedure, the procedure required or permitted in the partnership agreement shall be followed. If the laws of the jurisdiction in which a constituent foreign limited partnership is organized require or permit a different abandonment procedure, the procedure required or permitted by the laws of the jurisdiction shall be followed. If the certificate of merger or consolidation has been filed, in order for the abandonment to be effective, each constituent domestic limited partnership and each constituent foreign limited partnership shall file a certificate of abandonment within 10 days after the abandonment, but not later than the effective date of the certificate of merger or consolidation.

(11) If the surviving or new limited partnership is a foreign limited partnership, it shall be subject to article 9 if it transacts business in this state and is subject to service of process in any proceeding in this state for the enforcement of any obligation of any constituent domestic limited partnership or any obligation of the surviving or new limited partnership arising from the merger or consolidation. The administrator is the agent for service of process in any proceeding.

(12) As used in subsections (13) to (17):

(a) “Business organization” means a domestic or foreign corporation, limited liability company, general partnership, registered limited liability partnership, or any other type of domestic or foreign business enterprise, incorporated or unincorporated, except a domestic or foreign limited partnership.

(b) “Entity” means a domestic limited partnership or a business organization.

(13) One or more domestic limited partnerships may merge or consolidate with 1 or more business organizations if all of the following requirements are satisfied:

(a) The merger or consolidation is permitted by the laws of this state and the laws of the jurisdiction in which each constituent foreign business organization is organized, each constituent business organization complies with those laws, each constituent foreign business organization transacting business in this state complies with the applicable laws of this state, and each domestic limited partnership complies with this section.

(b) One or more general partners of each domestic limited partnership that is a participant in the merger or consolidation, and the appropriate person or persons under applicable law with respect to each business organization that is a participant in the merger or consolidation, propose a plan of merger or consolidation which includes all of the following:

(i) The name of the surviving or new entity.

(ii) The name of each other constituent entity.

(iii) The terms and conditions of the merger or consolidation, including the manner and basis of converting the partnership interests, shares, membership interests, or other ownership interests in each constituent entity into partnership interests, shares, membership interests, or other interests in the surviving or new entity, into cash, other consideration, or a combination thereof.

(iv) In the case of a merger, if the surviving entity is to be a domestic limited partnership and if any amendment to the certificate of limited partnership of the surviving domestic limited partnership is required on account of the merger, a copy of a restated certificate of limited partnership of the surviving domestic limited partnership and containing the information required by section 202(f). If the surviving entity is to be a domestic business organization and if any changes to its articles of incorporation, articles of organization, or other organizing or governing documents are required on account of the merger, a statement of the changes. If the surviving entity is to be a foreign business organization, a copy of the articles or certificate of incorporation, articles of organization, or other organizing or governing documents of the surviving business organization, and a statement of any changes to the articles or certificate of incorporation, articles of organization, or other organizing or governing documents required on account of the merger.

(v) In the case of a consolidation, if the new entity is to be a domestic limited partnership, a copy of a certificate of limited partnership of the new domestic limited partnership, containing the information required by section 201(a), and if the new entity is to be a business organization, a copy of the articles or certificate of incorporation, articles of organization, or other organizing or governing documents of the new business organization, containing the information required by the laws of the jurisdiction in which the new business organization is organized.

(vi) Any other provisions considered necessary or desirable to the merger or consolidation.

(c) The plan of merger or consolidation is approved with respect to each constituent domestic limited

partnership in accordance with subsection (3), and with respect to each constituent business organization in a manner provided by the laws of the jurisdiction in which the business organization is organized.

(d) After the plan of merger or consolidation is approved as provided in subdivision (c), a certificate of merger or consolidation is executed on behalf of each constituent domestic limited partnership by 1 or more general partners and on behalf of each constituent business organization by the appropriate person or persons under applicable law and filed in the office of the administrator. The certificate shall contain all of the following:

(i) The information required by subdivision (b)(i) and (ii).

(ii) The original signed copy of any restated certificate of limited partnership or certificate of limited partnership required by subdivision (b)(iv) or (v).

(iii) A copy of any articles or certificate of incorporation, articles of organization, or other applicable organizing or governing documents required by subdivision (b)(iv) or (v).

(iv) A statement of any changes to the articles or certificate of incorporation, articles of organization, or other applicable organizing or governing documents required by subdivision (b)(iv).

(v) A statement that the plan of merger or consolidation has been approved with respect to each constituent entity in accordance with subdivision (c).

(vi) The effective date of the certificate of merger or consolidation, if the effective date is to be later than the date on which the certificate is filed.

(14) The merger or consolidation is effective on the effective date of the certificate of merger or consolidation as provided in section 206.

(15) All of the following apply when a merger or consolidation of 1 or more domestic limited partnerships and 1 or more business organizations is effective:

(a) The constituent entities become a single entity, which, in the case of a merger, is the entity designated in the plan of merger as the surviving entity, and, in the case of a consolidation, is the new entity provided for in the plan of consolidation.

(b) Title to all real, personal, and other property, including all accounts and debts receivable, promises to make contributions, other choses in action, and every other right or interest of, owned by, belonging to, or due to each constituent entity, is vested in the surviving or new entity, without further act or deed and without reversion or impairment.

(c) Upon complying with applicable law, the surviving or new entity may use the name and the assumed names of any other constituent entity.

(d) The surviving or new entity has all liabilities of each constituent entity.

(e) A proceeding pending against any constituent entity may be continued as if the merger or consolidation had not occurred or the surviving or new entity may be substituted in the proceeding for any constituent entity.

(f) In the case of a merger if the surviving entity is a domestic limited partnership, the certificate of limited partnership of the surviving domestic limited partnership is amended by any restated certificate of limited partnership attached to the certificate of merger, and a separate additional filing of a restated certificate of limited partnership is not required. If the surviving entity is a business organization and if the certificate of merger contains a statement of changes to the surviving business organization's articles or certificate of incorporation, articles of organization, or other applicable organizing or governing documents as provided in subsection (13)(d)(iv), the documents shall be amended to reflect the changes in the manner provided under the laws of the jurisdiction in which the business organization is organized.

(g) In the case of a consolidation, if the new entity is a domestic limited partnership, the certificate of limited partnership of the new domestic limited partnership shall be the certificate of limited partnership attached to the certificate of consolidation, and a separate additional filing of a certificate of limited partnership is not required. If the new entity is a business organization, the articles or certificate of incorporation, articles of organization, or other organizing or governing documents of the new business organization, copies of which are attached to the certificate of consolidation as provided in subsection (13)(d)(iii), shall be filed or recorded as provided under the laws of the jurisdiction in which the new business organization is organized.

(h) The partnership interest, shares, membership interests, or other ownership interests in each constituent entity are converted into partnership interests, shares, membership interests, or other ownership interests in the surviving or new entity, into cash, other consideration, or a combination thereof as provided in the plan of merger or consolidation.

(i) As used in this subdivision and subdivision (j), "obligated person" means a general partner of a domestic limited partnership, a partner of a domestic or foreign general partnership or registered limited liability partnership, and any member of, owner of an ownership interest in, or participant in any other type of

business enterprise who, under applicable law, is generally liable for the obligations of the business enterprise. An obligated person with respect to the surviving entity in a merger or an obligated person with respect to a new entity in a consolidation is not liable as an obligated person for any obligations of any other constituent entity, unless the obligated person was also an obligated person of the other constituent entity, the obligated person was liable for the obligations, and the obligations were outstanding on the effective date of the merger or consolidation or arise after the effective date of the merger or consolidation on account of acts or omissions before the effective date of the merger or consolidation.

(j) An obligated person with respect to a constituent entity in a merger or consolidation shall continue to be liable as an obligated person for all obligations of the constituent entity outstanding on the effective date of the merger or consolidation or which arise after the effective date of the merger or consolidation on account of acts or omissions before the effective date of the merger or consolidation, if the obligated person would have been liable for the obligations had the merger or consolidation not occurred.

(16) At any time before the effective date of the certificate of merger or consolidation, the merger or consolidation may be abandoned as provided in the plan of merger or consolidation or, if no provisions exist, by the unanimous consent of the partners of each constituent domestic limited partnership. If the partnership agreement of a constituent domestic limited partnership requires or permits a different abandonment procedure, the procedure required or permitted in the partnership agreement shall be followed. Any abandonment procedure required or permitted by the laws of the jurisdiction under which a constituent business organization was organized shall be followed by that business organization. If a certificate of merger or consolidation of 1 or more domestic limited partnerships and 1 or more business organizations has been filed, in order for the abandonment to be effective, each constituent domestic limited partnership and each constituent business organization shall file a certificate of abandonment within 10 days after the abandonment, but not later than the effective date of the certificate of merger or consolidation.

(17) If the surviving or new entity is a foreign business organization, it shall be subject to the laws of this state if it transacts business in this state and is subject to service of process in any proceeding in this state for the enforcement of any obligation of any constituent domestic limited partnership or domestic business organization or any obligation of the surviving or new business organization arising from the merger or consolidation. The administrator is the agent for services of process in any proceeding.

**History:** Add. 1996, Act 528, Imd. Eff. Jan. 13, 1997.

## ARTICLE 3

### **449.1301 Admission of additional limited partners.**

Sec. 301. (a) After the filing of a limited partnership's original certificate of limited partnership, a person may be admitted as an additional limited partner:

(1) In the case of a person acquiring a partnership interest directly from the limited partnership, upon the compliance with the partnership agreement or, if the partnership agreement does not so provide, upon the written consent of all partners.

(2) In the case of an assignee of a partnership interest of a partner who has the power, as provided in section 704, to grant the assignee the right to become a limited partner, upon the exercise of that power and compliance with any conditions limiting the grant or exercise of the power.

(b) In each case under subsection (a), the person acquiring the partnership interest becomes a limited partner only upon amendment of the certificate of limited partnership reflecting that fact.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

### **449.1302 Voting rights of limited partners.**

Sec. 302. Subject to section 303, the partnership agreement may grant to all or a specified group of the limited partners the right to vote, with or without the concurrence of the general partners, on a per capita or other basis, upon any matter.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

### **449.1303 Liability of limited partner for obligations of limited partnership.**

Sec. 303. (a) Except as provided in subsection (d), a limited partner is not liable for the obligations of a limited partnership unless the limited partner is also a general partner or, in addition to the exercise of rights and powers as a limited partner, the limited partner takes part in the control of the business. However, if the limited partner's participation in the control of the business is not substantially the same as the exercise of the powers of a general partner, the limited partner is liable only to persons who transact business with the limited partnership with actual knowledge of the limited partner's participation in control.

(b) A limited partner does not participate in the control of the business within the meaning of subsection



- (a) solely by doing 1 or more of the following:
- (1) Being a contractor for or an agent or employee of the limited partnership or of a general partner.
  - (2) Consulting with and advising a general partner with respect to the business of the limited partnership.
  - (3) Acting as surety for the limited partnership.
  - (4) Approving or disapproving an amendment to the partnership agreement.
  - (5) Approving or disapproving a transaction involving an actual or potential conflict of interest between a general partner and the limited partnership.
  - (6) Requesting or attending a meeting of partners.
  - (7) Voting on 1 or more of the following matters:
    - (i) The dissolution and winding up of the limited partnership.
    - (ii) The sale, exchange, lease, mortgage, pledge, or other transfer of all or substantially all of the assets of the limited partnership other than in the ordinary course of its business.
    - (iii) The incurrence of indebtedness by the limited partnership other than in the ordinary course of its business.
    - (iv) A change in the nature of the business.
    - (v) The removal of a general partner.
  - (c) The enumeration in subsection (b) does not mean that the possession or exercise of any other powers by a limited partner constitutes participation by the limited partner in the business of the limited partnership.
  - (d) A limited partner who knowingly permits his or her name to be used in the name of the limited partnership, except under circumstances permitted by section 102(2)(i), is liable to creditors who extend credit to the limited partnership without actual knowledge that the limited partner is not a general partner.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

#### **449.1304 Liability of person erroneously but in good faith believing he or she is limited partner.**

Sec. 304. (a) Except as provided in subsection (b), a person who makes a contribution to a business enterprise and erroneously but in good faith believes that he or she has become a limited partner in the enterprise is not a general partner in the enterprise and is not bound by its obligations by reason of making the contribution, receiving distributions from the enterprise, or exercising any rights of a limited partner, if, on ascertaining the mistake, the person does either of the following:

(1) Causes an appropriate certificate of limited partnership, certificate of amendment, or restated certificate of limited partnership to be executed and filed.

(2) Withdraws from future equity participation in the enterprise. With respect to any limited partnership for which a certificate of limited partnership has been filed, the withdrawal may be accomplished by executing and filing with the office of the administrator a certificate declaring withdrawal under this section.

(b) A person who makes a contribution of the kind described in subsection (a) is liable as a general partner to any third party who transacts business with the enterprise: (i) before the person withdraws and an appropriate certificate is filed to show withdrawal or (ii) before an appropriate certificate is filed to show the person's status as a limited partner and, in the case of an amendment, after expiration of the 60-day period for filing an amendment relating to the person as a limited partner under section 202, but in either case only if the third party actually believed in good faith that the person was a general partner at the time of the transaction.

**History:** 1982, Act 213, Eff. Jan. 1, 1983;—Am. 1986, Act 100, Eff. July 1, 1986.

#### **449.1305 Rights of limited partner.**

Sec. 305. Each limited partner has the right to:

(1) Inspect and copy or have his or her designated representative inspect and copy any of the partnership records required to be maintained by section 106.

(2) Obtain from the general partners, from time to time, upon reasonable demand (i) true and full information regarding the state of the business and financial condition of the limited partnership, (ii) promptly after becoming available, a copy of the limited partnership's federal, state, and local income tax returns for each year, and (iii) other information regarding the affairs of the limited partnership as is just and reasonable.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

### **ARTICLE 4**

#### **449.1401 Admission of additional general partners.**

Sec. 401. After the filing of a limited partnership's original certificate of limited partnership, additional general partners may be admitted as provided in the partnership agreement or, if the partnership agreement



does not so provide, upon the written consent of all partners.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

#### **449.1402 Events causing cessation as general partner.**

Sec. 402. Except as approved by the specific written consent of all partners at the time, a person ceases to be a general partner of a limited partnership upon the happening of any of the following events:

(1) The general partner withdraws from the limited partnership as provided in section 602.

(2) The general partner is removed as a general partner in accordance with the partnership agreement.

(3) Unless otherwise provided in the certificate of limited partnership, the general partner: (i) makes an assignment for the benefit of creditors; (ii) files a voluntary petition in bankruptcy; (iii) is adjudicated a bankrupt or insolvent; (iv) files a petition or answer seeking for himself or herself any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation; (v) files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against him or her in any proceeding of this nature; or (vi) seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the general partner or of all or any substantial part of his or her properties.

(4) Unless otherwise provided in the certificate of limited partnership, 120 days after the commencement of any proceeding against the general partner seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation, the proceeding has not been dismissed, or if within 90 days after the appointment without his or her consent or acquiescence of a trustee, receiver, or liquidator of the general partner or of all or any substantial part of his or her properties, the appointment is not vacated or stayed or within 90 days after the expiration of any such stay, the appointment is not vacated.

(5) In the case of a general partner who is a natural person:

(i) His or her death.

(ii) The entry of an order by a court of competent jurisdiction adjudicating the general partner to be legally incapacitated or unable or incompetent to manage his or her person or estate.

(6) In the case of a general partner who is acting as a general partner by virtue of being a trustee of a trust, the termination of the trust, but not merely the substitution of a new trustee.

(7) In the case of a general partner that is a separate partnership, the dissolution and commencement of winding up of the separate partnership.

(8) In the case of a general partner that is a corporation, the dissolution of the corporation or the revocation of its charter.

(9) In the case of an estate, the distribution by the fiduciary of the estate's entire interest in the partnership.

(10) In the case of a general partner that is any other legal entity, the cessation of the legal existence of the legal entity.

(11) Any event specified in the partnership agreement as resulting in a person ceasing to be a general partner.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

#### **449.1403 General partner; rights and powers; restrictions.**

Sec. 403. (a) Except as provided in this act or in the partnership agreement, a general partner of a limited partnership has the rights and powers and is subject to the restrictions of a partner in a partnership without limited partners.

(b) Except as provided in this act, a general partner of a limited partnership has the liabilities of a partner in a partnership without limited partners to persons other than the partnership and the other partners. Except as provided in this act or in the partnership agreement, a general partner of a limited partnership has the liabilities of a partner in a partnership without limited partners to the partnership and to the other partners.

**History:** 1982, Act 213, Eff. Jan. 1, 1983;—Am. 1986, Act 100, Eff. July 1, 1986.

#### **449.1404 General partner; right to contribute to partnership and share in profits and losses as general or limited partner; rights, powers, restrictions, and liabilities of one person as both general and limited partner.**

Sec. 404. A general partner of a limited partnership may make contributions to the partnership and share in the profits and losses of, and in distributions from, the limited partnership as a general partner. A general partner also may make contributions to and share in profits, losses, and distributions as a limited partner. A person who is both a general partner and a limited partner has the rights and powers, and is subject to the restrictions and liabilities, of a general partner and, except as provided in the partnership agreement, also has

the powers, and is subject to the restrictions, of a limited partner to the extent of his or her participation in the partnership as a limited partner.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

#### **449.1405 Voting rights of general partners.**

Sec. 405. The partnership agreement may grant to all or certain identified general partners the right to vote, on a per capita or any other basis, separately or with all or any class of the limited partners, on any matter.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

### **ARTICLE 5**

#### **449.1501 Contribution of partner, form.**

Sec. 501. The contribution of a partner may be in cash, property, or services rendered, or a promissory note or other obligation to contribute cash or property or to perform services.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

#### **449.1502 Obligation of limited partner to contribute; obligation upon failure to contribute; compromise of obligation; creditor enforcement of original obligation; obligation of general partner to contribute.**

Sec. 502. (a) Except as provided in the certificate of limited partnership, a limited partner is obligated to the limited partnership to perform any promise to contribute cash or property or to perform services, even if the limited partner is unable to perform because of death, disability, or any other reason. If a limited partner does not make the required contribution of property or services, the limited partner is obligated at the option of the limited partnership to contribute cash equal to that portion of the value, as stated in the certificate of limited partnership, of the stated contribution that has not been made, in addition to any other rights that the limited partnership may have against such limited partner under the partnership agreement or applicable law.

(b) Unless otherwise provided in the partnership agreement, the obligation of a limited partner to make a contribution or return money or other property paid or distributed in violation of this act may be compromised only by consent of all the partners. Notwithstanding the compromise, a creditor of a limited partnership who extends credit, or whose claim arises, after the filing of the certificate of limited partnership or an amendment to the certificate which, in either case, reflects the obligation, and before the amendment or cancellation of the certificate to reflect the compromise, may enforce the original obligation.

(c) The obligation of a general partner to the limited partnership to contribute cash or property or perform services shall be as provided in the partnership agreement.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

#### **449.1503 Allocation of profits and losses among partners; determining value of contributions.**

Sec. 503. The profits and losses of a limited partnership shall be allocated among the partners, and among classes of partners, in the manner provided in the partnership agreement. If the partnership agreement does not provide for an allocation, profits and losses shall be allocated on the basis of the value of the contributions made by each partner to the extent they have been received by the partnership and have not been returned. For purposes of this section, the value of the contributions made by each limited partner shall be as stated in the certificate of limited partnership, and the value of the contributions made by each general partner shall be as stated in the partnership agreement, and if the partnership agreement does not so state, the value of the contributions made by each general partner shall be as stated in the books and records of the partnership or determined by any other reasonable method.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

#### **449.1504 Allocation of cash and other assets among partners; determining value of contributions.**

Sec. 504. Distributions of cash or other assets of a limited partnership shall be allocated among the partners, and among classes of partners, in the manner provided in the partnership agreement. If the partnership agreement does not provide for an allocation, distributions shall be made on the basis of the value of the contributions made by each partner to the extent the contributions have been received by the partnership and have not been returned. For purposes of this section, the value of the contributions made by each limited partner shall be as stated in the certificate of limited partnership, and the value of the contributions made by each general partner shall be as stated in the partnership agreement, and if the partnership agreement does not so state, the value of the contributions made by each general partner shall be

as stated in the books and records of the partnership or determined by any other reasonable method.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

## ARTICLE 6

### **449.1601 Right of partner to receive distributions before partner's withdrawal from partnership and before dissolution and winding up of partnership.**

Sec. 601. Except as provided in this article, a partner is entitled to receive distributions from a limited partnership before the partner's withdrawal from the limited partnership and before the dissolution and winding up of the limited partnership:

(1) To the extent and at the times or upon the happening of the events specified in the partnership agreement.

(2) If any distribution to a limited partner constitutes a return of any part of the limited partner's contribution under section 608(c), to the extent and at the times or upon the happening of the events specified in the certificate of limited partnership.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

### **449.1602 Right of general partner to withdraw; recovery by limited partner for breach of partnership agreement.**

Sec. 602. A general partner may withdraw from a limited partnership at any time by giving written notice to the other partners, but if the withdrawal violates the partnership agreement, the limited partnership may recover from the withdrawing general partner damages for breach of the partnership agreement and offset the damages against the amount otherwise distributable to the withdrawing general partner.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

### **449.1603 Right of limited partner to withdraw.**

Sec. 603. A limited partner may withdraw from a limited partnership at the time or upon the happening of events specified in the certificate of limited partnership, but not before, and in accordance with the partnership agreement. If the certificate does not specify the time or the events upon the happening of which a limited partner may withdraw but does specify a definite time for the dissolution and winding up of the limited partnership, a limited partner may not withdraw prior to the dissolution and winding up of the limited partnership. If the certificate does not specify the time or the events upon the happening of which a limited partner may withdraw or a definite time for the dissolution and winding up of the limited partnership, a limited partner may withdraw upon not less than 6 months' prior written notice to each general partner at his or her address on the books of the limited partnership at its office in this state.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

### **449.1604 Right of withdrawing partner to receive distribution and fair value of partnership interest.**

Sec. 604. Except as provided in this article, upon withdrawal any withdrawing partner is entitled to receive any distribution to which he or she is entitled under the partnership agreement and, if not otherwise provided in the agreement, the withdrawing partner is entitled to receive, within a reasonable time after withdrawal, the fair value of his or her interest in the limited partnership as of the date of withdrawal, based upon the withdrawing partner's right to share in distributions from the limited partnership.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

### **449.1605 Distribution in cash or in kind.**

Sec. 605. Except as provided in the certificate of limited partnership, a limited partner, and except as provided in the partnership agreement, a general partner, regardless of the nature of the partner's contribution, has no right to demand and receive any distribution from a limited partnership in any form other than cash. Except as provided in the partnership agreement, a partner may not be compelled to accept a distribution of any asset in kind from a limited partnership to the extent that the percentage of the asset distributed to him or her exceeds a percentage of that asset which is equal to the percentage in which the partner shares in distributions from the limited partnership.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

### **449.1606 Status and remedies of partner as creditor with respect to distribution.**

Sec. 606. At the time a partner becomes entitled to receive a distribution, the partner has the status of, and is entitled to all remedies available to, a creditor of the limited partnership with respect to the distribution.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

#### **449.1607 Distribution; limitation.**

Sec. 607. A partner may not receive a distribution from a limited partnership to the extent that, after giving effect to the distribution, all liabilities of the limited partnership, other than liabilities to partners on account of their partnership interests, exceed the fair value of the partnership assets.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

#### **449.1608 Limited partner; liability following return of contribution.**

Sec. 608. (a) If a limited partner has received the return of any part of his or her contribution without violation of the partnership agreement or this act, he or she is liable to the limited partnership for a period of 1 year thereafter for the amount of the returned contribution, but only to the extent necessary to discharge the limited partnership's liabilities to creditors who extended credit to the limited partnership during the period the contribution was held by the partnership.

(b) If a limited partner has received the return of any part of his or her contribution in violation of the partnership agreement or this act, he or she is liable to the limited partnership for a period of 6 years thereafter for the amount of the contribution wrongfully returned.

(c) A limited partner receives a return of his or her contribution to the extent that a distribution to the limited partner reduces his or her share of the fair value of the net assets of the limited partnership below the value, as set forth in the certificate of limited partnership, of the limited partner's contribution which has not been distributed to the limited partner.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

### **ARTICLE 7**

#### **449.1701 Partnership interest as personal property.**

Sec. 701. A partnership interest is personal property.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

#### **449.1702 Partnership interest; assignment; effect.**

Sec. 702. Except as provided in the partnership agreement: (i) a partnership interest is assignable in whole or in part; (ii) an assignment of a partnership interest does not dissolve a limited partnership or entitle the assignee to become or to exercise any rights of a partner; (iii) an assignment entitles the assignee to receive, to the extent assigned, only the distribution to which the assignor would be entitled.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

#### **449.1703 Charging partnership interest with payment of unsatisfied amount of judgment; rights of judgment creditor; exemptions.**

Sec. 703. Upon application to a court of competent jurisdiction by any judgment creditor of a partner, the court may charge the partnership interest of the partner with payment of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment creditor has only the rights of an assignee of the partnership interest. This act does not deprive any partner of the benefit of any exemptions provided by law applicable to his or her partnership interest.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

#### **449.1704 Assignee; right to become limited partner; rights, powers, restrictions, and liabilities of assignee who becomes limited partner.**

Sec. 704. (a) An assignee of a partnership interest, including an assignee of a general partner, may become a limited partner if and to the extent that (1) the assignor gives the assignee that right in accordance with authority described in the certificate of limited partnership, or (2) all other partners consent.

(b) An assignee who has become a limited partner has, to the extent assigned, the rights and powers, and is subject to the restrictions and liabilities, of a limited partner under the partnership agreement and this act. An assignee who becomes a limited partner also is liable for the obligations of the assignor to make and return contributions as provided in article 6. However, the assignee is not obligated for liabilities unknown to the assignee at the time the assignee became a limited partner and which could not be ascertained from the certificate of limited partnership.

(c) If an assignee of a partnership interest becomes a limited partner, the assignor is not released from his or her liability to the limited partnership under sections 207 and 502.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

**449.1705 Effect of death or adjudication of disability of individual partner; non-individual partner; effect of dissolution or termination of corporation, trust, or other entity as partner.**

Sec. 705. If a partner who is an individual dies or a court of competent jurisdiction adjudges the partner to be unable to manage his or her property or incompetent to manage his or her person or property, the partner's personal representative, executor, administrator, guardian, conservator, or other legal representative may exercise all the partner's rights for the purpose of settling the partner's estate or administering his or her property, including any power the partner had to give an assignee the right to become a limited partner. If a partner is a corporation, trust, or other entity, and is dissolved or terminated, the powers of that partner may be exercised by its legal representative or successor.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

ARTICLE 8

**449.1801 Dissolution of limited partnership.**

Sec. 801. A limited partnership is dissolved and its affairs shall be wound up upon the happening of the first to occur of the following:

- (1) At the time or upon the happening of events specified in the certificate of limited partnership.
- (2) Written consent of all partners.

(3) An event of withdrawal of a general partner, unless at the time there is at least 1 other general partner and the certificate of limited partnership permits the business of the limited partnership to be carried on by the remaining general partner and that partner does so, but the limited partnership is not dissolved and is not required to be wound up by reason of any event of withdrawal, if, within 90 days after the withdrawal, all remaining partners agree in writing to continue the business of the limited partnership and to the appointment of 1 or more additional general partners if necessary or desired.

- (4) Entry of a decree of judicial dissolution under section 802 or 803.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

**449.1802 Court-ordered dissolution on application by or for partner; grounds; other relief; forwarding order of dissolution to administrator.**

Sec. 802. On application by or for a partner the circuit court of the county in which the office referred to in section 105(a)(1) is located may decree dissolution of a limited partnership when it is established that the acts of the general partners or those of the general partners in control of the limited partnership are illegal, fraudulent, or wilfully unfair and oppressive to the limited partnership or to such partner. On application by or for a partner to dissolve a limited partnership on a ground enumerated in this section, the court upon establishment of such ground may make such order or grant such relief, other than dissolution, as it deems appropriate. A copy of a judicial order of dissolution shall be forwarded promptly to the administrator by the person designated by the court.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

**449.1803 Action by attorney general for dissolution; grounds; other actions.**

Sec. 803. (a) The department of attorney general may bring an action in the circuit court of the county in which the office referred to in section 105(a)(1) is located for dissolution of a limited partnership upon the ground that the limited partnership has committed any of the following acts:

- (1) Procured its organization through fraud.
- (2) Repeatedly and wilfully exceeded the authority conferred upon it by law.
- (3) Repeatedly and wilfully conducted its business in an unlawful manner.

(b) The enumeration in this section of grounds for dissolution does not exclude any other statutory or common law action by the department of attorney general for dissolution of a limited partnership.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

**449.1804 Authority to wind up limited partnership's affairs.**

Sec. 804. Except as provided in the partnership agreement, the general partners who have not wrongfully dissolved a limited partnership or, if none, the limited partners, may wind up the limited partnership's affairs; but the circuit court of the county in which the office referred to in section 105(a)(1) is located may wind up the limited partnership's affairs upon application of, and good cause shown by, any partner, his or her legal representative, or assignee.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.



#### **449.1805 Distribution of assets upon winding up.**

Sec. 805. Upon the winding up of a limited partnership, the assets shall be distributed as follows:

(1) To creditors, including partners who are creditors, to the extent permitted by law, in satisfaction of liabilities of the limited partnership other than liabilities for distributions to partners under section 601 or 604.

(2) Except as provided in the partnership agreement, to partners and former partners in satisfaction of liabilities for distributions under section 601 or 604.

(3) Except as provided in the partnership agreement, to partners first for the return of their contributions and secondly respecting their partnership interests, in the proportions in which the partners share in distributions.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

### **ARTICLE 9**

#### **449.1901 Foreign limited partnership; governing laws; effect of difference between laws on registration.**

Sec. 901. Subject to the state constitution of 1963, (1) the laws of the state under which a foreign limited partnership is organized govern its organization and internal affairs and the liability of its limited partners, and (2) a foreign limited partnership may not be denied registration by reason of any difference between those laws and the laws of this state.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

#### **449.1902 Registration required; application.**

Sec. 902. Before transacting business in this state, a foreign limited partnership shall register with the administrator. In order to register, a foreign limited partnership shall submit to the administrator an application for registration as a foreign limited partnership, signed and sworn to by a general partner and setting forth all of the following:

(1) The name of the foreign limited partnership and, if different, the name under which it proposes to register and transact business in this state.

(2) The state and date of its formation and the names and addresses of the governmental departments, agencies, or authorities in such state with which its certificate of limited partnership is currently on file and from which copies may be obtained.

(3) The general character of the business it proposes to transact in this state.

(4) The name and address of any agent for service of process on the foreign limited partnership whom the foreign limited partnership elects to appoint. The agent must be an individual resident of this state, a domestic corporation, or a foreign corporation having a place of business in, and authorized to do business in, this state.

(5) A statement that the administrator is appointed the agent of the foreign limited partnership for service of process if an agent has not been appointed under subdivision (4) or, if appointed, the agent has resigned or the agent's authority has been revoked or if the agent cannot be found or served with the exercise of reasonable diligence, and the name and business or residence address of a general partner to whom the administrator is to send copies of any process served on the administrator.

(6) The address of the office required to be maintained in the state of its organization by the laws of that state or, if not so required, of the principal office of the foreign limited partnership.

(7) If the certificate of limited partnership filed in the foreign limited partnership's state of organization is not required to include the names and business or residence addresses of the partners, a list of the name and addresses.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

#### **449.1903 Certificate of registration; issuance; return to applicant.**

Sec. 903. (a) If the administrator finds that an application for registration conforms to law and all requisite fees have been paid, he or she shall file in his or her office the application and issue a certificate of registration to transact business in this state.

(b) The certificate of registration, together with a true copy of the application or the original thereof, shall be returned to the person who filed the application or the person's representative.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

#### **449.1904 Registration of name.**

Sec. 904. A foreign limited partnership may register with the administrator under any name, whether or not it is the name under which it is registered in its state of organization, that includes without abbreviation the words "limited partnership" and that could be registered by a domestic limited partnership formed under this



act.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

#### **449.1905 Correction of false or inaccurate statements in application for registration.**

Sec. 905. If any statement in the application for registration of a foreign limited partnership was false when made or any arrangements or other facts described have changed, making the application inaccurate in any respect, the foreign limited partnership shall promptly file in the office of the administrator a certificate, signed and sworn to by a general partner, correcting the statement.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

#### **449.1906 Cancellation of registration; effect.**

Sec. 906. A foreign limited partnership may cancel its registration by filing with the administrator a certificate of cancellation signed and sworn to by a general partner. A cancellation does not terminate the authority of the administrator to accept service of process on the foreign limited partnership with respect to causes of action arising out of the transactions of business in this state.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

#### **449.1907 Maintaining court action in state before registration prohibited; effect of transacting business in state without registration.**

Sec. 907. (a) A foreign limited partnership transacting business in this state may not maintain any action or proceeding in any court of this state until it has registered in this state. An action commenced by a foreign limited partnership which has not registered in this state shall not be dismissed if it registers before the order of dismissal. This prohibition applies to:

(1) A successor in interest of the foreign limited partnership, except a receiver, trustee in bankruptcy, or other representative of creditors of the foreign limited partnership.

(2) An assignee of the foreign limited partnership, except an assignee for value who accepts an assignment without knowledge that the foreign limited partnership should have but has not registered in this state.

(b) The failure of a foreign limited partnership to register in this state does not impair the validity of any contract or act of the foreign limited partnership or prevent the foreign limited partnership from defending any action or proceeding in any court of this state.

(c) A limited partner of a foreign limited partnership is not liable as a general partner of the foreign limited partnership solely by reason of having transacted business in this state without registration.

(d) A foreign limited partnership, by transacting business in this state without registration, appoints the administrator as its agent for service of process with respect to causes of action arising out of the transaction of business in this state.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

#### **449.1908 Action to restrain foreign limited partnership from transacting business in state.**

Sec. 908. The department of attorney general may bring an action to restrain a foreign limited partnership from transacting business in this state in violation of this article.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

#### **449.1909 Activities not considered to be transacting business in state.**

Sec. 909. (a) Without excluding other activities which may not constitute transacting business in this state, a foreign limited partnership is not considered to be transacting business in this state, for the purposes of this act, solely because it is carrying on in this state any 1 or more of the following activities:

(1) Maintaining or defending an action or suit or an administrative or arbitral proceeding, or effecting the settlement thereof or the settlement of a claim or dispute.

(2) Holding meetings of its partners or carrying on any other activities concerning its internal affairs.

(3) Maintaining a bank account.

(4) Maintaining an office or agency for the transfer, exchange, and registration of its securities, or appointing and maintaining a trustee or depository with relation to its securities.

(5) Effecting sales through an independent contractor.

(6) Soliciting or procuring orders, whether by mail or through employees or agents or otherwise, where such orders require acceptance without this state before becoming binding contracts.

(7) Borrowing money, with or without security.

(8) Securing or collecting debts or enforcing any right in property securing the same.

(9) Transacting any business in interstate commerce.

(10) Conducting an isolated transaction not in the course of a number of repeated transactions of like

nature.

(b) This section does not apply in determining the contacts or activities which may subject a foreign limited partnership to service of process or taxation in this state or to regulation under any other act of this state.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

#### **449.1910 Making or participating in certain loans without registering in state.**

Sec. 910. A foreign limited partnership may acquire or, through another person entitled to transact business in this state, may make loans, or participations or interests therein, insured or guaranteed in whole or in part by the federal housing administration or the veterans' administration or a successor or similar agency of the federal government, which are secured in whole or in part by mortgages of real property located in this state, and a foreign limited partnership may purchase a loan, or participation or interest therein, secured in whole or in part by a mortgage of real property located in this state, without registering in this state. The failure of such foreign limited partnership to register in this state shall not affect or impair its ownership of such loans or participations or interest therein, or its right to collect and service the same through another person entitled to transact business in this state, or its right to enforce the same or to acquire, hold, protect, convey, lease, and otherwise contract and deal with respect to the property mortgaged as security therefor.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

### **ARTICLE 10**

#### **449.2001 Limited partner; right to bring action to recover judgment.**

Sec. 1001. A limited partner may bring an action in the right of a limited partnership to recover a judgment in its favor if general partners with authority to do so have refused to bring the action or if an effort to cause those general partners to bring the action is not likely to succeed.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

#### **449.2002 Status of plaintiff in derivative action.**

Sec. 1002. In a derivative action, the plaintiff must be a partner at the time of bringing the action and (1) at the time of the transaction of which the plaintiff complains or (2) his or her status as a partner had devolved upon him or her by operation of law or pursuant to the terms of the partnership agreement from a person who was a partner at the time of the transaction.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

#### **449.2003 Complaint in derivative action; contents.**

Sec. 1003. In a derivative action, the complaint shall set forth with particularity the effort of the plaintiff to secure initiation of the action by a general partner or the reasons for not making the effort.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

#### **449.2004 Discontinuance, compromise, or settlement of derivative action; court approval; notice; costs.**

Sec. 1004. An action authorized by section 1001 shall not be discontinued, compromised, or settled without approval by the court having jurisdiction of the action. If the court determines that the interest of the limited partners or of any class thereof will be substantially affected by the discontinuance, compromise, or settlement, the court may direct that notice, by publication or otherwise, be given to the limited partners or any class thereof whose interests it determines will be so affected. If notice is so directed to be given, the court may determine which 1 or more of the parties to the action shall bear the expense of giving the notice, in such amount as the court determines and finds to be reasonable in the circumstances. The amount of such expense shall be awarded as special costs of the action and recoverable in the same manner as statutory taxable costs.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

#### **449.2005 Awarding expenses to plaintiff in successful derivative action; remittance to limited partnership of remainder of proceeds; exception; action brought without reasonable cause; payment of defendants' expenses by plaintiff.**

Sec. 1005. (a) If a derivative action is successful, in whole or in part, or if anything is received by the plaintiff as a result of a judgment, compromise, or settlement of an action or claim, the court may award the plaintiff reasonable expenses, including reasonable attorneys' fees, and shall direct the plaintiff to remit to the limited partnership the remainder of those proceeds received by him or her. This subsection does not apply to

a judgment rendered for the benefit of an injured limited partner only and limited to a recovery of the loss or damage sustained by him or her.

(b) In an action brought in the right of the limited partnership by a limited partner of the limited partnership, the court having jurisdiction, upon final judgment and finding that the action was brought without reasonable cause, may require the plaintiff to pay to the parties named as defendants the reasonable expenses, including fees of attorneys, incurred by them in the defense of the action.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

## ARTICLE 11

### **449.2101 Application and construction of act.**

Sec. 1101. This act shall be so applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this act among states enacting it.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

### **449.2102 Short title.**

Sec. 1102. This act shall be known and may be cited as the “Michigan revised uniform limited partnership act”.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

### **449.2103 Severability.**

Sec. 1103. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

### **449.2104 Effective date; repeal of MCL 449.201 to 449.231.**

Sec. 1104. The effective date of this act is January 1, 1983 and, except as otherwise provided in section 1105, Act No. 110 of the Public Acts of 1931, as amended, being sections 449.201 to 449.231 of the Compiled Laws of 1970, is repealed.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

### **449.2105 Effect of act on existing limited partnerships.**

Sec. 1105. (a) A limited partnership formed under any other statute of this state and in existence on the effective date of this act shall not dissolve and its legal existence shall not cease as a result of the repeal of the statute under which it was formed or the enactment of this act. A limited partnership formed under any other statute of this state and in existence on the effective date of this act and the partners thereof shall be governed by the provisions of this act and an existing limited partnership and its partners shall have the same rights and be subject to the same limitations, restrictions, and liabilities as a limited partnership formed under this act and its partners, except as follows:

(1) The partners of an existing limited partnership shall not be required to execute and file a certificate of limited partnership under this act in order to maintain the continued existence of the limited partnership as a limited partnership under the laws of this state; and, as used in this act with respect to an existing limited partnership, unless the context otherwise requires, “certificate of limited partnership” means the certificate of limited partnership of the limited partnership executed and filed pursuant to and in accordance with the provisions of the statute under which such limited partnership was formed, and the certificate as amended or restated.

(2) An existing limited partnership shall not be subject to the provisions of section 102(1), (3), or (4) with respect to its name as set forth in its certificate of limited partnership on the effective date of this act, but it shall become subject to such provisions if, and at the time, any change in its name is made after the effective date of this act.

(3) An existing limited partnership may continue to transact its business under an assumed name or names with respect to which there is on file on the effective date of this act a certificate pursuant to Act No. 101 of the Public Acts of 1907, as amended, being sections 445.1 to 445.5 of the Michigan Compiled Laws, by the filing of the certificate referred to in section 104(a), provided that such assumed name or names are not precluded from use by section 102(2) or (5).

(4) An existing limited partnership shall not be subject to the provisions of section 105(a)(2) until the execution and filing of the restated certificate of limited partnership referred to in subdivision (5), at which time the general partners of an existing limited partnership shall have the obligation, and the right and power,

to appoint and thereafter continuously maintain an agent for service of process as required by section 105(a)(2), anything contained in the partnership agreement to the contrary notwithstanding.

(5) The provisions of this act relating to the events requiring, and the method of effecting, an amendment or cancellation of a certificate of limited partnership shall apply to an existing limited partnership to the same extent and in the same way such provisions apply to a limited partnership formed under this act; provided, however, the first amendment of the certificate of limited partnership of an existing limited partnership made after the effective date of this act shall be effected by the execution and filing of a restated certificate of limited partnership setting forth all of the information specified in section 201(a), including, but not limited to, the name and address of the agent for service of process required to be maintained by section 105(a)(2), which information shall be current as of the date of the execution and filing of such restated certificate of limited partnership; and the execution and filing of such restated certificate of limited partnership shall not result in the dissolution, or in any way adversely affect the continued existence, of the existing limited partnership.

(6) The references in sections 202(a)(2), 202(f), and 203(a)(2) to the date of the filing of a limited partnership's original certificate of limited partnership mean, with respect to an existing limited partnership, the date on which the limited partnership's original certificate of limited partnership was filed pursuant to and in accordance with the provisions of the statute under which it was formed.

(7) A certificate of amendment, a restated certificate of limited partnership, and a certificate of cancellation with respect to an existing limited partnership, in addition to setting forth the information specified in sections 202(a), 202(f), and 203(a), shall state the place where the original certificate of limited partnership was filed.

(8) Sections 501, 502, and 608 apply only to contributions and distributions made after the effective date of this act.

(9) Section 704 applies only to assignments made after the effective date of this act.

(b) Within 30 days after the effective date of this act, the county clerk of each county shall certify and send to the administrator, for filing, the certificate of limited partnership, as amended or restated, of each existing limited partnership which is on file in the office of the county clerk on the effective date of this act. From and after the effective date of this act, (i) all amendments to and restatements of, and a cancellation of, the certificate of limited partnership of an existing limited partnership shall be filed with the administrator and shall be executed and filed in accordance with, and shall otherwise comply, with all of the requirements of this act, and (ii) no such amendment, restatement, or cancellation shall be filed in the office of the county clerk of any county of this state. At the time that the county clerk of each county certifies and sends to the administrator, for filing, the certificate of limited partnership, as amended or restated, of each existing limited partnership which is on file in the office of the county clerk on the effective date of this act, the county clerk shall mail to the general partner of each limited partnership, at his or her address as set forth in the certificate of limited partnership of the limited partnership, as amended or restated, written notice that the certificate of limited partnership of the limited partnership, as amended or restated, has been sent to the administrator for filing, and that from and after the effective date of this act (i) all amendments to and restatements of, and a cancellation of, the certificate of limited partnership of the limited partnership must be filed with the administrator and comply with all of the requirements of this act, and (ii) no such amendment, restatement, or cancellation may be filed in the office of the county clerk.

(c) This act does not affect a cause of action, liability, penalty or action, or special proceeding, which on the effective date of this act is accrued, existing, incurred, or pending, but the same may be asserted, enforced, prosecuted, or defended as if this act had not been enacted.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

#### **449.2106 Case not provided for in act governed by MCL 449.1 to 449.43.**

Sec. 1106. In any case not provided for in this act the provisions of the uniform partnership act, Act No. 72 of the Public Acts of 1917, as amended, being sections 449.1 to 449.43 of the Michigan Compiled Laws, govern.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.

#### **449.2107 Fee schedule; payment; other charges; deposit and use of fees.**

Sec. 1107. (a) The fees to be paid to the administrator with respect to a limited partnership, for the purposes specified in this section, shall be as follows:

(1) Examining, filing, and copying a certificate of limited partnership, \$10.00. However, a fee shall not be payable for examining and filing a certified copy of a certificate of limited partnership sent to the administrator by a county clerk pursuant to the provisions of section 1105(b).

(2) Examining, filing, and copying a certificate of amendment to a certificate of limited partnership,

\$10.00.

(3) Examining, filing, and copying a restated certificate of limited partnership, \$10.00.

(4) Examining, filing, and copying a certificate of cancellation of a certificate of limited partnership, \$10.00.

(5) Examining, filing, and copying an application for registration as a foreign limited partnership and issuance of a certificate of registration to transact business in this state, \$10.00.

(6) Examining, filing, and copying a certificate correcting a statement contained in an application for registration of a foreign limited partnership, \$10.00.

(7) Examining, filing, and copying a certificate of cancellation of the registration of a foreign limited partnership, \$10.00.

(8) Examining, filing, and copying an application for reservation of a name, \$10.00.

(9) Examining, filing, and copying a certificate of assumed name or certificate of termination of assumed name, \$10.00.

(10) Examining, filing, and copying a certificate filed under section 304(a)(2), \$10.00.

(b) These fees shall be paid to the administrator at the time of filing or when the service is rendered by the administrator.

(c) A minimum charge of \$1.00 for each certificate and 50 cents per folio shall be paid to the administrator for certifying a part of a file or record pertaining to a domestic limited partnership or a foreign limited partnership for which provision for payment is not set forth in subsection (a). The administrator may furnish copies of documents, reports, and papers required or permitted by law to be filed with the administrator, and shall charge for those copies pursuant to a schedule of fees which the administrator shall adopt with the approval of the state administrative board.

(d) The fees received pursuant to this act shall be deposited in the state treasury to the credit of the administrator to be used solely to defray the costs incurred in the administration of this act.

**History:** 1982, Act 213, Eff. Jan. 1, 1983;—Am. 1986, Act 100, Eff. July 1, 1986.

#### **449.2108 Effective date.**

Sec. 1108. This act shall take effect January 1, 1983.

**History:** 1982, Act 213, Eff. Jan. 1, 1983.