XIII. October 1993 - Revised Uniform Partnership Act (RUPA)

1. October 22, 1993: Correspondence from Lauris G. L. Rall to the Ad Hoc Subcommittee Distribution List.

Enclosed:
Draft of the October 1993 RUPA Subcommittee Report, and a supplemental report to the one dated November 1992. The Subcommittee explained its reasons for not recommending RUPA (in its present form) to be enacted by any jurisdiction. Primarily, they were: (i) RUPA was not as clear and precise as it needed to be; (ii) the right to alter standards of conduct were too restrictive; and (iii) it allowed a single partner the right to wind up the partnership. The Subcommittee felt NCCUSL has needlessly revised certain sections of the UPA which were unnecessary and that more review and comments on the act would have been beneficial.


Supplementary statement submitted by the Committee on Corporation Law of the Association of the Bar of the City of New York, setting forth recommendations and comments on the RUPA Act and its amendments as adopted by NCCUSL - July 1993. It suggested modifications to the Revision and discussed its concerns with § 404 - Fiduciary Duties.

3. November 10, 1993: Correspondence from Caryl B. Wellborn, a member of the Committee on Partnerships and Unincorporated Business Organizations, Section of Business Law - American Bar Association and Official American Bar Association Advisor to NCCUSL's RUPA Drafting Committee to Thurston R. Moore.

A letter which expressed support for a positive recommendation regarding the approval of RUPA, and a discussion of her agreements and disagreements with the supplemental report the Ad Hoc Subcommittee prepared on RUPA as of October 1993.

4. November 10, 1993: Summary of RUPA A chart which compared RUPA sections with their parallel UPA sections.


MEMORANDUM

VIA FAX

To: Members of the ABA RUPA Subcommittee on Attached Distribution List

FROM: Lauris Rall

DATE: October 22, 1993

Attached is a draft of the 1993 RUPA Subcommittee Report, based upon our meetings in Chicago last weekend. Please give me your comments at your earliest convenience. If possible, please mark your comments on the draft and fax it back to me. If you wish to note your dissent from the Subcommittee’s recommendation, please either telephone me or advise me in writing by fax.

For all of you who are available and interested, I would like to have a conference telephone call at 5:00 p.m. NYC time on Wednesday, October 27th to discuss the Report. Please telephone my secretary, Kathy Redmond (212-912-7635), if you would like to be included in the call. I would like to send Thurston Moore our final Report by the end of next week for distribution to Partnership Committee members attending the November 11th meeting.

Best personal regards.

LGLR

Attachment
ABA RUPA Subcommittee

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Revised Uniform Partnership Act ("RUPA")
Adopted by the National Conference of Commissioners
on Uniform State Laws ("NCCUSL")

Supplemental Report by the
Subcommittee on RUPA

October 1993

This is a supplemental report ("Supplement") to the Report dated November 1992 submitted by the Subcommittee on RUPA (the "Subcommittee") of the Committee on Partnerships and Unincorporated Business Organizations (the "Committee") of the American Bar Association's Section of Business Law (the "Section"). This Supplement and the Report were prepared for the Committee in connection with its deliberations whether to recommend RUPA to the Section's Council, which in turn will make a recommendation concerning RUPA to the ABA's House of Delegates.

Recommendation. RUPA in its present form should not be enacted by any jurisdiction. The Subcommittee's principal concerns include (1) RUPA lacks the clarity, consistency and precision that a uniform statute must have, (2) the provisions in RUPA relating to standards of conduct and the ability to alter those standards continue to be defective in certain respects and should not restrict the ability of parties to vary those standards and (3) RUPA should not permit a single partner the right to cause dissolution and winding up of a partnership as a default rule, as evidenced by the actions or commentaries of or from several commercial states. NCCUSL should continue to solicit and consider comments, and revise RUPA based upon that commentary, prior to encouraging state adoption. As it has indicated many times before, the Subcommittee would be pleased to work with NCCUSL, commencing immediately and to the full extent necessary, to revise RUPA. The Subcommittee acknowledges that the 1993 RUPA is a significant improvement over both the 1992 RUPA and the UPA, but believes that, on balance, the deficiencies in the statute continue to cause the Subcommittee not to endorse it.

The Subcommittee notes that, due in part to the limited time available to review the 1993 RUPA, some members of the Subcommittee could not fully participate in the review and analysis, although all members were given the opportunity to do so and to comment on this Supplement. [Two] members of the Subcommittee dissented from the recommendation that the 1993 RUPA not be endorsed by the ABA. In addition, not every member supported the
Subcommittee's analysis of each section of RUPA included in this Supplement. However, the Subcommittee as a whole strongly supports the recommendation set forth above.

1992-1993 Events. Subsequent to the adoption by NCCUSL of RUPA in August 1992, NCCUSL received extensive commentary from the Subcommittee, several bar groups (including California and New York City) and the academic community. In addition, Texas adopted a new partnership act which varied significantly from the 1992 RUPA. NCCUSL formed a working group to consider the commentary and to make recommendations regarding revisions to the 1992 RUPA. The NCCUSL working group recommended changes to over 35 sections (more than half) of the 1992 RUPA. Those changes were approved by NCCUSL in August 1993. Subsequently, the NCCUSL Style Committee made a number of changes, the most recent being communicated to the Subcommittee on October 14th.

The Subcommittee met on October 15th and 16th to discuss the 1993 RUPA, as revised to that date. The Subcommittee did not have the benefit of the NCCUSL Official Commentary to the 1993 RUPA, which we understand may be available prior to the Committee's deliberations in November. The Official Commentary is expected to be extensive, and it is likely that the Subcommittee, as well as other commentators, will have significant comments on the Comments.

The 1992 Report. As noted above, this is a Supplement to our Report dated November 1992 previously delivered to the Committee. This Supplement contains most of the current views of the Subcommittee concerning RUPA. However, due to the relatively brief period that the Subcommittee has had to review the 1993 RUPA and prepare this Supplement, many of the comments made in the Report are not repeated herein or in Exhibit A to this Supplement. Thus, while members of the Committee are encouraged to review both this Supplement and the original Report, a review of this Supplement alone should provide the Committee with a clear understanding of the Subcommittee's position and the basis therefor. Any member of the Committee desiring a copy of the original Report can obtain one by telephoning Thurston Moore (804-788-8295) or Lauris Rall (212-912-7439).

Standards for Subcommittee Recommendation. As stated in the Report, the standards used by the Subcommittee in reviewing RUPA can be summarized as follows:

1. Does RUPA provide such a material improvement over the UPA, which has had close to 80 years of development as a result of case law, that it warrants the abandonment of that case law and the uniformity that partnership law has enjoyed during that period?

2. Will RUPA enhance the predictability of specific partnership relations for transaction lawyers attempting to structure such relationships?

3. Will RUPA result in a material increase in litigation for partnerships arising over interpretation difficulties with the statute itself and over newly crafted partnership agreement provisions in response to certain fundamental changes required by RUPA?

In addition, the Subcommittee has measured RUPA as a statute against the general statutory standards of clarity, consistency and precision.
Exhibit A. Attached as Exhibit A are specific comments to a number of provisions of RUPA, arranged section by section. Included in Exhibit A are a number of examples of deficiencies in the drafting of 1993 RUPA. In most of these examples, the Subcommittee believes that it agrees with the NCCUSL intent or policy evidenced by the subject provision, as best it can determine. However, as shown in the examples, the Subcommittee believes that improvements are necessary, in part to avoid having to resolve ambiguities through needless litigation.

The Subcommittee does not represent that Exhibit A is complete. Within the time frame available to the Subcommittee, these comments represent the Subcommittee's best efforts to identify specific problems underlying the principal concerns with RUPA outlined below. In addition, Exhibit A to the original Report outlined some 80 specific comments to the 1992 RUPA, many of which continue to be applicable to the 1993 RUPA, but are not repeated in Exhibit A to this Supplement.

Principal Concerns. Based upon its review of the 1993 RUPA, the Subcommittee has the following principal concerns:

1. **RUPA lacks the clarity, consistency and precision that a statute must have, especially a uniform statute of such importance.** As the default statute applicable to business persons who have unknowingly formed a partnership, RUPA must clearly and concisely set forth the rules that will make up the partnership agreement. Thus RUPA must be written with the same lawyerly care and skill that would be brought to a contract of critical importance between parties, since the partnership agreement created by RUPA will be the contract for countless partnerships.

Exhibit A sets forth a number of examples of the drafting deficiencies of RUPA. The Subcommittee believes that further study would likely produce more problems. The Subcommittee continues to be willing to work with NCCUSL to correct these problems. The additional work necessary to complete the process is likely to be minor compared to the tremendous effort by NCCUSL and others to date.

2. **The provisions in RUPA, principally Section 404 as modified by Section 103, relating to a partner’s standards of conduct, including fiduciary duties, and the ability to alter those standards continue to be defective in certain respects and should not restrict the ability of parties to vary those standards.**

In particular, Section 404 continues to be defective by its inclusion of an "obligation of good faith and fair dealing" as an independent duty as opposed to a standard of contract interpretation. In addition, the wording of Section 404(f) raises an issue as to the extent of the change in relationship of a partner to the partnership when a partner lends money to, or transacts other business with, the partnership (see Exhibit A, item 14, for an example of a proposed revision to this section). Perhaps most importantly, the various standards included in Section 103 which permit limited modification of Section 404 duties are subject to conflicting interpretations, are not likely to be consistently applied and will result in confusion among practitioners and significant litigation over their meaning.
The fundamental problem with RUPA's approach is that it intentionally penalizes responsible parties proceeding in good faith in the negotiation of partnership agreements. Such parties have had injected into their relationship both the standards of RUPA §404 and the uncertainty of the extent to which those standards can be contractually modified in an enforceable way.

The penalization reflected in the RUPA approach appears to exist because of a basic view on the part of the drafters of RUPA that parties need to be protected through the enactment of statutory standards and waiver provisions. We submit that RUPA's view is misguided. In fact, abusive situations such as those which RUPA seeks to protect partners against appear to be few and far between. Parties appear to negotiate transactions in good faith and to proceed similarly in their business dealings. To presume otherwise appears not to be founded in fact and creates a situation which is directly contrary to what reasonable people (both parties to transactions and their counsel) have come to desire, i.e., the ability to contract freely concerning the terms pursuant to which their relationships with one another will be governed.

In the context of the foregoing, it is suggested that a number of alternative approaches are possible which better balance the legitimate interests of contracting parties with the interests which the RUPA drafters seek to protect. One such approach would involve providing standards in §404. Section 103(b)(3), (4) and (5) would then be modified to permit parties by contract to expand, restrict or eliminate §404's standards. In addition, provisions could be added to RUPA providing that any partner acting under a partnership agreement shall not be liable to the partnership or to another partner for the partner's good faith reliance on the provisions of the partnership agreement.

By adopting the foregoing approach, in those situations in which relatively simple partnership agreements, whether oral or written, exist, a statutory framework of expected conduct would be furnished. In other situations, parties would be granted the freedom to negotiate the terms of their deal while having the relative certainty that those terms would be enforced in accordance with their expectations. To do otherwise may penalize many persons entering into partnership agreements.

3. RUPA should not permit a single partner the right to cause dissolution and winding up of a partnership as a default rule. Texas has adopted a RUPA without the 1993 RUPA single partner bust-up rule. The California Bar has commented that it does not approve of the rule, as have several academic commentators. Members of the New York and Delaware Bars report resistance to the single partner bust-up rule. The Subcommittee cannot understand why NCCUSL remains in favor of the single partner bust-up in face of such opposition.

4. Linkage. The 1993 RUPA has done nothing to address the potential problems inherent in having a partnership law which has been "de-linked" from the limited partnership statutes. Neither has NCCUSL adequately considered the impact that the substantial changes in RUPA, such as the effect of the new provisions concerning notice and knowledge, dissociation, buy-out and dissolution, and even the RUPA transition rules, will have on those statutes. The Subcommittee continues to believe that further study of this "linkage" issue is necessary prior to promulgating a new partnership law, not afterwards as NCCUSL has indicated it will do.
5. **RUPA and Developments in Bankruptcy Law.** RUPA is making a significant departure from existing law that is inconsistent with the development of bankruptcy law as applied to general partnerships and general partners.

The Section's Ad Hoc Committee on Partnerships in Bankruptcy (the "Bankruptcy Committee"), with the assistance of Professor Kennedy as Reporter, has issued a preliminary report of its recommendations. That Report proposes to adopt as amendments to the Bankruptcy Code the procedures that were used in several large professional firm bankruptcy cases, such as Finley, Kumble; Laventhal & Horwath; and Gaston & Snow. In those major bankruptcies, the court in each case relied on its powers under Section 105 of the Bankruptcy Code to enjoin creditors from pursuing general partners during the pendency of the case. In completed cases, permanent injunctions were issued as part of the Plan of Liquidation that was formally adopted in the proceedings. The premise in all of these cases, and in the Bankruptcy Committee's Report, is that the general partners will contribute some of their future earnings to a pool of assets and this will provide a greater recovery to the creditors than would likely result from immediate liquidation of the partnership's estate and the estates of all of the general partners. The general partners, of course, benefit by not having to file Chapter 7 bankruptcy petitions.

In addition, at least two courts have issued similar injunctions on creditor actions based on the current language of the Uniform Partnership Act as it interacts with the Bankruptcy Code. The UPA provides in Section 40(a) that: "The assets of the partnership are: . . . the contributions of the partners necessary for the payment [of all liabilities of the partnership]." The two courts have concluded that if a creditor were to proceed against a general partner, that would be proceeding against an asset of the estate in bankruptcy in violation of Section 362(a)(3) of the Bankruptcy Code (the automatic stay). *In re Notchcliff Assoc.,* 139 BR 361 (1992); *In re Litchfield Co.,* 135 BR 797 (1992).

RUPA Section 307(d) appears to provide that, if the partnership is a debtor in bankruptcy, creditors may proceed against the assets of the general partners on the partnership debt. This is directly contrary to the cases that were the basis of the Bankruptcy Committee's recommendation, and it is contrary to the holding of the two cases which are based on the language that a partner's contribution obligations are "assets of the partnership". Thus, for any court which did not have the temerity or desire to use an injunction against creditors based on the general powers of Section 105 of the Bankruptcy Code, the alternate approach of enjoining them from going after "assets of the partnership" may not be available in any state which adopts RUPA.

While one can argue either way concerning the desirability of forcing all creditors to proceed through the bankruptcy estate instead of attacking general partners individually, certainly a state legislature which would effect a fundamental change in this area of the law ought at least to be alerted to the fact that this may be one result of adoption of RUPA. It should be noted that the Bankruptcy Court could still conclude that the obligation of general partners to make contributions to the bankruptcy estate of their partnership is an asset of the estate, even if the language of the partnership law is not so precise. However, that would require litigation in each state, and it may or may not be the conclusion of the Bankruptcy Court, particularly with the new state law (i.e., Section 307(d) of RUPA) providing that creditors have the right to proceed directly against general partners if the partnership is a debtor in bankruptcy.
-6-

A second bankruptcy law issue should also be noted. RUPA Section 601(c)(i) provides that a partner is automatically dissociated from the partnership if the partner becomes a debtor in bankruptcy. This is not a "wrongful" dissociation. Therefore, the partnership is faced with an immediate buyout, as well as termination of the debtor partner's duty of loyalty (Sections 701(b) and 603(b)(2), respectively). Other consequences also flow from this. Is this the right and fair result for all partnerships? The Bankruptcy Committee has adopted internally as one of its guiding principles that the partnership should have the right to terminate the debtor as partner. The debtor also has the right to terminate by rejecting the executory contract (the partnership agreement). But if the debtor so acts, it may be a wrongful dissociation, depending upon the agreement, and may give the partnership some protection from the adverse consequences of this event. The RUPA approach should be revisited because it is not at all clear that a Bankruptcy Code provision would prevail over RUPA Section 601(b)(i).

6. Certain Sections of the UPA Should Not Be Revised. While purporting to be faithful to the "old testament" of the UPA when circumstances allowed, NCCUSL in many cases has needlessly revised certain sections of the UPA which have worked well during its lengthy history, have not produced significant litigation over interpretation and applicability, and do not seem to cause confusion among drafters of partnership agreements.

An example of this type of over legislation is Section 807 in the 1993 RUPA dealing with settlement of partners' accounts. Section 40 of the UPA provides an order of priority for distributions on liquidation which favors third party creditors over partner creditors of the partnership. Under RUPA that priority is gone. According to the latest comments available, NCCUSL's intent is to leave the third party creditors in the same position through the obligations of the partners to make additional contributions if there are insufficient assets to pay all liabilities to third parties and creditors. If at the onset of winding-up there are insufficient assets to pay non-partner creditors in full, why should any distribution be made to partner creditors? The RUPA approach puts the burden on non-partner creditors to chase partners for the ultimate shortfall. At the very least it delays full payment of non-partner creditors. What possible justification can there be for this reversal of the long-standing UPA provision that partner creditors are only repaid after non-partner creditors? The RUPA comments suggest an attempt to conform with limited partnership laws relating to this subject matter. However, it is not clear that a general partner creditor in a limited partnership has the same priority as third party creditors, since the general partner's obligations may well be governed by the UPA.

In addition, Section 807 seems to produce an economic result for a partnership which liquidates at a net loss position which differs significantly from UPA Section 40 and probably from partner expectations. Section 807(b)(2) requires that any deficit in a partner's capital account is required to be restored by actual contributions. However, loss allocations among partners are principally motivated by tax considerations; liquidation of the partnership resulting in a net loss beyond capital should not necessarily result in a disproportionate obligation to contribute additional funds. Generally, partnership agreements do not address contribution obligations under these circumstances. Thus, as a default rule, Section 807(b) may be adopted unintentionally for many partnerships.

For that reason, the Subcommittee believes that the default rule should remain that partners contribute to losses at liquidation in accordance with their share of profits, and that the
obligation to contribute on behalf of partners who fail to contribute, or for losses determined after settlement of accounts, be similarly in proportion to such share of profits. The Subcommittee believes this is the result produced by UPA Section 40.

Finally, the Subcommittee has noted in Exhibit A certain cases in which NCCUSL has continued in RUPA a section of the UPA even though such inclusion is either confusing, unnecessary or incorrect.

The Subcommittee is pleased to have had the opportunity to submit this Supplement, will present its findings to the Committee at its meeting on November 11th and will respond to any questions the members of the Committee have at that time or before.

Very truly yours,

SUBCOMMITTEE ON THE REVISED UNIFORM PARTNERSHIP ACT

By: 

Lauris G. L. Rall
Chairman

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EXHIBIT A

OTHER RUPA COMMENTS

1. Sections 101(4) and (5). Definitions of "partnership" and "partnership agreement". The phrase "created under Section 202" is misplaced in a definition of partnership. As the default business entity, both the UPA and RUPA acknowledge that some partnerships are formed inadvertently. After 80 years of a uniformly stated and understood definition, there is no justification for change. The definition should be:

101(4) "Partnership" means an association of two or more persons to carry on as co-owners a business for profit.

"Partnership Agreement" as used in RUPA does not mean every agreement among the partners concerning the partnership, which would include agreements as to working hours, working conditions, vacations, etc. Additionally, a lease agreement between a partner and the partnership should not be encompassed by the definition. A better definition is as follows:

101(5) "Partnership Agreement" means the agreement, written or oral, among the partners which governs relations among the partners and between the partners and the partnership.

(Use of this definition would eliminate the need for the first sentence in Section 103(a).)

2. Section 106. Replace "the partnership's internal affairs" with "relations among the partners and between the partners and the partnership". "Internal affairs" is vague and archaic.

3. Section 202(d). "Except as provided by Section 308, persons who are not partners to each other are not partners as to other persons." This subsection appears to be a direct import from UPA (Section 7(1)). This subsection was confusing in UPA and is no better in RUPA. In UPA, the section addressed the "purported" partner concept in Section 16. Even then it did not make much sense in Section 7(1) of UPA, especially since the Section 16 caption is incorrect implying that a person subject to Section 16 is a purported "partner" instead of a person who has liability to specific persons and for specific transactions where the third party reasonably believed the party to be charged was in fact a partner. However, nothing in Section 16 of UPA makes a person a partner. This is an area where RUPA has missed an opportunity to remove ambiguous and incorrect language from the UPA.

4. Sections 203 and 204. These sections are an example of the many instances in which RUPA uses different language for the same concept. Section 203 refers to property "transferred to or otherwise acquired by" a partnership. Section 204(a) refers to property "if acquired" and section 204(b) refers to property which "is acquired" without in either case parallel language as to "transfer".

5. Section 301. This section is also an example of the inconsistent use of language in RUPA. Rather than use the more customary "ordinary course of business" of the partnership
(which is used in Section 401(j)), this section uses (in two places) "carrying on in the usual way the partnership business."

6. Section 304. Replace "to the extent" in the last sentence with "as" since Sections 303(d) and (e) establish precise rules as to limitations on authority.

7. Sections 306 and 309. These sections conflict with one another. They should be combined to eliminate confusion, to read as follows:

"All partners are liable jointly and severally for all obligations of the partnership incurred on or after the date of admission of the partner, unless otherwise agreed by the claimant or provided by law."

8. Section 308(a). This section's last two sentences need the phrase "with respect to that liability" added after the word "liable" in each, to correct a lack of precision therein.

9. Sections 308(c) and (d). In its 1992 Report, the Subcommittee recommended that these subsections be moved, since the subject matter -- whether a person is a partner as opposed to how a person who is not a partner can be liable for partnership obligations or can bind the partnership -- is different from the subject of subsections (a) and (b). We recommend that Section 308(c) and (d) be moved to Section 303, 304 or even 202 in place of (d) which we recommend deleting (see above).

10. Sections 401(a) and (b). NCCUSL has acknowledged by its 1993 revisions to RUPA the inappropriateness of requiring each partnership to have a set of formal accounts (Section 401(a) begins with "[e]ach partner is deemed to have an account"). However, this change was not consistently made throughout the section (Section 401(b) requires a partnership to "credit each partner's account"). The Subcommittee believes that Section 401(b) could be revised to read:

"Each partner shall share equally in partnership profits and shall share in partnership losses in proportion to the partner's share of profits."

The reference to accounts in that provision is unnecessary since the "deemed" accounting rules in Section 401(a) deal with profits and losses.

11. Sections 401(c), (d) and (e). These subsections use language which is inconsistent with the use of similar terms in other sections, is redundant and gives rise to questions of interpretation which the Subcommittee believes were not the intent of NCCUSL. As currently drafted the Section reads as follows:

(c) A partnership shall indemnify each partner for payments reasonably made and liabilities reasonably incurred by the partner in the ordinary and proper conduct of the business of the partnership or for the preservation of its business or property.

(d) A partnership shall repay a partner who, in aid of the partnership, makes a payment or advance beyond the amount of capital the partner agreed to contribute.
A-3

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

The Subcommittee believes that use of the phrase "proper conduct of the business" could give rise to an issue as to whether a partner is indemnified by the partnership for payments made negligently (eg, paying a bill twice which the counterparty refuses to acknowledge), even though the standard for the duty of care is gross negligence. Thus, the words "and proper conduct" should be deleted and replaced with the word "course". In addition, subsection (d) can be deleted and subsection (e) can be revised to delete the reference thereto. The last sentence of (e) can be added to the first sentence by changing it to read "which shall accrue interest from the date of payment".

12. Sections 404 and 103(b).

A. Under §103(b)(3) the duty of loyalty described in §404(b) and §606(b)(3) can be modified (by the identification of specific types or categories of activities) "if not manifestly unreasonable", and under §103(b)(5) the obligation of good faith and fair dealing under §404(d) may be modified (through the partners' agreement concerning standards by which the performance of the obligation is to be measured) "if the standards are not manifestly unreasonable". The focus of both of the referenced provisions is a "manifestly unreasonable" standard. No guidance concerning the meaning of the term "manifestly unreasonable" is furnished, nor is the Subcommittee aware of any statutory provisions using the term. It is not clear what the word "manifestly" adds to the word "unreasonable". Presumably some higher standard than mere unreasonableness is contemplated. What the standard means is problematic - does it mean "unconscionable", or "shocks the conscience" or something else? Is the provision to be measured against all of the terms of a transaction, i.e., the entire deal? Is a provision in an agreement between two Fortune 500 companies measured by the same measuring rod as one between individuals? Even if a specific provision is found to be "manifestly unreasonable", could a court determine that such provision cannot be enforced even if that provision was negotiated and inserted in an agreement in return for something of more importance to a party?

B. Under §103(b)(3), the duty of loyalty may not be "eliminated", and under §103(b)(5) the obligation of good faith and fair dealing may not be "eliminated". At what point does a contractual provision become one which "eliminates" either the duty of loyalty or the obligation of good faith and fair dealing? Is a contractual "modification" of the statutory duty of loyalty the "elimination" of that duty? For example: "The partners may engage in all aspects of real estate, whether or not in competition with the Partnership" -- is this a non-manifestly unreasonable modification or the elimination of the duty of loyalty? Is a modification of the duty of loyalty which is done in general terms (rather than by identifying specific types or categories of activities that do not violate the duty of loyalty) going to be viewed as the "elimination" of the duty of loyalty? Similar issues exist in the context of the elimination concept found in §103(b)(5) in connection with the obligation of good faith and fair dealing.

C. Section 103(b)(4) states that a partnership agreement may not "unreasonably" reduce §404(c)'s and §603(3)'s statement of the duty of care. Why does the section use an "unreasonable" standard rather than the "manifestly unreasonable" standard of
§103(b)(3) and (5)? Presumably in omitting the word "manifestly", Subsection (b)(4) is telling us that a different standard applies to the reduction of RUPA's duty of care than applies with respect to RUPA's duty of loyalty and obligation of good faith and fair dealing. Why is it appropriate for a different standard to be adopted?

13. Section 404(b). The approach which appears to have been taken in the most recent RUPA revisions is to furnish in §404 standards of a partner's conduct (query why the word "general" is used in the heading of §404 and whether the use of that word infers further, more specific standards may also exist), and to move elsewhere (to §103) provisions dealing with the circumstances under which §404's standards can be modified by agreement. (See comment 12 above.) Unfortunately, one aspect of a partner's ability to modify applicable standards by agreement remains in §404. In all three subsections of §404(b) dealing with a partner's duty of loyalty, the concept of "consent" is retained. RUPA lacks any provision explaining the consent provisions of §404(b) and their relationship to the provisions of §103(b)(3). Thus, for example, what is the contemplated timing of a "consent"? Could a "consent" be given in a partnership agreement and, if so, would it then have to be measured against the "manifestly unreasonable" standard? If something is phrased as a "consent" in a partnership agreement, is it outside of the standards of §103(b)(3)? Does a consent have to relate to a specific event or transaction or could it be given generally? Does a consent have to be given by all partners, or if an agreement permits majority rule, could a majority consent be used and, if so, would it be measured against §103(b)(3) or would it not be possible to use something less than a unanimous consent because of the wording of §404(b) ("without the consent of the other partners" which carries an inference with it of a needed consent from all other partners)?

14. Section 404(f). The subsection, as drafted with two separate sentences, raises a question as to the extent of the change in relationship of a partner to the partnership when a partner lends money to, or transacts other business with, the partnership. The wording of the second sentence in subsection (f) may affect obligations of the partner to the partnership and his other partners beyond those that depend solely on the specific loan or other transaction. A much clearer and more correct statement of subparagraph (f) would be as follows: "A partner may lend money to and transact other business with the partnership and, as to each such transaction, the rights and obligations of such partner are the same as those of a person who is not a partner, subject to the partnership agreement and other applicable law".

15. Section 502. This section omits reference to a partner having an interest in profits and losses which can be transferred. While arguably the partner's interest in distributions should ultimately reflect the allocation of profits and losses to that partner, there is no reason not to be consistent with RULPA and include profits and losses. The Subcommittee believes that many practitioners may be confused by this inconsistency, especially those advising smaller partnerships.

16. Section 503. This section is an example of the inconsistent use of the terms "account" and "accounting". The Subcommittee believes that one term, probably "accounting" (as in subsection (c)), should be used consistently, replacing the terms "account" in subsections (a) and (c).
17. **Section 504.** Section 504(b) contains what may be another inadvertent but major change in the law. This is an issue in RUPA that only recently has been recognized. The second sentence provides that "[t]he Court may order a foreclosure of the interest subject to the charging order at any time and upon conditions it considers appropriate." (Our emphasis.) The underlined language is not in UPA. The 1992 RUPA comment to Section 504(b) merely states that it codifies the old case law under UPA to the effect that a charging order constitutes a lien which "may be foreclosed by the court at any time." We believe almost all practitioners were surprised by the decision in *Hellman v. Anderson*, 284 Cal.Rptr. 830, 233 Cal.App.3d 840 (1991). The *Hellman* court said that if foreclosure would result in undue influence on the partnership business, such foreclosure would be precluded. The additional clause in Section 504(b) may be construed as adopting the *Hellman* conclusion which many practitioners believe was just plain wrong. Whether it is right or wrong, or an improvement in the law, such a significant change, if intended, should not be made without careful deliberation and considerable debate.

18. **Section 603.** RUPA provides for termination of a dissociating partner’s right to participate in the business and for continuation of fiduciary duties only as to pre-dissolution matters and events ("or" should be changed to "and" in Subsection (b)(3), line 3) unless the partner participates in winding up. This provision raises questions concerning whether a partner’s fiduciary breach concerns pre-dissolution matters, whether the breach involves the duty not to compete, which does not continue after dissociation even as to predissociation matters, and whether the partners’ agreement waives post-dissociation duties. For example, under this provision, a withdrawing law partner who appropriated a client and a fee from work-in-process may be liable if the appropriation of work-in-process is "with regard to" a pre-dissociation matter or event or if the partner is considered to be participating in winding up by completing work-in-process. On the other hand, the lawyer is exonerated if her conduct is deemed to be competition with her former firm. These questions undermine the continued authority of cases under the UPA that hold, for example, that former law partners may not appropriate the benefit of cases they continue to handle after leaving the firm.

RUPA’s termination of fiduciary duties is not only confusing but also wrong. Nothing in RUPA (other than Section 603) prevents courts from holding that a dissociated partner retains some partner attributes, including fiduciary duties. Indeed, RUPA recognizes fiduciary duties in connection with "winding up" and that a dissociated partner may participate in winding up. Abrupt termination of duties as to all post-dissociation matters is also wrong because the conditions that justify recognizing fiduciary duties continue as long as a former partner retains control over partnership property or management power.

19. **Section 701.** This section was revised to delete some of the language drafted by NCCUSL to define the "buyout price" for a dissociated partner’s partnership interest. This change was in part responsive to the Subcommittee’s concern that trying to define the "value" of the interest would lead to more debate as to how to apply the definition rather than a consideration of the particular facts relevant to valuation in a specific partnership. The remaining language purports to define the buyout price as "the greater of the liquidation value or the value based on a sale of the entire business as a going concern". However, the application of these concepts to the valuation of interests in different types of partnerships (eg.
service partnerships, investment partnerships, operating businesses) will vary greatly and is likely to produce significantly different results.

No other changes to Section 701 were made (except for a section reference). The Subcommittee's concerns remain as to (1) the new concept that all "unknown" liabilities are excluded from the liabilities as to which a dissociated partner is indemnified and (2) the excessive negotiating leverage provided to the dissociating partner by combining the right of a single partner to cause dissolution and the structure of the new buyout procedures.

As to the former concern, the 1992 RUPA Comments to Section 701(d) are contradictory and confusing:

Under RUPA, the partnership has an incentive to insist that all known liabilities be taken into account... all contingent or uncertain liabilities can and will be recognized in the valuation of the withdrawing partner's account, using estimates and probabilities... Use of the negative, "except liabilities then unknown to the partnership," is intended to put the burden of proof on the partnership, which is in the best position to know of contingent or yet unasserted liabilities, to show those liabilities were not known at the time of dissociation.

Are contingent liabilities included or not? What is an "unknown" contingent liability or a known "unasserted" liability? The fact that the comments cause confusion further underscores the need to revise the statutory language.

20. Section 802(b). This subsection contains the new retroactivity rule for partnerships which dissolve but are then reinstated. The Subcommittee believes that the last two sentences are subject to differing interpretations, and that the policy which NCCUSL appears to be expressing is not clearly stated. The sentence should be combined into a single sentence as follows:

"In that event, the partnership shall be deemed to have continued as if dissolution had never occurred, but the rights of a third party arising out of conduct in reliance on the dissolution before the third party knew or received a notification of the waiver shall not be adversely affected by such waiver."

21. Section 807(c). This section is discussed in the text of this Supplement under the caption "Certain Sections of the UPA Should Not Be Revised". In addition, the Subcommittee's prior comment to what is now the last sentence in Section 807(c) was not followed. Our suggestion, essentially a drafting comment, is that the sentence be revised to make clear that a partner could only recover the amount of his excess contributions from a partner who failed to contribute for his share of liabilities. It is unclear why NCCUSL decided not to make this technical correction which would help clarify the section.

22. Section 807(f). The Subcommittee believes that the subsection should begin with the words "[T]he partnership," to make clear that the partnership, as an entity, can also enforce a partner's contribution obligations.
23. **Article 9.**

A. **NCCUSL has so far declined to provide a "cross equity" provision, in part to avoid objections from corporate lawyers.** The response misunderstands the suggestion of the Subcommittee; that a separate statute referred to in our Report as a "junction" statute should be considered. By proceeding forward with the approach of Article 9, NCCUSL is not covering too few entities, but rather too many.

The NCCUSL working group added a new Section 901 which includes specific definitions of general partner, limited partner, limited partnership, and a distinct definition of "partner" for purposes of Article 9. This is helpful but there are significant problems in this section.

In §901(1) the definition of general partner confusingly introduces an unnecessary concept of "general partnership." Both this and §202(e) are unnecessary. This change was purportedly made in response to the Subcommittee's comment. Our comment was that it be clear that the term partnership only apply to what is thought of as a general partnership. Other changes in Article 9 accomplish this goal, and the addition of the term "general partnership" only raises the question of whether a "general partnership" is somehow different than a "partnership" under RUPA. So long as the references to "partnership" only refer to general partnerships, the concept of "general partnership" should be deleted. As noted above, the addition of the concept of "general partner" is useful. The consistent use of the terms partnership, limited partnership, limited partner, general partner, and partner should resolve the issue, without defining "general partnership."

B. **A drafting problem relating to foreign limited partnerships continues to exist.** In the prior Report, we questioned the appropriateness of providing rules governing the internal affairs of foreign limited partnerships. There are references in §§902(c) and 903(c) to filings intended for domestic limited partnerships that RUPA attempts to impose on foreign limited partnerships. Finally, the ambiguity of cross-entity merger provisions is particularly clear when one considers the application of §908 making this procedure nonexclusive. We noted that this will result in litigation over whether the limited partnership dissenter's rights or RUPA §905(e) would apply. The NCCUSL working group, again raising a linkage question, replied that RULPA §1105 would provide that the limited partnership rules would govern over the more specific and more recently enacted RUPA. Disregarding the fact that RULPA §1105 only refers to the UPA, some statement such as the one removed from §202(b) (referring to limited partnerships) should be included if RUPA must attempt to govern limited partnerships.

24. **Sections 1006 and 1007.** The Report stated that RUPA should apply to existing partnerships but should not impair or adversely affect any existing rights accrued prior to its effective date. On further consideration, it has been noted that it will be almost impossible to make RUPA effective for existing partnerships without changing existing contractual rights, as UPA represents the default contract among the partners. In §10.03 of the Texas Revised Partnership Act, the drafters decided that the new partnership law would apply to newly formed partnerships, unless that partnership is continuing the business of a dissolved partnership under the old Texas partnership law.
A-8

Under the Texas version, the new partnership law will not apply to an existing partnership until a five year transition period elapses or the partnership "opts in". In addition, RUPA provided extensive transition rules. The Subcommittee believes further consideration should be given to the appropriate transition rules for RUPA.
November 3, 1993

BY FEDERAL EXPRESS

American Bar Association
Partnerships and Unincorporated Business Organizations Committee
750 North Lake Shore Drive
Chicago, Illinois 60611
Attention: Thurston R. Moore, Esq., Chairman

Re: NCCUSL Response to Comments on the Revised Uniform Partnership Act

Ladies and Gentlemen:

Enclosed please find a supplementary position statement setting forth the recommendations and comments of the Committee on Corporation Law of the Association of the Bar of the City of New York (the "Association") regarding the June 1993 Report setting forth the response of the National Conference of Commissioners on Uniform State Laws ("NCCUSL") relating to the Revised Uniform Partnership Act ("RUPA").

As we noted previously in our March 3, 1993 correspondence to the American Bar Association, we wish to re-emphasize our agreement with the widely held belief that the Uniform Partnership Act is in need of revision. We also recognize not only the extensive efforts that have gone into drafting RUPA, but also into reviewing and synthesizing the various comments you and the NCCUSL working group have received with respect to RUPA. However, the Committee believes that a number of critical issues still remain to be resolved and urge that our comments once again be given further consideration.

The Committee on Corporation Law wishes to thank you for the opportunity to submit these additional comments. If you would like to discuss any of the matters set forth in the enclosed statement, please contact Mary G. Bielaska, Chair of the Subcommittee on the Revised Uniform Partnership
Act of the Association's Committee on Corporation Law at (212) 259-6558 or me.

So that the Association can be of further assistance to you in reaching conclusions regarding the issues discussed in the enclosed supplementary statement, please be advised that Mary Bielaska and I are planning to attend the Fall Meeting of the Business Law Section of the American Bar Association in Washington, D.C. and will be available for the meeting of the Partnerships and Unincorporated Business Organizations Subcommittee on November 11.

Sincerely,

Brian L. Schorr

BLS:mlb
cc: Allan G. Donn, Esq.
    Chair, Subcommittee on General Partnerships
    and Joint Ventures
Gerald V. Niesar, Esq.
    Chair, Subcommittee on Proposed Revised
    Uniform Partnership Act
Dwight A. Hamilton, Esq.
    President, National Conference of Commissioners
    on Uniform State Laws
Simeon Gold, Esq.
    Chair, Corporation Law Committee,
    Business Law Section,
    New York State Bar Association
Sanford J. Liebschutz, Esq.
    Chair, Real Property Probate and Trust Law Section,
    New York State Bar Association
Mary G. Bielaska, Esq.
    Chair, Subcommittee on the Revised Uniform
    Partnership Act, Committee on Corporation Law,
    Association of the Bar of the City of New York
SUPPLEMENTARY POSITION STATEMENT RELATING TO THE REVISED UNIFORM PARTNERSHIP ACT (THE "REVISION") AND THE RECENT AMENDMENTS (TOGETHER WITH THE REVISION, HEREBINAFTER REFERRED TO AS THE "AMENDED REVISION"), AS ADOPTED BY THE NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS ("NCCUSL") JULY 1993

This Supplementary Statement (the "Supplementary Statement") is submitted by the Committee on Corporation Law (the "Committee") of The Association of the Bar of the City of New York (the "Association"). The Supplementary Statement contains the Committee's recommendation with respect to the Amended Revision and has been prepared for use by the Committee on Partnerships and Unincorporated Business Organizations of the American Bar Association's Section on Business Law (the "Section") in connection with its deliberations as to whether it should recommend the Amended Revision to the Section's Council. The Committee understands that the Section Council ultimately intends to make a recommendation concerning the Amended Revision to the House of Delegates to the American Bar Association (the "ABA").

As indicated in its March 3 Position Statement, the Committee wishes to re-emphasize that it is aware of the enormous amount of effort which has been expended by NCCUSL in drafting a revision to an act that is an important and established part of American jurisprudence. We reiterate our agreement that the Uniform Partnership Act is in need of revision. The Committee also recognizes that NCCUSL has spent many hours considering the comments contained in our March 3 Position Statement, as well as comments of the Association's Committee on Uniform State Laws, the ABA, the Partnership Committee of the Business Law Section of the State Bar of California and other interested parties.

The Committee believes, however, that serious issues remain in the Amended Revision, and we address these issues in

* This Association has already commented on earlier drafts of the Revision through its Uniform State Laws Committee, see "The Entity Theory of Partnership and the Proposed Revisions to the Uniform Partnership Act," 46 Record of the Association of the Bar of the City of New York, 563 (1991) and Letter to Donald Weidner (July 1992). The Committee has also commented on the Revision, see Letter to the American Bar Association (March 3, 1992) and accompanying Position Statement of even date (the "March 3 Position Statement").
the following commentary. As previously noted in our March 3 Position Statement, the Committee also wishes to emphasize that the Amended Revision, if adopted, should promote uniformity among the statutes of the states which adopt it. Based upon the fact that certain substantive provisions of the Amended Revision may not be entirely acceptable to certain state legislatures, the Committee believes that these legislatures might suggest that certain substantive changes be made to the Amended Revision prior to its adoption. Accordingly, the Committee continues to believe that the uniformity provided by the Uniform Partnership Act would be lost if individual states sought to tailor provisions which they felt were either unworkable in practice in their state or in need of further revision, and the sacrifices of time and effort, not to mention the benefit of the substantive improvements which exist in the current form of the Amended Revision, would be lost as well.

Suggested Modifications to the Revision. Set forth below are certain matters the Committee wishes to highlight.

As with the suggestions contained in our March 3 Position Statement, the Committee hopes that it will have the opportunity to further discuss the following comments to the Amended Revision with you at the Fall Meeting of the Business Law Section of the ABA in early November.

Fiduciary Duties, Section 404. The Committee recognizes the concern of NCCUSL that no clear parameters presently exist with respect to a definition of fiduciary duties of partners to one another and the resulting attempt to establish parameters for such duties in the Amended Revision. However, the Committee feels that the inclusion of parameters in the Amended Revision which it believes limit fiduciary duties to a duty of loyalty and a duty of care is unduly restrictive and inconsistent with existing common law. Accordingly, the Committee feels strongly that unless Section 404 is revised to include additional fiduciary duties, it is preferable for the parameters of the fiduciary duties of partners to continue to be identified by the courts on a case-by-case basis. In particular, the Committee notes that in the absence of an affirmative decision to allow existing partnerships to decide to be governed by the Amended Revision rather than existing case law (i.e., to "opt-in"), there would be significant changes between the Amended Revision and existing case law which would affect existing partnerships whose partners entered into a relationship expecting to be governed by the existing case law.

Since the Committee submitted to the American Bar Association its March 3 Position Statement, it has had the opportunity to perform additional research relating to the current state of the law, both in New York and in other jurisdictions, with respect to the concept of fiduciary duties.
The purpose of this additional research was to determine whether Amended Revision Section 404 reflects the case law. Based upon the results of this research the Committee does not believe that (i) the significance of the fiduciary duties of good faith, utmost honesty, candor and full disclosure has waned over the years and (ii) there is any necessity for attempting to quantify, and in essence limit, by means of what is essentially a "default" statute, those fiduciary duties of partners to one another that most individuals and many members of our judiciary, have come to accept as standard.

Moreover, the research conducted by the Committee indicates that the aforementioned fiduciary obligations arise during the preliminary negotiations leading up to the execution of a partnership agreement and continue through the winding up of a partnership's affairs after dissolution. In addition, the Committee is not aware of any case which permits a waiver or limitation of duties based upon a determination that such waiver or limitation of duties was not unreasonable. The Committee believes that the American Bar Association should consider the Amended Revision in light of the aforementioned issues and should consider recommending that NCCUSL reconsider these issues. The Committee notes that at least one state (Texas) in connection with its consideration of the Revision included an "opt-in" provision in the statute that was ultimately enacted in that state. As is the case with the Texas statute, inclusion of such an opt-in provision in the Amended Revision would afford existing partnerships the opportunity to continue being governed by the current case law in each jurisdiction in which the Amended Revision is enacted rather than by a statute that is likely to provide for a departure from such law.

In addition to the foregoing matters, in its March 3 Position Statement the Committee noted inconsistencies in the drafting of Section 404 and expressed concern regarding (i) the inclusion of the concept of an "obligation of good faith and fair dealing" as an independent duty; (ii) the fact that waivable duties may encourage litigation if the waiver of such duties must be determined to be "reasonable" prior to being permissible; and (iii) the fact that the Amended Revision states that the waivable duties of care and loyalty are the only fiduciary duties a partner owes, while the statute's addition of a good faith obligation and limitations on contracting may negate this fact. As set forth in the March 3

** The Committee recognizes that the inclusion of such an opt-in provision could promote a lack of uniformity regarding the application of the Amended Revision. Such lack of uniformity, however, must be balanced against the desire to avoid unfair application of the principles set forth in the Amended Revision to existing partnerships.
Position Statement, the Committee believes that NCCUSL should consider resolving these inconsistencies prior to your endorsing the Amended Revision for adoption.

Other Matters. In addition to its aforementioned concerns relating to fiduciary duties, the Committee believes that further examination of the provisions contained in the Amended Revision is necessary in order to (i) prevent an unfair application of the new concepts set forth in the Amended Revision to existing partnerships (as previously mentioned, this concern might be alleviated by the inclusion of an "opt-in" provision with respect to existing partnerships); (ii) identify areas of concern relating to the "linkage" of the Amended Revision and the Revised Uniform Limited Partnership Act; (iii) analyze the effect of the dissolution provisions contained in the Amended Revision as presently drafted; and (iv) implement the state filings newly proposed by the Amended Revision, such as the filing of the Statement of Partnership Authority and the Statement of Partnership Dissolution.

For the aforementioned reasons, the Committee recommends that the ABA exercise caution in recommending that the Amended Revision be adopted in its present form.
November 10, 1993

VIA FAX

Thurston Moore, Esq.
Chair, Committee on Partnerships and
Unincorporated Business Organizations
Section of Business Law
American Bar Association
c/o Hunton & Williams
Richmond, Virginia

Re: Revised Uniform Partnership Act

Dear Thurston:

I am writing with respect to your Committee's imminent deliberations as to whether to recommend approval of the Revised Uniform Partnership Act ("RUPA") to the Council of the Section of Business Law, and to express my support for a positive recommendation. I am a member of your Committee. I am also an official ABA Advisor to NCCUSL's RUPA Drafting Committee on behalf of the ABA's Section of Real Property, Probate and Trust Law, and over the course of several years of the Drafting Committee's deliberations I acted as Chair of our Section's Committee on Partnerships, Joint Ventures and Other Investment Vehicles. As an official Advisor, I or the vice-chair of my Committee, Gregory Pierce, participated in almost all meetings of the Drafting Committee over the course of the last four to five years, including the August 1992 NCCUSL meetings where RUPA was essentially finalized. I also participated as a member of the smaller working group that was selected in 1993 to consider the commentary of various groups, including the New York and California Bars and your Committee's Ad Hoc Subcommittee on RUPA. In that role, I reviewed and extensively considered the Ad Hoc Committee's (then) concerns. The Council of the Section of Real Property, Probate and Trust Law has not yet considered RUPA and the Section is not taking formal action at any lower level.
because of the makeup and participation of our committees. Therefore, this letter is not written as an official endorsement by our Section.

In reviewing the supplemental report prepared by the Ad Hoc Subcommittee on RUPA as of October 1993, I find that I am in agreement with certain statements contained in that report. At the least, I largely agree with the standards suggested to determine whether RUPA should be recommended for adoption. However, I strongly disagree with the conclusions that are reached based on those standards, namely, that the items noted in the report represent deficiencies warranting rejection of RUPA, and that there is any significant lack of clarity in RUPA.

I do not believe I have discussed RUPA with any practitioner who does not consider it a most significant improvement over the existing UPA and partnership case law. Some practitioners, and probably more academics, disagree with some specific provisions of RUPA but even as to these areas of disagreement opinions differ markedly as to the appropriate result, with little consensus as to the chosen view. (The Subcommittee report, in fact, notes such a lack of consensus.) Among the items of partnership law that have been vastly improved and clarified are the nature of the relationship between the partners, including their respective rights, remedies and liabilities both to each other and to third parties; the confirmation that a partnership is an entity with various associated improvements; the explanation of the nature of partnership property and the partners' respective authority with respect to partnership property; the types of partnership rights and interest that are transferable and the methods by which they may be transferred or attached; the effect of a partner's removal or dissociation-related events; the removal of confusing provisions relating to partners' authority; the elimination of confusion over the concept of "dissolution"; an explanation of exactly what terms of the Act can and cannot be varied by an agreement; the exclusion of certain relationships from the partnership characterization; the addition of provisions for merger or conversion into other types of business entities; clarification of the partners' liabilities after a dissociation and/or dissolution; clarification of creditors' rights and remedies; and, generally, the specification of exactly what duties partners have to each other, when they arise, and how they can be varied, specified or waived.
This is only a sampling of the significant improvements. I believe that all of these, and other provisions, vastly improve the state of partnership law. While the Subcommittee appears to agree, its countervailing arguments are that there is lack of clarity in some points of RUPA and that certain other provisions substantively are not precisely what certain individuals would prefer them to be. The Subcommittee also expresses concern with the mere fact of change in the state of partnership law. But as far as I and the practitioners with whom I have discussed the subject are concerned, changing the direction of case law in the partnership area can only be positive. The "pattern" or "uniformity" of such law referred to in the commentary is in fact neither uniform nor desirable, and is exactly what RUPA is seeking to address. RUPA is intended to make new law and I believe it makes good new law.

If the standards to be applied to determine whether RUPA is a statute that should be adopted are the personal objections of some commentators or there existing no disagreement as to the Act's consistency or clarity, I feel certain that there is and has been no statutory scheme worthy of passage. As to the substantive concerns posed by the Subcommittee, there are certain provisions of RUPA as to which I personally would have preferred a different result, including permitting greater leeway in modifying fiduciary duties. But I do not believe that perfection could be achieved in any act, certainly if considered by any large group of lawyers. Neither NCCUSL nor the Drafting Committee will ever agree with every commentator as to form or substance. The issues were fully and fairly considered. Indeed, of course, the Conference as a whole disagreed with the Drafting Committee on the subject of fiduciary duties, indicating that state legislatures could not be expected to pass RUPA as the Drafting Committee proposed, with the resulting compromise position reflected in the current and final RUPA.

From my standpoint, the function of the official Advisors and our Bar groups is to assist in reaching a consensus viewpoint as to the best possible product for purposes of improving the state of the law on a reasonably timely basis. From this standpoint, I believe that RUPA should be adopted now. Repeated requests for more consideration time only perpetuate the problems of current law. The issues have been extensively considered over many years. Further delay avoids advances in partnership law that are timely, historically appropriate and would be
significantly advantageous in the vast majority of cases. As can be expected, repeated reconsideration also results in the positing of additional issues that tend toward the academic rather than the practical, the raising of issues that have been extensively considered but do not have unanimous or even consensus support, and the pursuit in certain cases of solutions that could not be adopted either by the Conference or the state legislatures.

While I have found the Ad Hoc Subcommittee's commentary generally thoughtful, I disagree with its conclusion that RUPA has such significant practical defects that it would not constitute a very significant improvement over the UPA. I feel that RUPA greatly assists in interpreting and making partnership relationships predictable. In my practice, the ultimate effects will be a significant and timely improvement in partnership practice. I therefore would like to urge your Committee to encourage adoption of RUPA by the Business Law Section and the ABA House of Delegates.

Thank you for your consideration.

Respectfully submitted,

Caryl B. Welborn

cc: Lane Kneedler, Esq.
    Morton Fisher, Esq.
    Steven Cowan, Esq.
    Gregory Pierce, Esq.
# SUMMARY OF THE REVISED UNIFORM PARTNERSHIP ACT

<table>
<thead>
<tr>
<th>RUPA SECTION</th>
<th>TITLE</th>
<th>PARALLEL § UPA</th>
<th>RUPA vs UPA</th>
</tr>
</thead>
<tbody>
<tr>
<td>§101</td>
<td>Definitions</td>
<td>§2</td>
<td>RUPA deletes two definitions of terms in UPA (conveyance and real property), expands on two UPA definitions (bankrupt and person) and contains eight new definitions (distribution, partnership, partnership agreement, partnership at will, partnership interests, property, state and statement (referring to various types of documents that may be filed by a partnership).</td>
</tr>
<tr>
<td>§102</td>
<td>Knowledge and Notice</td>
<td>§3</td>
<td>RUPA's formulation, which is based principally on UCC §1-201 (25) to (27), is more elaborate than UPA §3, but no major substantive change is intended.</td>
</tr>
<tr>
<td>§103</td>
<td>Effect of Partnership Agreement; Non-waivable Provisions</td>
<td>None</td>
<td>Subsection (a) sets forth the guiding principle that with respect to the rights of the partners between themselves and the partnership, RUPA contains default rules, which with limited exceptions, can be varied or restricted by the partnership agreement. This principle is contained in UPA, but the provisions where it is explicitly stated are spread throughout UPA. There are also several provisions in UPA dealing with the rights of partners qua partners and the partnership where the UPA is silent on the right to vary the statutory default rule, e.g., variation of fiduciary duties (§21) and the obligations to provide information about the partnership (§20).</td>
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Subsection (b) lists nine exceptions to the default rule. The most significant is subsection (b)(9) which prohibits a partnership agreement from restricting the rights of third parties against the partnership or the partners. Several of the exceptions, which restrict but do not prohibit altogether variation by the partnership agreement of the default rule, are controversial. The formulation in RUPA represents a carefully worked out and extensively debated compromise between these persons who advocated no exception or a narrower exception than was approved by NCCUSL and those persons who thought the exceptions should be broader, thereby decreasing the number of situations where partnership agreement could override the default rule. The three most controversial exemptions are:

1. (b)(3) which does not allow the partnership agreement to "eliminate" a partner's duty of loyalty but the partners may by agreement "identify specific types or categories of activities that do not violate the duty of loyalty, if not manifestly unreasonably;"

2. (b)(4) which does not allow the partnership agreement to "unreasonably reduce" a partner's duty of care; and
3. (b)(5) which does not allow the partnership agreement to "eliminate" a partner's obligation of good faith and fair dealing, but the partners by agreement can "determine the standards by which the performance of the obligation is to be measured, if the standards are not manifestly unreasonable."

Subsection (a) is the same as UPA §5. Subsection (b) which specifies the state statute that determines the interest rate on obligations created under the act, is new.

This section, which has no counterpart in UPA, sets forth the requirements for filing, amending and canceling partnership statements. Centralized filing in the Secretary of State's office is required; and in the case of real estate, local filing in the office for recording transfers of real property is authorized in order to facilitate transfers of real property from a partnership.

All authorized filings are optional and can be made by any partnership regardless of where it is formed. There are five types of authorized statements: (1) a statement of partnership authority (§303) which, although it applies to all transfers of property from a partnership, will be used most frequently with respect to real estate transactions because the grant of authority to convey partnership real property contained in the statement is conclusive as to BFPs; (2) a statement of denial of partnership authority (§304), which is designed to protect a partner or any person named as a partner in a partnership statement from being bound by any grant of authority or liability as a result of being named as a partner in the filed statement; (3) a statement of dissociation (§704), which protects a former or a partner from personal liability for obligations of the partnership incurred more than 90 days after the statement is filed; (4) a statement of dissolution (§806), which is effective as constructive notice to third parties of the partnership's dissolution 90 days after the filing; and (5) a statement of merger (§906), which is required to be filed by the surviving partnership in a merger of a general partnership with another general partnership or with a limited partnership.

This section is similar to RUPA §901; but: (1) RUPA substitutes the laws of the state where the partnership has its chief executive office (cf. UCC 9-103(3)(d)) for the state of the partnership's organization on the grounds that because of the informality with which a general partnership can be created, it is often impossible to determine where the partnership was organized but it will always have a chief executive office; and (2) unlike RUPA, RUPA allows the partnership agreement to specify the state whose partnership statute will govern its internal affairs.

This section, which is adapted from §1.02 of the 1984 Revised Model Business Corporation Act, makes it clear that future amendments in RUPA may affect partnership agreements drafted on the basis of
RUPA provisions at the time the partnership is formed; i.e., there can be no claim of vested rights in the statutory language of RUPA.

The section makes explicitly clear one of the most significant changes made by RUPA: A general partnership is a legal entity that can own and convey property and sue and be sued in its own name and continues in existence even though one or more partners may leave. RUPA eschews the dichotomy between the aggregate and entity theories of UPA and is much closer to the general partnership model of civil law countries than UPA.

RUPA makes two changes: (1) the list of profit sharing arrangements that do not per se create a partnership in UPA §7(4) has been modernized to specifically include shared appreciation and other types of equity participation loans (§202 (c) (3) (y)); and (2) the language in UPA §6(2) stating that the UPA applies to limited partnerships to the extent there is no inconsistent provision in the applicable limited partnership act has been deleted. The effect of the second change could be very significant. Although §1105 of RUPA currently states that the UPA governs "in any case not provided for" in RUPA, it is possible that a decision could be made to delink the two partnership acts entirely. This could be done simply by deleting §1105 of RUPA and adding to RUPA any provisions thought to be necessary to make RULPA a free standing statute. This issue is currently being studied by the ABA Partnership Committee.

RUPA §203 states simply and affirmatively the principle that since a partnership is a separate entity, its property, however acquired, belongs to it and not to the partners. Because of the entity theory incorporated into RUPA, it is no longer necessary to use artificial concepts like tenancy in partnership (See UPA §25), which is an outgrowth of the compromise between the aggregate and entity concepts of partnership built into RUPA, to describe the legal status of a partnership.

This most significant substantive change made by this section is in subsection (b) which defines how property is acquired in the partnership name. This concept is undefined in UPA.

RUPA makes two significant changes: (1) language has been added to both subsections (1) and (2) ("or business of the kind carried on by the partnership") to make it clear that the apparent authority of a partner include both the usual way the particular partnership conducts its business and the way other partnerships in the same business conduct their affairs; and (2) the laundry list of events in UPA §9(3) requiring unanimous consent for approval has been deleted on the grounds that it was incomplete, unnecessary and a potential trap for unwary third-parties doing business with the partnership.
In addition to simplification and clarification of the property transfer rules in UPA, there are two significant substantive changes made in this section by RUPA: (1) it covers transfers of all property vs § 10 of UPA, which only covers transfers of real property; and (2) new subsection (c) provides a mechanism for a sole surviving partner or a sole successor in interest of a partnership’s assets to execute and file documents in the name of the partnership to transfer title to the surviving partner or successor in interest.

The statement of partnership authority is designed to facilitate transfers of property from a partnership. The statement, which is not mandatory, must contain: the names of the partnership, the street address of its chief executive office and also of one office in this state, if there is one; the names and mailing addresses of all the partners, or alternatively the name and mailing address of an agent who has a list containing the names and addresses of all the partners; the names of persons who have authority to execute deeds and other instruments transferring interests in real property from the partnership and may contain a special grant or limitation on the authority of any partner or deal with any other matter relating to the partnership.

If properly filed, the statement is conclusive as to BFP’s with respect to the authority of partners to transfer property from the partnership. A limitation on authority in a filed statement, however, is only binding on non-partners who do not have actual notice of the limitation, and in the case of real estate transfers is binding on those partners only in circumstances where the limitation on authority is in a copy of the statement that is filed both in the Secretary of State’s office and in the real estate records of the county where the real property is located.

A statement of partnership is automatically canceled at the end of five years but can be renewed by amendment or a new filing that is effective on the date of filing and can be canceled by the partnership at anytime.

A statement of partnership can be filed by a partnership formed in another state and will be effective to protect transferees of property from the partnership made within the state where it is filed. Whether a creditor or other third party can challenge the transfer in an action against a partnership formed in another state that has transferred property located in a state where a partnership statement is filed will depend on the conflict of laws rules of the state where the partnership is deemed to have been formed or is located.

This section provides a mechanism whereby a person who is not a partner may file a statement of denial which operates as a limitation of authority. A statement of denial can also be filed by a partner or former partner who wants to correct an error or update a filed partnership statement. The person filing the statement of denial should, of course, notify all the partners and partnership creditors of
The two significant changes made by RUPA are: (1) to broaden the scope of the section to cover all actionable misconduct by a partner (the language in UPA §13 could be interpreted as not encompassing certain types of no-fault torts and other actions); and (2) deleting language in UPA §13 ("not being a partner in the partnership") that has been interpreted as prohibiting a partner who has been harmed by means of a tort committed by the partnership or another partner acting as an agent of the partnership, from recovering in an action against the partnership.

Under UPA partners are jointly and severally liable for torts committed while acting on behalf of the partnership, but are only severally liable for debts of the partnership. Under RUPA, partners are jointly and severally liable for all partnership obligations "unless otherwise agreed to by the claimant or provided by law." Several states have already amended their version of UPA to incorporate this change.

This section of RUPA makes two major changes: (1) it specifically authorizes a partnership to sue and be sued in the partnership name (many states have implemented this concept in recent years either in their codes of civil procedure or as amendments to UPA); and (2) a creditor with a judgment against the partnership and the partners cannot collect the judgment against the partner's individual assets until the creditor has unsuccessfully attempted to satisfy the judgment against the partnership. There are several exceptions to this basic rule, which in effect makes partners guarantors of payment for partnership obligations: (1) the partnership is a party to a bankruptcy proceeding, and in the case of an involuntary case, the proceeding has not been dismissed within 90 days of filing; (2) a court gives permission to proceed against the partners after finding that the partnership's assets are clearly insufficient or otherwise unavailable to satisfy the judgment; (3) a partner has agreed that the creditor need not first exhaust partnership assets; or (4) individual partner liability is imposed by law (e.g. CERCLA environmental clean up liability). This may well be the most significant substantive change made by RUPA.

This section, which deals with the liability of a person who is deemed to be a partner because of his or her conduct or consent, is essentially the same as UPA §16.

RUPA makes no substantive changes in this section.
With minor modifications, RUPA carries forward the default rules in UPA §18, which sets forth the basic rights and duties of partners inter se. The modifications are: (1) an explicit provision describing debts and credits to a partner's capital account (subsection (a)); (2) substitution the term "charge" instead of "contribute" in defining the way in which partnership losses are allocated to the partners in order to avoid the possible interpretation under UPA that a partner had a mandatory obligation to contribute property to the partnership in order to cure a deficit capital account prior to withdrawal or liquidation (see subsection (b)); (3) expanding UPA §19(f) to allow all liquidating partners and not merely the "surviving partner" compensation for services rendered in winding up the partnership; and (4) adding specific language to UPA §18(h) making it clear that all acts outside the ordinary course of the partnership's business and all amendments to the partnership agreement must be approved by unanimous consent of the partners.

RUPA continues the rule in the UPA that in the absence of a contrary agreement, a partner cannot be required to accept an in kind distribution from a partnership. See also §808(a), which has the same rule with respect to liquidating distributions to partners.

RUPA makes several significant changes and clarifications: (1) subsection (a) makes it clear that a partnership has no mandatory duty to have any books and records; (2) the partnership books and records are to be kept at the partnership's "chief executive office" vs its "principal place of business"; (3) subsection (b) explicitly states that agents and attorneys of a partner have the same rights as the partner to inspect the partnership's books and records; (4) subsection (b) also contains an explicit provision allowing former partners access to the partnership books and records for the period in which they were partners (UPA §19 was silent on this point); (5) the right to access and copy books and records is limited to "ordinary business hours" whereas under UPA §19 a partner can have access and copy the partnership books and records "at all times"; (6) subsection (b) of RUPA also adds a specific provision allowing the partnership to impose a reasonable charge for copies of documents furnished to a partner or a former partner; (7) the obligation of partners to furnish information about the partnership is to furnish on demand "complete and accurate" information vs "true and full" and is subject to a new "to the extent just and reasonable" limitation (derived from RULPA §305(2)), which gives partners and courts a basis for refusing burdensome and unreasonable demands for information; and (8) RUPA §103 allows the partnership agreement (a) to restrict the statutory rules on access to books and records, so long as the restrictions and not "unreasonable" (§103(b)(2)) and (b) to eliminate altogether the obligation to provide information about the partnership business (UPA contains no specific authorization for restrictions on access and the duty to provide information).
This section, which is perhaps the most controversial section in RUPA, basically states two propositions: (1) a partner has two fiduciary duties to the other partners and the partnership: a duty of loyalty and a duty of care, which is "limited to refraining from engaging in grossly negligent or reckless conduct, intentional misconduct, or a knowing violation of law"; and (2) a partner has an obligation of good faith and fair dealing to the other partners and the partnership in discharging the partner's duties and exercising any rights under RUPA and the partnership agreement. The fiduciary duties of loyalty and due care and the obligation of good faith and fair dealing can be modified but the parameters of the modifications are different: the partnership agreement may not eliminate the duty of loyalty but may "identify specific types or categories of activities that do not violate the duty of loyalty, if not manifestly unreasonable" (see §103 (b)(3)); the partnership agreement cannot "unreasonably reduce" the duty of due care (see §103 (b)(4)); and the partnership agreement cannot eliminate the obligation of good faith and fair dealing but it may "determine the standards by which the performance of the obligation is to be measured, if the standards are not manifestly unreasonable" (see §103 (b)(5)).

Under UPA, the fiduciary duties of a partner apply to the "formation, conduct, or liquidation" of a partnership. RUPA makes two significant changes in the scope of a partner’s fiduciary duties: (1) under RUPA fiduciary duties of a partner only apply "in the conduct and winding up of the partnership business" and not to the "formation" of the partnership, a term that could be interpreted as making fiduciary duties applicable at the negotiation stage prior to the time an agreement to form a partnership has been reached; and (2) under RUPA, absent an agreement to the contrary a disassociated partner can compete with the partnership after dissociation and the remaining duties of loyalty and the duty of care only apply to matters arising before the dissociation, exceptions that at best are only implicit in UPA.

There are several reasons why §404 is controversial. First, the section specifies that the duty of loyalty and due care are fiduciary duties; UPA, however, does not specifically state that the duty of loyalty is a fiduciary duty, a term that can be construed as requiring the same strict duty of loyalty as a trustee of a trust, (but the title to UPA §21 is "Partner Accountable as a Fiduciary" and virtually every partnership case since the seminal case of Meinhard v. Salmon, 249 N.Y. 458, 164 N.E. 545 (1928) has characterized the duty of loyalty as a fiduciary duty), and in addition UPA does not have any provision specifying a duty of care (but several cases have held that a duty of care does apply to partnerships). Second, there is no specific mention of an obligation of good faith and fair dealing in UPA (but cases have applied this contract principal to partnerships). Third, the section has been criticized because the formulations in §103 of the limitations on the partnership agreement being able to vary the statutory duties of loyalty and care and the obligations of good faith and fair dealing are said to be confusing and there is insufficient case law and examples in the comments to §404 on these limitations to
provide a reasonable level of comfort to lawyers who draft partnership agreements.

Subsection (a), which is new, gives the partnership a right of action against a partner for breach of the partnership agreement or for violation of any other duty owed to the partnership. It is the converse of §405.

Subsection (b), which sets forth the remedies of partners against the partnership or another partner, makes two major substantive changes:

1. The language in UPA §13 which prohibits a partner from suing the partnership or another partner for torts and the like (the partnership is bound only for injuries to a "person not being a partner in the partnership") has been eliminated and new subsection (3) reinforces this change by specifically stating that a partner can sue the partnership and any partner for any cause of action "including rights and interests arising independently of the partnership relationship"; and
2. A partner may have relief against the partnership or another partner without the requirement of a formal accounting, as required by many courts interpreting UPA §21.

Subsection (c), which states that the statute of limitations for an action brought by the partnership against a partner or by a partner against the partnership or another partner is the state’s applicable statute of limitations for that particular cause of action, is new. This rule also applies to an accounting action brought at the time of liquidation. Any cause of action involved in the accounting that is barred by the applicable state statute of limitation could not be considered in the accounting action, however. The accounting action itself would also be subject to a statute of limitations which would begin to run at the time of liquidation.

This section continues the UPA rule that a term or single purpose partnership becomes a partnership at will if it continues after the term or completion of the undertaking, absent agreement to the contrary.

RUPA, as part of the implementation of the entity concept, eliminates the UPA concept in §§24 and 25 that partners own property belonging to a partnership as tenants-in-partnership, a unique form of co-ownership. One important legal consequence of eliminating the co-ownership theory is that a partner can now be held liable for embezzlement for misappropriating partnership property. Under UPA many courts held that a partner could not be guilty for embezzlement since you cannot steal money or other property you own.
§502 Partner's Transferable Interest in the Partnership §26, 27

RUPA states that the only transferable interest is a partner's right to "distributions", a defined term (§101(3)) which includes capital distributions, whereas UPA §27(1) limits the transferee's right to "profits".

§503 Transfer of Partner's Transferable Interest §§27, 32(2)

This section essentially carries forward the rules in UPA. The following changes are worth noting: (1) because of RUPA §103 it is now clear that a provision restricting or prohibiting a transfer of a partner's economic interest in the partnership will be enforceable as between the partners and the partnership (UPA §27(1) authorized variations in the rule that a transferee had no right to participate in the management of the partnership but was silent as to the right to restrict an assignment); (2) subsection (c), which states that the transferring partner remains a partner for management and liability purposes, is new; and subsection (e) which states that the partnership has no obligations to make distributions or otherwise recognize the rights of a transferee until after receiving notice of the transfer, is also new; and (4) subsection (f), which is new, states that a transfer in violation of a restriction on transfer of a partner's transferable interest "is ineffective as to a transferee with notice of the restriction."

§504 Partner's Transferable Interest Subject to Charging Order §28

This section carries forward the charging order rules in UPA §28, with the following modifications: (1) RUPA authorizes a judgment creditor of a partner's transferee, as well as a judgment creditor of a partner, to obtain a charging order against a partner's interest in distributions from the partnership; (2) subsection (b), which specifically states that a charging order is a lien on the debtor partner's right to distributions and can be foreclosed upon at any time, is new; and (3) subsection (e), which states that a charging order is the exclusive method of satisfying a judgment against a partner's right to distributions, is also new but is consistent with the majority of cases on this issue.

§601 Events Causing Partner's Dissociation §§31 and 32

Under UPA the withdrawal of a partner cause a dissolution of the partnership, thereby automatically triggering the liquidation process; and if the partnership continues, it is legally a new partnership. Under RUPA, the "dissociation" of a partner does not automatically trigger the liquidation process. If the partnership continues in business, it is legally the same partnership as before the dissociation. Dissolution and liquidation occur only if the partnership is not continued. Thus, dissolution under RUPA has the same meaning as it has in corporate statutes. This separation of withdrawal ("dissociation") and dissolution reflects the adoption of the entity concept in RUPA and is one of the most fundamental changes made by RUPA.

Section 601 rearranges and modifies, but does not fundamentally change the composite list of events of dissociation in UPA §§31 and 32. The major changes are: (1) a specific requirement that when a partner dissociates by express will, the dissociation is effective only...
upon receipt of the notice by the partnership, or at a later date specified in the notice; (2) a specific provision authorizing the partnership agreement to require that the notice of express will dissociation be in writing (§103(b)(6)); (3) an express provision allowing the partnership agreement to define dissociation events other than those in §601; (4) a provision, modeled on RUPA 402(9), which authorizes expulsion of a corporate partner that has filed a certificate of dissolution, had its charter revoked or its right to conduct its business suspended, unless the problem is cured within 90 days after notice of expulsion from the partnership; (5) use of a new defined term that makes it clear a partner against whom an order has been entered in an involuntary bankruptcy proceeding is, as of the time of the order, dissociated; (6) the addition of specific language making the execution of an assignment for the benefit of creditors, or the appointment of a trustee, receiver or liquidator of all or substantially all of a partner’s property (and in the case of the appointment without consent of the partner, the failure to have the appointment vacated within 90 days of the appointment or within 90 days after the expiration of a stay to have the appointment vacated) are events that cause a dissociation; (7) the addition or detailed provisions based on equivalent provisions in RUPA defining what is meant by death of a partner in the case of a partner that is an entity, e.g., a corporation, partnership or trust; and (8) elimination of all the events in UPA §§31 and 32 that relate to termination of the partnership as opposed to withdrawal of a partner from the partnership.

§602 Partner’s Power to Dissociate Wrongful Dissociation

§603 Effect of Partner’s Dissociation

RUPA defines more precisely than UPA the circumstances in which a dissociation by a partner is wrongful. RUPA also eliminates the rule in UPA §38(2)(c) that prevents a wrongfully dissociating partner from receiving any good will value of the partnership if that partner’s interest is purchased by the partnership or the other partners. The right of the partnership and the other partners to recover damages caused by the wrongful dissociation is, however, retained. In addition, subsection (a) specifically states that a partner has the power (but not necessarily the right) to dissociate at any time, a rule that is implicit in RUPA.

This section accomplishes two purposes: (1) subsection (a) sets out the basic principle that upon dissociation Article 7 of RUPA applies if the dissociating partner’s interest is to be purchased and Article 8 applies if the partnership is to be liquidated; and (2) subsection (b) provides that a dissociated partner “cannot participate in the management of the partnership unless and until the partnership is legally dissolved and begins liquidating (in which event only dissociated partners who have not wrongfully dissolved can participate in the management of the partnership). The dissociated partner can go into competition with the partnership with respect to new transactions but continues to have a duty of loyalty and due care to the partnership for matters arising before the dissociation.
§701 Purchase of Dissociated Partner's Interest §38

This section, which can be varied by the partnership agreement, makes seven major changes in the UPA buyout provisions: (1) perhaps the most significant and certainly the most controersial is the detailed formula for determining the buyout price of a dissociated partner's interest in subsection (a), which in essence sets out a willing buyer-willing seller model whereas UPA uses the term "value" with no elaboration of the criteria to determine value; (2) in subsection (d) a dissociated partner whose Partnership interest is purchased will be indemnified against all partnership liabilities incurred before the dissociation except those unknown to the partnership and against all future partnership liabilities except those incurred as a result of wrongful post-dissociation acts of the dissociated partner, whereas under UPA the dissociated partner is indemnified against all present and future partnership liabilities; (3) a partner who wrongfully dissociated from a term or single purpose partnership can be paid the discounted present value of his interest at the time of dissociation only if the court determines early payment "will not cause undue hardship to the business of the partnership" whereas under UPA the wrongfully dissociated partner has the right to immediate payment (less damages and good will) unless a deferred payment is secured by a bond approved by the court; (4) under UPA the deferred payment to the wrongfully dissociating partner from a term or single purpose partnership must be secured by security authorized by the court as a bond; (5) as previously mentioned under UPA but not UPA the good will value of the partnership can be taken into account when determining the value of a wrongfully dissociated partner's interest in the partnership; (6) RUPA adopts a procedure similar to the Revised Model Business Corporation Act for determining the value of a dissociated partner's interest when the dissociated partner and the partnership cannot agree (the partnership must pay the estimated value within 120 days of demand (or in the case of a term or single purpose partnership offer to pay) accompanied by a notice stating how the value was determined and the dissociated partner has 120 days after the tender to file suit (or one year after demand for payment if the partnership makes no tender) and if suit is filed the court will determine the value and can assess attorneys fees and expenses against any party found to have acted "arbitrarily, vexatiously, or not in good faith," and (7) RUPA does not have the equivalent of UPA §42 which allows a dissociated partner who has not been paid the value of his or her interest the election to receive either interest on the value or a share of the profits of the partnership attributable to the use of that partner's capital by the partnership—under UPA the dissociated partner is only entitled to interest on the unpaid value from the date of dissociation to the date of payment.

§702 Dissociated Partner's Power to Bind and Liability to Partnership §§33 and 35

RUPA radically alters the UPA rules regarding the lingering apparent authority of a dissociated partner whose interest is purchased to bind the partnership following dissociation. Under UPA, the apparent authority extends without any time limit to any creditor who did not have actual notice or constructive notice by means of a newspaper notice published in all places where the partnership business "was regularly carried on." Under RUPA the apparent authority of the
§703 Dissociated Partner’s Liability to Other Persons

§§35(2), 36

This section sets out two basic principles: (1) a dissociated partner whose interest is purchased remains liable for pre-dissociation liabilities of the partnership unless released voluntarily or by operation of law (but has a right of indemnification for known existing liabilities from the partnership and the continuing partners); and (2) a dissociated partner whose interest is purchased is not personally liable for post-dissolution liabilities of the partnership unless the dissociating partner’s wrongful acts are responsible for the partnership being bound by the liability pursuant to §702. The first is basically a restatement of the same principal in UPA. The second represents a significant reduction in the possible exposure of the dissociated partner for post-dissolution partnership liabilities. See the comments to §702.

§704 Statement of Dissociation

None

The closest counterpart of this section in UPA is the provision in §35(b)(II) authorizing newspaper notice in all places where a partnership regularly carries on business as a means of cutting off the apparent agency power of a dissociated partner to bind the partnership to creditors who had not previously extended credit to the partnership prior to the dissociation. The statement of dissociation cuts off the apparent authority of the dissociated partner with respect to all creditors 90 days after the filing and not merely as to those creditors who have not previously granted credit to the partnership, and therefore is broader in scope and effect than UPA §356(b)(II).

The statement of dissociation can be filed by either the dissociated partner or the partnership. It should be filed routinely in every case even though actual notice is made to all known creditors.

§801 Events Causing Dissolution and Winding Up of Partnership Business

§§31 and 32

As previously discussed in the comments to §601, RUPA changes the UPA rule that a dissociation of a partner automatically results in a dissolution of the partnership. Section 801 and 802 implement this change. Section 801 lists the events, including certain types of dissociation, that can result in a dissolution and winding up of the partnership business. The other than dissociation events listed are basically the same as UPA, with the following modifications: (1) subsection (4) of RUPA gives a partnership a 90 day right to cure any event that makes it unlawful for all or substantially all the partnership’s business to be conducted; (2) the language in UPA §32 (c) giving a court the right to dissolve a partnership when its business “can only be carried on at a loss” has been changed in RUPA subsection (5)(i) to “the economic purpose of the partnership is likely
to be unreasonably frustrated" in order to make it clear that a partnership that has tax losses but is otherwise a viable business is not subject to judicial dissolution merely because of the losses; (3) the right of a transferee of a partner's interest in the partnership to have the partnership liquidated is made subject to a judicial determination that it is "equitable to wind up the partnership business"; and (4) RUPA does not carry forward the rule in UPA §32(f) that a court may decree a dissolution in any circumstances that it determines to be equitable—rather the list of dissolution events in §801 is intended to be exclusive.

RUPA incorporates the rule in UPA that a partnership is not terminated by reason of its dissolution until the winding up of its business is completed. RUPA, however, makes one very significant change in the rules that govern the dissolution stage. Under subsection (b) if all the partners, including any dissociated partner, agree to continue the business before the liquidation is complete, the dissolution is retroactively revoked and the partnership continues as if the liquidation never took place. The revocation of the dissolution does not, however, adversely affect the accrued rights of third parties who contracted with the partnership while it was in the liquidation stage. Under UPA, once a partner leaves, the partnership is automatically dissolved and even if all the partners agree that the business can continue, the continuing partnership is nevertheless technically a new partnership.

Subsection (b) will undoubtedly be controversial but it will hopefully be less controversial than other formulations presented to the RUPA drafting committee which govern what happens if all the partners want the business to continue despite the commencement of dissolution.

This section, which is basically the same as UPA §37, provides that any partner other than a wrongfully dissociating partner may participate in the management of the partnership during the dissolution phase. The only major change made in UPA is the addition of specific language authorizing the liquidating partners to engage in activities not ordinarily incident to liquidating the partnership in order to preserve the partnership's business of property "as a going concern for a reasonable time."

This section provides a much less complex rule than the equivalent provisions in UPA: after dissolution, the partnership is bound by any acts by the partners that are appropriate for liquidation and also for any obligations not appropriate for liquidation entered into with a non-partner who does not have actual or constructive notice of the dissolution.
The Statement of Dissolution serves two purposes: (1) it provides constructive notice to the world that the partnership is dissolving, thereby cutting off after 90 days the apparent authority of a partner to bind the partnership for acts other than those reasonably necessary to liquidate the business; and (2) terminates authority to convey partnership real estate pursuant to section 303(d).

This section, which specifies how the partners share liabilities incurred during the liquidation process, is less complex than the equivalent UPA provisions. RUPA does not have different rules dependent on the cause of dissolution (RUPA does, however, have a special rule for a dissociated partner who is eligible for protection against non-liquidating liabilities during the 90 day cooling-off period under §802(c)(2)). In addition, pursuant to §103, it is possible for the partnership agreement to modify the rules in this section. There is no such authorization in UPA.

This section, which sets out the rules for liquidating distribution to the partners and the rules for contributions by partners necessary to wipe out a negative capital account and to pay partnership obligations in excess of its assets, makes the following changes in UPA §40: (1) partners who are creditors of the partnership are treated the same as other creditors, rather than being subordinated to outside creditors; (2) the distinction between capital and profits in UPA §40(b)(II)-(IV) has been deleted as unnecessary because profits are part of capital under the definition of "distribution" in RUPA §101(3); (3) language in UPA §40 that could be interpreted to automatically make the amount of negative balance in a partner's capital account a debt to the partnership even if that is not the partners' interest, has been eliminated; and (4) the "jingle rule" in §§40(b) and (i) giving creditors of a partner priority over partnership creditors in the assets of a bankrupt partner has been deleted as being inconsistent with §735(c) of the Bankruptcy code.

This Section, which defines "general partner," "limited partner," "limited partnership" and "partner" for purposes of Article 9, has no counterpart in UPA since UPA has no provisions dealing with conversions and mergers of partnerships.

This section, which has no counterpart in the UPA, authorizes a non-exclusive safe harbor method of converting a general partnership into a limited partnership and specifies the responsibility of a general partner who becomes a limited partner for partnership liabilities before and after the conversion.

This section, which has no counterpart in the UPA, authorizes as non-exclusive safe harbor method of converting a limited partnership into a general partnership and specifies the responsibility of a limited
§904  Effect of Conversion; Entity Unchanged  None  
This section, which has no counterpart in the UPA, states that a partnership which has converted under §§901 or 902 is the exact same partnership before and after the conversion.

§905  Merger of Partnership  None  
This section, which has no counterpart in the UPA, authorizes a non-exclusive safe harbor method of merging a general partnership with one or more general or limited partnerships. The statutory format is similar to that for corporate mergers.

§906  Effect of Merger  None  
This section, which basically follows the corporate merger statutes, sets out the legal effects of the merger, including the liability of a partner of the surviving partnership for the obligation of the merging and the surviving partnerships and the rights and liabilities of a non-continuing partner.

§907  Statement of Merger  None  
This section, which has no UPA counterpart, sets out the requirements for a statement of merger as well as the legal consequences of filing the statement. The format is similar to the statement required to be filed by the surviving corporation under corporate merger statutes.

§908  Nonexclusive  None  
This section makes it clear that partnerships can convert or merge in any other manner authorized by law.

§1001  Uniformity of Application  None  
This section is a standard provision found in all recently drafted uniform acts.

§1002  Short Title  §1  
This section sets out the official name of the act.

§1003  Severability Clause  None  
This section is a standard provision found in all recently drafted uniform acts.

§1004  Effective Date  §44  
Because of the number of changes made by RUPA, state legislatures will probably want to have a delayed effective date in order to allow sufficient time for the various partnership statement forms to be prepared and filed and to educate lawyers and their clients about the changes.

§1005  Repeals  §45  
This section provides that when RUPA is effective, it supersedes the UPA statute previously adopted by the state.
§1006 Application to Existing Relationships

None

This section states that with one exception, RUPA applies to all partnerships in existence at its effective date. The exception authorizes the enforcement of a judgment in an action against a partnership or a partner begun before the effective date to be enforced under the prior law, i.e. the state's version of the UPA. This section is consistent with the general rule followed in business law statutes making a new statute applicable to all existing entities except in those situations where the applicability of the new statute will create unfair surprise or harsh results.

§1007 Savings Clause

None

This Section, which parallels RULPA §1106, sets forth two standard rules: (1) the provisions of RUPA do not impair contract obligations existing on the effective date; (2) the changes in RUPA do not affect any action or proceeding commenced or any right accrued before the effective date.
UNIFORM PARTNERSHIP ACT (1993)

(Redlined Text)

Drafted by the

NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS

and by it

APPROVED AND RECOMMENDED FOR ENACTMENT IN ALL THE STATES

at its

ANNUAL CONFERENCE MEETING IN ITS ONE-HUNDRED-AND-SECOND YEAR IN CHARLESTON, SOUTH CAROLINA
JULY 30 - AUGUST 6, 1993

WITHOUT PREFATORY NOTE AND COMMENTS
UNIFORM PARTNERSHIP ACT (1993)

Contents (Redlined Text)

ARTICLE 1. GENERAL PROVISIONS

Section | Page
--- | ---
101. Definitions | 1
102. Knowledge and Notice | 3
103. Effect of Partnership Agreement; Nonwaivable Provisions | 4
104. Supplemental Principles of Law | 6
105. Execution, Filing, and Recording of Statements | 6
106. Law Governing Internal Affairs | 7
107. Partnership Subject to Amendment or Repeal of [Act] | 8

ARTICLE 2. NATURE OF PARTNERSHIP

201. Partnership As Entity | 9
202. Creation of Partnership | 9
203. Partnership Property | 10
204. When Property Is Partnership Property | 11

ARTICLE 3. RELATIONS OF PARTNERS TO PERSONS DEALING WITH PARTNERSHIP

301. Partner Agent of Partnership | 12
302. Transfer of Partnership Property | 13
303. Statement of Partnership Authority | 15
304. Statement of Denial | 17
305. Partnership Liable for Partner’s Actionable Conduct | 17
306. Partner’s Liability | 18
307. Actions By and Against Partnership and Partners | 18
308. Purported Partner | 20
309. Liability of Incoming Partner | 21

ARTICLE 4. RELATIONS OF PARTNERS TO EACH OTHER AND TO PARTNERSHIP

401. Partner’s Rights and Duties | 22
402. Distributions in Kind | 24
403. Partner’s Right to Information | 24
404. General Standards of Partner’s Conduct | 25
405. Actions by Partnership and Partners | 26
406. Continuation of Partnership Beyond Definite Term or Particular Undertaking | 28

ARTICLE 5. TRANSFEREES AND CREDITORS OF PARTNER

501. Partner Not Co-Owner of Partnership Property | 29
502. Partner’s Transferable Interest in Partnership | 29
503. Transfer of Partner’s Transferable Interest | 29
504. Partner’s Transferable Interest Subject to Charging Order | 31
# ARTICLE 6. PARTNER'S DISSOCIATION

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>601. Events Causing Partner's Dissociation</td>
<td>33</td>
</tr>
<tr>
<td>602. Partner's Power to Dissociate; Wrongful Dissociation</td>
<td>36</td>
</tr>
<tr>
<td>603. Effect of Partner's Dissociation</td>
<td>37</td>
</tr>
</tbody>
</table>

# ARTICLE 7. PARTNER'S DISSOCIATION WHEN BUSINESS NOT WOUND UP

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>701. Purchase of Dissociated Partner's Interest</td>
<td>38</td>
</tr>
<tr>
<td>702. Dissociated Partner's Power to Bind Partnership</td>
<td>41</td>
</tr>
<tr>
<td>703. Dissociated Partner's Liability to Other Persons</td>
<td>42</td>
</tr>
<tr>
<td>704. Statement of Dissociation</td>
<td>43</td>
</tr>
<tr>
<td>705. Continued Use of Partnership Name</td>
<td>44</td>
</tr>
</tbody>
</table>

# ARTICLE 8. WINDING UP PARTNERSHIP BUSINESS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>801. Events Causing Dissolution and Winding Up of Partnership Business</td>
<td>45</td>
</tr>
<tr>
<td>802. Partnership Continues After Dissolution</td>
<td>48</td>
</tr>
<tr>
<td>803. Right to Wind Up Partnership Business</td>
<td>49</td>
</tr>
<tr>
<td>804. Partner's Power to Bind Partnership After Dissolution</td>
<td>50</td>
</tr>
<tr>
<td>805. Statement of Dissolution</td>
<td>50</td>
</tr>
<tr>
<td>806. Partner's Liability to Other Partners After Dissolution</td>
<td>51</td>
</tr>
<tr>
<td>807. Settlement of Accounts and Contributions Among Partners</td>
<td>52</td>
</tr>
</tbody>
</table>

# ARTICLE 9. CONVERSIONS AND MERGERS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>901. Definitions</td>
<td>54</td>
</tr>
<tr>
<td>902. Conversion of Partnership to Limited Partnership</td>
<td>54</td>
</tr>
<tr>
<td>903. Conversion of Limited Partnership to Partnership</td>
<td>56</td>
</tr>
<tr>
<td>904. Effect of Conversion; Entity Unchanged</td>
<td>57</td>
</tr>
<tr>
<td>905. Merger of Partnerships</td>
<td>57</td>
</tr>
<tr>
<td>906. Effect of Merger</td>
<td>59</td>
</tr>
<tr>
<td>907. Statement of Merger</td>
<td>61</td>
</tr>
<tr>
<td>908. Nonexclusive</td>
<td>62</td>
</tr>
</tbody>
</table>

# ARTICLE 10. MISCELLANEOUS PROVISIONS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1001. Uniformity of Application and Construction</td>
<td>63</td>
</tr>
<tr>
<td>1002. Short Title</td>
<td>63</td>
</tr>
<tr>
<td>1003. Severability</td>
<td>63</td>
</tr>
<tr>
<td>1004. Effective Date</td>
<td>63</td>
</tr>
<tr>
<td>1005. Repeals</td>
<td>63</td>
</tr>
<tr>
<td>1006. Application to Existing Relationships</td>
<td>64</td>
</tr>
<tr>
<td>1007. Savings Clause</td>
<td>64</td>
</tr>
</tbody>
</table>
UNIFORM PARTNERSHIP ACT (1993)
(Text Only/Redlined)

ARTICLE 1
GENERAL PROVISIONS

Section 101. Definitions.
Section 102. Knowledge and Notice.
Section 103. Effect of Partnership Agreement; Nonwaivable Provisions.
Section 104. Supplemental Principles of Law.
Section 105. Execution, Filing, and Recording of Statements.
Section 106. Law Governing Internal Affairs.
Section 107. Partnership Subject to Amendment or Repeal of [Act].

SECTION 101. DEFINITIONS. In this [Act]:

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

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

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

(ii) a comparable order under federal or state law governing insolvency.

(3) "Distribution" means a transfer of money or other property from a partnership to a partner in the partner’s capacity as a partner or to the partner’s transferee.
(4) "Partnership" means an association of two or more persons to carry on as co-owners a business for profit created under Section 202, predecessor law, or comparable law of another jurisdiction.

(4)-(5) "Partnership agreement" means an agreement, written or oral, among the partners concerning the partnership.

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

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

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

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

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

(9)-(11) "Statement" means a statement of partnership authority under Section 303, a statement of denial under Section
304, a statement of dissociation under Section 704, a statement of dissolution under Section 805, a statement of merger under Section 907, or an amendment or cancellation of any of the foregoing.

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

SECTION 102. KNOWLEDGE AND NOTICE.

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

(b) A person has notice of a fact if the person:
   
   (1) knows of it;
   
   (2) has received a notification of it; or
   
   (3) has reason to know it exists from all of the facts known to the person at the time in question.

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

(d) A person receives a notification when it:
   
   (1) comes to the person's attention; or
   
   (2) is duly delivered at the person's place of business or at any other place held out by the person as a place for receiving communications.

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

(f) A partner’s knowledge, notice, or receipt of a
notification of a fact relating to the partnership is effective
immediately as knowledge by, notice to, or receipt of a
notification by the partnership, but is not effective as such if
the partner committed or consented to a fraud on the partnership.

SECTION 103. EFFECT OF PARTNERSHIP AGREEMENT; NONWAIVABLE
PROVISIONS.
(a) Except as provided in subsection (b), a partnership
agreement governs relations among the partners and between the
partners and the partnership. To the extent the partnership
agreement does not otherwise provide, this [Act] governs
relations among the partners and between the partners and the
partnership.

(b) A partnership agreement may not:

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

(2) unreasonably restrict a partner’s the right of
access to books and records under Section 403(b);

(3) eliminate the duty of loyalty under Section 404(b)
or 603(b)(3), but the partners by agreement may identify specific
types or categories of activities that do not violate the duty of
loyalty, if not manifestly unreasonable;

(4) unreasonably reduce the duty of care under Section
404(d) 404(c) or 603(b)(3);

(5) eliminate the obligation of good faith and fair
dealing under Section 404(e) 404(d), but the partners by
agreement may determine the standards by which the performance of
the obligation is to be measured, if the standards are not
manifestly unreasonable;

(6) vary the power to withdraw as a partner
under Section 601(1) 602(a), except to require the notice under
Section 601(1) to be in writing;

(7) vary the right to expulsion of a court to expel a
partner by a court in the events specified in Section 601(5);

(8) vary the requirement to wind up the partnership
business in cases specified in Section 801(4), (5), or (6); or
(9) restrict rights of third parties under this [Act].

SECTION 104. SUPPLEMENTAL PRINCIPLES OF LAW.

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

(b) If an obligation to pay interest arises under this [Act] and the rate is not specified, the rate is that specified in [applicable statute].

SECTION 105. EXECUTION, FILING, AND RECORDING OF STATEMENTS.

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

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

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

(d) A person authorized by this [Act] to file a statement may amend or cancel the statement by filing an amendment or cancellation that names the partnership, identifies the statement, and states the substance of the amendment or cancellation.

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

(f) The [Secretary of State] may collect a fee for filing or providing a certified copy of a statement. The [officer responsible for] recording transfers of real property may collect a fee for recording a statement.

SECTION 106. LAW GOVERNING INTERNAL AFFAIRS. The law of the State in which a partnership has its chief executive office governs the partnership's internal affairs.
SECTION 107. PARTNERSHIP SUBJECT TO AMENDMENT OR REPEAL OF [ACT]. A partnership governed by this [Act] is subject to any amendment to or repeal of this [Act].
ARTICLE 2

NATURE OF PARTNERSHIP

Section 201. Partnership As Entity.
Section 202. Creation of Partnership.
Section 203. Partnership Property.
Section 204. When Property Is Partnership Property.

SECTION 201. PARTNERSHIP AS ENTITY. A partnership is an entity.

SECTION 202. CREATION OF PARTNERSHIP.

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

(b) An association created under a statute other than this [Act], a predecessor law statute, or a comparable law statute of another jurisdiction is not a partnership.

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

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

(2) The sharing of gross returns does not by itself establish a partnership, even if the persons sharing them have a joint or common right or interest in property from which the returns are derived.
(3) A person who receives a share of the profits of a business is presumed to be a partner in the business, unless the profits were received in payment:

(i) of a debt by installments or otherwise;
(ii) for services as an independent contractor or of wages or other compensation to an employee;
(iii) of rent;
(iv) of an annuity or other retirement or health benefit to a beneficiary, representative, or designee of a deceased or retired partner;
(v) of interest or other charge on a loan, even if the amount of payment varies with the profits of the business, including a direct or indirect present or future ownership of the collateral, or rights to income, proceeds, or increase in value derived from the collateral; or
(vi) for the sale of the goodwill of a business or other property by installments or otherwise.

(d) Except as provided by Section 308, persons who are not partners as to each other are not partners as to other persons.

(e) A partnership created under this [Act] is a general partnership, and the partners are general partners of the partnership.

SECTION 203. PARTNERSHIP PROPERTY. Property transferred to or otherwise acquired by a partnership is property of the partnership and not of the partners individually.
SECTION 204. WHEN PROPERTY IS PARTNERSHIP PROPERTY.

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

(1) the partnership; or

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

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

(1) the partnership in its name; or

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

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

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

RELATIONS OF PARTNERS TO PERSONS DEALING WITH PARTNERSHIP

Section 301. Partner Agent of Partnership.
Section 302. Transfer of Partnership Property.
Section 303. Statement of Partnership Authority.
Section 304. Statement of Denial.
Section 305. Partnership Liable for Partner’s Actionable Conduct.
Section 306. Partner’s Liability.
Section 307. Actions By and Against Partnership and Partners.
Section 308. Purported Partner.
Section 309. Liability of Incoming Partner.

SECTION 301. PARTNER AGENT OF PARTNERSHIP. Subject to the effect of a statement of partnership authority under Section 303:

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

(2) An act of a partner which is not apparently for carrying on in the usual way the partnership business or business of the kind carried on by the partnership binds the partnership only if the act was authorized by the other partners.
SECTION 302. TRANSFER OF PARTNERSHIP PROPERTY.

(a) Partnership property may be transferred as follows:

(1) Subject to the effect of a statement of partnership authority under Section 303,

(1) Partnership property held in the name of the partnership may be transferred by an instrument of transfer executed by a partner in the partnership name.

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

(3) A partnership may recover property transferred under this subsection if it proves that execution of the instrument of transfer did not bind the partnership under Section 301, unless the property was transferred by the initial transferee or a person claiming through the initial transferee to a subsequent transferee who gave value without having notice that the person who executed the instrument of initial transfer lacked authority to bind the partnership.

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

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

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

(2) as to a transferee who gives value without having
notice that it is gave value for property transferred under
subsection (a)(3), proves that the transferee knew or had
received a notification that the property was partnership
property and that the person who executed the instrument of
initial transfer lacked authority to bind the partnership.

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

(d) If a person holds all of the partners' interests
in the partnership, all of the partnership property vests in that
person. The person may execute a document in the name of the
partnership to evidence vesting of the property in that person
and may file or record the document.
SECTION 303. STATEMENT OF PARTNERSHIP AUTHORITY.

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

(1) must include:

(i) the name of the partnership;

(ii) the street address of its chief executive office and of one office in this State, if there is one;

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

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

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

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

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

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

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

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

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

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

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

SECTION 305. PARTNERSHIP LIABLE FOR PARTNER'S ACTIONABLE CONDUCT.

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

(b) If, in the course of its business, a partnership
receives money or property of a person not a partner which is
misapplied by a partner while it is in the custody of the
partnership, the partnership is liable for the loss.

SECTION 306. PARTNER'S LIABILITY. All partners are liable
jointly and severally for all obligations of the partnership
unless otherwise agreed by the claimant or provided by law.

SECTION 307. ACTIONS BY AND AGAINST PARTNERSHIP AND PARTNERS.

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

(b) An action may be brought against the partnership and
any or all of the partners in the same action or in separate
actions.

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

(d) A judgment creditor of a partner may not levy
execution against the assets of the partner to satisfy a judgment
based on a claim against the partnership unless:
(1) a judgment based on the same claim has been obtained against the partnership and a writ of execution on the judgment has been returned unsatisfied in whole or in part;

(2) an involuntary case under Title 11 of the United States Code has been commenced against the partnership and has not been dismissed within 60 days after commencement, or the partnership has commenced a voluntary case under Title 11 of the United States Code and the case has not been dismissed; is a debtor in bankruptcy;

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

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

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

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

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

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

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

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

SECTION 309. LIABILITY OF INCOMING PARTNER. A person admitted as a partner into a partnership is liable for all obligations of the partnership incurred before the person's admission as if the person were a partner when the obligations were incurred, but the liability may be satisfied only out of partnership property.
ARTICLE 4

RELATIONS OF PARTNERS TO EACH OTHER AND TO PARTNERSHIP

Section 401. Partner's Rights and Duties.
Section 402. Distributions in Kind.
Section 403. Partner's Right to Information.
Section 404. General Standards of Partner's Conduct.
Section 405. Actions by Partner's Liability to Partnership.
Section 406. Remedies of Partnership and Partners.
Section 406. Continuation of Partnership Beyond Definite Term or Particular Undertaking.

SECTION 401. PARTNER'S RIGHTS AND DUTIES.

(a) A partnership shall establish an account for each partner. The partnership shall credit the account that is:

(1) credited with an amount equal to the money plus the value of any other property, net of the amount of any liabilities, the partner contributes to the partnership and the partner's share of the partnership profits. The partnership shall charge the account; and

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

(b) A partnership shall credit each partner's account with an equal share of the partnership profits. A partnership shall charge each partner's account with a share of the partnership losses, whether capital or operating, in proportion to the partner's share of the profits.
(c) A partnership shall indemnify each partner for payments reasonably made and liabilities reasonably incurred by the partner in the ordinary and proper conduct of the business of the partnership or for the preservation of its business or property.

(d) A partnership shall repay a partner who, in aid of the partnership, makes a payment or advance beyond the amount of capital the partner agreed to contribute.

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

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

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

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

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

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

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

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

SECTION 403. PARTNER'S RIGHT TO INFORMATION.

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

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

(c) Each partner and the partnership, on demand, shall furnish to a partner, and the legal representative of a deceased partner or partner under legal disability, to the extent just and reasonable, complete and accurate information concerning the partnership.
SECTION 404. GENERAL STANDARDS OF PARTNER'S CONDUCT.

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

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

(1) to account to the partnership and hold as trustee for it any property, profit, or benefit derived by the partner in the conduct and winding up of the partnership business or derived from a use or appropriation by the partner of partnership property or, including the appropriation of a partnership opportunity, without the consent of the other partners;

(2) to refrain from dealing with the partnership in the conduct or winding up of the partnership business, as or on behalf of a party having an interest adverse to the partnership without the consent of the other partners; and

(3) to refrain from competing with the partnership in the conduct of the partnership business before the dissolution of the partnership without the consent of the other partners.

(c) A partner's duty of loyalty may not be eliminated by agreement, but the partners by agreement may identify specific types or categories of activities that do not violate the duty of loyalty, if not manifestly unreasonable.

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

(e)(d) A partner shall discharge the duties to the
partnership and the other partners under this [Act] or under the
partnership agreement and exercise any rights consistently with
the obligation of good faith and fair dealing. The obligation of
good faith and fair dealing may not be eliminated by agreement,
but the partners by agreement may determine the standards by
which the performance of the obligation is to be measured, if the
standards are not manifestly unreasonable.

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

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

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

SECTION 405. PARTNER'S LIABILITY TO PARTNERSHIP. A partner
is liable to the partnership for a breach of the partnership
agreement, or for the violation of a duty to the partnership,
causing harm to the partnership.

SECTION 406. REMEDIES OF ACTIONS BY PARTNERSHIP AND PARTNERS.

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

(b) A partner may maintain an action against the
partnership or another partner for legal or equitable relief,
including an accounting as to partnership business, to:

(1) enforce a right under the partnership agreement;

(2) enforce a right under this [Act], including:

(i) the partner's rights under Sections 401, 403, and
404;

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

(iii) the partner's right to compel a dissolution and
winding up of the partnership business under Section 801 or
enforce any other right under Article 8; or

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

(c) The accrual of, and any time limitation on, a right of
action for a remedy under this section is governed by other law.
A right to an accounting upon a dissolution and winding up does
not revive a claim barred by law.
SECTION 407. CONTINUATION OF PARTNERSHIP BEYOND DEFINITE TERM OR PARTICULAR UNDERTAKING.

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

(b) If the partners, or those of them who habitually acted in the business during the term or undertaking, continue the business without any settlement or liquidation of the partnership, they are presumed to have agreed that the partnership will not be wound up continue.
ARTICLE 5
TRANSFEEES AND CREDITORS OF PARTNER

Section 501. Partner's Interest in Partner Not Co-Owner of Partnership Property Not Transferable.

Section 502. Partner's Transferable Interest in Partnership.

Section 503. Transfer of Partner's Transferable Interest.

Section 504. Partner's Transferable Interest Subject to Charging Order.

SECTION 501. PARTNER'S INTEREST IN PARTNER NOT CO-OWNER OF PARTNERSHIP PROPERTY NOT TRANSFERABLE. A partner is not a co-owner of partnership property and has no interest in partnership property which can be transferred, either voluntarily or involuntarily.

SECTION 502. PARTNER'S TRANSFERABLE INTEREST IN PARTNERSHIP. The only transferable interest of a partner in the partnership is the partner's interest in distributions. The interest is personal property.

SECTION 503. TRANSFER OF PARTNER'S TRANSFERABLE INTEREST.
(a) A transfer, in whole or in part, of a partner's transferable interest in the partnership:
   (1) is permissible;
   (2) does not by itself cause the partner's dissolution or a dissolution and winding up of the partnership business; and
   (3) does not, as against the other partners or the partnership, entitle the transferee, during the continuance of the partnership, to participate in the management or conduct of
the partnership business, to require access to information concerning or an account of partnership transactions, or to inspect or copy the partnership books or records.

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

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

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

(3) to seek under Section 801(6) a judicial determination that it is equitable to wind up the partnership business:

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

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

(e) Until receipt of notice of a transfer, a partnership has no duty to give effect to the transferee's rights under this section until it has notice of the transfer.

(f) A transfer of a partner's transferable interest in the partnership in violation of a restriction on transfer contained in the partnership agreement is ineffective as to a person having notice of the restriction at the time of transfer.
SECTION 504. PARTNER'S TRANSFERABLE INTEREST SUBJECT TO
CHARGING ORDER.

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

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

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

(1) by the judgment debtor;

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

(3) with partnership property, by one or more of the
other partners with the consent of all of the partners whose
interests are not so charged.
(d) This [Act] does not deprive a partner of a right under exemption laws with respect to the partner's interest in the partnership.

(e) This section provides the exclusive remedy by which a judgment creditor of a partner or partner's transferee may satisfy a judgment out of the judgment debtor's transferable interest in the partnership.
ARTICLE 6

PARTNER'S DISSOCIATION

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

(1) receipt by the partnership's notice of the partner's express will to withdraw as a partner or upon any later date specified in the notice by the partner;

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

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

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

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

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

   (iii) within 90 days after the partnership notifies a corporate partner that it will be expelled because it has filed a certificate of dissolution or the equivalent, its charter has
been revoked, or its right to conduct business has been suspended by the jurisdiction of its incorporation, there is no revocation of the certificate of dissolution or no reinstatement of its charter or its right to conduct business; or

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

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

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

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

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

(6) the partner's:

(i) becoming a debtor in bankruptcy;

(ii) executing an assignment for the benefit of creditors;

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

(iv) failing, within 90 days after the appointment, to have vacated or stayed the appointment of a trustee, receiver, or liquidator of the partner or of all or substantially all of the
partner's property obtained without the partner's consent or acquiescence, or failing within 90 days after the expiration of a stay to have the appointment vacated;

(7) in the case of a partner who is an individual:
   (i) the partner's death;
   (ii) the appointment of a guardian or general conservator for the partner; or
   (iii) a judicial determination that the partner has otherwise become incapable of performing the partner's duties under the partnership agreement;

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

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

(10) termination of a partner who is not an individual, partnership, corporation, trust, or estate.
SECTION 602. PARTNER'S POWER TO DISSOCIATE; WRONGFUL DISSOCIATION.

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

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

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

(2) in the case of a partnership for a definite term or particular undertaking, before the expiration of the term or the completion of the undertaking:
   
   (i) the partner withdraws by express will, unless the withdrawal follows the dissociation of another partner and results in a right to dissolve the partnership under Section 801(2)(i);

   (ii) the partner is expelled by judicial decree determination under Section 601(5); or

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

(b)(c) A partner who wrongfully dissociates is liable to the partnership and to the other partners for damages caused by the dissociation. The liability is in addition to any other liability of the partner to the partnership or to the other partners.
SECTION 603. EFFECT OF PARTNER'S DISSOCIATION.

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

(b) Upon a partner's dissociation:

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

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

(3) the partner's duty of loyalty under Section 404(b)(1) and (2) and duty of care under Section 404(d) continue only with regard to matters arising or events occurring before the partner's dissociation, unless the partner participates in winding up the partnership's business pursuant to Section 803.
ARTICLE 7

PARTNER'S DISSOCIATION WHEN BUSINESS NOT WOUNDED UP

Section 701. Purchase of Dissociated Partner's Interest.
Section 702. Dissociated Partner's Power to Bind Partnership.
Section 703. Dissociated Partner's Liability to Other Persons.
Section 704. Statement of Dissociation.
Section 705. Continued Use of Partnership Name.

SECTION 701. PURCHASE OF DISSOCIATED PARTNER'S INTEREST.

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

(b) The buyout price of a dissociated partner's interest
is the amount that would have been distributable to the
dissociating partner under Section 801(b) if, on the date
of dissociation, the assets of the partnership were sold at a
price equal to the greater of the liquidation value or the value
based on a sale of the entire business as a going concern without
the dissociated partner and the partnership were wound up as of
that date. In either case, the selling price of the partnership
assets must be determined on the basis of the amount that would
be paid by a willing buyer to a willing seller, neither being
under any compulsion to buy or sell, and with knowledge of all
relevant facts. Interest must be paid from the date of
dissociation to the date of payment.
(c) Damages for wrongful dissociation under Section 602(b), and all other amounts owing, whether or not presently due, from the dissociated partner to the partnership, must be offset against the buyout price. Interest must be paid from the date the amount owed becomes due to the date of payment.

(d) A partnership shall indemnify a dissociated partner against all partnership liabilities incurred before the dissociation, except liabilities then unknown to the partnership, and against all partnership liabilities incurred after the dissociation, except liabilities incurred by an act of the dissociated partner under Section 702. For purposes of this subsection, a liability not known to a partner other than the dissociated partner is not known to the partnership.

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

(f) If a deferred payment is authorized under subsection (h), the partnership may tender a written offer to pay the amount it estimates to be the buyout price and accrued interest, reduced by any offsets under subsection (c), stating the time of payment, the amount and type of security for payment, and the other terms and conditions of the obligation.
(g) The payment or tender required by subsection (e) or (f) must be accompanied by the following:

1. a statement of partnership assets and liabilities as of the date of dissociation;
2. the latest available partnership balance sheet and income statement, if any;
3. an explanation of how the estimated amount of the payment was calculated; and
4. written notice that the payment is in full satisfaction of the obligation to purchase unless, within 120 days after the written notice, the dissociated partner commences an action to determine the buyout price, any offsets under subsection (c), or other terms of the obligation to purchase.

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

(i) A dissociated partner may maintain an action against the partnership, pursuant to Section 405(b)(2)(ii), to determine the buyout price of that partner's interest, any offsets under subsection (c), or other terms of the obligation to purchase. The action must be commenced within 120 days after the
partnership has tendered payment or an offer to pay or within one year after written demand for payment if no payment or offer to pay is tendered. The court shall determine the buyout price of the dissociated partner's interest, any offset due under subsection (c), and accrued interest, and enter judgment for any additional payment or refund. If deferred payment is authorized under subsection (h), the court shall also determine the security for payment and other terms of the obligation to purchase. The court may assess reasonable attorney's fees and the fees and expenses of appraisers or other experts for a party to the action, in amounts the court finds equitable, against a party that the court finds acted arbitrarily, vexatiously, or not in good faith. The finding may be based on the partnership's failure to tender payment or an offer to pay or to comply with subsection (g).

SECTION 702. DISSOCIATED PARTNER'S POWER TO BIND AND LIABILITY TO PARTNERSHIP.

(a) For two years after a partner dissociates without resulting in a dissolution and winding up of the partnership business, the partnership, including a surviving partnership under Article 9, is bound by an act of the dissociated partner which would have bound the partnership under Section 301 before dissociation only if at the time of entering into the transaction the other party to the transaction:
reasonably believed when entering the transaction that the dissociated partner was then a partner at that time;

(ii) did not have notice of the partner's dissociation; and

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

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

SECTION 703. "DISSOCIATED PARTNER'S LIABILITY TO OTHER PERSONS.

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

(b) A partner who dissociates without resulting in a dissolution and winding up of the partnership business is liable as a partner to the other party in a transaction entered into by the partnership, or a surviving partnership under Article 9, within two years after the partner's dissociation, only if at the time of entering into the transaction the other party to the transaction:
(1) reasonably believed when entering the transaction that the dissociated partner was then a partner at that time;

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

and

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

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

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

SECTION 704. STATEMENT OF DISSOCIATION.

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

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

(c) For the purposes of Sections 702(a)(3) and 703(b)(3), a person not a partner is deemed to have notice of the dissociation 90 days after the statement of dissociation is filed.
SECTION 705. CONTINUED USE OF PARTNERSHIP NAME. Continued
use of a partnership name, or a dissociated partner's name as
part thereof, by partners continuing the business does not of
itself make the dissociated partner liable for an obligation of
the partners or the partnership continuing the business.
ARTICLE 8

WINDING UP PARTNERSHIP BUSINESS

Section 801. Events Causing Dissolution and Winding Up of Partnership Business.

Section 802. Dissolution—Deferred 90 Days.

Section 803. Partnership Continues After Dissolution.

Section 804. Right to Wind Up Partnership Business.

Section 805. Partner's Power to Bind Partnership After Dissolution.

Section 806. Statement of Dissolution.

Section 807. Partner's Liability to Other Partners After Dissolution.

Section 808. Settlement of Accounts Among Partners.

SECTION 801. EVENTS CAUSING DISSOLUTION AND WINDING UP OF PARTNERSHIP BUSINESS. A partnership is dissolved, and its business must be wound up, only upon the occurrence of any of the following events:

(1) except as provided in Section 802, receipt by a partner at will, the partnership's having of notice from a partner, other than a partner who is dissociated under Section 601(2) through (10), of that partner's express will to withdraw as a partner, or upon any on a later date specified in the notice by the partner;

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

(i) except as provided in Section 802, within 90 days after a partner's wrongful dissociation under Section 602(b) or a partner's dissociation by death or otherwise under Section 601(6) through (10), receipt by the partnership's having of notice from
another partner of that partner's express will to withdraw as a partner;

(ii) the express will of all of the partners; or

(iii) the expiration of the term or the completion of the undertaking, unless all of the partners agree to continue the business, in which case the partnership agreement is deemed amended retroactively to provide that the expiration or completion does not result in the dissolution and winding up of the partnership business;

(3) an event agreed to in the partnership agreement resulting in the winding up of the partnership business, unless all of the partners agree to continue the business, in which case the partnership agreement is deemed amended retroactively to provide that the event does not result in the dissolution and winding up of the partnership business;

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

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

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

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

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

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

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

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

SECTION 802. DISSOLUTION DEFERRED 90 DAYS.

(a) Except as provided in subsection (b), a partnership of
more than two persons is not dissolved until 90 days after
receipt by the partnership of notice from a partner, under Section
801(1) or (2)(i), and its business may be continued until that
date as if no notice were received. Before that date, the partner
who gave the notice may waive the right to have the partnership
business wound up. If there is no waiver before that date, the
partnership is dissolved and its business must be wound up.
(b) A partnership may be dissolved at any time during the 90-day period, and its business wound up, by the express will of at least half of the other partners.

(c) After receipt by the partnership of notice from a partner under Section 801(1) or (2)(i), the partner who gave the notice:

(1) has no rights in the management and conduct of the partnership business if it is continued under subsection (a), but may participate in winding up the business under Section 804 if the partnership is dissolved on or before the expiration of the 90-day period pursuant to subsection (a) or (b);

(2) is liable for obligations incurred during the period only to the extent a dissociated partner would be liable under Section 702(b) or 703(b), but is not liable for contributions for, and must be indemnified by the other partners against, any partnership liability incurred by another partner to the extent the liability is not appropriate for winding up the partnership business; and

(3) must be credited with the partner’s share of any profits earned during the period and may be charged with the partner’s share of any losses incurred but only to the extent of profits credited for the period.

SECTION 803 803. PARTNERSHIP CONTINUES AFTER DISSOLUTION.

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

(b) At any time after the dissolution of a partnership and before the winding up of its business is completed, all of the partners, including any dissociating partner other than a wrongfully dissociating partner, may waive the right to have the partnership’s business wound up and the partnership terminated. In that event, the partnership resumes carrying on its business as if dissolution had never occurred. Any liability incurred by the partnership or a partner after the dissolution and before the waiver is determined as if dissolution had never occurred, but the rights of a third party accruing under Section 804 before the third party knew or received a notification of the waiver may not be adversely affected.

SECTION 804 803. RIGHT TO WIND UP PARTNERSHIP BUSINESS.

(a) After dissolution, a partner who has not wrongfully dissociated may participate in winding up the partnership’s business, but on application of any partner, partner’s legal representative, or transferee, the [designate the appropriate court], for good cause shown, may order judicial supervision of the winding up.

(b) The legal representative of the last surviving partner may wind up a partnership’s business.
(c) A person winding up a partnership's business may preserve the partnership business or property as a going concern for a reasonable time, prosecute and defend actions and proceedings, whether civil, criminal, or administrative, settle and close the partnership's business, dispose of and transfer the partnership's property, discharge the partnership's liabilities, distribute the assets of the partnership pursuant to Section 807, settle disputes by mediation or arbitration, and perform other necessary acts.

SECTION 805. PARTNER'S POWER TO BIND PARTNERSHIP AFTER DISSOLUTION. Subject to Section 806, a partnership is bound by a partner's act after dissolution that:

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

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

SECTION 806. STATEMENT OF DISSOLUTION.

(a) After dissolution, a partner who has not wrongfully dissociated may file a statement of dissolution stating the name of the partnership and that the partnership has dissolved and is winding up its business.
(b) A statement of dissolution cancels a filed statement of partnership authority for the purposes of Section 303(d) and is a limitation on authority for the purposes of Section 303(e).

(c) For the purposes of Sections 301 and 805 804, a person not a partner is deemed to have notice of the dissolution and the limitation on the partners' authority as a result of the statement of dissolution 90 days after it is filed.

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

SECTION 807 806. PARTNER'S LIABILITY TO OTHER PARTNERS AFTER DISSOLUTION.

(a) Except as provided in subsection (b) and Section 802(c)(2), after dissolution a partner is liable to the other partners for the partner's share of any partnership liability incurred under Section 805 804.

(b) A partner who, with knowledge of the winding-up dissolution, incurs a partnership liability under Section 805 804(2) by an act that is not appropriate for winding up the partnership business is liable to the partnership for any loss damage caused to the partnership arising from the liability.
AMONG PARTNERS.

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

(b) Each partner is entitled to a settlement of all partnership accounts upon winding up the partnership business. In settling accounts among the partners, the profits and losses that result from the liquidation of the partnership assets must be credited and charged to the partners' accounts. The partnership shall make a distribution to a partner in an amount equal to that any excess of the credits over the charges in the partner's positive-balance account. A partner shall contribute to the partnership an amount equal to that any excess of the charges over the credits in the partner's negative-balance account.

(c) To the extent not taken into account in settling the accounts among partners pursuant to subsection (b), each partner shall contribute, in the proportion in which the partner shares partnership losses, the amount necessary to satisfy partnership obligations. If a partner fails to contribute, the other partners shall contribute, in the proportions in which the partners share partnership losses, the additional amount.
necessary to satisfy the partnership obligations. A partner or
partner's legal representative may recover from the other
partners any contributions the partner makes to the extent the
amount contributed exceeds that partner's share of the
partnership obligations.

(d) After the settlement of accounts, each partner shall
contribute, in the proportion in which the partner shares
partnership losses, the amount necessary to satisfy partnership
obligations that were not known at the time of the settlement.

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

(f) An assignee for the benefit of creditors of a
partnership or a partner, or a person appointed by a court to
represent creditors of a partnership or a partner, may enforce a
partner's obligation to contribute to the partnership.
ARTICLE 9
CONVERSIONS AND Mergers

Section 901. Definitions.
Section 902. Conversion of Partnership to Limited Partnership.
Section 903. Conversion of Limited Partnership to Partnership.
Section 904. Effect of Conversion; Entity Unchanged.
Section 905. Merger of Partnerships.
Section 906. Effect of Merger.
Section 907. Statement of Merger.
Section 908. Nonexclusive.

SECTION 901. Definitions. In this article:
(1) "General partner" means a partner in a general partnership created under this [Act], predecessor law, or comparable law of another jurisdiction and a general partner in a limited partnership.
(2) "Limited partner" means a limited partner in a limited partnership.
(3) "Limited partnership" means a limited partnership created under the [State Limited Partnership Act], predecessor law, or comparable law of another jurisdiction.
(4) "Partner" includes both a general partner and a limited partner.

SECTION 902. Conversion of Partnership to Limited Partnership.
(a) A partnership may be converted to a limited partnership pursuant to this section.
(b) The terms and conditions of a conversion of a partnership to a limited partnership must be approved by all of
the partners or by a number or percentage specified for
conversion in the partnership agreement.

(c) After the conversion is approved by the partners, the
partnership shall file a certificate of limited partnership which
satisfies the requirements of [Section ____ of the State Limited
Partnership Act] and includes:

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

(2) its former name; and

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

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

(e) A general partner who becomes a limited partner as a
result of the conversion remains liable as a general partner for
an obligation incurred by the partnership before the conversion
takes effect. If the other party to a transaction with the
limited partnership reasonably believes when entering the
transaction that the limited partner is a general partner, the
limited partner is liable for an obligation incurred by the
limited partnership within 90 days after the conversion takes
effect. The limited partner's liability for all other
obligations of the limited partnership incurred after the
conversion takes effect is that of a limited partner as provided in the [State Limited Partnership Act].

SECTION 903. CONVERSION OF LIMITED PARTNERSHIP TO PARTNERSHIP.

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

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

(c) After the conversion is approved by the partners, the limited partnership shall cancel its certificate of limited partnership pursuant to [Section ____ of the State Limited Partnership Act].

(d) The conversion takes effect when the certificate of limited partnership is canceled.

(e) A limited partner who becomes a general partner as a result of the conversion remains liable only as a limited partner for an obligation incurred by the limited partnership before the conversion takes effect. The limited partner is liable as a general partner for an obligation of the partnership incurred after the conversion takes effect.
SECTION 904. EFFECT OF CONVERSION; ENTITY UNCHANGED.
(a) A partnership or limited partnership that has been converted pursuant to this article is for all purposes the same entity that existed before the conversion.
(b) When a conversion takes effect:
(1) all property owned by the converting partnership or limited partnership remains vested in the converted entity;
(2) all obligations of the converting partnership or limited partnership continue as obligations of the converted entity; and
(3) an action or proceeding pending against the converting partnership or limited partnership may be continued as if the conversion had not occurred.

SECTION 905. MERGER OF PARTNERSHIPS.
(a) Pursuant to a plan of merger approved as provided in subsection (c), a partnership may be merged with one or more partnerships or limited partnerships.
(b) The plan of merger must set forth:
(1) the name of each partnership or limited partnership that is a party to the merger;
(2) the name of the surviving entity into which the other partnerships or limited partnerships will merge;
(3) whether the surviving entity is a partnership or a limited partnership and the status of each partner;
(4) the terms and conditions of the merger;
58  (5) the manner and basis of converting the interests of each party to the merger into interests or obligations of the surviving entity, or into money or other property in whole or part; and

(6) the street address of the surviving entity's chief executive office.

(c) The plan of merger must be approved:

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

(2) in the case of a limited partnership that is a party to the merger, by the vote required for approval of a merger by the law of the State or foreign jurisdiction in which the limited partnership is organized and, in the absence of such a specifically applicable law, by all of the partners, notwithstanding a provision to the contrary in the partnership agreement.

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

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

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

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

(3) any effective date specified in the plan of merger.
SECTION 906. EFFECT OF MERGER.

(a) When a merger takes effect:

(1) the separate existence of every partnership or limited partnership that is a party to the merger other than the surviving entity ceases to exist;

(2) all property owned by each of the merged partnerships or limited partnerships vests in the surviving entity;

(3) all obligations of every partnership or limited partnership that is a party to the merger become the obligations of the surviving entity; and

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

(b) The [Secretary of State] of this State is the agent for service of process in an action or proceeding against a surviving foreign partnership or limited partnership to enforce an obligation of a domestic partnership or limited partnership that is a party to a merger. The surviving entity shall promptly notify the [Secretary of State] of the mailing address of its chief executive office and of any change of address. Upon receipt of process, the [Secretary of State] shall mail a copy of the process to the surviving foreign partnership or limited partnership.
(c) A partner of the surviving partnership or limited partnership is liable for:

(1) all obligations of a party to the merger for which the partner was personally liable before the merger;

(2) all other obligations of the surviving entity incurred before the merger by a party to the merger, but those obligations may be satisfied only out of property of the entity; and

(3) all obligations of the surviving entity incurred after the merger takes effect, but those obligations may be satisfied only out of property of the entity if the partner is a limited partner.

(d) If the obligations incurred before the merger by a party to the merger are not satisfied out of the property of the surviving partnership or limited partnership, the general partners of that party immediately before the effective date of the merger shall contribute the amount necessary to satisfy that party’s obligations to the surviving entity, in the manner provided in Section 808(e) 807 or in [Sections ___ and ___ of the State Limited Partnership Act] as if the merged party were dissolved.

(e) A partner of a party to a merger who does not become a partner of the surviving partnership or limited partnership is dissociated from the entity, of which that partner was a partner, as of the date the merger takes effect. The surviving entity shall cause the partner’s interest in the entity to be purchased under Section 701. The surviving entity is bound under Section
by an act of a general partner dissociated under this subsection, and the partner is liable under Section 703 for transactions entered into by the surviving entity after the merger takes effect.

SECTION 907. STATEMENT OF MERGER.

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

(b) A statement of merger must contain:

(1) the name of each partnership or limited partnership that is a party to the merger;

(2) the name of the surviving entity into which the other partnerships or limited partnership were merged;

(3) the street address of the surviving entity's chief executive office and of an office in this State, if any; and

(4) whether the surviving entity is a partnership or a limited partnership.

(c) Except as provided in subsection (d), for the purposes of Section 302, property of the surviving partnership or limited partnership which before the merger was held in the name of another party to the merger is property held in the name of the surviving entity upon filing a statement of merger.

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

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

SECTION 908. NONEXCLUSIVE. This article is not exclusive.
Partnerships or limited partnerships may be converted or merged
in any other manner provided by law.
ARTICLE 10

MISCELLANEOUS PROVISIONS

Section 1001. Uniformity of Application and Construction.
Section 1002. Short Title.
Section 1003. Severability.
Section 1004. Effective Date.
Section 1005. Repeals.
Section 1006. Application to Existing Relationships.
Section 1007. Savings Clause.

SECTION 1001. UNIFORMITY OF APPLICATION AND CONSTRUCTION.

This [Act] shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this [Act] among states enacting it.


SECTION 1003. SEVERABILITY CLAUSE. If any provision of this [Act] or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this [Act] which can be given effect without the invalid provision or application, and to this end the provisions of this [Act] are severable.

SECTION 1004. EFFECTIVE DATE. This [Act] takes effect . . .

SECTION 1005. REPEALS. The following acts and parts of acts are repealed: [the State Partnership Act as amended and in effect immediately before the adoption of this Act].
SECTION 1006. APPLICATION TO EXISTING RELATIONSHIPS.

(a) Except as otherwise provided in this section, this [Act] applies to all partnerships in existence on its effective date that were formed under [the State Partnership Act] or any predecessor law providing for the formation, operation, and liquidation of partnerships.

(b) Section 802 does not apply to a partnership in existence on the effective date of this [Act] unless the partners agree otherwise.

(c) This [Act] does not impair the obligations of a contract existing on the effective date of this [Act] or affect an action or proceeding commenced or right accrued before the effective date of this [Act].

(d) A judgment against a partnership or a partner in an action commenced before the effective date of this [Act] may be enforced in the same manner as a judgment rendered before the effective date of this [Act].

SECTION 1007. SAVINGS CLAUSE. The repeal of any statutory provision by this [Act] does not impair, or otherwise affect, the organization or continued existence of a partnership existing at the effective date of this [Act], or any contract, existing or right accrued before the effective date of this [Act].
REVISED UNIFORM PARTNERSHIP ACT (1992)

Contents (Text Only)

ARTICLE 1. GENERAL PROVISIONS

Section  
101. Definitions .................................................. 1
102. Knowledge and Notice ........................................3
103. Effect of Partnership Agreement; Nonwaivable Provisions . 4
104. Supplemental Principles of Law ................................6
105. Execution, Filing, and Recording of Statements ............6
106. Law Governing Internal Affairs ................................7
107. Partnership Subject to Amendment or Repeal of [Act] .... 7

ARTICLE 2. NATURE OF PARTNERSHIP

201. Partnership As Entity ...................................... 8
202. Creation of Partnership ......................................8
203. Partnership Property .........................................9
204. When Property Is Partnership Property .....................10

ARTICLE 3. RELATIONS OF PARTNERS TO PERSONS DEALING WITH PARTNERSHIP

301. Partner Agent of Partnership .............................. 11
302. Transfer of Partnership Property ..........................12
303. Statement of Partnership Authority .........................13
304. Statement of Denial ...........................................16
305. Partnership Liable for Partner's Actionable Conduct ....16
306. Partner's Liability .............................................17
307. Actions By and Against Partnership and Partners .......17
308. Purported Partner ..............................................18
309. Liability of Incoming Partner ...............................19

ARTICLE 4. RELATIONS OF PARTNERS TO EACH OTHER AND TO PARTNERSHIP

401. Partner's Rights and Duties ............................... 21
402. Distributions in Kind ........................................23
403. Partner's Right to Information .............................23
404. General Standards of Partner's Conduct .................23
405. Actions by Partnership and Partners .......................25
406. Continuation of Partnership Beyond Definite Term or Particular Undertaking ..........................26

ARTICLE 5. TRANSFEREES AND CREDITORS OF PARTNER

501. Partner Not Co-Owner of Partnership Property ...........27
502. Partner's Transferable Interest in Partnership ...........27
503. Transfer of Partner's Transferable Interest ..............27
504. Partner's Transferable Interest Subject to Charging Order29
SECTION 101. DEFINITIONS. In this [Act]:

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

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

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

(ii) a comparable order under federal or state law governing insolvency.

(3) "Distribution" means a transfer of money or other property from a partnership to a partner in the partner's capacity as a partner or to the partner's transferee.
of dissolution under Section 805, a statement of merger under Section 907, or an amendment or cancellation of any of the foregoing.

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

SECTION 102. KNOWLEDGE AND NOTICE.

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

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

(1) knows of it;

(2) has received a notification of it; or

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

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

(d) A person receives a notification when it:

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

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

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

(f) A partner's knowledge, notice, or receipt of a notification of a fact relating to the partnership is effective immediately as knowledge by, notice to, or receipt of a notification by the partnership, but is not effective as such if the partner committed or consented to a fraud on the partnership.

SECTION 103. EFFECT OF PARTNERSHIP AGREEMENT; NONWAIVABLE PROVISIONS.

(a) Except as provided in subsection (b), a partnership agreement governs relations among the partners and between the partners and the partnership. To the extent the partnership agreement does not otherwise provide, this [Act] governs relations among the partners and between the partners and the partnership.
ARTICLE 3

RELATIONS OF PARTNERS TO PERSONS DEALING WITH PARTNERSHIP

Section 301. Partner Agent of Partnership.
Section 302. Transfer of Partnership Property.
Section 303. Statement of Partnership Authority.
Section 304. Statement of Denial.
Section 305. Partnership Liable for Partner's Actionable Conduct.
Section 306. Partner's Liability.
Section 307. Actions By and Against Partnership and Partners.
Section 308. Purported Partner.
Section 309. Liability of Incoming Partner.

SECTION 301. PARTNER AGENT OF PARTNERSHIP. Subject to the effect of a statement of partnership authority under Section 303:

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

(2) An act of a partner which is not apparently for carrying on in the usual way the partnership business or business of the kind carried on by the partnership binds the partnership only if the act was authorized by the other partners.
(ii) at any time, if the partnership was a partnership at will at the time of the transfer or entry of the charging order that gave rise to the transfer.

SECTION 802. PARTNERSHIP CONTINUES AFTER DISSOLUTION.

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

(b) At any time after the dissolution of a partnership and before the winding up of its business is completed, all of the partners, including any dissociating partner other than a wrongfully dissociating partner, may waive the right to have the partnership's business wound up and the partnership terminated. In that event, the partnership resumes carrying on its business as if dissolution had never occurred. Any liability incurred by the partnership or a partner after the dissolution and before the waiver is determined as if dissolution had never occurred, but the rights of a third party accruing under Section 804 before the third party knew or received a notification of the waiver may not be adversely affected.

SECTION 803. RIGHT TO WIND UP PARTNERSHIP BUSINESS.

(a) After dissolution, a partner who has not wrongfully dissociated may participate in winding up the partnership's business, but on application of any partner, partner's legal representative, or transferee, the [designate the appropriate
ARTICLE 9
CONVERSIONS AND MERGERS

Section 901. Definitions.

Section 902. Conversion of Partnership to Limited Partnership.

Section 903. Conversion of Limited Partnership to Partnership.

Section 904. Effect of Conversion; Entity Unchanged.

Section 905. Merger of Partnerships.

Section 906. Effect of Merger.

Section 907. Statement of Merger.

Section 908. Nonexclusive.

SECTION 901. DEFINITIONS. In this article:

(1) "General partner" means a partner in a general partnership created under this [Act], predecessor law, or comparable law of another jurisdiction and a general partner in a limited partnership.

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

(3) "Limited partnership" means a limited partnership created under the [State Limited Partnership Act], predecessor law, or comparable law of another jurisdiction.

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

SECTION 902. CONVERSION OF PARTNERSHIP TO LIMITED PARTNERSHIP.

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

(b) The terms and conditions of a conversion of a partnership to a limited partnership must be approved by all of the partners.
(c) A partner of the surviving partnership or limited
partnership is liable for:

(1) all obligations of a party to the merger for which
the partner was personally liable before the merger;

(2) all other obligations of the surviving entity
incurred before the merger by a party to the merger, but those
obligations may be satisfied only out of property of the entity;
and

(3) all obligations of the surviving entity incurred
after the merger takes effect, but those obligations may be
satisfied only out of property of the entity if the partner is a
limited partner.

(d) If the obligations incurred before the merger by a
party to the merger are not satisfied out of the property of the
surviving partnership or limited partnership, the general
partners of that party immediately before the effective date of
the merger shall contribute the amount necessary to satisfy that
party's obligations to the surviving entity, in the manner
provided in Section 807 or in [Sections ___ and ___ of the State
Limited Partnership Act] as if the merged party were dissolved.

(e) A partner of a party to a merger who does not become a
partner of the surviving partnership or limited partnership is
dissociated from the entity, of which that partner was a partner,
as of the date the merger takes effect. The surviving entity
shall cause the partner's interest in the entity to be purchased
ARTICLE 10

MISCELLANEOUS PROVISIONS

Section 1001. Uniformity of Application and Construction. This [Act] shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this [Act] among States enacting it.

Section 1002. Short Title. This [Act] may be cited as the Uniform Partnership Act (1993).

Section 1003. Severability Clause. If any provision of this [Act] or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this [Act] which can be given effect without the invalid provision or application, and to this end the provisions of this [Act] are severable.

Section 1004. Effective Date. This [Act] takes effect . . .

. . . . . . . . . .
SECTION 1005. REPEALS. The following acts and parts of acts are repealed: [the State Partnership Act as amended and in effect immediately before the adoption of this Act].

SECTION 1006. APPLICATION TO EXISTING RELATIONSHIPS.

(a) Except as provided in subsection (b), this [Act] applies to all partnerships in existence on its effective date that were formed under [the State Partnership Act] or any predecessor law providing for the formation, operation, and liquidation of partnerships.

(b) A judgment against a partnership or a partner in an action commenced before the effective date of this [Act] may be enforced in the same manner as a judgment rendered before the effective date of this [Act].

SECTION 1007. SAVINGS CLAUSE. The repeal of any statutory provision by this [Act] does not impair or otherwise affect the organization or continued existence of a partnership existing on the effective date of this [Act] or any contract existing or right accrued before the effective date of this [Act].
UNIFORM PARTNERSHIP ACT (1993)

Drafted by the

NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS

and by it

APPROVED AND RECOMMENDED FOR ENACTMENT IN ALL THE STATES

at its

ANNUAL CONFERENCE MEETING IN ITS ONE-HUNDRED-AND-SECOND YEAR IN CHARLESTON, SOUTH CAROLINA JULY 30 - AUGUST 6, 1993

WITHOUT PREFATORY NOTE AND COMMENTS
### Uniform Partnership Act (1993)

#### Contents (Text Only)

**ARTICLE 1. GENERAL PROVISIONS**

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>101. Definitions</td>
<td>1</td>
</tr>
<tr>
<td>102. Knowledge and Notice</td>
<td>3</td>
</tr>
<tr>
<td>103. Effect of Partnership Agreement; Nonwaivable Provisions</td>
<td>4</td>
</tr>
<tr>
<td>104. Supplemental Principles of Law</td>
<td>6</td>
</tr>
<tr>
<td>105. Execution, Filing, and Recording of Statements</td>
<td>6</td>
</tr>
<tr>
<td>106. Law Governing Internal Affairs</td>
<td>7</td>
</tr>
<tr>
<td>107. Partnership Subject to Amendment or Repeal of [Act]</td>
<td>7</td>
</tr>
</tbody>
</table>

**ARTICLE 2. NATURE OF PARTNERSHIP**

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>201. Partnership As Entity</td>
<td>8</td>
</tr>
<tr>
<td>202. Creation of Partnership</td>
<td>8</td>
</tr>
<tr>
<td>203. Partnership Property</td>
<td>9</td>
</tr>
<tr>
<td>204. When Property Is Partnership Property</td>
<td>10</td>
</tr>
</tbody>
</table>

**ARTICLE 3. RELATIONS OF PARTNERS TO PERSONS DEALING WITH PARTNERSHIP**

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>301. Partner Agent of Partnership</td>
<td>11</td>
</tr>
<tr>
<td>302. Transfer of Partnership Property</td>
<td>12</td>
</tr>
<tr>
<td>303. Statement of Partnership Authority</td>
<td>13</td>
</tr>
<tr>
<td>304. Statement of Denial</td>
<td>16</td>
</tr>
<tr>
<td>305. Partnership Liable for Partner’s Actionable Conduct</td>
<td>16</td>
</tr>
<tr>
<td>306. Partner’s Liability</td>
<td>17</td>
</tr>
<tr>
<td>307. Actions By and Against Partnership and Partners</td>
<td>17</td>
</tr>
<tr>
<td>308. Purported Partner</td>
<td>18</td>
</tr>
<tr>
<td>309. Liability of Incoming Partner</td>
<td>19</td>
</tr>
</tbody>
</table>

**ARTICLE 4. RELATIONS OF PARTNERS TO EACH OTHER AND TO PARTNERSHIP**

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>401. Partner’s Rights and Duties</td>
<td>21</td>
</tr>
<tr>
<td>402. Distributions in Kind</td>
<td>23</td>
</tr>
<tr>
<td>403. Partner’s Right to Information</td>
<td>23</td>
</tr>
<tr>
<td>404. General Standards of Partner’s Conduct</td>
<td>23</td>
</tr>
<tr>
<td>405. Actions by Partnership and Partners</td>
<td>25</td>
</tr>
<tr>
<td>406. Continuation of Partnership Beyond Definite Term or Particular Undertaking</td>
<td>26</td>
</tr>
</tbody>
</table>

**ARTICLE 5. TRANSFEREES AND CREDITORS OF PARTNER**

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>501. Partner Not Co-Owner of Partnership Property</td>
<td>27</td>
</tr>
<tr>
<td>502. Partner’s Transferable Interest in Partnership</td>
<td>27</td>
</tr>
<tr>
<td>503. Transfer of Partner’s Transferable Interest</td>
<td>27</td>
</tr>
<tr>
<td>504. Partner’s Transferable Interest Subject to Charging Order</td>
<td>29</td>
</tr>
</tbody>
</table>
ARTICLE 6. PARTNER’S DISSOCIATION

Section Page
601. Events Causing Partner's Dissociation 31
602. Partner's Power to Dissociate; Wrongful Dissociation 34
603. Effect of Partner's Dissociation 35

ARTICLE 7. PARTNER'S DISSOCIATION WHEN BUSINESS NOT WOUND UP

701. Purchase of Dissociated Partner's Interest 36
702. Dissociated Partner's Power to Bind Partnership 39
703. Dissociated Partner's Liability to Other Persons 40
704. Statement of Dissociation 41
705. Continued Use of Partnership Name 41

ARTICLE 8. WINDING UP PARTNERSHIP BUSINESS

801. Events Causing Dissolution and Winding Up of Partnership Business 42
802. Partnership Continues After Dissolution 44
803. Right to Wind Up Partnership Business 44
804. Partner's Power to Bind Partnership After Dissolution 45
805. Statement of Dissolution 45
806. Partner's Liability to Other Partners After Dissolution 46
807. Settlement of Accounts and Contributions Among Partners 47

ARTICLE 9. CONVERSIONS AND MERGERS

901. Definitions 49
902. Conversion of Partnership to Limited Partnership 49
903. Conversion of Limited Partnership to Partnership 51
904. Effect of Conversion; Entity Unchanged 52
905. Merger of Partnerships 52
906. Effect of Merger 54
907. Statement of Merger 56
908. Nonexclusive 57

ARTICLE 10. MISCELLANEOUS PROVISIONS

1001. Uniformity of Application and Construction 58
1002. Short Title 58
1003. Severability 58
1004. Effective Date 58
1005. Repeals 59
1006. Application to Existing Relationships 59
1007. Savings Clause 59
UNIFORM PARTNERSHIP ACT (1993)

(Text Only)

ARTICLE 1

GENERAL PROVISIONS

Section 101. Definitions.
Section 102. Knowledge and Notice.
Section 103. Effect of Partnership Agreement; Nonwaivable Provisions.
Section 104. Supplemental Principles of Law.
Section 105. Execution, Filing, and Recording of Statements.
Section 106. Law Governing Internal Affairs.
Section 107. Partnership Subject to Amendment or Repeal of [Act].

SECTION 101. DEFINITIONS. In this [Act]:

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

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

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

(ii) a comparable order under federal or state law governing insolvency.

(3) "Distribution" means a transfer of money or other property from a partnership to a partner in the partner's capacity as a partner or to the partner's transferee.
(4) "Partnership" means an association of two or more persons to carry on as co-owners a business for profit created under Section 202, predecessor law, or comparable law of another jurisdiction.

(5) "Partnership agreement" means an agreement, written or oral, among the partners concerning the partnership.

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

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

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

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

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

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

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

SECTION 102. KNOWLEDGE AND NOTICE.

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

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

(1) knows of it;

(2) has received a notification of it; or

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

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

(d) A person receives a notification when it:

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

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

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

(f) A partner's knowledge, notice, or receipt of a
notification of a fact relating to the partnership is effective
immediately as knowledge by, notice to, or receipt of a
notification by the partnership, but is not effective as such if
the partner committed or consented to a fraud on the partnership.

SECTION 103. EFFECT OF PARTNERSHIP AGREEMENT; NONWAIVABLE
PROVISIONS.

(a) Except as provided in subsection (b), a partnership
agreement governs relations among the partners and between the
partners and the partnership. To the extent the partnership
agreement does not otherwise provide, this [Act] governs
relations among the partners and between the partners and the
partnership.
(b) A partnership agreement may not:

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

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

(3) eliminate the duty of loyalty under Section 404(b) or 603(b)(3), but the partners by agreement may identify specific types or categories of activities that do not violate the duty of loyalty, if not manifestly unreasonable;

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

(5) eliminate the obligation of good faith and fair dealing under Section 404(d), but the partners by agreement may determine the standards by which the performance of the obligation is to be measured, if the standards are not manifestly unreasonable;

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

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

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

(9) restrict rights of third parties under this [Act].
SECTION 104. SUPPLEMENTAL PRINCIPLES OF LAW.

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

(b) If an obligation to pay interest arises under this [Act] and the rate is not specified, the rate is that specified in [applicable statute].

SECTION 105. EXECUTION, FILING, AND RECORDING OF STATEMENTS.

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

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

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

(d) A person authorized by this [Act] to file a statement may amend or cancel the statement by filing an amendment or cancellation that names the partnership, identifies the statement, and states the substance of the amendment or cancellation.

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

(f) The [Secretary of State] may collect a fee for filing or providing a certified copy of a statement. The [officer responsible for] recording transfers of real property may collect a fee for recording a statement.

SECTION 106. LAW GOVERNING INTERNAL AFFAIRS. The law of the State in which a partnership has its chief executive office governs the partnership's internal affairs.

SECTION 107. PARTNERSHIP SUBJECT TO AMENDMENT OR REPEAL OF [ACT]. A partnership governed by this [Act] is subject to any amendment to or repeal of this [Act].
ARTICLE 2
NATURE OF PARTNERSHIP

Section 201. Partnership As Entity.
Section 202. Creation of Partnership.
Section 203. Partnership Property.
Section 204. When Property Is Partnership Property.

SECTION 201. PARTNERSHIP AS ENTITY. A partnership is an entity.

SECTION 202. CREATION OF PARTNERSHIP.
(a) Except as provided in subsection (b), the association of two or more persons to carry on as co-owners a business for profit creates a partnership, whether or not the persons intend to create a partnership.
(b) An association created under a statute other than this [Act], a predecessor statute, or a comparable statute of another jurisdiction is not a partnership.
(c) In determining whether a partnership is created, the following rules apply:
(1) Joint tenancy, tenancy in common, tenancy by the entireties, joint property, common property, or part ownership does not by itself establish a partnership, even if the co-owners share profits made by the use of the property.
(2) The sharing of gross returns does not by itself establish a partnership, even if the persons sharing them have a joint or common right or interest in property from which the returns are derived.
(3) A person who receives a share of the profits of a business is presumed to be a partner in the business, unless the profits were received in payment:
   (i) of a debt by installments or otherwise;
   (ii) for services as an independent contractor or of wages or other compensation to an employee;
   (iii) of rent;
   (iv) of an annuity or other retirement or health benefit to a beneficiary, representative, or designee of a deceased or retired partner;
   (v) of interest or other charge on a loan, even if the amount of payment varies with the profits of the business, including a direct or indirect present or future ownership of the collateral, or rights to income, proceeds, or increase in value derived from the collateral; or
   (vi) for the sale of the goodwill of a business or other property by installments or otherwise.

(d) Except as provided by Section 308, persons who are not partners as to each other are not partners as to other persons.

(e) A partnership created under this [Act] is a general partnership, and the partners are general partners of the partnership.

SECTION 203. PARTNERSHIP PROPERTY. Property transferred to or otherwise acquired by a partnership is property of the partnership and not of the partners individually.
SECTION 204. WHEN PROPERTY IS PARTNERSHIP PROPERTY.

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

(1) the partnership; or

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

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

(1) the partnership in its name; or

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

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

(d) Property acquired in the name of one or more of the partners, without an indication in the instrument transferring title to the property of the person's capacity as a partner or of the existence of a partnership and without use of partnership assets, is presumed to be separate property, even if used for partnership purposes.
ARTICLE 3
RELATIONS OF PARTNERS TO
PERSONS DEALING WITH PARTNERSHIP

Section 301. Partner Agent of Partnership.
Section 302. Transfer of Partnership Property.
Section 303. Statement of Partnership Authority.
Section 304. Statement of Denial.
Section 305. Partnership Liable for Partner’s Actionable Conduct.
Section 306. Partner’s Liability.
Section 307. Actions By and Against Partnership and Partners.
Section 308. Purported Partner.
Section 309. Liability of Incoming Partner.

SECTION 301. PARTNER AGENT OF PARTNERSHIP. Subject to the effect of a statement of partnership authority under Section 303:

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

(2) An act of a partner which is not apparently for carrying on in the usual way the partnership business or business of the kind carried on by the partnership binds the partnership only if the act was authorized by the other partners.
SECTION 302. TRANSFER OF PARTNERSHIP PROPERTY.

(a) Partnership property may be transferred as follows:

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

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

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

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

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

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

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

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

SECTION 303. STATEMENT OF PARTNERSHIP AUTHORITY.

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

(1) must include:

   (i) the name of the partnership;

   (ii) the street address of its chief executive office

and of one office in this State, if there is one;
(iii) the names and mailing addresses of all of the
partners or of an agent appointed and maintained by the
partnership for the purpose of subsection (b); and
(iv) the names of the partners authorized to execute
an instrument transferring real property held in the name of the
partnership; and

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

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

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

(d) Except as provided in subsection (g), a filed
statement of partnership authority supplements the authority of a
partner to enter into transactions on behalf of the partnership
as follows:

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

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

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

(f) Except as provided in subsections (d) and (e) and
Sections 704 and 805, a person not a partner is not deemed to
know of a limitation on the authority of a partner merely because
the limitation is contained in a filed statement.
Unless earlier canceled, a filed statement of partnership authority is canceled by operation of law five years after the date on which the statement, or the most recent amendment, was filed with the [Secretary of State].

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

SECTION 305. PARTNERSHIP LIABLE FOR PARTNER'S ACTIONABLE CONDUCT.

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

(b) If, in the course of its business, a partnership receives money or property of a person not a partner which is misapplied by a partner while it is in the custody of the partnership, the partnership is liable for the loss.
SECTION 306. PARTNER'S LIABILITY. All partners are liable jointly and severally for all obligations of the partnership unless otherwise agreed by the claimant or provided by law.

SECTION 307. ACTIONS BY AND AGAINST PARTNERSHIP AND PARTNERS.

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

(b) An action may be brought against the partnership and any or all of the partners in the same action or in separate actions.

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

(d) A judgment creditor of a partner may not levy execution against the assets of the partner to satisfy a judgment based on a claim against the partnership unless:

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

(2) the partnership is a debtor in bankruptcy;

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

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

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

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

SECTION 308. PURPORTED PARTNER.

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

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

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

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

SECTION 309. LIABILITY OF INCOMING PARTNER. A person
admitted as a partner into a partnership is liable for all
obligations of the partnership incurred before the person's
admission as if the person were a partner when the obligations
were incurred, but the liability may be satisfied only out of partnership property.
ARTICLE 4

RELATIONS OF PARTNERS TO EACH OTHER AND TO PARTNERSHIP

Section 401. Partner's Rights and Duties.
Section 402. Distributions in Kind.
Section 403. Partner's Right to Information.
Section 404. General Standards of Partner's Conduct.
Section 405. Actions by Partnership and Partners.
Section 406. Continuation of Partnership Beyond Definite Term or Particular Undertaking.

SECTION 401. PARTNER'S RIGHTS AND DUTIES.

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

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

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

(b) A partnership shall credit each partner's account with an equal share of the partnership profits. A partnership shall charge each partner's account with a share of the partnership losses, whether capital or operating, in proportion to the partner's share of the profits.

(c) A partnership shall indemnify each partner for payments reasonably made and liabilities reasonably incurred by the partner in the ordinary and proper conduct of the business of
the partnership or for the preservation of its business or
property.

(d) A partnership shall repay a partner who, in aid of the
partnership, makes a payment or advance beyond the amount of
capital the partner agreed to contribute.

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

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

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

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

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

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

(k) This section does not affect the obligations of a
partnership to other persons under Section 301.
SECTION 402. DISTRIBUTIONS IN KIND. A partner has no right to receive, and may not be required to accept, a distribution in kind.

SECTION 403. PARTNER'S RIGHT TO INFORMATION.

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

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

(c) Each partner and the partnership, on demand, shall furnish to a partner, and the legal representative of a deceased partner or partner under legal disability, to the extent just and reasonable, complete and accurate information concerning the partnership.

SECTION 404. GENERAL STANDARDS OF PARTNER'S CONDUCT.

(a) The only fiduciary duties a partner owes to the partnership and the other partners are the duty of loyalty and the duty of care set forth in subsections (b) and (c).
(b) A partner's duty of loyalty to the partnership and the other partners is limited to the following:

(1) to account to the partnership and hold as trustee for it any property, profit, or benefit derived by the partner in the conduct and winding up of the partnership business or derived from a use by the partner of partnership property, including the appropriation of a partnership opportunity, without the consent of the other partners;

(2) to refrain from dealing with the partnership in the conduct or winding up of the partnership business as or on behalf of a party having an interest adverse to the partnership without the consent of the other partners; and

(3) to refrain from competing with the partnership in the conduct of the partnership business before the dissolution of the partnership without the consent of the other partners.

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

(d) A partner shall discharge the duties to the partnership and the other partners under this [Act] or under the partnership agreement and exercise any rights consistently with the obligation of good faith and fair dealing.
(e) A partner does not violate a duty or obligation under this [Act] or under the partnership agreement merely because the partner's conduct furthers the partner's own interest.

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

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

SECTION 405. ACTIONS BY PARTNERSHIP AND PARTNERS.

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

(b) A partner may maintain an action against the partnership or another partner for legal or equitable relief, including an accounting as to partnership business, to:

(1) enforce a right under the partnership agreement;

(2) enforce a right under this [Act], including:

(i) the partner's rights under Sections 401, 403, and 404;

(ii) the partner's right on dissociation to have the partner's interest in the partnership purchased pursuant to Section 701 or enforce any other right under Article 6 or 7; or
(iii) the partner's right to compel a dissolution and winding up of the partnership business under Section 801 or enforce any other right under Article 8; or

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

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

SECTION 406. CONTINUATION OF PARTNERSHIP BEYOND DEFINITE TERM OR PARTICULAR UNDERTAKING.

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

(b) If the partners, or those of them who habitually acted in the business during the term or undertaking, continue the business without any settlement or liquidation of the partnership, they are presumed to have agreed that the partnership will continue.
ARTICLE 5

TRANSFEREEES AND CREDITORS OF PARTNER

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

SECTION 502. PARTNER'S TRANSFERABLE INTEREST IN PARTNERSHIP. The only transferable interest of a partner in the partnership is the partner's interest in distributions. The interest is personal property.

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

(1) is permissible;

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

(3) does not, as against the other partners or the partnership, entitle the transferee, during the continuance of the partnership, to participate in the management or conduct of the partnership business, to require access to information...
SECTION 504. PARTNER'S TRANSFERABLE INTEREST SUBJECT TO CHARGING ORDER.

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

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

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

(1) by the judgment debtor;

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

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

(d) This [Act] does not deprive a partner of a right under exemption laws with respect to the partner's interest in the partnership.
(e) This section provides the exclusive remedy by which a judgment creditor of a partner or partner's transferee may satisfy a judgment out of the judgment debtor's transferable interest in the partnership.
ARTICLE 6

PARTNER'S DISSOCIATION

Section 601. Events Causing Partner's Dissociation.
Section 602. Partner's Power to Dissociate; Wrongful Dissociation.
Section 603. Effect of Partner's Dissociation.

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

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

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

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

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

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

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

(iii) within 90 days after the partnership notifies a corporate partner that it will be expelled because it has filed a certificate of dissolution or the equivalent, its charter has
been revoked, or its right to conduct business has been suspended by the jurisdiction of its incorporation, there is no revocation of the certificate of dissolution or no reinstatement of its charter or its right to conduct business; or

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

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

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

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

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

(6) the partner's:

(i) becoming a debtor in bankruptcy;

(ii) executing an assignment for the benefit of creditors;

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

(iv) failing, within 90 days after the appointment, to have vacated or stayed the appointment of a trustee, receiver, or liquidator of the partner or of all or substantially all of the
partner's property obtained without the partner's consent or acquiescence, or failing within 90 days after the expiration of a stay to have the appointment vacated;

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

(i) the partner's death;

(ii) the appointment of a guardian or general conservator for the partner; or

(iii) a judicial determination that the partner has otherwise become incapable of performing the partner's duties under the partnership agreement;

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

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

(10) termination of a partner who is not an individual, partnership, corporation, trust, or estate.
SECTION 602. PARTNER'S POWER TO DISSOCIATE; WRONGFUL DISSOCIATION.

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

(b) A partner's dissociation is wrongful only if:
   (1) it is in breach of an express provision of the partnership agreement; or
   (2) in the case of a partnership for a definite term or particular undertaking, before the expiration of the term or the completion of the undertaking:
      (i) the partner withdraws by express will, unless the withdrawal follows the dissociation of another partner and results in a right to dissolve the partnership under Section 801(2)(i);
      (ii) the partner is expelled by judicial determination under Section 601(5); or
      (iii) in the case of a partner who is not an individual, trust other than a business trust, or estate, the partner is expelled or otherwise dissociated because it willfully dissolved or terminated.

(c) A partner who wrongfully dissociates is liable to the partnership and to the other partners for damages caused by the dissociation. The liability is in addition to any other liability of the partner to the partnership or to the other partners.
SECTION 603. EFFECT OF PARTNER'S DISSOCIATION.

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

(b) Upon a partner's dissociation:

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

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

(3) the partner's duty of loyalty under Section 404(b)(1) and (2) and duty of care under Section 404(c) continue only with regard to matters arising or events occurring before the partner's dissociation, unless the partner participates in winding up the partnership's business pursuant to Section 803.
ARTICLE 7

PARTNER'S DISSOCIATION WHEN BUSINESS NOT WOUND UP

Section 701. Purchase of Dissociated Partner's Interest.
Section 702. Dissociated Partner's Power to Bind Partnership.
Section 703. Dissociated Partner's Liability to Other Persons.
Section 704. Statement of Dissociation.
Section 705. Continued Use of Partnership Name.

SECTION 701. PURCHASE OF DISSOCIATED PARTNER'S INTEREST.

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

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

(c) Damages for wrongful dissociation under Section 602(b), and all other amounts owing, whether or not presently due, from the dissociated partner to the partnership, must be offset against the buyout price. Interest must be paid from the date the amount owed becomes due to the date of payment.
(d) A partnership shall indemnify a dissociated partner against all partnership liabilities incurred before the dissociation, except liabilities then unknown to the partnership, and against all partnership liabilities incurred after the dissociation, except liabilities incurred by an act of the dissociated partner under Section 702. For purposes of this subsection, a liability not known to a partner other than the dissociated partner is not known to the partnership.

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

(f) If a deferred payment is authorized under subsection (h), the partnership may tender a written offer to pay the amount it estimates to be the buyout price and accrued interest, reduced by any offsets under subsection (c), stating the time of payment, the amount and type of security for payment, and the other terms and conditions of the obligation.

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

(1) a statement of partnership assets and liabilities as of the date of dissociation;
(2) the latest available partnership balance sheet and income statement, if any;
(3) an explanation of how the estimated amount of the payment was calculated; and
(4) written notice that the payment is in full satisfaction of the obligation to purchase unless, within 120 days after the written notice, the dissociated partner commences an action to determine the buyout price, any offsets under subsection (c), or other terms of the obligation to purchase.

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

(i) A dissociated partner may maintain an action against the partnership, pursuant to Section 405(b)(2)(ii), to determine the buyout price of that partner's interest, any offsets under subsection (c), or other terms of the obligation to purchase. The action must be commenced within 120 days after the partnership has tendered payment or an offer to pay or within one year after written demand for payment if no payment or offer to pay is tendered. The court shall determine the buyout price of the dissociated partner's interest, any offset due under
subsection (c), and accrued interest, and enter judgment for any additional payment or refund. If deferred payment is authorized under subsection (h), the court shall also determine the security for payment and other terms of the obligation to purchase. The court may assess reasonable attorney's fees and the fees and expenses of appraisers or other experts for a party to the action, in amounts the court finds equitable, against a party that the court finds acted arbitrarily, vexatiously, or not in good faith. The finding may be based on the partnership's failure to tender payment or an offer to pay or to comply with subsection (g).

SECTION 702. DISSOCIATED PARTNER'S POWER TO BIND AND LIABILITY TO PARTNERSHIP.

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

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

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

39
(3) is not deemed to have had knowledge under Section 303(e) or notice under Section 704(c).

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

SECTION 703. DISSOCIATED PARTNER'S LIABILITY TO OTHER PERSONS.

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

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

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

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

and

(3) is not deemed to have had knowledge under Section 303(e) or notice under Section 704(c).
(c) By agreement with the partnership creditor and the partners continuing the business, a dissociated partner may be released from liability for a partnership obligation.

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

SECTION 704. STATEMENT OF DISSOCIATION.

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

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

(c) For the purposes of Sections 702(a)(3) and 703(b)(3), a person not a partner is deemed to have notice of the dissociation 90 days after the statement of dissociation is filed.

SECTION 705. CONTINUED USE OF PARTNERSHIP NAME. Continued use of a partnership name, or a dissociated partner's name as part thereof, by partners continuing the business does not of itself make the dissociated partner liable for an obligation of the partners or the partnership continuing the business.
ARTICLE 8

WINDING UP PARTNERSHIP BUSINESS

Section 801. Events Causing Dissolution and Winding Up of Partnership Business.

Section 802. Partnership Continues After Dissolution.

Section 803. Right to Wind Up Partnership Business.

Section 804. Partner's Power to Bind Partnership After Dissolution.

Section 805. Statement of Dissolution.

Section 806. Partner's Liability to Other Partners After Dissolution.

Section 807. Settlement of Accounts and Contributions Among Partners.

SECTION 801. EVENTS CAUSING DISSOLUTION AND WINDING UP OF PARTNERSHIP BUSINESS. A partnership is dissolved, and its business must be wound up, only upon the occurrence of any of the following events:

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

(ii) in a partnership for a definite term or particular undertaking:

(i) within 90 days after a partner's wrongful dissociation under Section 602(b) or a partner's dissociation by death or otherwise under Section 601(6) through (10), the partnership's having notice from another partner of that partner's express will to withdraw as a partner;

(ii) the express will of all of the partners; or
(iii) the expiration of the term or the completion of the undertaking;

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

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

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

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

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

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

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

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

SECTION 802. PARTNERSHIP CONTINUES AFTER DISSOLUTION.

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

(b) At any time after the dissolution of a partnership and before the winding up of its business is completed, all of the partners, including any dissociating partner other than a wrongfully dissociating partner, may waive the right to have the partnership's business wound up and the partnership terminated. In that event, the partnership resumes carrying on its business as if dissolution had never occurred. Any liability incurred by the partnership or a partner after the dissolution and before the waiver is determined as if dissolution had never occurred, but the rights of a third party accruing under Section 804 before the third party knew or received a notification of the waiver may not be adversely affected.

SECTION 803. RIGHT TO WIND UP PARTNERSHIP BUSINESS.

(a) After dissolution, a partner who has not wrongfully dissociated may participate in winding up the partnership's business, but on application of any partner, partner's legal representative, or transferee, the [designate the appropriate
court], for good cause shown, may order judicial supervision of
the winding up.

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

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

SECTION 804. PARTNER'S POWER TO BIND PARTNERSHIP AFTER
DISSOLUTION. Subject to Section 805, a partnership is bound by a
partner's act after dissolution that:

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

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

SECTION 805. STATEMENT OF DISSOLUTION.

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

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

(c) For the purposes of Sections 301 and 804, a person not a partner is deemed to have notice of the dissolution and the limitation on the partners' authority as a result of the statement of dissolution 90 days after it is filed.

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

SECTION 806. PARTNER'S LIABILITY TO OTHER PARTNERS AFTER DISSOLUTION.

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

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

SECTION 807. SETTLEMENT OF ACCOUNTS AND CONTRIBUTIONS AMONG
PARTNERS.

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

(b) Each partner is entitled to a settlement of all
partnership accounts upon winding up the partnership business.
In settling accounts among the partners, the profits and losses
that result from the liquidation of the partnership assets must
be credited and charged to the partners' accounts. The
partnership shall make a distribution to a partner in an amount
equal to any excess of the credits over the charges in the
partner's account. A partner shall contribute to the partnership
an amount equal to any excess of the charges over the credits in
the partner's account.

(c) If a partner fails to contribute, the other partners
shall contribute, in the proportions in which the partners share
partnership losses, the additional amount necessary to satisfy
the partnership obligations. A partner or partner's legal
representative may recover from the other partners any
contributions the partner makes to the extent the amount contributed exceeds that partner's share of the partnership obligations.

(d) After the settlement of accounts, each partner shall contribute, in the proportion in which the partner shares partnership losses, the amount necessary to satisfy partnership obligations that were not known at the time of the settlement.

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

(f) An assignee for the benefit of creditors of a partnership or a partner, or a person appointed by a court to represent creditors of a partnership or a partner, may enforce a partner's obligation to contribute to the partnership.
ARTICLE 9
CONVERSIONS AND Mergers

Section 901. Definitions.
Section 902. Conversion of Partnership to Limited Partnership.
Section 903. Conversion of Limited Partnership to Partnership.
Section 904. Effect of Conversion; Entity Unchanged.
Section 905. Merger of Partnerships.
Section 906. Effect of Merger.
Section 907. Statement of Merger.
Section 908. Nonexclusive.

SECTION 901. DEFINITIONS. In this article:

(1) "General partner" means a partner in a general partnership created under this [Act], predecessor law, or comparable law of another jurisdiction and a general partner in a limited partnership.

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

(3) "Limited partnership" means a limited partnership created under the [State Limited Partnership Act], predecessor law, or comparable law of another jurisdiction.

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

SECTION 902. CONVERSION OF PARTNERSHIP TO LIMITED PARTNERSHIP.

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

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

(c) After the conversion is approved by the partners, the partnership shall file a certificate of limited partnership which satisfies the requirements of [Section____ of the State Limited Partnership Act] and includes:

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

(2) its former name; and

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

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

(e) A general partner who becomes a limited partner as a result of the conversion remains liable as a general partner for an obligation incurred by the partnership before the conversion takes effect. If the other party to a transaction with the limited partnership reasonably believes when entering the transaction that the limited partner is a general partner, the limited partner is liable for an obligation incurred by the limited partnership within 90 days after the conversion takes effect. The limited partner's liability for all other obligations of the limited partnership incurred after the
conversion takes effect is that of a limited partner as provided in the [State Limited Partnership Act].

SECTION 903. CONVERSION OF LIMITED PARTNERSHIP TO PARTNERSHIP.

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

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

(c) After the conversion is approved by the partners, the limited partnership shall cancel its certificate of limited partnership pursuant to [Section _____ of the State Limited Partnership Act].

(d) The conversion takes effect when the certificate of limited partnership is canceled.

(e) A limited partner who becomes a general partner as a result of the conversion remains liable only as a limited partner for an obligation incurred by the limited partnership before the conversion takes effect. The partner is liable as a general partner for an obligation of the partnership incurred after the conversion takes effect.
SECTION 904. EFFECT OF CONVERSION; ENTITY UNCHANGED.

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

(b) When a conversion takes effect:

(1) all property owned by the converting partnership or limited partnership remains vested in the converted entity;
(2) all obligations of the converting partnership or limited partnership continue as obligations of the converted entity; and
(3) an action or proceeding pending against the converting partnership or limited partnership may be continued as if the conversion had not occurred.

SECTION 905. MERGER OF PARTNERSHIPS.

(a) Pursuant to a plan of merger approved as provided in subsection (c), a partnership may be merged with one or more partnerships or limited partnerships.

(b) The plan of merger must set forth:

(1) the name of each partnership or limited partnership that is a party to the merger;
(2) the name of the surviving entity into which the other partnerships or limited partnerships will merge;
(3) whether the surviving entity is a partnership or a limited partnership and the status of each partner;
(4) the terms and conditions of the merger;
(5) the manner and basis of converting the interests of each party to the merger into interests or obligations of the surviving entity, or into money or other property in whole or part; and

(6) the street address of the surviving entity's chief executive office.

(c) The plan of merger must be approved:

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

(2) in the case of a limited partnership that is a party to the merger, by the vote required for approval of a merger by the law of the State or foreign jurisdiction in which the limited partnership is organized and, in the absence of such a specifically applicable law, by all of the partners, notwithstanding a provision to the contrary in the partnership agreement.

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

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

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

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

(3) any effective date specified in the plan of merger.
SECTION 906. EFFECT OF MERGER.

(a) When a merger takes effect:

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

(2) all property owned by each of the merged partnerships or limited partnerships vests in the surviving entity;

(3) all obligations of every partnership or limited partnership that is a party to the merger become the obligations of the surviving entity; and

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

(b) The [Secretary of State] of this State is the agent for service of process in an action or proceeding against a surviving foreign partnership or limited partnership to enforce an obligation of a domestic partnership or limited partnership that is a party to a merger. The surviving entity shall promptly notify the [Secretary of State] of the mailing address of its chief executive office and of any change of address. Upon receipt of process, the [Secretary of State] shall mail a copy of the process to the surviving foreign partnership or limited partnership.
(c) A partner of the surviving partnership or limited partnership is liable for:

(1) all obligations of a party to the merger for which the partner was personally liable before the merger;

(2) all other obligations of the surviving entity incurred before the merger by a party to the merger, but those obligations may be satisfied only out of property of the entity; and

(3) all obligations of the surviving entity incurred after the merger takes effect, but those obligations may be satisfied only out of property of the entity if the partner is a limited partner.

(d) If the obligations incurred before the merger by a party to the merger are not satisfied out of the property of the surviving partnership or limited partnership, the general partners of that party immediately before the effective date of the merger shall contribute the amount necessary to satisfy that party's obligations to the surviving entity, in the manner provided in Section 807 or in [Sections ___ and ___ of the State Limited Partnership Act] as if the merged party were dissolved.

(e) A partner of a party to a merger who does not become a partner of the surviving partnership or limited partnership is dissociated from the entity, of which that partner was a partner, as of the date the merger takes effect. The surviving entity shall cause the partner's interest in the entity to be purchased under Section 701. The surviving entity is bound under Section
702 by an act of a general partner dissociated under this
subsection, and the partner is liable under Section 703 for
transactions entered into by the surviving entity after the
merger takes effect.

SECTION 907. STATEMENT OF MERGER.

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

(b) A statement of merger must contain:

(1) the name of each partnership or limited partnership
that is a party to the merger;

(2) the name of the surviving entity into which the
other partnerships or limited partnership were merged;

(3) the street address of the surviving entity's chief
executive office and of an office in this State, if any; and

(4) whether the surviving entity is a partnership or a
limited partnership.

(c) Except as provided in subsection (d), for the purposes
of Section 302, property of the surviving partnership or limited
partnership which before the merger was held in the name of
another party to the merger is property held in the name of the
surviving entity upon filing a statement of merger.

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

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

SECTION 908. NONEXCLUSIVE. This article is not exclusive. Partnerships or limited partnerships may be converted or merged in any other manner provided by law.
ARTICLE 10

MISCELLANEOUS PROVISIONS

Section 1001. Uniformity of Application and Construction.
Section 1002. Short Title.
Section 1003. Severability.
Section 1004. Effective Date.
Section 1005. Repeals.
Section 1006. Application to Existing Relationships.
Section 1007. Savings Clause.

SECTION 1001. UNIFORMITY OF APPLICATION AND CONSTRUCTION.

This [Act] shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this [Act] among States enacting it.

SECTION 1002. SHORT TITLE. This [Act] may be cited as the Uniform Partnership Act (1993).

SECTION 1003. SEVERABILITY CLAUSE. If any provision of this [Act] or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this [Act] which can be given effect without the invalid provision or application, and to this end the provisions of this [Act] are severable.

SECTION 1004. EFFECTIVE DATE. This [Act] takes effect . . .

. . . . . . . . . .
SECTION 1005. REPEALS. The following acts and parts of acts are repealed: [the State Partnership Act as amended and in effect immediately before the adoption of this Act].

SECTION 1006. APPLICATION TO EXISTING RELATIONSHIPS.

(a) Except as provided in subsection (b), this [Act] applies to all partnerships in existence on its effective date that were formed under [the State Partnership Act] or any predecessor law providing for the formation, operation, and liquidation of partnerships.

(b) A judgment against a partnership or a partner in an action commenced before the effective date of this [Act] may be enforced in the same manner as a judgment rendered before the effective date of this [Act].

SECTION 1007. SAVINGS CLAUSE. The repeal of any statutory provision by this [Act] does not impair, or otherwise affect, the organization or continued existence of a partnership existing at the effective date of this [Act], or any contract existing or right accrued before the effective date of this [Act].
ARTICLE 1. GENERAL PROVISIONS

Section | Page
101. Definitions | 1
102. Knowledge and Notice | 3
103. Effect of Partnership Agreement; Nonwaivable Provisions | 4
104. Supplemental Principles of Law | 6
105. Execution, Filing, and Recording of Statements | 6
106. Law Governing Internal Relations | 8
107. Partnership Subject to Amendment or Repeal of [Act] | 8

ARTICLE 2. NATURE OF PARTNERSHIP

201. Partnership As Entity | 9
202. Formation of Partnership | 9
203. Partnership Property | 11
204. When Property Is Partnership Property | 11

ARTICLE 3. RELATIONS OF PARTNERS TO PERSONS DEALING WITH PARTNERSHIP

301. Partner Agent of Partnership | 13
302. Transfer of Partnership Property | 14
303. Statement of Partnership Authority | 15
304. Statement of Denial | 18
305. Partnership Liable for Partner's Actionable Conduct | 19
306. Partner's Liability | 19
307. Actions By and Against Partnership and Partners | 19
308. Liability of Purported Partner | 20

ARTICLE 4. RELATIONS OF PARTNERS TO EACH OTHER AND TO PARTNERSHIP

401. Partner's Rights and Duties | 23
402. Distributions in Kind | 25
403. Partner's Rights and Duties Regarding Information | 25
404. General Standards of Partner's Conduct | 26
405. Actions by Partnership and Partners | 27
406. Continuation of Partnership Beyond Definite Term of Particular Undertaking | 28

ARTICLE 5. TRANSFEREES AND CREDITORS OF PARTNER

501. Partner Not Co-Owner of Partnership Property | 30
502. Partner's Transferable Interest in Partnership | 30
503. Transfer of Partner's Transferable Interest | 30
504. Partner's Transferable Interest Subject to Charging Order | 32
### ARTICLE 6. PARTNER'S DISSOCIATION

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>601. Events Causing Partner's Dissociation</td>
<td>34</td>
</tr>
<tr>
<td>602. Partner's Power to Dissociate; Wrongful Dissociation</td>
<td>37</td>
</tr>
<tr>
<td>603. Effect of Partner's Dissociation</td>
<td>38</td>
</tr>
</tbody>
</table>

### ARTICLE 7. PARTNER'S DISSOCIATION WHEN BUSINESS NOT WOUND UP

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>701. Purchase of Dissociated Partner's Interest</td>
<td>39</td>
</tr>
<tr>
<td>702. Dissociated Partner's Power to Bind Partnership</td>
<td>42</td>
</tr>
<tr>
<td>703. Dissociated Partner's Liability to Other Persons</td>
<td>43</td>
</tr>
<tr>
<td>704. Statement of Dissociation</td>
<td>44</td>
</tr>
<tr>
<td>705. Continued Use of Partnership Name</td>
<td>44</td>
</tr>
</tbody>
</table>

### ARTICLE 8. WINDING UP PARTNERSHIP BUSINESS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>801. Events Causing Dissolution and Winding Up of Partnership Business</td>
<td>45</td>
</tr>
<tr>
<td>802. Partnership Continues After Dissolution</td>
<td>47</td>
</tr>
<tr>
<td>803. Right to Wind Up Partnership Business</td>
<td>48</td>
</tr>
<tr>
<td>804. Partner's Power to Bind Partnership After Dissolution</td>
<td>48</td>
</tr>
<tr>
<td>805. Statement of Dissolution</td>
<td>49</td>
</tr>
<tr>
<td>806. Partner's Liability to Other Partners After Dissolution</td>
<td>50</td>
</tr>
<tr>
<td>807. Settlement of Accounts and Contributions Among Partners</td>
<td>50</td>
</tr>
</tbody>
</table>

### ARTICLE 9. CONVERSIONS AND MERGERS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>901. Definitions</td>
<td>52</td>
</tr>
<tr>
<td>902. Conversion of Partnership to Limited Partnership</td>
<td>52</td>
</tr>
<tr>
<td>903. Conversion of Limited Partnership to Partnership</td>
<td>54</td>
</tr>
<tr>
<td>904. Effect of Conversion; Entity Unchanged</td>
<td>55</td>
</tr>
<tr>
<td>905. Merger of Partnerships</td>
<td>55</td>
</tr>
<tr>
<td>906. Effect of Merger</td>
<td>57</td>
</tr>
<tr>
<td>907. Statement of Merger</td>
<td>59</td>
</tr>
<tr>
<td>908. Nonexclusive</td>
<td>60</td>
</tr>
</tbody>
</table>

### ARTICLE 10. MISCELLANEOUS PROVISIONS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1001. Uniformity of Application and Construction</td>
<td>61</td>
</tr>
<tr>
<td>1002. Short Title</td>
<td>61</td>
</tr>
<tr>
<td>1003. Severability</td>
<td>61</td>
</tr>
<tr>
<td>1004. Effective Date</td>
<td>61</td>
</tr>
<tr>
<td>1005. Repeals</td>
<td>62</td>
</tr>
<tr>
<td>1006. Application to Existing Relationships</td>
<td>62</td>
</tr>
<tr>
<td>1007. Savings Clause</td>
<td>62</td>
</tr>
</tbody>
</table>
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<table>
<thead>
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<th>Section</th>
<th>Page</th>
</tr>
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<td>61</td>
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<td>62</td>
</tr>
<tr>
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<td>62</td>
</tr>
<tr>
<td>1007. Savings Clause</td>
<td>62</td>
</tr>
</tbody>
</table>
UNIFORM PARTNERSHIP ACT (1993)
(Text Only)

ARTICLE 1
GENERAL PROVISIONS

Section 101. Definitions.
Section 102. Knowledge and Notice.
Section 103. Effect of Partnership Agreement; Nonwaivable Provisions.
Section 104. Supplemental Principles of Law.
Section 105. Execution, Filing, and Recording of Statements.
Section 106. Law Governing Internal Affairs.
Section 107. Partnership Subject to Amendment or Repeal of [Act].

SECTION 101. DEFINITIONS. In this [Act]:

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

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

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

(ii) a comparable order under federal, state, or foreign law governing insolvency.

(3) "Distribution" means a transfer of money or other property from a partnership to a partner in the partner's capacity as a partner or to the partner's transferee.
(4) "Partnership" means an association of two or more persons to carry on as co-owners a business for profit created under Section 202, predecessor law, or comparable law of another jurisdiction.

(5) "Partnership agreement" means an agreement, written or oral, among the partners concerning the partnership.

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

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

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

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

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

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

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

SECTION 102. KNOWLEDGE AND NOTICE.

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

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

(1) knows of it;

(2) has received a notification of it; or

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

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

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

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

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

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

(f) A partner's knowledge, notice, or receipt of a
notification of a fact relating to the partnership is effective
immediately as knowledge by, notice to, or receipt of a
notification by the partnership, but is not effective as such if
the partner committed or consented to except in the case of a
fraud on the partnership committed by or with the consent of that
partner.

SECTION 103. EFFECT OF PARTNERSHIP AGREEMENT; NONWAIVABLE
PROVISIONS.

(a) Except as provided in subsection (b), a partnership
agreement governs relations among the partners and between the
partners and the partnership. [Except as provided in subsection
(b), relations among the partners and between the partners and the partnership are governed by the partnership agreement.] To the extent the partnership agreement does not otherwise provide, this [Act] governs relations among the partners and between the partners and the partnership.

(b) A partnership agreement may not:

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

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

(3) eliminate the duty of loyalty under Section 404(b) or 603(b)(3), but the partners by partnership agreement may:
   (i) identify specific types or categories of activities that do not violate the duty of loyalty, if not manifestly unreasonable; or
   (ii) authorize or ratify, after full disclosure of all material facts, a specific act or transaction that otherwise would violate the duty of loyalty;

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

(5) eliminate the obligation of good faith and fair dealing under Section 404(d), but the partners by partnership agreement may determine the standards by which the performance of the obligation is to be measured, if the standards are not manifestly unreasonable;
(6) vary the power to dissociate as a partner under Section 602(a), except to require the notice under Section 601(1) to be in writing;

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

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

(9) restrict rights of third parties under this [Act].

SECTION 104. SUPPLEMENTAL PRINCIPLES OF LAW.

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

(b) If an obligation to pay interest arises under this [Act] and the rate is not specified, the rate is that specified in [applicable statute].

SECTION 105. EXECUTION, FILING, AND RECORDING OF STATEMENTS.

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

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

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

(d) A person authorized by this [Act] to file a statement may amend or cancel the statement by filing an amendment or cancellation that names the partnership, identifies the statement, and states the substance of the amendment or cancellation.

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

(f) The [Secretary of State] may collect a fee for filing or providing a certified copy of a statement. The [officer responsible for] recording transfers of real property may collect a fee for recording a statement.
SECTION 106. LAW GOVERNING INTERNAL AFFAIRS RELATIONS. The law of the State jurisdiction in which a partnership has its chief executive office governs the partnership's internal affairs relations among the partners and between the partners and the partnership.

SECTION 107. PARTNERSHIP SUBJECT TO AMENDMENT OR REPEAL OF [ACT]. A partnership governed by this [Act] is subject to any amendment to or repeal of this [Act].
ARTICLE 2

NATURE OF PARTNERSHIP

Section 201. Partnership As Entity.
Section 202. Creation Formation of Partnership.
Section 203. Partnership Property.
Section 204. When Property Is Partnership Property.

SECTION 201. PARTNERSHIP AS ENTITY. A partnership is an entity distinct from its partners.

SECTION 202. CREATION FORMATION OF PARTNERSHIP.

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

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

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

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

(2) The sharing of gross returns does not by itself establish a partnership, even if the persons sharing them have a joint or common right or interest in property from which the returns are derived.
A person who receives a share of the profits of a business is presumed to be a partner in the business, unless the profits were received in payment:

(i) of a debt by installments or otherwise;

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

(iii) of rent;

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

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

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

(d) Except as provided by Section 308, persons who are not partners as to each other are not liable as partners as to other persons.

(e) A partnership created under this [Act] is a general partnership, and the partners are general partners of the partnership.
SECTION 203. PARTNERSHIP PROPERTY. Property transferred to or otherwise acquired by a partnership is property of the partnership and not of the partners individually.

SECTION 204. WHEN PROPERTY IS PARTNERSHIP PROPERTY.

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

(1) the partnership; or

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

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

(1) the partnership in its name; or

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

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

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

RELATIONS OF PARTNERS TO
PERSONS DEALING WITH PARTNERSHIP

Section 301. Partner Agent of Partnership.
Section 302. Transfer of Partnership Property.
Section 303. Statement of Partnership Authority.
Section 304. Statement of Denial.
Section 305. Partnership Liable for Partner's Actionable Conduct.
Section 306. Partner's Liability.
Section 307. Actions By and Against Partnership and Partners.
Section 308. Liability of Purported Partner.
Section 309. Liability of Incoming Partner.

SECTION 301. PARTNER AGENT OF PARTNERSHIP. Subject to the effect of a statement of partnership authority under Section 303:

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

(2) An act of a partner which is not apparently for carrying on in the usual way ordinary course the partnership business or business of the kind carried on by the partnership binds the partnership only if the act was authorized by the other partners.
SECTION 302. TRANSFER OF PARTNERSHIP PROPERTY.

(a) Partnership property may be transferred as follows:

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

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

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

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

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

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

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

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

SECTION 303. STATEMENT OF PARTNERSHIP AUTHORITY.

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

(1) must include:

(i) the name of the partnership;

(ii) the street address of its chief executive office and of one office in this State, if there is one;
(iii) the names and mailing addresses of all of the partners or of an agent appointed and maintained by the partnership for the purpose of subsection (b); and

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

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

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

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

(d) Except as provided in subsection (g), a filed statement of partnership authority supplements the authority of a partner to enter into transactions on behalf of the partnership as follows:

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

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

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

(f) Except as provided in subsections (d) and (e) and Sections 704 and 805, a person not a partner is not deemed to know of a limitation on the authority of a partner merely because the limitation is contained in a filed statement.
(g) Unless earlier canceled, a filed statement of partnership authority is canceled by operation of law five years after the date on which the statement, or the most recent amendment, was filed with the [Secretary of State].

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

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

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

SECTION 306. PARTNER'S LIABILITY.

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

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

SECTION 307. ACTIONS BY AND AGAINST PARTNERSHIP AND PARTNERS.

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

(b) An action may be brought against the partnership and any or all of the partners in the same action or in separate actions.

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

(d) A judgment creditor of a partner may not levy execution against the assets of the partner to satisfy a judgment based on a claim against the partnership unless:
(1) a judgment based on the same claim has been obtained against the partnership and a writ of execution on the judgment has been returned unsatisfied in whole or in part;

(2) the partnership is a debtor in bankruptcy;

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

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

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

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

SECTION 308. LIABILITY OF PURPORTED PARTNER.

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

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

(c) A person is not liable as a partner in a partnership
merely because the person is named by another in a statement of
partnership authority.
(d) A person does not continue to be **liable as a partner** merely because of a failure to file a statement of dissociation or to amend a statement of partnership authority to indicate the partner's dissociation from the partnership.

SECTION 309. LIABILITY OF INCOMING PARTNER. A person admitted as a partner into a partnership is liable for all obligations of the partnership incurred before the person's admission as if the person were a partner when the obligations were incurred, but the liability may be satisfied only out of partnership property.
ARTICLE 4

RELATIONS OF PARTNERS TO EACH OTHER AND TO PARTNERSHIP

Section 401. Partner's Rights and Duties.
Section 402. Distributions in Kind.
Section 403. Partner's Rights and Duties Regarding to Information.
Section 404. General Standards of Partner's Conduct.
Section 405. Actions by Partnership and Partners.
Section 406. Continuation of Partnership Beyond Definite Term or Particular Undertaking.

SECTION 401. PARTNER'S RIGHTS AND DUTIES.

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

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

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

(b) A partnership shall credit each partner's account with an equal share of the partnership profits—A partnership and shall charge each partner's account with a share of the partnership losses, whether capital or operating, in proportion to the partner's share of the profits.

(c) A partnership shall indemnify each partner for payments reasonably made and indemnify a partner for liabilities reasonably incurred by the partner in the ordinary
and proper conduct of the business of the partnership or for the preservation of its business or property.

(d) A partnership shall repay a partner who, in aid of the partnership, makes a payment or for advances to the partnership beyond the amount of capital the partner agreed to contribute.

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

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

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

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

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

(j) A difference arising as to a matter in the ordinary course of business of a partnership may be decided by a majority of the partners. An act outside the ordinary course of business of a partnership and an amendment to the partnership agreement may be undertaken only with the consent of all of the partners.
(k) This section does not affect the obligations of a partnership to other persons under Section 301.

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

SECTION 403. PARTNER'S RIGHTS AND DUTIES REGARDING TO INFORMATION.

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

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

(c) Each partner and the partnership, on demand, shall furnish to a partner, and to the legal representative of a deceased partner or partner under legal disability, to the extent just and reasonable, complete and accurate information concerning the partnership to the extent reasonably demanded and, without demand, to the extent just and reasonable.
SECTION 404. GENERAL STANDARDS OF PARTNER'S CONDUCT.

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

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

(1) to account to the partnership and hold as trustee for it any property, profit, or benefit derived by the partner in the conduct and winding up of the partnership business or derived from a use by the partner of partnership property, including the appropriation of a partnership opportunity, without the consent of the other partners;

(2) to refrain from dealing with the partnership in the conduct or winding up of the partnership business as or on behalf of a party having an interest adverse to the partnership without the consent of the other partners; and

(3) to refrain from competing with the partnership in the conduct of the partnership business before the dissolution of the partnership without the consent of the other partners.

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

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

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

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

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

SECTION 405. ACTIONS BY PARTNERSHIP AND PARTNERS.

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

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

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

(2) enforce the partner's rights under this [Act], including:
(i) the partner's rights under Sections 401, 403, and 404;

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

(iii) the partner's right to compel a dissolution and winding up of the partnership business under Section 801 or enforce any other right under Article 8; or

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

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

SECTION 406. CONTINUATION OF PARTNERSHIP BEYOND DEFINITE TERM OR PARTICULAR UNDERTAKING.

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

(b) If the partners, or those of them who habitually acted in the business during the term or undertaking, continue the
business without any settlement or liquidation of the partnership, they are presumed to have agreed that the partnership will continue.
ARTICLE 5

TRANSFEREES AND CREDITORS OF PARTNER

Section 501. Partner Not Co-Owner of Partnership Property.
Section 502. Partner's Transferable Interest in Partnership.
Section 503. Transfer of Partner's Transferable Interest.
Section 504. Partner's Transferable Interest Subject to Charging Order.

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

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

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

(1) is permissible;

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

(3) does not, as against the other partners or the partnership, entitle the transferee, during the continuance of the partnership, to participate in the management or conduct of
the partnership business, to require access to information
concerning or an account of partnership transactions, or to
inspect or copy the partnership books or records.

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

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

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

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

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

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

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

(f) A transfer of a partner's transferable interest in the
partnership in violation of a restriction on transfer contained
in the partnership agreement is ineffective as to a person having
notice of the restriction at the time of transfer.
SECTION 504. PARTNER'S TRANSFERABLE INTEREST SUBJECT TO CHARGING ORDER.

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

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

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

(1) by the judgment debtor;

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

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

(d) This [Act] does not deprive a partner of a right under exemption laws with respect to the partner's interest in the partnership.
(e) This section provides the exclusive remedy by which a judgment creditor of a partner or partner's transferee may satisfy a judgment out of the judgment debtor's transferable interest in the partnership.
SECTION 601. EVENTS CAUSING PARTNER'S DISSOCIATION. A partner is dissociated from a partnership upon the occurrence of any of the following events:

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

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

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

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

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

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

(iii) within 90 days after the partnership notifies a corporate partner that it will be expelled because it has filed a certificate of dissolution or the equivalent, its charter has
been revoked, or its right to conduct business has been suspended by the jurisdiction of its incorporation, there is no revocation of the certificate of dissolution or no reinstatement of its charter or its right to conduct business; or

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

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

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

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

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

(6) the partner's:

(i) becoming a debtor in bankruptcy;

(ii) executing an assignment for the benefit of creditors;

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

(iv) failing, within 90 days after the appointment, to have vacated or stayed the appointment of a trustee, receiver, or liquidator of the partner or of all or substantially all of the
partner's property obtained without the partner's consent or acquiescence, or failing within 90 days after the expiration of a stay to have the appointment vacated;

(7) in the case of a partner who is an individual:
   (i) the partner's death;
   (ii) the appointment of a guardian or general conservator for the partner; or
   (iii) a judicial determination that the partner has otherwise become incapable of performing the partner's duties under the partnership agreement;

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

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

(10) termination of a partner who is not an individual, partnership, corporation, trust, or estate.
SECTION 602. PARTNER'S POWER TO DISSOCIATE; WRONGFUL DISSOCIATION.

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

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

1. it is in breach of an express provision of the partnership agreement; or
2. in the case of a partnership for a definite term or particular undertaking, before the expiration of the term or the completion of the undertaking:
   1. the partner withdraws by express will, unless the withdrawal follows the dissociation of another partner and results in a right to dissolve the partnership under Section 801(2)(i);
   2. the partner is expelled by judicial determination under Section 601(5); or
   3. the partner becomes a debtor in bankruptcy; or
   4. in the case of a partner who is not an individual, trust other than a business trust, or estate, the partner is expelled or otherwise dissociated because it willfully dissolved or terminated.

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

SECTION 603. EFFECT OF PARTNER'S DISSOCIATION.

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

(b) Upon a partner's dissociation:

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

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

(3) the partner's duty of loyalty under Section 404(b)(1) and (2) and duty of care under Section 404(c) continue only with regard to matters arising or events occurring before the partner's dissociation, unless the partner participates in winding up the partnership's business pursuant to Section 803.
ARTICLE 7
PARTNER'S DISSOCIATION WHEN BUSINESS NOT WOUND UP

Section 701. Purchase of Dissociated Partner's Interest.
Section 702. Dissociated Partner's Power to Bind Partnership.
Section 703. Dissociated Partner's Liability to Other Persons.
Section 704. Statement of Dissociation.
Section 705. Continued Use of Partnership Name.

SECTION 701. PURCHASE OF DISSOCIATED PARTNER'S INTEREST.

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

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

(c) Damages for wrongful dissociation under Section 602(b), and all other amounts owing, whether or not presently due, from the dissociated partner to the partnership, must be offset against the buyout price. Interest must be paid from the date the amount owed becomes due to the date of payment.
(d) A partnership shall indemnify a dissociated partner against all partnership liabilities incurred before the dissociation, except liabilities then unknown to the partnership, and against all partnership liabilities incurred and after the dissociation, except liabilities incurred by an act of the dissociated partner under Section 702. For purposes of this subsection, a liability not known to a partner other than the dissociated partner is not known to the partnership.

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

(f) If a deferred payment is authorized under subsection (h), the partnership may tender a written offer to pay the amount it estimates to be the buyout price and accrued interest, reduced by any offsets under subsection (c), stating the time of payment, the amount and type of security for payment, and the other terms and conditions of the obligation.

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

(1) a statement of partnership assets and liabilities as of the date of dissociation;
(2) the latest available partnership balance sheet and income statement, if any;

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

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

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

(i) A dissociated partner may maintain an action against the partnership, pursuant to Section 405(b)(2)(ii), to determine the buyout price of that partner's interest, any offsets under subsection (c), or other terms of the obligation to purchase. The action must be commenced within 120 days after the partnership has tendered payment or an offer to pay or within one year after written demand for payment if no payment or offer to pay is tendered. The court shall determine the buyout price of the dissociated partner's interest, any offset due under
subsection (c), and accrued interest, and enter judgment for any additional payment or refund. If deferred payment is authorized under subsection (h), the court shall also determine the security for payment and other terms of the obligation to purchase. The court may assess reasonable attorney's fees and the fees and expenses of appraisers or other experts for a party to the action, in amounts the court finds equitable, against a party that the court finds acted arbitrarily, vexatiously, or not in good faith. The finding may be based on the partnership's failure to tender payment or an offer to pay or to comply with subsection (g).

SECTION 702. DISSOCIATED PARTNER'S POWER TO BIND AND LIABILITY TO PARTNERSHIP.

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

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

(2) did not have notice of the partner's dissociation; and
(3) is not deemed to have had knowledge under Section 303(e) or notice under Section 704(c).

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

SECTION 703. DISSOCIATED PARTNER'S LIABILITY TO OTHER PERSONS.

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

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

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

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

and

(3) is not deemed to have had knowledge under Section 303(e) or notice under Section 704(c).
(c) By agreement with the partnership creditor and the partners continuing the business, a dissociated partner may be released from liability for a partnership obligation.

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

SECTION 704. STATEMENT OF DISSOCIATION.

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

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

(c) For the purposes of Sections 702(a)(3) and 703(b)(3), a person not a partner is deemed to have notice of the dissociation 90 days after the statement of dissociation is filed.

SECTION 705. CONTINUED USE OF PARTNERSHIP NAME. Continued use of a partnership name, or a dissociated partner's name as part thereof, by partners continuing the business does not of itself make the dissociated partner liable for an obligation of the partners or the partnership continuing the business.
ARTICLE 8
WINDING UP PARTNERSHIP BUSINESS

Section 801. Events Causing Dissolution and Winding Up of Partnership Business.
Section 802. Partnership Continues After Dissolution.
Section 803. Right to Wind Up Partnership Business.
Section 804. Partner's Power to Bind Partnership After Dissolution.
Section 805. Statement of Dissolution.
Section 806. Partner's Liability to Other Partners After Dissolution.
Section 807. Settlement of Accounts and Contributions Among Partners.

SECTION 801. EVENTS CAUSING DISSOLUTION AND WINDING UP OF PARTNERSHIP BUSINESS. A partnership is dissolved, and its business must be wound up, only upon the occurrence of any of the following events:

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

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

(i) within 90 days after a partner's wrongful dissociation under Section 602(b) or a partner's dissociation by death or otherwise under Section 601(6) through (10), the partnership's having notice from another partner of that partner's express will to withdraw as a partner;

(ii) within 90 days after a partner's wrongful dissociation under Section 602(b) or a partner's dissociation by death or otherwise under Section 601(6) through (10), the partnership's having notice from another partner of that partner's express will to withdraw as a partner;

(iii) within 90 days after a partner's wrongful dissociation under Section 602(b) or a partner's dissociation by death or otherwise under Section 601(6) through (10), the partnership's having notice from another partner of that partner's express will to withdraw as a partner;
death or otherwise under Section 601(6) through (10), the express will of at least half of the remaining partners;]

(ii) the express will of all of the partners; or

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

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

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

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

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

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

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

(6) on application by a transferee of a partner's transferable interest, a judicial determination that it is equitable to wind up the partnership business:
(i) after the expiration of the term or completion of
the undertaking, if the partnership was for a definite term or
particular undertaking at the time of the transfer or entry of
the charging order that gave rise to the transfer; or
(ii) at any time, if the partnership was a partnership
at will at the time of the transfer or entry of the charging
order that gave rise to the transfer.

SECTION 802. PARTNERSHIP CONTINUES AFTER DISSOLUTION.
(a) Subject to subsection (b), a partnership continues
after dissolution only for the purpose of winding up its
business. The partnership is terminated when the winding up of
its business is completed.
(b) At any time after the dissolution of a partnership and
before the winding up of its business is completed, all of the
partners, including any dissociating partner other than a
wrongfully dissociating partner, may waive the right to have the
partnership's business wound up and the partnership terminated.
In that event, the partnership resumes carrying on its business
as if dissolution had never occurred.
(C) Any liability incurred by the partnership or a partner
after the dissolution and before the waiver is determined as if
dissolution had never occurred, but the rights of a third party
accruing under Section 804 before the third party knew or
received a notification of the waiver may not be adversely
affected.
(d) Any right of a third party accruing upon the dissolution, but not exercised before the waiver, may not be exercised after the waiver.

SECTION 803. RIGHT TO WIND UP PARTNERSHIP BUSINESS.
(a) After dissolution, a partner who has not wrongfully dissociated may participate in winding up the partnership's business, but on application of any partner, partner's legal representative, or transferee, the [designate the appropriate court], for good cause shown, may order judicial supervision of the winding up.
(b) The legal representative of the last surviving partner may wind up a partnership's business.
(c) A person winding up a partnership's business may preserve the partnership business or property as a going concern for a reasonable time, prosecute and defend actions and proceedings, whether civil, criminal, or administrative, settle and close the partnership's business, dispose of and transfer the partnership's property, discharge the partnership's liabilities, distribute the assets of the partnership pursuant to Section 807, settle disputes by mediation or arbitration, and perform other necessary acts.

SECTION 804. PARTNER'S POWER TO BIND PARTNERSHIP AFTER DISSOLUTION. Subject to Section 805, a partnership is bound by a partner's act after dissolution that:
(1) is appropriate for winding up the partnership business;

or

(2) would have bound the partnership under Section 301

before dissolution, if the other party to the transaction did not

have notice of the dissolution.

SECTION 805. STATEMENT OF DISSOLUTION.

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

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

(c) For the purposes of Sections 301 and 804, a person not
a partner is deemed to have notice of the dissolution and the
limitation on the partners' authority as a result of the
statement of dissolution 90 days after it is filed.

(d) After filing and, if appropriate, recording a
statement of dissolution, a dissolved partnership may file and,
if appropriate, record a statement of partnership authority which
will operate with respect to a person not a partner as provided
in Section 303(d) and (e) in any transaction, whether or not the
transaction is appropriate for winding up the partnership
business.
SECTION 806. PARTNER'S LIABILITY TO OTHER PARTNERS AFTER DISSOLUTION.

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

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

SECTION 807. SETTLEMENT OF ACCOUNTS AND CONTRIBUTIONS AMONG PARTNERS.

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

(b) Each partner is entitled to a settlement of all partnership accounts upon winding up the partnership business. In settling accounts among the partners, the profits and losses that result from the liquidation of the partnership assets must
be credited and charged to the partners' accounts. The partnership shall make a distribution to a partner in an amount equal to any excess of the credits over the charges in the partner's account. A partner shall contribute to the partnership an amount equal to any excess of the charges over the credits in the partner's account.

(c) If a partner fails to contribute, all the other partners shall contribute, in the proportions in which the partners share partnership losses, the additional amount necessary to satisfy the partnership obligations. A partner or partner's legal representative may recover from the other partners any contributions the partner makes to the extent the amount contributed exceeds that partner's share of the partnership obligations.

(d) After the settlement of accounts, each partner shall contribute, in the proportion in which the partner shares partnership losses, the amount necessary to satisfy partnership obligations that were not known at the time of the settlement.

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

(f) An assignee for the benefit of creditors of a partnership or a partner, or a person appointed by a court to represent creditors of a partnership or a partner, may enforce a partner's obligation to contribute to the partnership.
ARTICLE 9

CONVERSIONS AND Mergers

SECTION 901. Definitions. In this article:

(1) "General partner" means a partner in a general partnership created under this [Act], predecessor law, or comparable law of another jurisdiction and a general partner in a limited partnership.

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

(3) "Limited partnership" means a limited partnership created under the [State Limited Partnership Act], predecessor law, or comparable law of another jurisdiction.

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

SECTION 902. Conversion of Partnership to Limited Partnership.

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

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

(c) After the conversion is approved by the partners, the
partnership shall file a certificate of limited partnership which
satisfies the requirements of [Section ____ of the State Limited
Partnership Act] and includes:

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

(2) its former name; and

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

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

(e) A general partner who becomes a limited partner as a
result of the conversion remains liable as a general partner for
an obligation incurred by the partnership before the conversion
takes effect. If the other party to a transaction with the
limited partnership reasonably believes when entering the
transaction that the limited partner is a general partner, the
limited partner is liable for an obligation incurred by the
limited partnership within 90 days after the conversion takes
effect. The limited partner's liability for all other
obligations of the limited partnership incurred after the
conversion takes effect is that of a limited partner as provided in the [State Limited Partnership Act].

SECTION 903. CONVERSION OF LIMITED PARTNERSHIP TO PARTNERSHIP.

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

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

(c) After the conversion is approved by the partners, the limited partnership shall cancel its certificate of limited partnership pursuant to [Section of the State Limited Partnership Act].

(d) The conversion takes effect when the certificate of limited partnership is canceled.

(e) A limited partner who becomes a general partner as a result of the conversion remains liable only as a limited partner for an obligation incurred by the limited partnership before the conversion takes effect. The partner is liable as a general partner for an obligation of the partnership incurred after the conversion takes effect.
SECTION 904. EFFECT OF CONVERSION; ENTITY UNCHANGED.

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

(b) When a conversion takes effect:

(1) all property owned by the converting partnership or limited partnership remains vested in the converted entity;

(2) all obligations of the converting partnership or limited partnership continue as obligations of the converted entity; and

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

SECTION 905. MERGER OF PARTNERSHIPS.

(a) Pursuant to a plan of merger approved as provided in subsection (c), a partnership may be merged with one or more partnerships or limited partnerships.

(b) The plan of merger must set forth:

(1) the name of each partnership or limited partnership that is a party to the merger;

(2) the name of the surviving entity into which the other partnerships or limited partnerships will merge;

(3) whether the surviving entity is a partnership or a limited partnership and the status of each partner;

(4) the terms and conditions of the merger;
(5) the manner and basis of converting the interests of each party to the merger into interests or obligations of the surviving entity, or into money or other property in whole or part; and

(6) the street address of the surviving entity's chief executive office.

(c) The plan of merger must be approved:

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

(2) in the case of a limited partnership that is a party to the merger, by the vote required for approval of a merger by the law of the State or foreign jurisdiction in which the limited partnership is organized and, in the absence of such a specifically applicable law, by all of the partners, notwithstanding a provision to the contrary in the partnership agreement.

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

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

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

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

(3) any effective date specified in the plan of merger.
SECTION 906. EFFECT OF MERGER.

(a) When a merger takes effect:

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

   (2) all property owned by each of the merged partnerships or limited partnerships vests in the surviving entity;

   (3) all obligations of every partnership or limited partnership that is a party to the merger become the obligations of the surviving entity; and

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

(b) The [Secretary of State] of this State is the agent for service of process in an action or proceeding against a surviving foreign partnership or limited partnership to enforce an obligation of a domestic partnership or limited partnership that is a party to a merger. The surviving entity shall promptly notify the [Secretary of State] of the mailing address of its chief executive office and of any change of address. Upon receipt of process, the [Secretary of State] shall mail a copy of the process to the surviving foreign partnership or limited partnership.
(c) A partner of the surviving partnership or limited partnership is liable for:

(1) all obligations of a party to the merger for which the partner was personally liable before the merger;

(2) all other obligations of the surviving entity incurred before the merger by a party to the merger, but those obligations may be satisfied only out of property of the entity; and

(3) all obligations of the surviving entity incurred after the merger takes effect, but those obligations may be satisfied only out of property of the entity if the partner is a limited partner.

(d) If the obligations incurred before the merger by a party to the merger are not satisfied out of the property of the surviving partnership or limited partnership, the general partners of that party immediately before the effective date of the merger shall contribute the amount necessary to satisfy that party's obligations to the surviving entity, in the manner provided in Section 807 of this [Act] or in (Sections ___ and ___ of the State Limited Partnership Act) of the jurisdiction in which the party was formed, as the case may be, as if the merged party were dissolved.

(e) A partner of a party to a merger who does not become a partner of the surviving partnership or limited partnership is dissociated from the entity, of which that partner was a partner, as of the date the merger takes effect. The surviving entity
(d) For the purposes of Section 302, real property of the surviving partnership or limited partnership which before the merger was held in the name of another party to the merger is property held in the name of the surviving entity upon recording a certified copy of the statement of merger in the office for recording transfers of that real property.

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

SECTION 908. NONEXCLUSIVE. This article is not exclusive. Partnerships or limited partnerships may be converted or merged in any other manner provided by law.
ARTICLE 10

MISCELLANEOUS PROVISIONS

Section 1001. Uniformity of Application and Construction. This [Act] shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this [Act] among States enacting it.

Section 1002. Short Title. This [Act] may be cited as the Uniform Partnership Act (1993).

Section 1003. Severability Clause. If any provision of this [Act] or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this [Act] which can be given effect without the invalid provision or application, and to this end the provisions of this [Act] are severable.

Section 1004. Effective Date. This [Act] takes effect . . .
SECTION 1005. REPEALS. The following acts and parts of acts are repealed: [the State Partnership Act as amended and in effect immediately before the adoption of this Act].

SECTION 1006. APPLICATION TO EXISTING RELATIONSHIPS.

(a) Except as provided in subsection (b), this [Act] applies to all partnerships in existence on its effective date that were formed under [the State Partnership Act] or any predecessor law providing for the formation, operation, and liquidation of partnerships.

(b) A judgment against a partnership or a partner in an action commenced before the effective date of this [Act] may be enforced in the same manner as a judgment rendered before the effective date of this [Act].

SECTION 1007. SAVINGS CLAUSE. The repeal of any statutory provision by this [Act] does not impair or otherwise affect the organization or continued existence of a partnership existing on the effective date of this [Act] or any contract existing or right accrued before the effective date of this [Act].